



Proposed
Coastal
Plan for
Taranaki

**Hearing
Panel's report**
on submissions

Hearing panel report on Decisions Requested Proposed Coastal Plan for Taranaki

3 September 2019

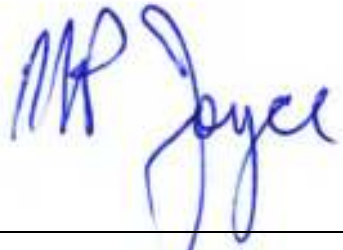
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IN THE MATTER of the Resource Management Act 1991

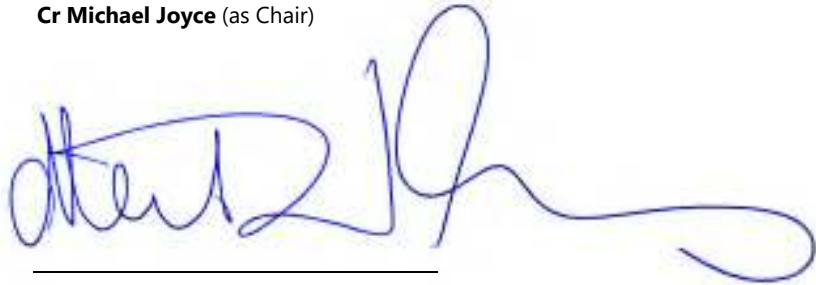
AND

IN THE MATTER of the hearing of submissions on the *Proposed Coastal Plan for Taranaki*

The Hearing Panel is grateful for all the requests and suggestions by submitters and their witnesses that have assisted the Hearing Panel in its deliberations and in reaching the recommendations to the Council contained in this report. Having considered all the submissions, Panel members have made our deliberations and therefore recommend the amendments to the *Proposed Coastal Plan for Taranaki* contained in this report.



Cr Michael Joyce (as Chair)



Cr Neil Walker



Mr Rawiri Faulkner

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1 Introduction

This section introduces the Hearing Panel's report on the Proposed Coastal Plan for Taranaki.

1.1 Purpose

The purpose of this document is to present a report from the Hearing Panel to the Taranaki Regional Council (the Council) that summarises the decisions sought in submissions on the *Proposed Coastal Plan for Taranaki* and to make recommendations on those submissions.

Note, the recommendations presented in this report are recommendations by the hearing panel and have not yet been formally considered by the Council.

1.2 Scope and background

The *Proposed Coastal Plan for Taranaki* was publicly notified for submissions on 24 February 2018, with submissions closing on 27 April 2018.

Public notice calling for further submissions supporting or opposing the initial submissions was made on 21 July 2018 and closed on 4 August 2018. Further submissions may only be made in support of or opposition to the submissions already made. A further submission cannot extend the scope of the original submission and can only seek allowance or disallowance (in whole or in part) of the original submission.

Sixty-one initial submissions were received with 25 further submissions also received.

In October 2018, an officers report with preliminary recommendations in response to submissions (and a revised track change version of the Proposed Plan) was released and made available to all submitters for their consideration. Subsequently, the Council extended an offer to submitters to ascertain their interest in meeting with officers to discuss their issues and officers' preliminary response as part of a pre-hearing engagement process. Council officers met with 28 submitters to discuss changes recommended to the Proposed Plan. These meetings allowed submitters to further

clarify their concerns, discuss proposed relief and explore any alternative relief options, where appropriate. The opportunity to reconsider officers' preliminary recommendations in light of this engagement was useful and resulted in a number of changes in officer recommendations that have been incorporated into a Section 42A report. A hearing has subsequently been held and this report prepared to incorporate the recommendations of the hearing panel to Council.

Section 1 of this report introduces the report, which has been prepared by the Council to inform the review of the Coastal Plan in accordance with Clause 7 of the First Schedule of the *Resource Management Act 1991* (the RMA).

Section 2 of this report provides an index of initial and further submitters.

Section 3 of this report summarises how the Proposed Plan was developed and the Plan review process to date.

Section 4 of this report summarises decisions sought by initial submitters and Hearing Panel' recommendations.

As far as practicable, decisions sought by various submitters have been grouped by specific sections of the Proposed Plan. Some submitters have not clearly stated the decision they wish the Council to make or the reason behind the submission. In such cases the intent of the submission has been considered or inferred from the submission and a response accordingly made.

For each decision sought by initial submitters, this document sets out:

- the decision(s) requested by submitters;
- support or opposition from further submitters to the decision requested by the initial submitter; and
- the Hearing Panel's recommendation in response to the decision requested, including reasons.

Where a recommendation involves changing the Proposed Plan the changes, as read, have been included. Deletions have not been identified but can be found in the Track change version of the Proposed Coastal Plan.

1.3 How to read this document

Individual submission points are numbered for ease of reference as shown below. Any support or opposition from further submitters to the decision requested by the initial submitter is also identified.

| Submitter | Submission point | Submitter's requests | Hearing Panel recommendation and response |
|--|--|--|---|
| Rule XYZ | | | |
| Submitter id (Each initial submitter has an identification number, e.g. 1 to 61) | Submission point – numbering for decisions sought in submissions | Support / Amend / Other | Accept / Accept in part / Grant in kind / Decline / No relief necessary |
| | | Submitter's request. | Explanation of recommendation |
| Further submitter (if applicable) | | Support / Opposition / Neutral - to the submission point | |

Unless the context indicates otherwise, all references to Plan provisions relate to the version of the *Proposed Coastal Plan for Taranaki* publicly notified On 24 February 2018.

2 How the Plan was developed

This section outlines the Coastal Plan review process to date.

The Proposed Plan has been prepared as a result of a full review of the current Coastal Plan under Section 79 and Schedule 1 of the RMA, which has involved the following steps.

2.1 Early engagement

In accordance with Schedule 1 of the RMA, the Council has sought and considered comments from iwi authorities, the Department of Conservation, Heritage New Zealand, New Plymouth District Council, South Taranaki District Council, and other stakeholders in preparing to formally review the Proposed Coastal Plan.

This engagement has involved a combination of information provision, two-way consultation, and iwi and stakeholder exchanges that have assisted in the identification of key issues and community aspirations, plus the development of a draft Coastal Plan (refer Section 2.3 below) and a Proposed Coastal Plan (refer Section 2.5 below) and the refinement of Plan provisions.

2.2 Technical reports and research

The technical reports, working papers, research, policy development and public consultation that contributed to the development of the current Coastal Plan are still relevant. However, as part of this Plan review, a suite of additional discussion documents and technical papers were prepared or commissioned to further inform Council's policy position on future coastal management. They included:

- State of the environment monitoring reports (2003, 2009, 2015)
- *Efficiency and effectiveness of the Regional Coastal Plan for Taranaki* (2002, 2009)
- *Taranaki Region Coastal Plan Review – Archaeological Scoping Study* (December 2012)

- *Taranaki Regional Council – Offshore Seismic Data Acquisition Permitted Activity Review* (May 2015)
- *Taranaki Regional Council – Offshore Petroleum Drilling Review* (August 2015)
- *Petroleum Drilling Activities; Buffer Distances from Outstanding Areas and Substrate Types Requiring Protection* (October 2015)
- *Regional Landscape Study of the Taranaki Coastal Environment* (November 2015)
- *Taranaki Surf breaks of National Significance* (May 2016)
- *Sensitive Habitats and Threatened Species in the Taranaki Coastal Marine Area* (August 2016)
- *Regional Significance Criteria for the Assessment of Surf Breaks* (July 2017)
- *Online Wave Survey Data Analysis and Proposed Regionally Significant Surf Breaks* (October 2017).

2.3 Consultation on a draft Plan

On 2 September 2016, to facilitate comments on specific proposed changes to the current Coastal Plan, the Council released a draft Proposed Coastal Plan to iwi authorities, stakeholders and the wider public for their comment and input. This was an extra non statutory step to inform the development of Plan provisions. See <https://www.trc.govt.nz/council/plans-and-reports/strategy-policy-and-plans/regional-coastal-plan/coastal-plan-review/draft-coastal-plan/> for further details.

The draft Coastal Plan set out the findings and outcomes of the engagement and technical investigations undertaken at that time. It largely proposed continuing the existing regime set out in the current Plan subject to a number of important changes. The proposed changes sought to build on the success of the past and continue the decades-long process of incrementally and systematically improving on the maintenance and enhancement of coast values and uses while providing for appropriate use and development.

Other changes were also proposed to give effect to recent national directives such as the *New Zealand Coastal Policy Statement* or NZCPS, and take into account changing environmental practices and community aspirations, plus experiences and lessons learned from the implementation of the current Coastal Plan.

As part of this engagement, around 120 stakeholders consisting of iwi authorities, Department of Conservation, district councils, major consent holders, the oil and gas sector groups, government departments, Royal Forest and Bird, and other non-government organisations with an interest in coastal issues were invited to provide feedback on the draft Coastal Plan. The Council also made the draft Coastal Plan available on its website for any member of the public wishing to comment.

The deadline for feedback on the draft Coastal Plan was 26 November 2016. The Council received 101 responses on the draft Coastal Plan from interested parties and individuals.

In general, many respondents appreciated the opportunity for early input and requested continued involvement throughout the planning process. There was considerable support for the draft Coastal Plan in terms of its content and draft provisions with many requesting that certain provisions be retained. However, there were also requests for changes.

Key themes to emerge from feedback seeking change or further work were as follows:

- minor amendments to Plan provisions sought to improve their readability and/or other changes for the purposes of certainty and clarity
- more substantive changes to Plan provisions to support or restrict use and development in the coastal marine area (CMA)
- Ngati Ruanui, Ngāruahine, and Ngaa Rauru highlighted issues and/or suggested changes to Plan provisions to improve the integration of cultural values and principles and to identify sites of high cultural significance in the coastal marine area
- opposition to a proposed rule for the temporary occupation of the common marine and coastal area for community, recreational or sporting activity as a permitted activity.

Other comments submitted related to minor changes or correcting drafting errors or sought further clarification on issues of interest.

Council officers conducted workshops and held additional meetings and hui with respondents during and following that process to clarify and discuss issues and options.

This included meeting with iwi authorities, interested hapū, New Plymouth District Council, industry, and sector groups. A revised draft Coastal Plan showing Council responses to feedback was circulated to respondents in August 2017 with further opportunity for input.

2.4 Engagement with iwi authorities

As outlined in sections 2.1 to 2.3 above, the Council has sought to engage with iwi authorities throughout the Plan review process. Consultation and collaborative effort with Iwi o Taranaki has greatly informed the Plan review process, including changes to the current Plan.

Appendix II of the Section 32 evaluation report set out a summary of the advice received from iwi authorities, including the Council's response to date.

2.5 Proposed Plan, submissions and pre-hearing process

In conjunction with the preparation of its section 32 evaluation report, the Council publicly notified the Proposed Plan on 24 February 2018 in accordance with Schedule 1 of the RMA. This commenced the formal public consultation on the Coastal Plan review and has so far involved the public notification of a Proposal, and the receipt and consideration of public submissions. The deadline for submissions was 27 April 2018.

Assessment of those submissions was undertaken immediately. A summary of submissions will be notified and any cross-submissions (or 'further' submissions) called for on 21 July 2018. The deadline for further submissions was 4 August 2018.

The Council provided an opportunity for every person who makes a submission and who requests to present their views in person to a Hearings Committee, to be so heard.

In October 2018, an officers' report with preliminary recommendations in response to submissions (and a revised track change version of the Proposed Plan) was released and made available to all submitters for their consideration. Subsequently, the Council extended an offer to submitters to ascertain their interest in meeting with officers to

discuss their issues and officers' preliminary response as part of a pre-hearing engagement process. Council officers met with 28 submitters and or their representatives to discuss their submissions and any changes recommended to the Proposed Plan. These meetings allowed submitters to further clarify their concerns, discuss proposed relief and explore any alternative relief options where appropriate. The opportunity to reconsider officers' preliminary recommendations in light of this engagement was useful and resulted in a number of changes in officer recommendations that were incorporated into a Section 42A report.

2.6 Hearing of submissions

The Council, acting under section 34A of the RMA, appointed the authors of this report, as hearing commissioners to hear, consider and make recommendations to it on the submissions on the Proposed Plan. The Council delegated to the Hearing Panel all its functions, powers and duties to hear and consider submissions on the Proposed Plan, including requiring and receiving reports under section 42A and exercising powers conferred by sections 41B and 41C of the RMA.

Three accredited hearing commissioners were appointed to the Hearing Panel. They were **Cr Michael Joyce** (as Chair), **Cr Neil Walker**, and **Rawiri Faulkner** (the latter being appointed as an independent hearing commissioner with tikanga Maori expertise).

For the avoidance of doubt, the Hearing Panel affirm that, throughout the performance of its duties, hearing commissioners have been entirely independent and objective in considering and making recommendations on the submissions.

As previously noted, the Hearing Panel required and received reports under section 42A of the RMA on the Proposed Plan and the submissions on it. The Hearing Panel conducted public hearings on the reports and evidence and submissions of the submitters who wished to be heard. Those hearings were conducted at the Taranaki Regional Council premises in Stratford on 24 July and 1 August 2019.

Fifteen submitters¹ presented and were heard in support of their submissions at the hearing (refer Table 3, Section 3 of this Plan). Key themes and discussion points raised by the submitters that presented to the hearing are summarised as follows:

- Taranaki Energy Watch: Highlighted concerns regarding the impacts of oil and gas activities in the coastal environment and seeking the bundling of rules relating to oil and gas exploration and production activities and for the activities to be discretionary or non complying.
- Ms Pratt: Support for the Project Reef being identified as an Outstanding Value coastal management area.
- Department of Conservation: Sought amendments to include criterion policies identifying high natural character, minor changes to rules addressing biofouling, and new methods addressing advocacy to district councils regarding dog control and Council investigating whether or not it will have occupational coastal charges.
- Oil Companies and Powerco (joint evidence): Highlighted the importance of the oil and gas and electricity transmission industries to the region. Broadly supportive of the Plan but sought additional amendments to ensure their activities are appropriately recognised and provided for in the Plan and to improve the certainty and clarity of Plan provisions.
- Fonterra: Generally supportive of the Plan but sought additional amendments to ensure Fonterra activities are appropriately recognised and provided for in the Plan and to improve the certainty and clarity of Plan provisions.
- Te Korowai o Ngaruahine: Generally supportive of the Plan noting it is broadly "in a good place" but sought additional amendments to highlight Council commitment to protecting and monitoring tangata whenua values, and concerns relating to subjective terms adopted in rule standards, terms and conditions.
- Ngati Rahiri hapū: Strongly opposed to permitted activity rules that are on or above reefs in their rohe. Sought that permitted activity rules be changed to a discretionary activity unless it is for customary uses, to give effect to Treaty of Waitangi, need their activities to be discretionary. Submitter noted that the issue is more about being part of the decision making and notification process.

¹ Seventee submissions were heard, noting that the Oil Companies and Powerco jointly submitted on their submissions

- Te Kotahitanga o te Atiawa: Noted Plan scope largely reflects most tangata whenua values but sought further amendments to underpin the protection of tangata whenua values.
- Te Kaahui o Rauru: Acknowledged reliefs agreed to in the Section 42A Report, including the addition of guiding tangata whenua principles, but sought additional amendments to the Plan such as amendments to Policy 8 [Areas of Outstanding Value], and Policy 13 [Relationship with tangata whenua], Rules 22, 26, 54 and 85, plus reparation mechanisms in Section 9 [Financial contributions] to protect, maintain or restore cultural and historic sites of significance to Maori.
- Fay Mulligan and Monique Takarangi: Concerned that mapped Significant Surf break Area includes Maori Reservation land and highlighted some surf break names as culturally offensive. Also highlighted problems related to freedom camping and public access and the risks to their land and sites of significance.
- Royal Forest and Bird Society: Sought additional amendments to grant reliefs sought in their original submission to ensure the Plan gives effect to the NZCPS (e.g. identification of areas of high natural character and significant indigenous biodiversity) and other changes to Plan provisions to improve the certainty and clarity of the provisions protecting indigenous biodiversity values.
- Port Taranaki: Sought additional amendments to ensure Port Taranaki activities are appropriately recognised and provided for in the Plan and to improve the certainty and clarity of Plan provisions. The submitter further sought that the Breakwater surf break be deleted from the Plan.
- New Zealand Defence Force (NZDF): Opposed the biofouling rules being applied only to the Port Taranaki coastal management area and sought amendments to the general standards for noise relating to temporary military training activities to align with relief sought by NZDF in other plans around the country.
- Petroleum Exploration and Production Association of NZ: Suggest oil and gas activities are appropriately recognised and provided for in the Plan but sought additional amendments to improve the certainty and clarity of Plan provisions, particularly in relation to policies addressing oil and gas activities [Policy 29] and the removal of coastal structures [Policy 38] and other relevant Rules 26 and 27.

Six submitters did not appear (Federated Farmers, First Gas, Meridian Energy, Heritage New Zealand, Transpower and Trans Tasman Resources) but presented written briefs of evidence in support of their submissions.

Copies of the written briefs or evidence presented or tabled at the hearing are included in Appendix I of this report.

During the hearings, the Hearing Panel asked questions of submitters to enhance their understanding of submitter requests, the grounds for them, and advice given in the section 42A reports. The Hearing Panel endeavoured to conduct the hearings with a minimum of formality to an extent that allowed for good communication and fairness to all submitters. A number of submitters raised matters not covered in their original or further submission. As far as practicable the Hearing Panel has endeavoured to address all matters raised in this report, however, some matters were determined to be out of scope and have not been covered in this report.

Most of the submissions on the Proposed Plan requested amendments to it, and gave reasons for requesting those amendments. Many also constructively proposed specific improvements to the Proposed Plan developed by themselves or their advisers.

On 1 August 2019, following the completion of the public hearings, Hearing Panel members deliberated on the matters raised in the submissions heard, all written submissions on the Proposed Plan, the outcome of any pre-hearing consultation with submitters, the officers' recommendations on submissions, and the further evidence and submissions tabled at the hearing. The Hearing Panel members further met on the 12 August to complete their deliberations and instructed reporting officers, on their behalf, to formulate their recommendations to Council on the decisions requested.

Hearing Panel members are grateful for all the requests and suggestions by submitters and their witnesses; and by the section 42A report authors. Members acknowledge that the requested and suggested amendments, including those not recommended, and the evidence relating to them, have substantially assisted the Panel in its deliberations and in reaching the recommendations to the Council made in this report. The submissions and reports have all contributed to an effective and fair process for which Part 1 of schedule 1 of the RMA provides.

2.7 Remainder of the Schedule 1 review process

Recommendations presented in this report by the Hearing Panel, will be formally considered by Council.

The Council's decisions on the matters raised (in the submissions) will be publicly notified. If any person who made a submission on the Proposed Plan is dissatisfied with the subsequent decision of the Council, he or she may refer the decision to the Environment Court, which in turn would hold a formal public hearing into the matter. The Environment Court may direct the Council to make amendments to the Proposed Plan.

Once finally approved by the Council (taking into account any directives from the Environment Court), the Proposed Plan becomes operative on a date that is publicly notified.

Figure 1 below provides an overview of the Coastal Plan review process, including where "we are at" in terms of the process.

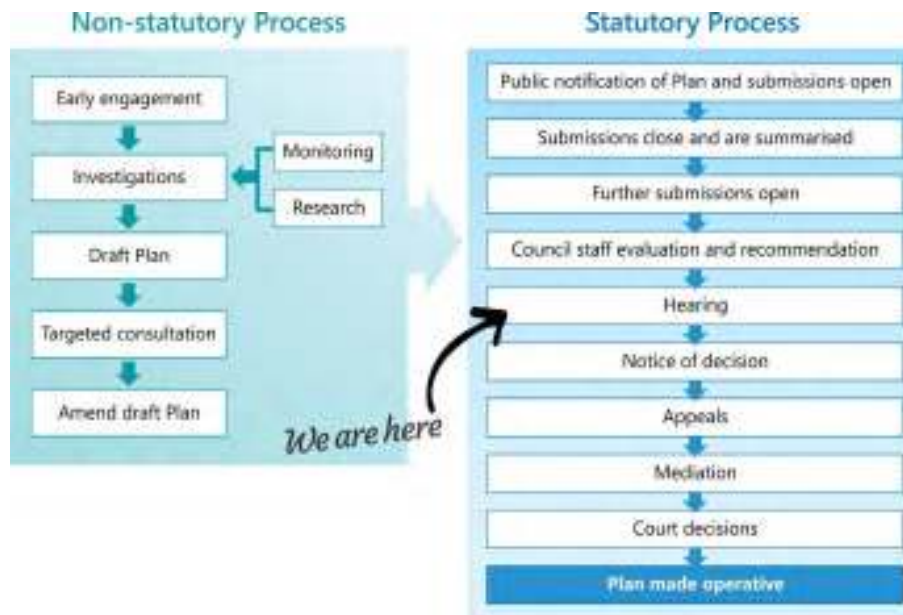


Figure 1: Coastal plan review process

2.8 Further reading

For further information on the Plan preparation and review process please refer to:

<https://www.trc.govt.nz/council/plans-and-reports/strategy-policy-and-plans/regional-coastal-plan/coastal-plan-review/>.

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3 Submitters

This section identifies initial and further submitters to the Proposed Plan plus those who presented their submissions to the Hearing of submissions.

Table 1: Initial submitters

| Submitter number and name | | Submitter number and name | | Submitter number and name | |
|---------------------------|----------------------------------|---------------------------|--|---------------------------|---|
| 1. | Tom P Waite | 22. | Lyndon De Vantier | 43. | Royal Forest and Bird Protection Society |
| 2. | Federated Farmers | 23. | New Plymouth District Council | 44. | Nga Motu Marine Reserve Society Inc |
| 3. | Roger Maxwell | 24. | Paora Aneti 17 & 18 Māori Reservation Trustees | 45. | Powerco |
| 4. | Allen Pidwell | 25. | New Zealand Petroleum and Minerals | 46. | Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd |
| 5. | Point Board Riders Inc | 26. | Transpower NZ Ltd | 47. | Fonterra |
| 6. | Trans-Tasman Resources Ltd | 27. | Taranaki Chamber of Commerce | 48. | Taranaki District Health Board |
| 7. | Waikato Regional Council | 28. | Grant Knuckey | 49. | Cam Twigley |
| 8. | Silver Fern Farms Management Ltd | 29. | Department of Conservation | 50. | Te Kāhui o Taranaki Trust |
| 9. | Karen Pratt | 30. | First Gas Ltd | 51. | Taranaki Energy Watch Inc |
| 10. | South Taranaki Underwater Club | 31. | Komene 13B Māori Reservation Trustees | 52. | Emily Bailey |
| 11. | Bruce Boyd | 32. | Port Taranaki Ltd | 53. | Taranaki Regional Council |
| 12. | Chorus New Zealand Ltd | 33. | New Zealand Defence Force | 54. | Maritime New Zealand |
| 13. | Spark New Zealand Trading Ltd | 34. | Fay Mulligan and Carol Koha | 55. | Kiwis Against Seabed Mining |
| 14. | Vodafone New Zealand Ltd | 35. | Radio New Zealand Ltd | 56. | Greenpeace |
| 15. | Surfbreak Protection Society | 36. | Todd Energy | 57. | Heritage New Zealand |
| 16. | Ministry for Primary Industries | 37. | Petroleum Exploration and Production Association of NZ | 58. | Te Atiawa |
| 17. | David Pearce | 38. | Nigel Cliffe | 59. | KiwiRail |

| Submitter number and name | | Submitter number and name | | Submitter number and name | |
|---------------------------|---------------------------------|---------------------------|--------------------------------|---------------------------|---------------------------------|
| 18. | Surfing Taranaki | 39. | Maniapoto Māori Trust Board | 60. | Te Kaahui o Rauru |
| 19. | South Taranaki District Council | 40. | Te Rūnanga o Ngāti Mutunga | 61. | Te Rūnanga o Ngāti Ruanui Trust |
| 20. | Meridian Energy Ltd | 41. | Te Korowai o Ngāruahine Trust | | |
| 21. | Climate Justice Taranaki Inc | 42. | Ngati Rahiri Hapū ² | | |

Table 2: Further submitters

| Submitter number and name | | Submitter number and name | | Submitter number and name | |
|---------------------------|---------------------------------|---------------------------|--|---------------------------|---|
| 2. | Federated Farmers | 26. | Transpower NZ Ltd | 42. | Ngati Rahiri Hapū |
| 6. | Trans-Tasman Resources Ltd | 29. | Department of Conservation | 43. | Royal Forest and Bird Protection Society |
| 9. | Karen Pratt | 32. | Port Taranaki Ltd | 44. | Nga Motu Marine Reserve Society Inc |
| 10. | South Taranaki Underwater Club | 33. | New Zealand Defence Force | 45. | Powerco |
| 11. | Bruce Boyd | 35. | Radio New Zealand Ltd | 46. | Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd |
| 16. | Ministry for Primary Industries | 37. | Petroleum Exploration and Production Association of NZ | 47. | Fonterra |
| 20. | Meridian Energy Ltd | 40. | Te Rūnanga o Ngāti Mutunga | 51. | Taranaki Energy Watch Inc |
| 21. | Climate Justice Taranaki Inc | 41. | Te Korowai o Ngāruahine Trust | 55. | Kiwis Against Seabed Mining |
| | | | | 61. | Te Rūnanga o Ngāti Ruanui Trust |

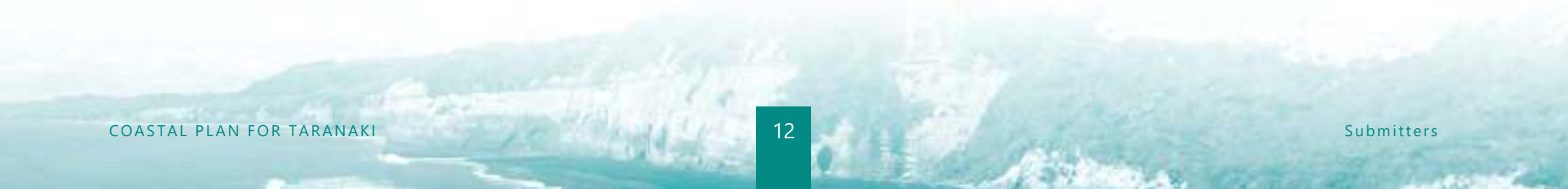
² Subsequent to the receipt of the submission from Ngati Hine whanau, the submitter indicated that the submission has subsequently been adopted by the Ngati Rahiri Hapū. Officers agreed that all references to 'Ngati Hine whanau' will now refer to 'Ngati Rahiri Hapū'.

Table 3: Submitters that presented to the hearing

| Submitter number and name | | Submitter number and name | |
|---------------------------|--|---------------------------|---|
| 9. | Karen Pratt | 43. | Royal Forest and Bird Protection Society |
| 29. | Department of Conservation | 45. | Powerco |
| 32. | Port Taranaki Ltd | 46. | Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd |
| 33. | New Zealand Defence Force | 47. | Fonterra |
| 34. | Fay Mulligan and Carol Koha | 51. | Taranaki Energy Watch Inc |
| 37. | Petroleum Exploration and Production Association of NZ | 60. | Te Kaahui o Rauru |
| 41. | Te Korowai o Ngāruahine Trust | 61. | Te Rūnanga o Ngāti Ruanui Trust |
| 42. | Ngati Rahiri Hapū | | |

Taranaki Federated Farmers (2), First Gas (30), Meridian Energy (20), Heritage New Zealand (57), Transpower (26) and Trans Tasman Resources (6) did not appear but presented written briefs of evidence to the Panel in support of their submission.

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4 Summary of decisions sought and Hearing Panel recommendations

This section sets out the summary of decisions sought by submitters for the Plan and the Hearing Panel's recommendation in response to the decision sought.

As far as practicable, decisions sought by various submitters have been grouped according to common themes (where they relate to changes to Plan provisions or process generally) or to specific sections of the Proposed Plan (where they have been referenced or inferred). Where specific wording changes to Plan provisions are requested by submitters or proposed by the Hearing Panel, recommended insertions are marked in red and underlined, while recommended deletions are shown as ~~struck-out~~ text. Hearing Panel recommendations generally only show the recommended wording as read and struck out material has not been included. The full amendments, including any deleted/struck out text can be found in the associated track changed version of the Plan.

4.1 Whole Plan – General comments

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
|---------------------------------|------------------|--|---|
| General – Plan | | | |
| 2 – Federated Farmers | 1 | Amend | No relief necessary |
| | | Submitter is broadly supportive of the planning approach taken but seeks that normal farming activities that occur in the coastal marine area (adjacent to farms or where the farm boundary extends to the coastal marine area) that these farming activities are permitted. | Note rules relating to use and development activities do not apply to activities landward of the coastal marine area line. |
| 4 – Allen Pidwell | 2 | Support | Accept |
| | | Submitter supports the Proposed Plan. | Support noted. |
| 26 – Transpower NZ Ltd | 3 | Amend | Accept |
| | | Submitter is broadly supportive of the Proposed Plan subject to specific amendments to give full effect to the <i>National Policy Statement for Electricity Transmission 2008</i> . | Support is noted. The Hearing Panel notes that the submitter has requested specific amendments throughout the Plan, to bring the Plan more in line with provisions within the <i>National Policy Statement for Electrical Transmission</i> . The Hearing Panel agrees that the <i>National Policy Statement for Electrical Transmission</i> is required to be given effect to within the Plan and recommend consequential amendments to the Plan in response to some of the specific reliefs sought by the submitter. |
| 29 – Department of Conservation | 4 | Support | No relief necessary |
| | | Submitter notes the Proposed Plan is well structured and easy to use. | Comments noted. |
| | 5 | Amend | Accept |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
|----------------------------------|------------------|---|---|
| 33 – New Zealand Defence Force | | Submitter seeks amendment to the Plan to consistently refer to “ <i>temporary military training activities</i> ” and omit the use of “ <i>military training activities</i> ”. | <p>The Hearing Panel agrees with the relief sought by the submitter.</p> <p>The Hearing Panel has further reviewed the Plan to consistently refer to “<i>temporary military training activities</i>” and omit the use of “<i>military training activities</i>” or other variant where “<i>temporary military training activities</i>” would suffice. The Hearing Panel recommends consequential amendments to the definition section of the Plan to delete the term “<i>Military training</i>” and include a new definition for “<i>temporary military training activity</i>”. This is consistent with definition provided in the <i>National Planning Standards</i>, which came into force on 3 May 2019.</p> <p>The amended definition reads as follows:</p> <p><u>Temporary military training activity</u> means a temporary activity undertaken for the training of any component of the New Zealand Defence Force (including with allied forces) for any defence purpose. Defence purposes are those purposes for which a defence force may be raised and maintained under section 5 of the Defence Act 1990 which are:</p> <p><u>(a) the defence of New Zealand, and of any area for the defence of which New Zealand is responsible under any Act;</u></p> <p><u>(b) the protection of the interests of New Zealand, whether in New Zealand or elsewhere;</u></p> <p><u>(c) the contribution of forces under collective security threats, agreements, or arrangements;</u></p> <p><u>(d) the contribution of forces to, or for any of the purpose of, the United Nations, or in association with other organisations or States and in accordance with the principles of the Charter of the United Nations;</u></p> <p><u>(e) the provision of assistance to the civil power either in New Zealand or elsewhere in time of emergency;</u></p> <p><u>(f) the provision of any public service.</u></p> |
| 34 – Fay Mulligan and Carol Koha | 6 | <p>Other</p> <p>Note submitters wish to speak in reference to protections of cultural values/activities and Māori involvement and protection of tikanga.</p> | <p>No relief necessary</p> <p>No precise details of amendments sought to the Plan have been provided. However, the submitters' wish to be heard relating to Māori involvement and protection of tikanga was given effect to when the submitters presented to the hearing on 24 July.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 36 – Todd Energy | 7 | Support | Accept |
| | | Submitter supports the Proposed Plan as currently drafted. | Support noted. |
| 41 – Te Korowai o Ngāruahine Trust | 8 | Support | No relief necessary |
| | | Submitter broadly supports the overall direction of the Plan but highlights the benefits of marine spatial planning and seeks the adoption and application of an ecosystems based approach to prevent further degradation of the biodiversity and character of the coastal environment. | <p>The Hearing Panel notes submitter's support for the Plan direction.</p> <p>In relation to marine spatial planning, the Hearing Panel notes that considerable work has been done to collate information on uses and values in the coastal marine area, including the marine environment, and as appropriate, relevant spatial information and overlays have been included in the planning maps. These planning maps are underpinned by GIS information, which, though sitting outside the Plan, may provide additional information that can also be used to inform consenting processes. Together there is considerable information that contributes to marine spatial planning that may be built on over time.</p> <p>At the hearing, the submitter questioned the subjectivity of some of the terms adopted in the Plan rules, e.g. "adverse", "reasonable", "significant" and "minor contaminant". The Hearing Panel notes that not all words in the Plan are defined and the interpretation of Plan provisions must sometimes necessarily rely on the common understanding of key terms and/or the reading context. For example, in relation to the term "adverse", the term is an RMA term and is defined by the Oxford dictionary as harmful. This would be consistent with most reader's understanding of the term. Rules 1A, 1, 15 and 35 refer to "reasonable mixing". While the current Freshwater Plan has provided a definition that refers to a "...zone seven times the width of the channel at the point of the discharge" this definition is not considered appropriate for the significantly different and complex natural and ecological processes that characterise the marine environment. In relation to the terms "significant", the <i>Regional Policy Statement for Taranaki</i> has defined these terms but again this something that would be difficult to have some quantitative measure for that could be applied in all circumstances, all the time. Finally, reference to "minor contaminant" only occurs in the gateway of Rule 1A and acknowledges that all water is likely to contain some natural or man-made 'contaminants'. It is appropriate therefore to refer to minor contaminants in the gateway for the purposes of certainty and clarity. However, the parameters or definition for what constitutes 'minor contaminants' can be determined by a wider reading of the rule and, in particular, the matters in the standards, terms and</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | conditions that need to be complied with. The Hearing Panel recommends no change to the Plan in this area. |
| 55 – Kiwis Against Seabed Mining | 9 | <p>Amend</p> <p>Submitter seeks amendments to the Plan to include marine spatial management and associated rules framework as an appropriate method to address fishing, oil and gas, and seabed mining.</p> | <p>Decline</p> <p>No precise details of amendments sought to the Plan have been provided. However, the Hearing Panel does not consider further amendments to the Plan are necessary.</p> |
| Further submissions – Ministry for Primary Industries (16) | | Oppose | <p>The Hearing Panel notes that considerable work has been done to collate information on uses and values in the coastal marine area, including the marine environment, and as appropriate, relevant spatial information and overlays have been included in the planning maps. Furthermore, it is the Hearing Panel's view that oil and gas and seabed mining have been appropriately addressed in the rules framework of the Plan pursuant to the Council's RMA responsibilities. However, as a result of pre-hearing engagement further changes to the Plan are proposed that make seismic testing a consented activity (rather than a permitted activity).</p> <p>The Hearing Panel note that fishing activities are controlled by the Ministry for Primary Industries and Fisheries New Zealand through the <i>Fisheries Act 1996</i> and it is not necessary or appropriate to provide for fishing activities within the Plan.</p> |
| 56 – Greenpeace | 10 | <p>Amend</p> <p>Submitter seeks amendments to the Plan to include marine spatial management and associated rules framework as an appropriate method to address fishing, oil and gas, and seabed mining.</p> | <p>Decline</p> <p>No precise details of amendments sought to the Plan have been provided. However, the Hearing Panel notes that considerable work has been done to collate information on uses and values in the coastal marine area, including the marine environment, and as appropriate, relevant spatial information and overlays have been included in the planning maps. Furthermore, it is the Hearing Panel's view that oil and gas and seabed mining have been appropriately addressed in the rules framework of the Plan pursuant to the Council's RMA responsibilities. However, as a result of pre-hearing engagement, further changes to the Plan were proposed that make seismic testing a consented activity (rather than a permitted activity).</p> <p>The Hearing Panel notes that fishing activities are controlled by the Ministry for Primary Industries and Fisheries New Zealand through the <i>Fisheries Act 1996</i> and it is not necessary or appropriate to manage fishing activities within the Plan.</p> |
| Further submissions – Trans-Tasman Resources Ltd (6), Ministry for Primary Industries (16) | | Oppose | <p>The Hearing Panel notes that fishing activities are controlled by the Ministry for Primary Industries and Fisheries New Zealand through the <i>Fisheries Act 1996</i> and it is not necessary or appropriate to manage fishing activities within the Plan.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Indigenous biodiversity provisions | | | |
| 3 – Roger Maxwell | 11 | Other | No relief necessary |
| | | Submitter questions what action, if any, is proposed to manage/control the expansion of mangroves in the estuarine areas of the Taranaki coastal area? | The Hearing Panel notes that the Council has no immediate plans to control mangroves in the Taranaki region. Mangroves are known to be present at Urenui estuary. These were planted about 40 years ago to prevent coastal erosion (they were also planted in other estuaries but did not establish). At present the spread appears to be very slow and is not of concern at the moment. However, should monitoring indicate mangroves are becoming invasive to the detriment of local coastal values the Council would consider a site-led response that involves working with the local community to manage the problem. |
| 39 – Maniapoto Māori Trust Board | 12 | Other | No relief necessary |
| | | Submitter seeks that the Taranaki Regional Council ensure that indigenous biodiversity in the coastal environment is maintained and enhanced and that it is protected. | The Hearing Panel notes that the Council is committed to the maintenance and enhancement of indigenous biodiversity in not just the coastal environment but across the region. This commitment is demonstrated across a variety of Council policy documents and its resourcing for programmes and activities that implement those policies. In addition to its regulatory responsibilities under the RMA to maintain indigenous biodiversity in the coastal marine area and fresh water, the Council has adopted the <i>Pest Management Plan for Taranaki</i> (2018), the <i>Taranaki Regional Council Biosecurity Strategy</i> (2018), and the <i>Biodiversity Strategy for the Taranaki Regional Council</i> (2017) that include a suite of regulatory and non-regulatory programmes for promoting biodiversity outcomes across the Taranaki region. |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | Notwithstanding the above, as a result of pre-hearing engagement, further changes to the Plan were proposed to include an additional policy (Policy 14A) that seeks to maintain and enhance indigenous biodiversity generally across the coastal environment. This is in addition to Policy 14 to protect 'significant indigenous biodiversity' in the coastal environment. |
| Life supporting capacity and mauri provisions | | | |
| 39 – Maniapoto Māori Trust Board | 13 | Support | Accept |
| | | Submitter supports recognition by Taranaki Regional Council of mauri and adverse effects when there is development of the coastal environment. | Support noted. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
|--|------------------|--|--|
| Petroleum related Plan provisions | | | |
| 37 – Petroleum Exploration and Production Association of NZ | 14 | Support | Accept in part |
| | | Submitter seeks all other petroleum-related Plan provisions not explicitly covered in their submission are retained. | Support noted. Petroleum related provisions have been retained. However, the Hearing Panel notes consequential amendments to some provisions in response to reliefs sought by other submitters, including recommendation to make seismic testing a consented activity (rather than a permitted activity). |
| 51 - Taranaki Energy Watch | 15 | Amend | No relief necessary |
| | | Submitter seeks amendment to the Plan in relation to petroleum related provisions to reflect the precautionary approach (similar to that of Policy 3) such that objectives, policies and rules within the coastal marine area incorporate a precautionary regime for effects of activities that are uncertain, unknown or little understood. | The submitter is concerned that areas of the Plan relating to petroleum provisions do not reflect a precautionary approach, which, in their view, is required by the <i>New Zealand Coastal Policy Statement</i> . The Hearing Panel suggests that no relief is necessary given that a precautionary approach is already adequately provided for via Policy 3 [Precautionary approach] of the Plan. Policy 3 is a General Policy that applies to all activities, including oil and gas industries, within the coastal environment and regardless of which coastal management area the activity may fall within. The Hearing Panel further notes that the potential risks associated with oil and gas exploration and production activities are well understood. |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | In the main, oil and gas exploration activities are a controlled activity while oil and gas production activities in the coastal marine area are a discretionary activity or a non-complying activity. Therefore, through the consenting process, Policy 3 [Precautionary approach] and other relevant policies will be considered and applied, as appropriate, on a case-by-case basis. |
| Further submissions – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Oppose | |
| 51 - Taranaki Energy Watch | 16 | Amend | Accept in part |
| | | Submitter seeks amendment to the Plan in relation to petroleum related provisions to add objectives and policies to support the use of separation and buffer zones as appropriate planning tools/methods to manage oil and gas activities in the coastal marine area. | The Hearing Panel notes that separation and buffer zones have been considered and applied where it is practicable to do so. The Hearing Panel does not consider it appropriate to include such detail in the Plan objectives. However, there are opportunities within the policy and rule framework to do so. An appropriate buffers to avoid, remedy or mitigate adverse effects associated with oil and gas activities (plus other activities) would depend upon the scale, type and location of the activity. Such matters would be considered through the consenting process. For example, Rule 26 includes buffer distances set out in the standards, terms and conditions. |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>Notwithstanding this, the Hearing Panel recommends amending Policy 29 [Impacts from offshore drilling and production] to refer to the use of separation distances. This will ensure that the application of separation distances (buffer) are fully considered through the consenting process.</p> <p>The revised Policy would read as follows:</p> <p><i><u>(aa) in relation to offshore production activities, adopting adequate separation distances to the extent necessary between the activity having regard to the values and sensitivity of the environment; [...]</u></i></p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 17 | <p>Amend</p> <p>Submitter seeks amendment to the Plan to reflect the Government's decision to cease offering new offshore oil and gas exploration permits and restricted permitting.</p> | <p>Decline</p> <p>No precise details of amendments sought to the Plan have been provided. The Hearing Panel acknowledges the current Government's decision to cease granting offshore oil and gas permits. However, the Hearing Panel notes that the licensing of oil and gas exploration permits is regulated under separate legislation by other authorities.</p> <p>In terms of managing adverse environmental effects under the RMA, the Hearing Panel contends that it is not necessary to differentiate between new and existing hydrocarbon activities. In addition, the Hearing Panel notes that the Plan will be operative for a 10-year period and there is a risk that such an amendment could easily be made redundant should a new Government change its stance on oil and gas exploration permits.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Royal Forest and Bird Protection Society (43), Te Atiawa (58) | | Support | |
| Natural and historic heritage provisions | | | |
| 39 – Maniapoto Māori Trust Board | 18 | <p>Other</p> <p>Submitter support the importance of natural and historic heritage and would like to ensure that the Māori narrative is incorporated into the rich history of Taranaki.</p> | <p>No relief necessary</p> <p>Comments noted. No specific relief is requested, however, the Hearing Panel notes that a Māori narrative has been included where it is appropriate to do so and additional amendments to the Plan are also proposed to further support this.</p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| 28 – Grant Knuckey | 19 | <p>Amend</p> <p>Submitter seeks amendments to the Plan (and other actions) to ensure it adequately provides for cultural well-being, relationship of with ancestral and contemporary lands, waters, taonga and rohe, and to actively protect taonga and</p> | <p>Accept in part</p> <p>No precise details of amendments sought to the Plan have been provided. However, the Hearing Panel suggests that the Plan in conjunction with recommended changes, amongst other things, will (as far as it is able) provide for</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | tapu spaces within the coastal environment or provide for management of the rohe in partnership with mana whenua (co-governance/management provisions). | the cultural well-being, relationship of Māori with ancestral and contemporary lands, waters, taonga and rohe, and will contribute to the protection of taonga and tapu spaces within the coastal environment. |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | Of note, all the Plan objectives, policies and rules address effects of interest to iwi o Taranaki. However, specific objectives, policies, methods, standards, terms and conditions and schedules also apply to ensure coastal use and development appropriately recognise and provide for the management of adverse effects on tangata whenua values. The identification of sites of significance to Māori in Schedule 5B of the Plan and associated planning maps (and proposed changes to include and schedule taonga species) should further assist Council in ensuring use and development in the coastal marine area avoid, remedy or mitigate adverse effects on Māori cultural and historic heritage values. |
| 28 – Grant Knuckey | 20 | Amend Submitter seeks amendment to the Plan to ensure it applies Māori attributes of mana, mauri, tapu, taonga to assessment of natural character, particularly in relation to reefs and coastal waters of Taranaki rohe moana and whenua. | No relief necessary The Hearing Panel considers that this is already provided for whereby assessments of natural features and landscapes include consideration of cultural, spiritual, historic and heritage associations, which in turn are underpinned by Plan objectives, policies and rules to protect such values. |
| 39 – Maniapoto Māori Trust Board | 21 | Support Submitter notes that tangata whenua values and relationships are key priorities to the submitter and desires the Council to work closely with Mokau ki Runga RMC around matters of social, cultural and economic wellbeing. | No relief necessary Comments noted. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 40 – Te Rūnanga o Ngāti Mutunga | 22 | Other | No relief necessary |
| | | Taking into account the outcomes of previous engagement, submitter questions what criteria Council planners will use to identify affected parties for the rules outlined in the Plan. | <p>The submitter is not seeking amendment to the Plan but has raised a question with respect to its implementation.</p> <p>The Hearing Panel notes the Council's consenting procedures are set out in its standard operating procedures entitled <i>Resource Consents Procedure Document</i>. This document sets out guidance and direction for Council staff on a broad range of consenting matters, including those relating to notification and determining affected party status.</p> <p>More specifically, in relation to sites of significance, the Council has worked closely with iwi authorities and, as part of the Plan review process, have provided written agreement that iwi will be notified of, as an affected party, any activities occurring within, adjacent to, or impacting directly on tangata whenua sites of significance identified in Schedule 5B in the coastal marine area.</p> <p>The 'trigger' for iwi involvement as an affected party is for any activities occurring within, adjacent to, or impacting directly on sites of significance in the coastal marine area. For such coastal permit applications the Council would advise the applicant that they would need affected party approval and suggest consultation be undertaken. If approval was not obtained from iwi the application would be notified.</p> <p>The Mana Whakahono a Rohe provisions of the RMA represents an opportunity to formalise this (and other) matters plus set out the operational details associated with planning and consenting processes including affected party definitions, appropriate consenting systems and processes, and applicant consultation requirements.</p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| 50 – Te Kāhui o Taranaki Trust | 23 | Other | No relief necessary |
| | | Submitter questions the adequacy of Plan engagement and consultation. | <p>The submitter is not seeking amendment to the Plan but questions the adequacy of Plan engagement and consultation.</p> <p>Appendix II of the Section 32 Evaluation Report summarises Council's engagement and consultation with iwi authorities (and other tangata whenua) on the Proposed Plan, including Council's response to advice received from iwi.</p> <p>Iwi engagement and consultation commenced in late 2012 and has been ongoing to this point in time. In relation to the Taranaki Iwi, engagement included very early preliminary engagement through participation with an Iwi thinkers group, the</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | circulation and seeking of feedback on coastal archaeological report, seeking of feedback on a position paper on outstanding coastal areas, the circulation and seeking of feedback on draft Coastal Plan objectives and policies, consultation and seeking of feedback on a Draft Proposed Plan, the identification and mapping of sites and significance, and more recently the release of a Proposed Coastal Plan. It has also included, over that time, many hui and face-to-face meetings relating to not just the Coastal Plan but broader policy matters. |
| 50 – Te Kāhui o Taranaki Trust | 24 | <p>Other</p> <p>Submitter seeks that all iwi (hapū, marae/pā) are notified as an affected party to any activities occurring within, adjacent to, or impacting directly on Statutory Acknowledgements and historic heritage sites and sites of significance to Māori within the coastal marine area.</p> | <p>Agree in part</p> <p>The submitter is not seeking amendment to the Plan but seeks that all iwi (hapū, marae/pā) be notified as an affected party to any activities occurring within, adjacent to, or impacting directly on statutory acknowledgement areas and historic heritage sites and sites of significance to Māori within the coastal marine area.</p> <p>The matters raised by the submitter have a wider application than just the Coastal Plan. Notwithstanding that, the Hearing Panel notes that Council has already given partial relief to this request.</p> <p>In relation to sites of significance, the Council has worked closely with iwi authorities and, as part of the Plan review process, have provided written agreement that iwi will be notified of, as an affected party, any activities occurring within, adjacent to, or impacting directly on tangata whenua sites of significance in the coastal marine area.</p> <p>The 'trigger' for iwi involvement as an affected party is for any activities occurring within, adjacent to, or impacting directly on sites of significance in the coastal marine area. For such coastal permit applications the Council would advise the applicant that they would need affected party approval and suggest consultation be undertaken. If approval was not obtained from iwi the application would be notified.</p> <p>In relation to extending consenting notification requirements to hapū and marae, Mana Whakahono a Rohe provisions of the RMA represents an opportunity to discuss and formalise such arrangements.</p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 25 | <p>Amend</p> <p>Submitter seeks amendment to the Plan by:</p> <ul style="list-style-type: none"> linking cultural areas of significance to both the past (historic) and present cultural areas and traditions | <p>Accept in part</p> <p>No precise details of amendments sought to the Plan have been provided. However, the Hearing Panel suggests that the Plan, in conjunction with recommended changes, does link Plan provisions with cultural areas of</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <ul style="list-style-type: none"> integrating objectives and policies with mana/tangata whenua with the rules section of the Plan. | significance, and that Plan objectives and policies have been integrated with the rules section of the Plan. |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | <p>Together, all Plan objectives, policies and rules are part of a framework for addressing and managing adverse effects on tangata whenua values. However, specific objectives, policies, methods, standards, terms and conditions, and schedules also apply.</p> <p>The Hearing Panel notes that, in response to the submitter request (and that of others), a number of amendments have been made to specific Plan provisions, including amendments to Policy 15 [Historic heritage] and Policy 16 [Relationship of tangata whenua], other relevant policies, and the inclusion of a schedule of taonga species, to strengthen provisions protecting tangata whenua values in the coastal environment under the RMA.</p> |
| Scope of the Plan – ‘Coastal Marine Area’ and ‘Coastal Environment’ | | | |
| 26 – Transpower NZ Ltd | 26 | <p>Other</p> <p>Confirmation is sought that the rules in the Plan only apply to the coastal marine area</p> <p>AND</p> <p>Submitter seeks clarification as to what Plan provisions apply to the coastal environment.</p> | <p>No relief necessary</p> <p>The submitter is not seeking amendments to the Plan but seeks confirmation as to how the Plan provisions are applied.</p> <p>The Hearing Panel confirms that the rules only apply to the coastal marine area. However, as stated in sections 1.4.1, 4, 5.1 and 6 of the Plan, its objectives, general policies and methods (excluding rules) address the wider coastal environment for the purposes of effective integrated management.</p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Support | <p>For the purposes of certainty and clarity, a minor amendment is proposed to Section 1.4 of the Plan to further highlight that the rules relate to the coastal marine area only. The amendment reads as follows:</p> <p><i>1.4 Application</i></p> <p><i>The provisions of the Plan have legal force under the RMA. Regional rules have the force and effect of a regulation under the RMA. <u>For the purposes of this Plan, the rules only apply to activities in the coastal marine area.</u></i></p> |
| Coastal hazards | | | |
| 39 – Maniapoto Māori Trust Board | 27 | <p>Other</p> <p>Submitter seeks that Council ensure adequate resourcing to reduce vulnerability to property and people from coastal hazards.</p> | <p>No relief necessary</p> <p>No precise details of amendments sought to the Plan have been provided. However, the Hearing Panel notes that Council routinely considers and consults on</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | the adequacy of resourcing and levels of services addressing natural hazard management as part of its annual planning and reporting under the <i>Local Government Act 2002</i> . |
| Surf breaks | | | |
| 1 - Tom P Waite | 28 | <p>Support</p> <p>Submitter supports the protection of surf breaks but submits that commercial development should not occur near river mouths or unique reef breaks.</p> | <p>No relief necessary</p> <p>Support noted.</p> <p>With regards to opposition to commercial development, the Hearing Panel notes that the purpose of the Plan is to assist Council in giving effect to Section 5 of the RMA, which means managing the use, development and protection of natural and physical resources irrespective as to whether that use and development is 'commercial' or not. Of note, threats to coastal values are not confined to commercial activities.</p> |
| 18 – Surfing Taranaki | 29 | <p>Support</p> <p>Submitter supports the ongoing and further protection of Taranaki surf breaks.</p> | <p>No relief necessary</p> <p>Support noted.</p> |
| 50 – Te Kāhui o Taranaki Trust | 30 | <p>Amend</p> <p>Submitter seeks amendment of the Plan by going through a proper process of consultation on the inclusion of nationally and regionally significant surf breaks noting that the names of many surf breaks are offensive and inappropriate.</p> | <p>Accept in part</p> <p>The Hearing Panel notes that through the Coastal Plan review there has already been considerable consultation and engagement on the issue of surf break protection. An initial list of regionally significant surf breaks was adopted in the current Regional Policy Statement, which was adopted in 2010. However, through the Coastal Plan review additional investigations and engagement occurred. This included the commissioning of reports on <i>Taranaki Surf breaks of National Significance</i>, and <i>Regional Significance criteria for the Assessment of Surf Breaks</i>, consultation and seeking of feedback on draft Plan policies, a draft Plan and, more recently, the Proposed Plan. As part of the review, an innovative 'wave survey' was also carried out that allowed the community to inform the Council which surf breaks have values and why. This information was used to determine the appropriate level of protection for each surf break.</p> |
| Further submissions –Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | <p>Naming conventions for surf breaks have been a result of the community engagement to date. However, the Hearing Panel agrees that the names of some surf breaks are culturally offensive and recommend alternative more appropriate names for surf breaks also be identified in Schedule 7 and associated planning maps where possible.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Coastal water quality provisions | | | |
| 39 – Maniapoto Māori Trust Board | 31 | Other | No relief necessary |
| | | Submitter supports measures to ensure development pressures do not deteriorate coastal water quality. | Support noted. |
| Section 32 Evaluation Report | | | |
| 41 – Te Korowai o Ngāruahine Trust | 32 | Amend | No relief necessary |
| | | Submitter is seeking amendments to the Section 32 Evaluation Report, where relevant, to further highlight or reference cultural heritage values, principles and associations. | The submitter is not seeking amendment to the Plan but is seeking amendment to the accompanying Section 32 Evaluation Report to further highlight or reference cultural heritage values, principles and associations. In accordance with the RMA, a Section 32AA Evaluation Report needs to be prepared to reflect the current state of the Coastal Plan Review. Where applicable, this report will further highlight or reference key changes from the Proposed Plan relating to cultural heritage values, principles and associations. |
| Planning maps | | | |
| 42 – Ngati Rahiri Hapū | 33 | Amend | Accept |
| | | Submitter seeks amendment to Plan maps (and associated GIS layers) to include and delineate offshore reefs based on information supplied by the submitter. | Through the pre-hearing engagement process, Council officers have worked with the submitter to identify and map sites of significance to Ngati Rahiri Hapū. The coastal sites of significance data supplied by the submitter to the Council has been assessed in terms of the Section 6(e) of the RMA and site dimensions established. The Hearing Panel recommends that these sites can be identified in Schedule 5B of the Plan. |
| 43 – Royal Forest and Bird Protection Society | 34 | Amend | Accept |
| | | Submitter seeks amendments to Plan maps (and associated GIS layers) to identify the extent of the coastal environment OR Alternatively amend the maps to identify an indicative extent of the coastal environment. | Council has worked closely with New Plymouth and South Taranaki district councils in identifying and mapping coastal areas of outstanding natural character and outstanding natural features and landscapes. Both district councils have commenced or about to commence their respective district plan reviews, which includes a coastal protection zone (or equivalent) that is indicative of where natural coastal processes or qualities are significant. |
| Further submissions – Fonterra (47) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>For the purposes of certainty and clarity for Plan readers, integrated management and to promote alignment between the respective regional and district plans, the Hearing Panel recommends that the Plan (and associated GIS layers and planning maps) be amended to include an indicative extent of the coastal environment that is aligned with the coastal environment lines (or their equivalent) identified in the South Taranaki and New Plymouth district plans. Other consequential changes are recommended to Policy 4 [Extent and characteristics of the coastal environment] to refer the reader to areas identified in a district plan or a proposed coastal plan as being the coastal environment.</p> |

4.2 Plan introduction or background

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Vision and/or Māori guiding principles | | | |
| 40 – Te Rūnanga o Ngāti Mutunga | 35 | <p>Amend</p> <p>Submitter seeks amendment to the Plan to reinstate (from Draft Coastal Plan) Māori cultural values or guiding principles at the forefront of the Plan</p> <p>AND</p> <p>Seek to see these Māori cultural values or guiding principles are better reflected throughout the Plan and, in particular, the rules.</p> | <p>Accept</p> <p>Based upon earlier iwi feedback on the Draft Coastal Plan, Māori cultural values or guiding principles at the forefront of that Plan were removed. It was suggested that the review of the Regional Policy Statement (scheduled to occur in 2020) represented a better opportunity for iwi to consider and confirm the guiding principles.</p> <p>Notwithstanding the above, and given the support by other iwi agencies expressed in their submissions or further submissions, the Hearing Panel recommends that the Plan be amended to re-insert and incorporate those principles.</p> <p>In addition, through other proposed Plan amendments (signalled in this report) sought by the submitter and others relating to tangata whenua values, the Hearing Panel further recommends that the Council seek to ensure that these principles be incorporated into other relevant Plan provisions (and as identified in the track change version of the revised Proposed Plan).</p> |
| 58 – Te Atiawa | 36 | <p>Amend</p> <p>Submitter seeks amendment to the Plan to reinstate (from Draft Coastal Plan) Māori guiding principles at the forefront of the Plan and seek to see them better reflected throughout the Plan and, in particular, the rules.</p> | <p>Accept</p> <p>Based upon earlier iwi feedback on the Draft Coastal Plan, Māori cultural values or guiding principles at the forefront of that Plan were removed. It was suggested that the review of the Regional Policy Statement (scheduled to occur in 2020) represented a better opportunity for iwi to consider and confirm the guiding principles.</p> <p>Notwithstanding the above, and given the support by other iwi agencies expressed in their submissions or further submissions, the Hearing Panel recommends that the Plan be amended to re-insert and incorporate those principles.</p> <p>In addition, through other proposed Plan amendments (signalled in this report) sought by the submitter and others relating to tangata whenua values, the Hearing Panel further recommends that the Council seek to ensure that these principles be incorporated into other relevant Plan provisions (and as identified in the track change version of the revised Proposed Plan).</p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | <p>Support</p> | <p>Based upon earlier iwi feedback on the Draft Coastal Plan, Māori cultural values or guiding principles at the forefront of that Plan were removed. It was suggested that the review of the Regional Policy Statement (scheduled to occur in 2020) represented a better opportunity for iwi to consider and confirm the guiding principles.</p> <p>Notwithstanding the above, and given the support by other iwi agencies expressed in their submissions or further submissions, the Hearing Panel recommends that the Plan be amended to re-insert and incorporate those principles.</p> <p>In addition, through other proposed Plan amendments (signalled in this report) sought by the submitter and others relating to tangata whenua values, the Hearing Panel further recommends that the Council seek to ensure that these principles be incorporated into other relevant Plan provisions (and as identified in the track change version of the revised Proposed Plan).</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 61 – Te Rūnanga o Ngāti Ruanui Trust | 37 | Amend Submitter seeks amendment to the vision statement of the Plan to include the word “water” to adequately reflect Taranaki and the coverage of the Plan. | Accept The Hearing Panel agrees and recommends amending last sentence of the vision statement to read: <i>This vision recognises the roles and responsibilities shared by all people in Taranaki to ensure the sustainable and focused protection of <u>air</u>, land (soil), <u>water</u> and coastal environments for economic, social, cultural and recreational purposes.</i> |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| Section 1.2 – Purpose | | | |
| 42 – Ngati Rahiri Hapū | 38 | Amend Submitter seeks amendment to the purpose statement of the Plan [Section 1.2] to state that the purpose of the Plan is to “direct” or “guide” the Taranaki Regional Council in coastal management under the RMA. | Decline The Hearing Panel considers the purpose statement of the Plan to be consistent with the purpose statement for regional plans as set out in Section 63 of the RMA. Pursuant to Section 63 of the RMA, the purpose of regional plans is “... to assist a regional council to carry out its functions in order to achieve the purpose of the RMA.” The Hearing Panel does not recommend amending the purpose statement of the Plan as requested. |
| Section 1.4 – Plan application | | | |
| 43 – Royal Forest and Bird Protection Society | 39 | Amend Submitter supports the scope of the Plan and Plan provisions for integrated management but seek that paragraph 2 of Section 1.4.2 be amended to clarify that the rules in this Plan apply to activities in the coastal marine area, including where those activities may have an adverse effect on outstanding values and significant indigenous biodiversity values outside of the coastal marine area. | Accept The Hearing Panel recommends amendment to Section 1.4.1 to include a new sentence stating that while the rules in this Plan apply only to activities in the coastal marine area, nevertheless they include activities that can have an adverse effect on values and uses outside of the coastal marine area. |
| Further submissions – Transpower New Zealand Ltd (26) | | Oppose in part | |
| 45 – Powerco | 40 | Support Retain sections 1.4.1 and 1.4.2 of the Plan as notified. | Accept Support noted subject to the minor amendment in response to Submitter (43) above. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 41 | Support | Accept |
| | | Retain sections 1.4.1 and 1.4.2 of the Plan as notified. | Support noted subject to the minor amendment in response to Submitter (43) above. |
| Section 1.6 – Mana whenua | | | |
| 21 – Climate Justice Taranaki | 42 | Amend | Decline |
| | | Submitter seeks amendment to Section 1.6 of the Plan to note Ngāti Maru are negotiating with the Crown regarding their Treaty of Waitangi settlement. | The Hearing Panel recommends declining the relief sought noting that this information is not relevant within the context of the Coastal Plan. Ngāti Maru Treaty of Waitangi settlement claims are unlikely to extend to the Taranaki coastal marine area. In the event, that this assumption is wrong, appropriate changes will be made to the Plan. |
| 60 – Te Kaahui o Rauru | 43 | Amend | Accept |
| | | Submitter seeks amendment to Section 1.6 of the Plan to read: <i>The resources of Tangaroa has have provided [...]</i> | The submitter prefers to refer to the Atua itself instead of using the anthropogenic term “resources”. The Hearing Panel recommends granting the relief sought. |
| 60 – Te Kaahui o Rauru | 44 | Amend | Grant in kind |
| | | Submitter seeks amendment to Section 1.6 of the Plan to replace the word “management” with “relationship” to describe interactions with the natural environment, on line 3 of paragraph 5. | The Hearing Panel recommends granting the relief in part by deleting reference to “ <i>sustainable coastal management</i> ” and instead making consequential changes to focus on the relationship of iwi o Taranaki with the coastal environment. The revised paragraph would read as follows: <i>Kaitiakitanga and tikanga, is at the heart of the relationship between the iwi o Taranaki and the coastal environment. This Plan has integrated the values of Taranaki iwi throughout Plan provisions.</i> |
| 60 – Te Kaahui o Rauru | 45 | Amend | Accept |
| | | Submitter seeks that the Plan communicate, with potential Plan users, the likelihood of the need for consultation with hapū when engaging with non-permitted activities. Submitter seeks amendment to Section 1.6 of the Plan to include the importance of hapū, alongside iwi, as tangata whenua. | The Hearing Panel recommends granting the relief sought by amending Section 1.6 to include hapū alongside iwi. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 61 – Te Rūnanga o Ngāti Ruanui Trust | 46 | <p>Amend</p> <p>The submitter expresses that tangaroa is still currently a source of rongoa and disagrees with the use of the word “was” as the word indicates past tense. The submitter further notes that tangaroa is a current source of mahinga kai.</p> <p>Submitter seeks amendment to first paragraph of Section 1.6 of the Plan to read: <i>[...] These resources are were integral to the lives of the people who occupied the settlements adjoining the coastline. Tangaroa providesd for these people materially, acted as a highway for travel, is was a source of <u>mahinga kai (food and resource)</u>, rongoa (medicine), aided their well-being and provided spiritual sustenance. [...]</i></p> | <p>Accept</p> <p>The Hearing Panel agrees that tangata whenua relationships with Tangaroa are current and ongoing as well as historic and recommend granting the relief sought.</p> |
| Further submissions – Te Atiawa (58) | | Support | |
| Section 1.7 – Coastal management areas | | | |
| 32 – Port Taranaki | 47 | <p>Support</p> <p>Retain Section 1.7.4 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Section 1.7 is retained subject to minor amendments as requested by other submitters.</p> |
| 43 – Royal Forest and Bird Protection Society | 48 | <p>Amend</p> <p>Submitter opposes the coastal management area approach adopted in the Plan as it is unclear as to how it applies to the wider coastal environment.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought.</p> <p>The coastal management areas approach is specific to the coastal marine area. It is based upon a similar regime that has been successfully applied through the current Coastal Plan and effectively is a zonal approach identifying five ‘coastal management areas’ based upon shared values, characteristics, vulnerabilities or sensitivities, and management needs. The ‘zones’ bundle compatible activities or effects of those activities together and restricts activities which are incompatible. Of note, management responses may vary within the coastal management area (and at a finer spatial scale) according to the particular sites and values triggered within a particular locality.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 49 | <p>Amend</p> <p>If the coastal management area approach is to be retained, submitter seeks amendment to Section 1.7.1 of the Plan to:</p> | <p>Accept in part</p> <p>The Hearing Panel recommends granting in part to the relief sought by the submitter.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <ul style="list-style-type: none"> clarify how the coastal environment landward of the coastal marine area is considered under this approach clarify how this relates with the <i>New Zealand Coastal Policy Statement</i> and relevant policies in the Plan amend reference from Schedule 1 to Schedule 2. | <p>The Hearing Panel recommends some amendments to further clarify how coastal management areas apply to the wider coastal environment. However, the Hearing Panel notes that the introductory sentence to Section 1.7 explicitly states that the five coastal management areas apply to the coastal marine area and that part of Policy 1 setting out the coastal management area framework is specific to the coastal marine area.</p> |
| Further submissions – Department of Conservation (29) | | Support | <p>In relation to further amendments sought by the submitter to Section 1.7.1 of the Plan, the Hearing Panel does not consider that it is necessary or appropriate for the Plan to detail how the coastal management approach applies to the <i>New Zealand Coastal Policy Statement</i> or policies in the Plan. Such matters are not compulsory content requirements of the RMA or the <i>National Planning Standards</i> and any explanation is more appropriately addressed in the Section 32 Evaluation Report.</p> <p>In relation to amending reference in the Section to refer to Schedule 2 instead of Schedule 1, the relief sought is declined. Schedule 1 is specific to the coastal management areas and is deliberately confined to the coastal marine area. Schedule 2 relates only to coastal areas of outstanding value and, because of the need to identify significant values across the broader landscape, necessarily includes areas landward of the coastal marine area.</p> |
| 43 – Royal Forest and Bird Protection Society | 50 | <p>Amend</p> <p>Submitter seeks clarification as to whether coastal management areas – Estuaries Unmodified and Estuaries Modified are determined on the basis of values and characteristics under Policies 11, 13 and 15 of the <i>New Zealand Coastal Policy Statement</i>, or on the basis of modification. If the later, submitter seeks amendment to the Plan to explain that the Plan will protect values and characteristics of these estuaries as set out in Policies 8, 9 and 14 of the Plan.</p> | <p>No relief necessary</p> <p>Estuaries Unmodified and Estuaries Modified are based on estuaries identified in the current Coastal Plan and their differing management needs taking into account the presence or otherwise of settlements adjacent to the estuaries. Of note Taranaki has few major estuaries.</p> <p>The Hearing Panel does not consider that it necessary or appropriate to amend the Plan to explain that the Plan will protect values and characteristics of these estuaries as set out in Policies 8, 9 and 14 of the Plan. As explicitly stated in Section 5 of the Plan and in the policy references for rules, all General Policies need to be considered together. Together these policies will protect the values and characteristics of these estuaries as set out in Policies 8, 9 and 14.</p> |
| 43 – Royal Forest and Bird Protection Society | 51 | <p>Amend</p> <p>Submitter seeks amendment to Section 1.7.5 of the Plan to clarify whether the Open Coast coastal management area refers to the remaining area of the coastal marine area or the wider coastal environment</p> | <p>No relief necessary</p> <p>No relief is considered necessary. The Hearing Panel notes that the first sentence of Section 1.7.5 already states that the Open Coast coastal management area is that area of the coastal marine area not covered by the other management areas.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | AND Clarify how the values and characteristics to be protected under Policies 11, 13 and 15 of the <i>New Zealand Coastal Policy Statement</i> will be provided for in these areas. | In relation to the submitter seeking clarification on how values and characteristics of the Open Coast are to be protected in accordance with Policies 11 [Indigenous biodiversity], 13 [Preservation of natural character] and 15 [Natural features and landscapes] of the <i>New Zealand Coastal Policy Statement</i> , the submitter is referred to Policies 8, 9, 10, 11, 12, 13 and 14 of the Plan and the relevant rules. All General Policies in the Plan (plus relevant Activity-specific Policies) need to be considered together. |
| Further submissions – Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support | |
| 45 – Powerco | 52 | Amend Submitter supports Section 1.7 of the Plan and the inclusion of the five coastal management areas but seeks amendment to ensure that the presence of existing infrastructure in all of these areas is appropriately recognised by including the following sentence to paragraphs 1.7.1 to 1.7.3 as follows: <u><i>These areas may contain regionally important infrastructure.</i></u> | Grant in kind A number of submitters sought to have their uses, values or particular interests explicitly identified in the coastal management areas, despite such uses and values being common to most if not all coastal management areas. The Hearing Panel recommends minor and inconsequential changes to the first paragraph of Section 1.7 of the Plan to clarify that coastal management areas are areas or zones dividing the coastal marine area for management purposes and for which specific rules apply. This will avoid the need for unnecessary and potentially redundant commentary in the Plan that attempts to describe common attributes, characteristics and values that in all likelihood apply across all coastal management areas such as the presence of regionally important infrastructure (plus other uses and values). The proposed revised paragraph would read as follows: <i>The coastal marine area has been divided into five <u>coastal</u> management areas or zones. This division recognises that some areas have different management needs than other areas. These areas have been mapped in Schedule 1 <u>and specific rules apply</u> as follows: [...]</i> |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 53 | Amend Submitter supports Section 1.7 of the Plan and the inclusion of the five coastal management areas but seeks amendment to ensure that the presence of existing infrastructure in all of these areas is appropriately recognised by including the following sentence to paragraphs 1.7.1 to 1.7.3 as follows: <u><i>These areas may contain regionally important infrastructure.</i></u> | Grant in kind A number of submitters sought to have their uses, values or particular interests explicitly identified in the coastal management areas, despite such uses and values being common to most if not all coastal management areas. The Hearing Panel recommends minor and inconsequential changes to the first paragraph of Section 1.7 of the Plan to clarify that coastal management areas are areas or zones dividing the coastal marine area for management purposes and for which specific rules apply. This will avoid the need for unnecessary and potentially redundant commentary in the Plan that attempts to describe common attributes, |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>characteristics and values that in all likelihood apply across all coastal management areas such as the presence of regionally important infrastructure (plus other uses and values).</p> <p>The proposed revised paragraph would read as follows:</p> <p><i>The coastal marine area has been divided into five coastal management areas or zones. This division recognises that some areas have different management needs than other areas. These areas have been mapped in Schedule 1 and specific rules apply as follows: [...]</i></p> |
| Section 2.1 – Statutory and planning framework | | | |
| 19 – South Taranaki District Council | 54 | <p>Amend</p> <p>Submitter seeks amendment to Section 2.1 [Statutory and planning framework] of the Plan to reference a commitment to integrated management of resources, recognition of the role of district plans, and working with the territorial local authorities of the region.</p> | <p>No relief necessary</p> <p>The Hearing Panel believes that Section 2.1 is not the most appropriate place to detail commitments to integrated management and notes that such matters have been addressed elsewhere in the Plan, particularly Policy 2 [Integrated management] and in the methods of implementation.</p> |
| 26 – Transpower NZ Ltd | 55 | <p>Support</p> <p>Retain reference to the <i>National Policy Statement on Electricity Transmission 2008</i> within Section 2.1 of the Plan.</p> | <p>Accept</p> <p>Support noted. Reference is retained as notified.</p> |
| 40 – Te Rūnanga o Ngāti Mutunga | 56 | <p>Amend</p> <p>Submitter seeks amendment to Section 2.1 [Statutory and planning framework] of the Plan to reference the <i>Ngāti Mutunga Claims Settlements Act 2006</i> and the <i>Ngāti Mutunga Iwi Environmental Management Plan</i> and other iwi settlement legislation and iwi environmental management plans.</p> | <p>Accept</p> <p>The Hearing Panel recommends granting the relief sought.</p> <p>The Hearing Panel recommends amending Section 2 to include a new sub section relating to iwi management plans and to expand the scope of Section 2.5 [Other legislation] to reference Treaty of Waitangi settlement legislation.</p> |
| 42 – Ngati Rahiri Hapū | 57 | <p>Amend</p> <p>Submitter seeks amendment of Section 2.1 [Statutory and planning framework] of the Plan to state that the purpose of the Plan is to “direct” or “guide” the Council in coastal management under the RMA.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought.</p> <p>The Hearing Panel considers that the commentary in Section 2.1 is consistent with the purpose statement for regional plans as set out in Section 63 of the RMA. Pursuant to Section 63 of the RMA, the purpose of regional plans is “...to assist a regional council to carry out its functions in order to achieve the purpose of the RMA”.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 48 – Taranaki District Health Board | 58 | <p>Amend</p> <p>Submitter seeks amendment of Section 2.1 [Statutory and planning framework] of the Plan to include a section on the principles of Te Tiriti o Waitangi and how these principles guide the work undertaken in this area.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought.</p> <p>The Hearing Panel notes that the <i>Regional Policy Statement for Taranaki</i> already includes a section and discussion on taking into account the principles of the Treaty of Waitangi and includes a declaration of understanding between iwi o Taranaki and the Taranaki Regional Council. The Hearing Panel does not believe it necessary for all subordinate planning documents to repeat such information. Furthermore, there are risks in doing so through unintended inconsistencies in wording etc.</p> <p>The Hearing Panel notes that the contents of the Proposed Plan are consistent with the matters set out in Section 67 [Content of regional plans] of the RMA. It is also not inconsistent with the <i>National Planning Standards</i> recently gazetted by the Ministry for the Environment, which seeks alignment in the format and structure of RMA plans across New Zealand. Some care must be necessarily had with adopting too much 'optional' content. In the drafting of the Plan, the Council has deliberately limited introductory and background content and detail so as to focus on the matters that must be included in a Plan (objectives, policies and rules).</p> |
| Further submissions –Te Rūnanga o Ngāti (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| Section 2.2 – New Zealand Coastal Policy Statement | | | |
| 43 – Royal Forest and Bird Protection Society | 59 | <p>Amend</p> <p>Submitter seeks amendment to Section 2.2 [New Zealand Coastal Policy Statement] of the Plan to read:</p> <p><i>The New Zealand Coastal Policy Statement 2010 (NZCPS) contains objectives and policies to address key national matters facing the coastal environment and to achieve the purpose of the RMA. <u>By giving effect to the New Zealand Coastal Policy Statement in this Plan Council's responsibilities to provide for matters of national importance under section 6 of the RMA is also achieved for the coastal environment.</u></i></p> <p><i>Policies within the New Zealand Coastal Policy Statement address matters including:</i></p> <p><i>[..]</i></p> <p><u>protection of</u> indigenous biological diversity.</p> | <p>Accept in part</p> <p>The submitter believes the opening paragraph of Section 2.2 of the Plan to be misleading as the <i>New Zealand Coastal Policy Statement</i> is not limited to “key national matters” but is to achieve the purpose of the RMA in relation to the coastal environment. The submitter seeks an amendment to Section 2.2 to note that by giving effect to the <i>New Zealand Coastal Policy Statement</i> in this Plan Council's responsibilities to provide for matters of national importance under section 6 of the RMA are also achieved for the coastal environment.</p> <p>The Hearing Panel recommends declining this part of the relief noting that, at best, this statement and level of detail/discussion is unnecessary as Section 2 is only meant to be a high level overview of statutes and regulations relevant to the Coastal Plan. At worst the statement is misleading as while this Plan is likely to be the primary plan for giving effect to the <i>New Zealand Coastal Policy Statement</i> and coastal matters, it is not the only regulatory document. Other plans, including the <i>Regional Policy Statement for Taranaki</i> and the <i>Regional Freshwater Plan</i>, will</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>also assist to give effect to the <i>New Zealand Coastal Policy Statement</i> and national matters of importance under section 6 of the RMA.</p> <p>In relation to the list of matters covered by the <i>New Zealand Coastal Policy Statement</i> policies, the Hearing Panel recommends granting the relief sought by the submitter by amending reference to "<i>indigenous biological diversity</i>" to refer to "<i>protection of indigenous biological diversity</i>".</p> |
| 45 – Powerco | 60 | <p>Amend</p> <p>Submitter seeks amendment to Section 2.2 [New Zealand Coastal Policy Statement] of the Plan to specifically recognise and provide for infrastructure. This could be achieved by adding an additional bullet point:</p> <p><u>Recognising and providing for infrastructure.</u></p> | <p>Decline</p> <p>A number of submitters sought to have their areas of interests explicitly identified in the commentary on the <i>New Zealand Coastal Policy Statement</i>, in this case recognition and provision for infrastructure.</p> <p>The Hearing Panel notes the commentary is deliberately high level and that infrastructure is already adequately covered under references to development. The Hearing Panel suggests that the Plan objectives, policies and rules adequately recognise and provide for infrastructure.</p> |
| Further submissions – Transpower (26) | | Support | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 61 | <p>Amend</p> <p>Submitter seeks amendment to Section 2.2 [<i>New Zealand Coastal Policy Statement</i>] of the Plan to specifically recognise and provide for infrastructure. This could be achieved by adding an additional bullet point:</p> <p><u>Recognising and providing for infrastructure.</u></p> | <p>Decline</p> <p>The submitter wishes to extend the scope of Section 2.2 of the Plan to include infrastructure.</p> <p>A number of submitters sought to have their areas of interests explicitly identified in the commentary on the <i>New Zealand Coastal Policy Statement</i>, in this case recognition and provision for infrastructure.</p> <p>The Hearing Panel notes the commentary is deliberately high level that infrastructure is already adequately covered under references to '<i>development</i>'. The Hearing Panel suggests that the Plan objectives, policies and rules adequately recognise and provide for infrastructure.</p> |
| Section 2.3 – Marine and Coastal Area (Takutai Moana) Act 2011 | | | |
| 41 – Te Korowai o Ngāruahine Trust | 62 | <p>Amend</p> <p>Submitter seeks amendment to Section 2.3 [Marine and Coastal Area (Takutai Moana) Act 2011] of the Plan to note that the iwi of Taranaki have claims before the Crown for both customary marine title and protected customary right and explain to the community what these statutory acknowledgements will mean.</p> | <p>Accept</p> <p>The Hearing Panel agrees to the relief sought and recommend amending Section 2.3 of the Plan to insert a new sentence that notes that the iwi of Taranaki have claims before the Crown for both customary marine title and protected customary right. Commentary preceding the insertion already explains to the community what these statutory acknowledgements will mean.</p> |
| Further submissions – Te Atiawa (58) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 63 | Support | Accept in part |
| | | Retain Section 2.3 of the Plan as notified. | The submitter's support is noted. However, the Hearing Panel notes that in response to relief sought by another submitter, minor amendments have been made to Section 2.3 [<i>Marine and Coastal Area (Takutai Moana) Act 2011</i>] to further explain that the iwi of Taranaki have claims before the Crown for both customary marine title and protected customary rights. |
| Section 2.5 – Other legislation | | | |
| 43 – Royal Forest and Bird Protection Society | 64 | Amend | Decline |
| | | <p>Submitter considers it helpful to explain that other legislation applies in the coastal environment and to outline the relationship these have to the Plan. In particular, Submitter seeks amendment to Section 2.5 [Other legislation] of the Plan to:</p> <ul style="list-style-type: none"> consider the legislation and Acts under Policy 5 of the <i>New Zealand Coastal Policy Statement</i> recognise the relationship between the Plan and the Exclusive Economic Zone and how the Plan addresses, or not, the effects that extend beyond the coastal marine area or into the coastal marine area explain the relationship between this Plan and other Acts/legislation. | <p>The Hearing Panel recommends declining the relief sought.</p> <p>Section 2.5 of the Plan already highlights the need for activities to ensure they comply with other relevant legislation, regulations and bylaws. The Hearing Panel therefore does not believe it necessary to specify or detail the relationship these might have with the Plan. Such detail was not required for the <i>New Zealand Coastal Policy Statement</i> and nor is it required for regional plans.</p> <p>The Hearing Panel further notes that the contents of the Proposed Plan are consistent with the matters set out in Section 67 [Content of regional plans] of the RMA. Given that the Government has just released the <i>National Planning Standards</i> which set out the structure, content and form for councils across New Zealand to adopt – some care must be necessarily had with adopting too much 'optional' content to avoid plans becoming verbose. In the drafting of the Plan, Council has deliberately limited introductory and background content and detail so as to focus on the matters that must be included in a Plan (objectives, policies and rules).</p> <p>The Hearing Panel notes that, in the development of the Plan, full consideration has been given to other relevant statutes and regulations. However, the Hearing Panel does not believe that it is necessary for the Plan to detail/explain the relationship between the Plan and other statutes. The list of legislation in Section 2.5 is not an exhaustive list. However, it is intended to contain the most relevant statutes that may apply to the coastal marine area and already identifies the <i>Conservation Act</i> which is identified in Policy 5 of the <i>New Zealand Coastal Policy Statement</i>.</p> |
| Further submissions– Trans-Tasman Resources Ltd (6) | | Oppose in part/neutral in part | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 58 – Te Atiawa | 65 | <p>Amend</p> <p>Submitter seeks amendment to Section 2.5 [Other legislation] of the Plan to include iwi settlement legislation – specifically, the <i>Te Atiawa Iwi Claims Settlement Act 2016</i>.</p> | <p>Accept</p> <p>The submitter believes that it may be useful for Plan users to know that the iwi of Taranaki have claims before the Crown for both customary marine title and protected customary right.</p> <p>The Hearing Panel recommends amending Section 2 of the Plan to include a new sub section relating to iwi management plans and to expand the scope of Section 2.5 [Other legislation] to reference Treaty of Waitangi settlement legislation, including the <i>Te Atiawa Iwi Claims Settlement Act</i> as requested by the submitter.</p> |
| 60 – Te Kaahui o Rauru | 66 | <p>Amend</p> <p>Submitter seeks amendment to Section 2.5 [Other legislation] of the Plan to include iwi settlement legislation – specifically, the <i>Nгаа Rauru Kītahi Claims Settlement Act 2005</i>.</p> | <p>Accept</p> <p>The submitter believes that it may be useful for Plan users to know that the iwi of Taranaki have claims before the Crown for both customary marine title and protected customary right.</p> <p>The Hearing Panel recommends amending Section 2 of the Plan to include a new sub section relating to iwi management plans and to expand the scope of Section 2.5 [Other legislation] to reference Treaty of Waitangi settlement legislation, including the <i>Nгаа Rauru Kītahi Claims Settlement Act</i> as requested by the submitter.</p> |
| NEW Section 2.6 – Iwi environmental management plans | | | |
| 50 – Te Kāhui o Taranaki Trust | 67 | <p>Amend</p> <p>Submitter seeks amendment of the Plan to include a new Section addressing iwi environmental management plans.</p> | <p>Accept</p> <p>The Hearing Panel recommends granting the relief sought by the submitter by including a new section addressing iwi environmental management plans.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Section 3.1 – Taranaki coastal environment | | | |
| 6 – Trans-Tasman Resources Ltd | 68 | <p>Support</p> <p>Submitter supports Plan overview of the Taranaki coastal environment as it appropriately recognises that some activities require a coastal location and recognises that Taranaki is a mineral producing region to New Zealand.</p> | <p>Accept</p> <p>Support noted.</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 7 – Waikato Regional Council | 69 | <p>Amend</p> <p>The submitter notes that a source of sediment along the Waikato – Taranaki coastline is Mount Taranaki. While the exact quantity of sediment that travels along this coast is unknown, both activities inside and outside of the coastal marine area may affect the supply of the sediment and have a corresponding effect on coastal erosion and seeks amendment to Section 3.1 (or Policy 2 or similar relief) of the Plan to acknowledge that activities outside of the coastal marine area can have an effect on the coastal marine area.</p> | <p>No relief necessary</p> <p>The Hearing Panel does not believe it is necessary to make any amendments to Section 3.1 of the Plan to further highlight that activities outside of the coastal marine area can have effects on the coastal marine area. Such matters are already acknowledged in the commentary in Section 3.1 relating to integrated management and coastal water quality. The Hearing Panel also notes that this issue is further addressed within Policy 2(aa) of the Plan.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 21 – Climate Justice Taranaki | 70 | <p>Amend</p> <p>Submitter seeks amendment to text on page 13 [Appropriate use and development] of the Plan to note central government's recent announcement that there will be no new offshore oil and gas exploration permits and it will be restricting new permits to only onshore Taranaki over the next three years.</p> | <p>Decline</p> <p>The Hearing Panel acknowledges that the current Government has recently changed its stance on offshore oil and gas permits. However, the Hearing Panel considers that amending the Plan to follow suit is an unnecessary level of detail and could potentially become out dated and/or inaccurate should this Government or successive government's change their position.</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 21 – Climate Justice Taranaki | 71 | Amend | Accept |
| | | Submitter seeks amendment to page 15 [Coastal hazards] of the Plan to read: <i>[...] The risk of, or vulnerability to, coastal hazards may increase over time due to climate change and sea level rise.</i> | The Hearing Panel recommends granting the relief sought by the submitter and amending the commentary to note that climate change and sea level rise are heightening the risk of coastal hazards. This relief and other reliefs sought by submitters reads as follows: <i>The risk of, and vulnerability to, coastal hazards will increase over time, for instance due to climate change and sea level rise.</i> |
| 26 – Transpower NZ Ltd | 72 | Amend | Accept in part |
| | | Submitter seeks amendment to text in Section 3.1 of the Plan on appropriate use and development to read: <i>Some activities rely upon a location in or near the coastal marine area, are dependent on the use of coastal resources, or have technical, operational or locational constraints that mean they require a coastal marine area location. Taranaki's coastal resources and developments play a crucial role in both the regional and national economy [...]</i> | The submitter seeks amendments to the commentary to make it clear within the Plan that there are also technical, locational and/or operational reasons why an activity requires a coastal location which are not based solely on the use of the coastal resource itself. The Hearing Panel agrees that there are a number of instances where the location of infrastructure or activities in the coastal marine area is appropriate taking into account technical, operational or locational requirements. The Hearing Panel recommends amending the relevant paragraph to refer to “functional need” and “operational need” and note that these terms are defined in the <i>National Planning Standards</i> and include locational considerations. |
| | | Further submissions – Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | Support in part |
| Further submissions – Fonterra (47) | | Support | |
| 40 – Te Rūnanga o Ngāti Mutunga | 73 | Support | No relief necessary |
| | | Submitter supports the discussions on the coastal environment in Section 3.1 of the Plan and the aim to achieve integrated management of the coastal marine area (but are not convinced integrated management is reflected in the rules of the Plan). | Hearing Panel notes the submitter's support. In relation to the submitter's concerns that integrated management is not reflected in the rules, the Hearing Panel notes that while the rules pertain only to the coastal marine area (as intended), all rules are subject to the General Policies which cover the wider coastal environment and standards, terms and conditions and/or matters of discretion seek to address integrated management issues where relevant. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 41 – Te Korowai o Ngāruahine Trust | 74 | Amend | Accept |
| | | Submitter seeks amendment to Section 3.1 of the Plan to broaden the information, including reference the tauranga waka landing sites and the statutory acknowledgements that iwi have over a number of rivers and tributaries and land | The Hearing Panel recommends minor changes to Section 3.1 of the Plan as requested by the submitter to include tauranga waka landing sites and also to |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | areas within the coastal marine area environment, to promote readers' awareness and knowledge about the depth of relationship that Māori have with the coast. | recognise rivers and tributaries and land areas identified in Appendix 2 [Statutory acknowledgements]. |
| Further submissions – Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | The amended section would read as follows: <i>Wāhi tapu, sites, or places of cultural significance, including tauranga waka landing sites, taonga, and customary resources, are integral to the identity, well-being and cultural integrity of tangata whenua [...]</i> <i>It is important that the relationship of tangata whenua with the coastal environment is recognised and provided for (refer 5 below). That includes rivers and tributaries and land areas identified in Appendix 2 [Statutory acknowledgements] that lie landward of the coastal marine area boundary.</i> |
| 43 – Royal Forest and Bird Protection Society | 75 | Amend Submitter seeks amendment to Section 3.1 of the Plan by: <ul style="list-style-type: none"> amending the third paragraph to recognise existing pressures on the coastal environment, including from beyond the coastal marine area, and that low current demand does not mean management of effects can be relaxed amending the text under “Integrated management” to recognise: the effects of subdivision, use and development on land in the coastal environment on the coastal marine area; that demand for activities in this area is high; the need to provide for migration of coastal habitat landward as a result of climate change. | Accept in part Of note, proposals in this Plan represent an overall increase in the level of protection for coastal uses and values. As noted in previous requests for added commentary or background information, the Hearing Panel recommends that background information, including Section 3.1 which provides an overview of the Taranaki coastal environment, be kept at a high level. Notwithstanding the above, the Hearing Panel recommends minor amendments to Section 3.1 that partially address the reliefs sought by the submitter. It is proposed that the third paragraph of Section 3.1 be amended to include a new sentence that reads as follows: <i>Notwithstanding generally low use and development, it remains important that adverse effects of use and development continue to be avoided, remedied or mitigated and that, as far as is practicable, take into account the wider coastal environment.</i> |
| Further submissions – Trans-Tasman Resources Ltd | | Oppose | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | Other consequential changes are proposed in the commentary under integrated management to also recognise that demand for activities and the effects of subdivision, use and development on land in the coastal environment can be high. However, the Hearing Panel does not recommend commentary being expanded to discuss the specifics of providing for the migration of coastal habitats landward due to climate change. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
|---|------------------|--|--|
| 43 – Royal Forest and Bird Protection Society | 76 | Amend | Accept in part The submitter suggests that it is not appropriate to consider activities as “ <i>appropriate use and development</i> ” on the basis of the benefits of the activities. The Hearing Panel agrees noting that the commentary does not get into the specifics of what is appropriate or not. Such determinations can only be made in reference to the Plan policies. Accordingly, the Hearing Panel recommends amending the heading to “ <i>Use and development</i> ” to more accurately reflect this section’s content. However, the Hearing Panel does not recommend deleting the text itself. |
| | | Submitter seeks further amendment to Section 3.1 of the Plan by deleting the text under “ <i>Appropriate use and development</i> ”. Alternatively amend to address as per submitters previous comments made on this matter. | |
| Further submissions – Transpower (26) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 77 | Amend | Accept in part The Hearing Panel recommends amending Section 3.1 of the Plan to include “ <i>intrinsic</i> ” in the list of values (in the first paragraph) under “ <i>Natural and historic heritage</i> ”. However, the Hearing Panel does not believe it is necessary to specify that natural heritage captures the characteristics and values in Policies 11, 13 and 15 of the <i>New Zealand Coastal Policy Statement</i> (or use wording consistent with those policies). |
| | | Submitter seeks further amendment to Section 3.1 of the Plan by amending the text under “ <i>Natural and historic heritage</i> ” to include “ <i>intrinsic</i> ” in the list of values (in the first paragraph) and to specify that natural heritage captures the characteristics and values in Policies 11, 13 and 15 of the <i>New Zealand Coastal Policy Statement</i> (or use wording consistent with those policies). | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
|--|------------------|---|---|
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 78 | <p>Amend</p> <p>Submitter seeks amendment to the coastal hazards commentary in Section 3.1 of the Plan to read:</p> <p><i>The coastal environment is at high risk of coastal hazards area. Risks include tornados, coastal erosion, tsunami, storm surges, and cliff rock falls and slumps. The risk of, or and vulnerability to, coastal hazards may increase over time, for instance due to climate change and sea level rise.</i></p> <p><i>Although most natural processes that cause coastal hazards originate at sea, the major effects of these processes are nearly always felt on land. The Taranaki coastline is continually influenced by the natural forces of wind and waves. This, coupled with soft geology found in some localities around the coastline, means that the most significant coastal hazard in Taranaki is coastal erosion. Although coastal erosion and other hazards are generally a natural phenomenon, human activity in the coastal marine area may influence the susceptibility of people, property and the environment to loss or damage on account of coastal hazards. It is important that use and development of the coastal marine area does not increase coastal hazard risk to people or property to unacceptable levels.</i></p> <p><i>Similarly, activities in the coastal marine area may also impact on the health or safety of people or property, including aircraft or navigational safety. It is important that these activities do not use and development of the coastal marine area does not increase coastal hazard risk or pose a threat to the health and safety of people or property (refer 7 below).</i></p> | <p>Accept</p> <p>The Hearing Panel recommends granting the relief sought in addition to the reliefs sought by other submitters. The amended section reads as follows:</p> <p><i>The coastal environment is at high risk of coastal hazards. Risks include tornados, coastal erosion, tsunami, storm surges, and cliff rock falls and slumps. The risk of, and vulnerability to, coastal hazards will increase over time, for instance due to climate change and sea level rise.</i></p> <p><i>Although most natural processes that cause coastal hazards originate at sea, the major effects of these processes are nearly always felt on land. The Taranaki coastline is continually influenced by the natural forces of wind and waves. This, coupled with the soft geology found in some localities around the coastline, means that the most significant coastal hazard in Taranaki is coastal erosion. Although coastal erosion and other hazards are generally a natural phenomenon, human activity in the coastal marine area may influence the susceptibility of people, property and the environment to loss or damage on account of coastal hazards. It is important that use and development of the coastal marine area does not increase coastal hazard risk to people or property to unacceptable levels.</i></p> <p><i>Similarly, activities in the coastal marine area may also impact on the health or safety of people or property, including aircraft or navigational safety. It is important that these activities do not pose a threat to the health and safety of people or property (refer 7 below).</i></p> |
| Further submissions – Taranaki Energy Watch (51) | | Oppose in part | |
| 58 – Te Atiawa | 79 | <p>Support</p> <p>Submitter notes support for the discussion on the coastal environment which includes integrated management, coastal water quality, appropriate use and development, natural and historic heritage, tangata whenua values and relationships, public amenity and enjoyment and coastal hazards.</p> | <p>Accept</p> <p>Support noted.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
|--|------------------|--|--|
| Section 3.2 – Managing the Taranaki coastal environment | | | |
| 6 – Trans-Tasman Resources Ltd | 80 | Support Retain objectives, policies, rules and methods that recognise and provide for appropriate use and development of natural resources (which under the RMA includes minerals) within the coastal environment. | Accept Support noted. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 26 – Transpower NZ | 81 | Support Retain matters identified in Section 3.2 of the Plan to be addressed by Plan objectives, policies, rules and methods. | Accept Support noted. |
| 40 – Te Rūnanga o Ngāti Mutunga | 82 | Amend Submitter notes concerns that public access is not always appropriate, in this case, for cultural and ecological reasons. Submitter seeks amendment to point 6 in Section 3.2 [Matters to be addressed] of the Plan to read: <i>6. Ensuring people can continue to access, use and enjoy the Taranaki coast where cultural and ecological values are not adversely impacted upon.</i> | Accept kind The Hearing Panel agrees that there are instances where coastal public access is not appropriate in addition to those mentioned by the submitter (e.g. ecological or public health and safety). Instances where coastal public access is not appropriate are detailed later in Policy 17. The Hearing Panel therefore recommends minor amendments to bullet point 6 to read: <i>6. Ensuring people can continue to access, use and enjoy the Taranaki coast, where and when it is appropriate to do so.</i> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 83 | Amend Submitter supports Section 3.2 [Matters to be addressed] of the Plan subject to amending bullet point 7 to read: <i>7. Ensuring use and development of the coastal marine area does not increase coastal hazard risk to unacceptable levels or pose a threat to the health and safety of people and property.</i> | Accept The Hearing Panel recommends granting the relief sought by the submitter. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
|---|------------------|---|--|
| 57 – Heritage New Zealand | 84 | <p>Amend</p> <p>The submitter requests that Section 3.2 [Matters to be addressed] bullet point 5 be amended to refer to all “Māori” in place of “tangata whenua” to follow similar wording within the RMA. The submitter suggests that iwi/hapū that no longer hold mana whenua can still have important relationships with an area, although they no longer have mana whenua, and such situations need to be provided for within this objective.</p> <p>Submitter seeks amendment to bullet point 5 in Section 3.2 [Matters to be addressed] of the Plan to read:</p> <p><i>5. Ensuring the relationship of Māori tangata whenua, including their traditions and cultural values and their culture and traditions with their <u>ancestral lands, water, sites, waahi tapu, and other taonga</u> are recognised and provided for in the management of Taranaki’s coastal environment.</i></p> | <p>Accept</p> <p>The Hearing Panel recommends granting the relief sought by the submitter to refer more generically to Māori, in place of tangata whenua. The Hearing Panel notes support from iwi in further submissions. The amended provision reads as follows:</p> <p><i>5 Ensuring the relationship of <u>Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga</u> are recognised and provided for in the management of Taranaki’s coastal environment.</i></p> |
| Further submissions - Te Korowai o Ngāruahine Trust (41), Te Kotahitanga o Te Atiawa Trust (58) | | Support | |
| 58 - Te Atiawa | 85 | <p>Amend</p> <p>Submitter supports how the Council intends to manage the Taranaki coastal environment as outlined in Section 3.2 of the Plan, however, the submitter’s concerns are that public access will not always be appropriate, in this case, for cultural reasons and requests amending bullet point 6 to read:</p> <p><i>6. Ensuring people can continue to access, use and enjoy the Taranaki Coast <u>where cultural values are not adversely impacted upon.</u></i></p> | <p>Grant in kind</p> <p>There are other circumstances, where coastal public access is not appropriate (e.g. ecological or public health and safety). Instances where coastal public access is not appropriate are detailed later in Policy 17. The Hearing Panel therefore recommends minor amendments to bullet point 6 to read:</p> <p><i>6. Ensuring people can continue to access, use and enjoy the Taranaki coast, <u>where and when it is appropriate to do so.</u></i></p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

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4.3 Objectives

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
|--|------------------|---|--|
| Objective 1 – Integrated management | | | |
| 2 – Federated Farmers | 86 | Support | Accept |
| | | Submitter supports Objective 1 of the Plan as notified. | Objective 1 is retained subject to the minor amendment in response to Submitter (20) below. |
| 6 – Trans-Tasman Resources Ltd | 87 | Support | Accept |
| | | Submitter supports Objective 1 of the Plan as notified. | Objective 1 is retained subject to the minor amendment in response to Submitter (20) below. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 19 – South Taranaki District Council | 88 | Amend | Decline |
| | | Submitter seeks amendment of Objective 1 of the Plan to add reference to working cooperatively with the territorial local authorities and iwi of the region. | The relief sought by the submitter introduces an unnecessary level of specificity to the Plan objectives and risks excluding other elements of integrated management that are addressed later on in the policies and methods. The Hearing Panel suggests it is more appropriate to provide this level of detail in the policies and methods that follow. Of particular note, the detail sought by the submitter is already included in Policy 2(g) of the Plan, which refers to working cooperatively with territorial authorities and tangata whenua (and others) and supporting methods of implementation. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 20 – Meridian Energy Limited | 89 | Amend | Accept |
| | | Submitter seeks amendment of Objective 1 of the Plan to read: <i>Management of the coastal environment, including the effects of <u>subdivision</u>, use and development on land, air and fresh water, is carried out in an integrated manner.</i> | The Hearing Panel notes that subdivision falls outside the statutory functions of regional councils and is instead the responsibility of district and unitary councils pursuant to Section 31 of the RMA. However, in this instance the objective relates to integrated management which may include activities regulated by other parties. The Hearing Panel therefore recommends that subdivision be referenced in the objective. In addition of the relief suggested above, the Hearing Panel also recommends making consequential amendments to Policy 2 [Integrated management] clause (g) |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
|--|------------------|---|--|
| | | | to recognise subdivision alongside use and development in areas beyond the coastal marine area. A new definition for "subdivision" is also recommended. |
| 35 – Radio New Zealand Ltd | 90 | Support | Accept |
| | | Retain Objective 1 of the Plan as notified. | Objective 1 is retained subject to the minor amendment in response to Submitter (20) above. |
| 43 – Royal Forest and Bird Protection Society | 91 | Amend | Accept in part |
| | | Submitter seeks amendment of Objective 1 of the Plan to read: <i>Management of the coastal environment, including the effects of <u>subdivision</u>, use and development on land, air and fresh water, is carried out in an integrated manner, <u>including between regional and district council functions</u>.</i> | The Hearing Panel notes that subdivision falls outside the statutory functions of regional councils and is instead the responsibility of district and unitary councils pursuant to Section 31 of the RMA. However, in this instance the objective relates to integrated management which may include activities regulated by other parties. The Hearing Panel therefore recommends that subdivision be referenced in the objective. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | In addition to the relief suggested above, the Hearing Panel also recommends making consequential amendments to Policy 2 [Integrated management] clause (g) to recognise subdivision alongside use and development in areas beyond the coastal marine area. A new definition for "subdivision" is also recommended. In terms of suggested amendments to highlight integrated management between regional and district functions, the Hearing Panel suggest it would be more appropriate to provide this level of detail in the policies and methods that follow. Of note, the detail sought by the submitter is already included in Policy 2(g) of the Plan, which refers to working cooperatively with territorial authorities (and others) and supporting methods of implementation. However, the Department of Conservation and many other agencies also have an important statutory role to play. |
| 45 – Powerco | 92 | Support | Accept |
| | | Retain Objective 1 of the Plan as notified. | Objective 1 is retained subject to the minor amendment in response to Submitter (20) above. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 93 | Support | Accept |
| | | Retain Objective 1 of the Plan as notified. | Objective 1 is retained subject to the minor amendment in response to Submitter (20) above. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
|--|------------------|---|---|
| 47 – Fonterra | 94 | Support | Accept |
| | | Retain Objective 1 of the Plan as notified. | Objective 1 is retained subject to the minor amendment in response to Submitter (20) above. |
| Objective 2 – Appropriate use and development | | | |
| 2 – Federated Farmers | 95 | Support | Accept |
| | | Retain Objective 2 of the Plan as notified. | Objective 2 is retained subject to minor amendments as requested by other submitters. |
| 6 – Trans-Tasman Resources Ltd | 96 | Support | Accept |
| | | Retain Objective 2 of the Plan as notified. | Objective 2 is retained subject to minor amendments as requested by other submitters. |
| 12 – Chorus New Zealand Limited | 97 | Support | Accept |
| | | Retain Objective 2 of the Plan as notified. | Objective 2 is retained subject to minor amendments as requested by other submitters. |
| 13 – Spark New Zealand Trading Limited | 98 | Support | Accept |
| | | Retain Objective 2 of the Plan as notified. | Objective 2 is retained subject to minor amendments as requested by other submitters. |
| 14 – Vodafone New Zealand Limited | 99 | Support | Accept |
| | | Retain Objective 2 of the Plan as notified. | Objective 2 is retained subject to minor amendments as requested by other submitters. |
| 25 – New Zealand Petroleum and Minerals | 100 | Support | Accept |
| | | Retain Objective 2 of the Plan as notified. | Objective 2 is retained subject to minor amendments as requested by other submitters. |
| 26 – Transpower NZ Ltd | 101 | Amend | Grant in kind |
| | | Submitter seeks amendment of Objective 2 of the Plan to read: | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
|--|------------------|---|---|
| | | <i>Natural and physical resources of the coastal environment are used efficiently, and activities that depend on the use and development of these resources, or have technical, operational and/or locational requirements, are provided for in appropriate locations.</i> | The Hearing Panel recommends amending Objective 2, and granting the relief sought in kind, by adopting slightly different language to that suggested by the submitter in order to maintain consistency with other areas of the Plan referring to functional need and operational need. The Hearing Panel considers all matters requested by the submitter (technical and locational requirements) to be provided within the definitions of these terms. The amended Objective would read as follows: <i>Natural and physical resources of the coastal environment are used efficiently, and activities that have a functional need or an operational need, that depend on the use and development of these resources, are provided for in appropriate locations.</i> |
| Further submissions – Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support in part | |
| Further submissions – Fonterra (47) | | Support | |
| 27 – Taranaki Chamber of Commerce | 102 | Support Retain Objective 2 of the Plan as notified. | Accept Objective 2 is retained subject to minor amendments as requested by other submitters. |
| 32 – Port Taranaki | 103 | Amend Submitter seeks amendment of Objective 2 of the Plan (or add new objective) to specifically address provision for ongoing development of strategically significant regional and national infrastructure, including Port Taranaki. | Accept The Hearing Panel recommends amending Objective 2 to grant this and other related reliefs sought by the submitter. The amended Objective would read as follows: <i>Natural and physical resources of the coastal environment are used efficiently, and activities that have a functional need or an operational need, that depend on the use and development of these resources, are provided for in appropriate locations.</i> |
| Further submissions – Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support in part | |
| 33 - New Zealand Defence Force | 104 | Support Retain Objective 2 of the Plan as notified. | Accept Objective 2 is retained subject to minor amendments as requested by other submitters. |
| 43 – Royal Forest and Bird Protection Society | 105 | Amend Submitter seeks amendment to Objective 2 of the Plan to read: <i>Objective 2: Appropriate Efficient use and development Natural and physical resources of the coastal environment are used efficiently, and activities that depend on the use and development of these resources, are provided for in appropriate locations.</i> | Grant in kind The Hearing Panel notes that relief sought by the submitter confines the focus of the objective to “efficient” use and development. As a result many activities that might otherwise have been considered appropriate would no longer be recognised and provided for if the efficiency criterion only is applied. In so doing this might |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Trans-Tasman Resources Ltd (6), Transpower (26), Te Korowai o Ngāruahine Trust (41) | | Oppose | mean that many activities that contribute to the social, economic and cultural well-being of people and communities could be unnecessarily restricted. The Hearing Panel further suggests that the proposed relief would derogate from the <i>New Zealand Coastal Policy Statement</i> – particularly Objective 6 [Use and development] and Policies 6 [Activities in the coastal environment] and 9 [Ports], which generally recognise and provide for activities in the coastal environment. The Hearing Panel recommends an alternative relief by amending the title of the objective to refer only to “Use and development”. |
| 45 – Powerco | 106 | Support Retain Objective 2 of the Plan as notified. | Accept Support noted. Objective 2 is retained subject to minor amendments as requested by other submitters. |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 107 | Support Retain Objective 2 of the Plan as notified. | Accept Support noted. Objective 2 is retained subject to minor amendments as requested by other submitters. |
| 47 – Fonterra | 108 | Amend Submitter seeks amendment of Objective 2 of the Plan to read: <i>Natural and physical resources of the coastal environment are used efficiently, and activities, <u>including regionally important industry and infrastructure</u>, that depend on the use and development of these resources are provided for in appropriate locations.</i> | Decline The Hearing Panel recommends declining the relief requested by the submitter and notes that regionally important infrastructure and industry is already adequately provided for within the Objective. The Hearing Panel notes that objectives are intentionally high level and considers that the amendment is unnecessarily specific and verbose. The Hearing Panel notes that explicit recognition and provision for regionally important infrastructure and industries are provided for in the Plan policies. |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41) | | Oppose | |
| 59 - KiwiRail | 109 | Support Retain Objective 2 of the Plan as notified. | Accept Support noted. Objective 2 is retained subject to minor amendments as requested by other submitters. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
|--|------------------|--|--|
| Objective 3 – Reverse sensitivity | | | |
| 2 – Federated Farmers | 110 | Support | Accept |
| | | Retain Objective 3 of the Plan as notified. | Support noted. Objective 3 is retained subject to minor amendments as requested by other submitters. |
| 12 – Chorus New Zealand Limited | 111 | Support | Accept |
| | | Retain Objective 3 of the Plan as notified. | Support noted. Objective 3 is retained subject to minor amendments as requested by other submitters. |
| 13 – Spark New Zealand Trading Limited | 112 | Support | Accept |
| | | Retain Objective 3 of the Plan as notified. | Support noted. Objective 3 is retained subject to minor amendments as requested by other submitters. |
| 14 – Vodafone New Zealand Limited | 113 | Support | Accept |
| | | Retain Objective 3 of the Plan as notified. | Support noted. Objective 3 is retained subject to minor amendments as requested by other submitters. |
| 20 – Meridian Energy Limited | 114 | Amend | Accept |
| | | Submitter seeks amendment to Objective 3 of the Plan to read: <i>The use and ongoing operation of nationally and regionally important infrastructure and other existing lawfully established activities is protected from new or inappropriate <u>subdivision</u>, use and development in the coastal environment</i> | The Hearing Panel notes that subdivision falls outside the statutory functions of regional councils and is instead the responsibility of district and unitary councils pursuant to Section 31 of the RMA. However, activities occurring within the CMA and regulated by the Council may be adversely impacted by subdivision, use and development outside the CMA and regulated by other parties. The Hearing Panel therefore agrees with the submitter that subdivision should be referenced in the objective. A new definition for “ <i>subdivision</i> ” is also recommended. |
| 23 – New Plymouth District Council | 115 | Support | Accept |
| | | Retain Objective 3 of the Plan as notified. | Support noted. Objective 3 is retained subject to minor amendments as requested by other submitters. |
| 26 – Transpower NZ Ltd | 116 | Amend | Accept |
| | | Submitter supports Objective 3 of the Plan but seeks amendment of the title to read: | The Hearing Panel recommends granting the relief sought by amending the title of Objective 3 to read: |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
|--|------------------|--|---|
| | | Objective 3 Reverse sensitivity <i>Impacts on established operations and activities</i> The submitter contends that the relief sought would help to clarify the intent of the objective and is a more user friendly variant providing more direction for Plan users. | <i>Impacts on established operations and activities.</i> |
| 32 – Port Taranaki | 117 | Support Retain Objective 3 of the Plan as notified | Accept Support noted. Objective 3 is retained subject to minor amendments as requested by other submitters. |
| 33 - New Zealand Defence Force | 118 | Support Retain Objective 3 of the Plan as notified. | Accept Support noted. Objective 3 is retained subject to minor amendments as requested by other submitters. |
| 35 – Radio New Zealand Ltd | 119 | Support Retain Objective 3 of the Plan as notified. | Accept Support noted. Objective 3 is retained subject to minor amendments as requested by other submitters. |
| 43 – Royal Forest and Bird Protection Society | 120 | Amend The submitter believes that Objective 3 is in conflict with Policy 6(1)(e) of the <i>New Zealand Coastal Policy Statement</i> as it prioritises the protection of lawfully established activities over subsequent development, including new regionally significant infrastructure. Submitter seeks amendment of the Plan by deleting Objective 3: <i>The use and ongoing operation of nationally and regionally important infrastructure and other existing lawfully established activities is protected from new or inappropriate use and development in the coastal environment.</i> | Decline The Hearing Panel does not believe it is necessary or appropriate to delete Objective 3 noting that provision for new operations and activities in the coastal environment is already addressed in Objective 2 of the Plan. Objective 3 is viewed as upholding Policy 6(1) of the <i>New Zealand Coastal Policy Statement</i> as it provides protection for nationally and regionally important infrastructure. The objective also supports Policy 10 of the <i>National Policy Statement for Electricity Transmission</i> and the <i>National Environmental Standard for Telecommunication Facilities</i> which require the management of activities to avoid reverse sensitivity on the transmission and telecommunication networks. |
| Further submissions – Meridian Energy Ltd (20), Transpower NZ Ltd (26), New Zealand Defence Force (33), Radio New Zealand (35), Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | The Hearing Panel further believes that it is appropriate and equitable that the Objective/Plan address the management of adverse effects on other lawfully established activities. The Hearing Panel notes the wide level of support that has been indicated by other submitters for this Objective. |

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| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 45 – Powerco | 121 | <p>Amend</p> <p>Submitter seeks amendment to Objective 3 of the Plan to read: <i>The use and ongoing operation, <u>maintenance, and upgrading</u> of nationally and regionally important infrastructure and other existing lawfully established activities is protected from new or inappropriate use and development in the coastal environment.</i></p> | <p>No relief required</p> <p>The Hearing Panel considers maintenance and upgrading to be already captured in the phrase “<i>the use and ongoing operation</i>” of nationally and regionally important infrastructure. The introduction of added terms is not only unnecessary but potentially confusing in that it terms such as upgrading are not used in Plan policies or rules relating to structures.</p> |
| Further submissions – Meridian Energy Ltd (20) | | Support in part | |
| Further submissions – Transpower (26) | | Support | |
| Further submissions – Taranaki Energy Watch (51) | | Oppose | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 122 | <p>Amend</p> <p>Submitter seeks amendment to Objective 3 of the Plan to read: <i>The use and ongoing operation, <u>maintenance, and upgrading</u> of nationally and regionally important infrastructure and other existing lawfully established activities is protected from new or inappropriate use and development in the coastal environment.</i></p> | |
| Further submissions – Meridian Energy Ltd (20) | | Support in part | <p>No relief required</p> <p>The Hearing Panel considers maintenance and upgrading to be already captured in the phrase “<i>the use and ongoing operation</i>” of nationally and regionally important infrastructure. The introduction of added terms is not only unnecessary but potentially confusing in that the use of other terms such as “upgrading” are not used in Plan policies or rules.</p> |
| Further submissions – Department of Conservation (29), Taranaki Energy Watch (51) | | Oppose | |
| 47 – Fonterra | 123 | <p>Support</p> <p>Retain Objective 3 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. At the hearing of submissions the submitter presented further on Objective 3 and noted that although amendments to Objective 3 are not opposed, a slight wording change is recommended to refer to the “proximity” to the infrastructure or activity. The Hearing Panel consider this amendment adds clarity</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | and captures the intent of the objective and recommend amending Objective 3 to read: <i>The use and ongoing operation of regionally important infrastructure and other existing lawfully established activities is protected from new <u>incompatible subdivision</u>, use and development <u>occurring in proximity to the infrastructure or activity</u> in the coastal environment.</i> |
| 59 - KiwiRail | 124 | Support Retain Objective 3 of the Plan as notified. | Accept Support noted. Objective 3 is retained subject to minor amendments as requested by other submitters. |
| Objective 4 – Life-supporting capacity and mouri | | | |
| 43 – Royal Forest and Bird Protection Society | 125 | Support Retain Objective 4 of the Plan as notified. | Accept Support noted. Objective 4 is retained. |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 126 | Support Retain Objective 4 of the Plan as notified. | Accept Support noted. Objective 4 is retained. |
| Objective 5 – Coastal water quality | | | |
| 29 – Department of Conservation | 127 | Amend To give effect to Policy 21 [Enhancement of water quality] of the <i>New Zealand Coastal Policy Statement</i> , the submitter seeks amendment to Objective 5 of the Plan to include provision for the restoration of water quality where appropriate. Submitter seeks amendment to Objective 5 of the Plan to read: <i>Water quality in the coastal environment is maintained and enhanced <u>and where quality of water in the coastal environment has deteriorated, restore where practicable</u>.</i> | Grant in kind For the purposes of increased certainty and clarity, the Hearing Panel recommends granting the relief sought in kind by amending the Objective in line with relief sought by other submitters. The revised Objective would read as follows: <i>Water quality in the coastal environment is maintained <u>where it is good</u>, and enhanced <u>where it is degraded</u>.</i> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |

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| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 128 | <p>Amend</p> <p>Submitter supports Objective 5 of the Plan but seeks new Plan provisions to align with the <i>National Policy Statement for Freshwater Management</i>, including establishing numeric and descriptive water quality objectives/targets and setting standards for water bodies, and estuaries and sites at sea, in this Plan.</p> | <p>Decline</p> <p>While a number of small consequential amendments are proposed to Plan provisions that may give effect to better alignment with the <i>National Policy Statement for Freshwater Management</i>, the Hearing Panel believes the establishment and setting of numeric and descriptive water quality objectives/targets and setting standards for water bodies, and estuaries and sites at sea in the Plan unnecessary.</p> <p>Of note, Taranaki generally has good quality coastal water. This is primarily due to the relatively small number of major point source discharges to the coastal marine area but is also attributable to the nature of our very small and few estuaries, and the very turbulent, wild and open Tasman Sea. The setting of robust, scientifically validated nutrient and other limits for Taranaki coastal waters would be technically difficult and costly to link and justify with the maintenance and enhancement of specific coastal values and can be more effectively imposed through the consenting process associated with point source discharges.</p> |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 129 | <p>Support</p> <p>Retain Objective 5 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Objective 5 is retained subject to minor amendments as requested by other submitters.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 47 – Fonterra | 130 | <p>Amend</p> <p>The submitter does not consider it technically possible to both maintain and enhance water quality at the same time and seek amendments to direct the circumstances in which coastal water quality should be maintained or enhanced. Submitter seeks amendment to Objective 5 of the Plan to read:</p> | <p>Accept</p> <p>For the purposes of increased certainty and clarity, the Hearing Panel recommends granting the relief sought.</p> <p>The revised Objective would read as follows:</p> |

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| | | Water quality in the coastal environment is maintained <i>where it is good</i> , and enhanced <i>where it is degraded</i> . | Water quality in the coastal environment is maintained <i>where it is good</i> , and enhanced <i>where it is degraded</i> . |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| 48 – Taranaki District Health Board | 131 | Support Retain Objective 5 of the Plan as notified. | Accept Support noted. Objective 5 is retained subject to minor amendments as requested by other submitters. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 132 | Amend Submitter seeks amendment to Objective 5 of the Plan to read: <i>Objective 5: Coastal water quality</i> <i>Water quality and mauri values in the coastal environment is maintained and enhanced.</i> | Grant in kind The Hearing Panel does not recommend granting the relief sought. The Hearing Panel notes that māuri has already been addressed in Objective 4, which relates to the life supporting capacity of coastal water, land and air. This is considered a more appropriate fit for māuri than Objective 5, which relates only to water quality (māuri is defined in the Regional Policy Statement as meaning essential life force or principle, a metaphysical quality inherent in all things, both animate and inanimate). Water quality is likely to be only one component of māuri and excludes considerations such as the ecological functioning and health of the environment overall. Following pre-hearing engagement, an alternative relief was recommended. The Hearing Panel recommends amending the introduction to section 4 to highlight that objectives need to be read together, including the need to safeguard māuri values (as identified in Objective 5). |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40) | | Support | |
| Objective 6 – Natural character | | | |
| 20 – Meridian Energy Limited | 133 | Amend Submitter seeks amendment to Objective 6 of the Plan to read: <i>The natural character of the coastal environment is preserved and protected from inappropriate subdivision, use and development and is restored where appropriate.</i> | Accept in part The Hearing Panel recommends amending Objective 6 so that it refers to subdivision. In addition of the relief suggested above, the Hearing Panel also recommends making consequential amendments to Policy 8 [Areas of outstanding |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | value] and including a new definition for "subdivision" in the definitions section of the Plan. In relation to removing reference to "and is restored where appropriate", the Hearing Panel notes that restoration of natural character may be appropriate in some locations and that this approach is consistent with Policy 14 (a) [Restoration of natural character] of the <i>New Zealand Coastal Policy Statement</i> which requires the identification of areas and opportunities for restoration or rehabilitation of natural character. |
| 23 – New Plymouth District Council | 134 | Support Retain Objective 6 of the Plan as notified. | Accept Support noted. Objective 6 is retained subject to minor amendments as requested by other submitters. |
| Further submissions – Meridian Energy Ltd (20) | | Support in part | |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 29 – Department of Conservation | 135 | Support Retain Objective 6 of the Plan as notified. | Accept Support noted. Objective 6 is retained subject to minor amendments as requested by other submitters. |
| 26 – Transpower NZ Ltd | 136 | Support Retain Objective 6 of the Plan as notified. | Accept Support noted. Objective 6 is retained subject to minor amendments as requested by other submitters. |
| 43 – Royal Forest and Bird Protection Society | 137 | Amend Submitter seeks amendment to Objective 6 of the Plan to read: <i>The natural character of the coastal environment is preserved and protected from inappropriate <u>subdivision</u>, use and development and is restored where appropriate degraded.</i> | Accept in part The Hearing Panel recommends amending Objective 6 so that it refers to subdivision as requested by the submitter. A new definition for "subdivision" is also recommended. In relation to replacing reference to "appropriate" with "degraded" the Hearing Panel recommend declining the relief sought noting that restoration of natural character may be appropriate in some locations where natural character has become degraded but not necessarily all locations. The Hearing Panel notes that this approach is consistent with Policy 14 (a) [Restoration of natural character] of |
| Further submissions – Federated Farmers (2) | | Oppose | |
| Further submissions – Meridian Energy Ltd (20) | | Support in part | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Transpower NZ Ltd (26) | | Oppose in part | the <i>New Zealand Coastal Policy Statement</i> which requires the identification of areas and opportunities for restoration or rehabilitation of natural character. |
| 45 – Powerco | 138 | Support | Accept |
| | | Retain Objective 6 of the Plan as notified. | Support noted. Objective 6 is retained subject to minor amendments as requested by other submitters. |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 139 | Support | Accept |
| | | Retain Objective 6 of the Plan as notified. | Support noted. Objective 6 is retained subject to minor amendments as requested by other submitters. |
| 47 – Fonterra | 140 | Support | Accept |
| | | Retain Objective 6 of the Plan as notified. | Support noted. Objective 6 is retained subject to minor amendments as requested by other submitters. |
| 59 - KiwiRail | 141 | Support | Accept |
| | | Retain Objective 6 of the Plan as notified. | Support noted. Objective 6 is retained subject to minor amendments as requested by other submitters. |
| Objective 7 – Natural features and landscapes | | | |
| 20 – Meridian Energy Limited | 142 | Amend | Accept |
| | | Submitter seeks amendment to Objective 7 of the Plan to read: <i>The natural features and landscapes of the coastal environment are protected from inappropriate <u>subdivision</u>, use and development.</i> | The Hearing Panel recommends amending Objective 7 so that it refers to subdivision alongside use and development. A new definition for “ <i>subdivision</i> ” is also recommended. |
| 23 – New Plymouth District Council | 143 | Support | Accept |
| | | Retain Objective 7 of the Plan as notified. | Support noted. Objective 7 is retained subject to minor amendments as requested by other submitters. |
| 26 – Transpower NZ Ltd | 144 | Support | Accept |
| | | Retain Objective 7 of the Plan as notified. | Support noted. Objective 7 is retained subject to minor amendments as requested by other submitters. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 43 – Royal Forest and Bird Protection Society | 145 | Amend | Accept |
| | | Submitter seeks amendment to Objective 7 of the Plan to read: <i>The natural features and landscapes of the coastal environment is preserved and protected from inappropriate <u>subdivision</u>, use and development and is restored where <u>appropriate degraded</u>.</i> | The Hearing Panel recommends amending Objective 7 so that it refers to subdivision alongside use and development. A new definition for “subdivision” is also recommended. |
| 45 – Powerco | 146 | Support | Accept |
| | | Retain Objective 7 of the Plan as notified. | Support noted. Objective 7 is retained subject to minor amendments as requested by other submitters. |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 147 | Support | Accept |
| | | Retain Objective 7 of the Plan as notified. | Support noted. Objective 7 is retained subject to minor amendments as requested by other submitters. |
| 47 – Fonterra | 148 | Support | Accept |
| | | Retain Objective 7 of the Plan as notified. | Support noted. Objective 7 is retained subject to minor amendments as requested by other submitters. |
| Objective 8 – Indigenous biodiversity | | | |
| 23 – New Plymouth District Council | 149 | Support | Accept |
| | | Retain Objective 8 of the Plan as notified. | Support noted. Objective 8 is retained as notified. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 150 | Amend | Decline |
| | | Submitter seeks amendment to Objective 8 of the Plan to read: <i>[...] <u>protect indigenous biodiversity in the coastal environment</u>.</i> | Objective 8 has two aspects. The first part of the Objective relates to all indigenous biodiversity in the coastal environment being “maintained and enhanced”, while the second part of the Objective relates to the protection of some aspects of biodiversity, i.e. significant indigenous biodiversity. The Hearing Panel does not believe it appropriate or necessary to ‘protect’ all aspects of indigenous biodiversity from the adverse effects of activities. The Section 5 purpose [Sustainable management] of the RMA involves use and |
| Further submissions – Te Atiawa (58) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>development as well as protection. Not all aspects of indigenous biodiversity necessarily must be protected.</p> <p>'Protecting' all indigenous biodiversity rather than "<i>maintaining and enhancing</i>" would be overly prescriptive. Of note the Objective already seeks to protect "significant indigenous biodiversity", which is directly aligned with Policy 11 of the <i>New Zealand Coastal Policy Statement</i>.</p> |
| 45 – Powerco | 151 | <p>Amend</p> <p>Submitter seeks that Objective 8 of the Plan (and corresponding policies and rules) provide appropriately for the operation, maintenance and upgrade of existing regionally important infrastructure.</p> | <p>No relief necessary</p> <p>No precise details of amendments sought to Objective 8 have been provided. However, the Hearing Panel notes that Section 4 of the Plan provides a suite of objectives that together provide for a broad range of values and uses, including nationally and regionally important infrastructure.</p> |
| Further submissions – Transpower NZ (26) | | Support | <p>Objectives relating to regionally important infrastructure are separately addressed in Objectives 2 and 3 of the Plan. In determining the weighing or priority given to particular values the Plan policies also apply. The Hearing Panel does not believe any amendments to Objective 8 are therefore necessary.</p> <p>Notwithstanding the above, in response to reliefs sought elsewhere by the submitter (and others), consequential amendments have been made in other Plan provisions that further recognise and provide for the operation, maintenance and alteration (upgrade) of existing regionally important infrastructure.</p> |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 153 | <p>Amend</p> <p>Seek that Objective 8 (and corresponding policies and rules) provide appropriately for the operation, maintenance and upgrade of existing regionally important infrastructure.</p> | <p>No relief necessary</p> <p>No precise details of amendments sought to Objective 8 have been provided. However, the Hearing Panel notes that Section 4 of the Plan provides a suite of objectives that together provide for a broad range of values and uses, including nationally and regionally important infrastructure.</p> |
| Further submissions – Federated Farmers (2) | | Support | <p>Objectives relating to regionally important infrastructure are separately addressed in Objectives 2 and 3 of the Plan. In determining the weighing or priority given to particular values the Plan policies also apply. The Hearing Panel do not believe any amendments to Objective 8 are therefore necessary.</p> <p>Notwithstanding the above, in response to reliefs sought elsewhere by the submitter (and others), consequential amendments have been made in other Plan provisions that further recognise and provide for the operation, maintenance and alteration (upgrade) of existing regionally important infrastructure.</p> |

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| Objective 9 – Relationship of tangata whenua with the coastal environment | | | |
| 48 – Taranaki District Health Board | 154 | <p>Support</p> <p>Retain Objective 9 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Objective 9 is retained subject to minor amendments as requested by other submitters.</p> |
| Further submissions – Port Taranaki Ltd (32) | | <p>Support</p> | |
| 57 – Heritage New Zealand | 155 | <p>Amend</p> <p>The submitter requests that Objective 9 be amended to refer to all “Māori” in place of “tangata whenua” to follow similar wording within the RMA. The submitter suggests that iwi/hapū that no longer hold mana whenua can still have important relationships with an area, although they no longer have mana whenua, and such situations need to be provided for within this objective.</p> <p>Submitter seeks amendment to the title and content of Objective 9 of the Plan to read:</p> <p><i>Objective 9: Relationship of Māori tangata whenua with the coastal environment</i> <i>Traditional and continuing relationships of Māori tangata whenua and their cultures and traditions with the coastal environment <u>and their ancestral lands, water, sites, waahi tapu and other taonga</u>, including the role of tangata whenua as kaitiaki, are recognised and provided for and protected from inappropriate use and development of the coastal marine area.</i></p> | <p>Accept in part</p> <p>The Hearing Panel notes that iwi, hapū and whanau themselves have not commented on this submission point nor sought any similar changes. Nor has relief of this type been sought from the wider Māori community or others. Tangata whenua is considered more appropriate in the Taranaki context whereby the Council seeks to explicitly recognise tangata whenua relationships with the coast in the Plan objectives and policies.</p> <p>Unless iwi authorities themselves seek a change (which they have not done to date), the Hearing Panel recommends retaining reference to tangata whenua (rather than all Māori) in the Objective. However, other amendments sought by the submitter to better align language with the RMA are recommended.</p> <p>The revised Objective would read as follows:</p> <p><i>Traditional and continuing relationships of tangata whenua and their cultures and traditions <u>with their ancestral lands, water, sites, waahi tapu and other taonga</u> in the coastal environment, including the role of tangata whenua as kaitiaki, are recognised and provided for.</i></p> |
| Objective 10 – Treaty of Waitangi | | | |
| 41 – Te Korowai o Ngāruahine Trust | 156 | <p>Amend</p> <p>The submitter supports the introduction of Te Tiriti o Waitangi because, through the Plan, it embeds the Treaty into the heart of decision making considerations.</p> <p>Submitter seeks amendment to Objective 10 of the Plan to:</p> <ul style="list-style-type: none"> read “<u>...Give effect to The principles of the Treaty of Waitangi including the principles of ... in the management of the coastal environment</u>” | <p>Accept in part</p> <p>The Hearing Panel notes the support from the submitter for the introduction of the Treaty of Waitangi into the objectives section of the Plan. However, the Hearing Panel does not recommend amending the Objective to “give effect” to the Treaty of Waitangi as the current wording of the Objective is already consistent with Objective 3 and Policy 2 of the <i>New Zealand Coastal Policy Statement</i>, which</p> |

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| | | <ul style="list-style-type: none"> reference the following guiding principles: mai te maunga, Taranaki kite tai a Kupe, whakapapa, kaitiakitanga, manaakitanga, whanaungatanga, kawanatanga, and rangatiratanga. | <p>requires persons exercising functions and powers under the RMA to “take into account”, rather than “give effect to”, the principles of the Treaty of Waitangi.</p> <p>The submitter further seeks that the Council reinstate (from the draft Plan) five values that encapsulate the relationship between iwi o Taranaki and the coastal environment. The Hearing Panel recommends granting this part of the relief sought and amending the Objective to refer to the guiding principles to improve the integration of Māori principles throughout the Plan.</p> <p>The amended Objective 10 would read as follows:</p> <p><i>The principles of the Treaty of Waitangi, including the principles of mai te maunga Taranaki kite tai a Kupe, whakapapa, kaitiakitanga, manaakitanga, whanaungatanga, kawanatanga, and rangatiratanga, are taken into account in the management of the coastal environment.</i></p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| 48 – Taranaki District Health Board | 157 | Support | Accept |
| | | Retain Objective 10 of the Plan as notified. | Support noted. Objective 10 is retained subject to minor amendments as requested by other submitters. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 58 – Te Atiawa | 158 | Amend | Decline |
| | | Submitter seeks amendment to Objective 10 of the Plan to read: <i>Give effect to the principles of the Treaty of Waitangi, including the principles of kawanatanga, rangatiratanga, partnership, active participation, resource development and spiritual recognition, are taken into account in the management of the coastal environment.</i> | The Hearing Panel does not recommend amending the Objective to “give effect” to the Treaty of Waitangi as the current wording of the Objective is already consistent with Objective 3 and Policy 2 of the <i>New Zealand Coastal Policy Statement</i> , which requires persons exercising functions and powers under the RMA to “take into account”, rather than “give effect to”, the principles of the Treaty of Waitangi. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| Objective 11 – Historic heritage | | | |
| 20 – Meridian Energy Limited | 159 | Amend | Accept |
| | | Submitter seeks amendment to Objective 11 of the Plan to read: <i>Historic heritage in the coastal environment is protected from inappropriate subdivision, use and development.</i> | The Hearing Panel notes that the control of subdivision is not one of the Council's functions under section 30 of the RMA, however, it is permissible for regional plans to included reference to subdivision in relevant objectives and policies if it serves one of the Council's other functions, for example, integrated management. |

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| | | | The Hearing Panel therefore recommends amending the provision as sought by the submitter so that it refers to subdivision alongside use and development for the purpose of assisting the Council in integrated management matters. A new definition for "subdivision" is also recommended. |
| 43 – Royal Forest and Bird Protection Society | 160 | Support Retain Objective 11 of the Plan as notified. | Accept Support noted. Objective 11 is retained as notified. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 57 – Heritage New Zealand | 161 | Amend Submitter seeks amendment to Objective 11 of the Plan to read: <i>Significant historic heritage in the coastal environment is protected from inappropriate use and development of the coastal marine area, and the extensive but limited knowledge of historic heritage in the coastal environment is recognised.</i> | Grant in kind The Hearing Panel note that the Plan already gives partial relief to the submitter in that Objective 11 refers to historic heritage generally rather than "significant historic heritage". The submitter seeks further amendments to Objective 11 – similar in kind to Objective 6 of the <i>New Zealand Coastal Policy Statement</i> – to recognise the extensive but limited knowledge of historic heritage in the coastal environment. The Hearing Panel notes that the issue of extensive, but limited knowledge of historic heritage in the coastal environment, has already been highlighted in the Section 32 Evaluation Report and the Panel does not believe it is necessary to restate such matters in Plan objectives. The Hearing Panel are also unclear as to how 'recognition' in a Plan objective would be monitored meaningfully. Accordingly, changes are not recommended to the Objective itself. Instead the Hearing Panel recommends an alternative relief involving consequential amendments in the background information of the Plan [Natural and historic heritage] to further highlight this issue. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 162 | Amend Submitter seeks amendment to Objective 11 of the Plan to read: <i>Objective 11: Cultural and Historic Heritage</i> <i>Cultural and Historic heritage in the coastal environment is protected from inappropriate use and development.</i> | Accept The Hearing Panel recommends amending the Plan to grant the relief. The relief broadens the scope of the objective to address aspects of cultural heritage values that are not necessarily captured within the RMA definition of historic heritage. For |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | example, cultural heritage may include values such as taonga species for which a new policy has been recommended. |
| Objective 12 – Public use and enjoyment | | | |
| 2 – Federated Farmers | 163 | <p>Amend</p> <p>Submitter seeks amendment to Objective 12 of the Plan to read: <i>People's use and enjoyment of the coastal environment, including amenity values, traditional practices and public access to and within the coastal environment <u>marine area</u>, is maintained and enhanced.</i></p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought. Objective 12 applies to the coastal environment to promote integrated management of the coast across environmental domains and across local authority jurisdictional boundaries in a manner consistent with Policy 4 of the <i>New Zealand Coastal Policy Statement</i>. Confining Objective 12 to only the coastal marine area would derogate from that intent.</p> |
| 29 – Department of Conservation | 164 | <p>Amend</p> <p>Submitter seeks amendment to Objective 12 of the Plan to read: <i>The public's people's use and enjoyment of the coastal environment, including amenity values, traditional practices and public access to and within the coastal environment, is maintained and enhanced.</i></p> | <p>Accept</p> <p>The submitter suggests that to improve alignment and consistency between Policy 18 [Public open spaces] of the <i>New Zealand Coastal Policy Statement</i> and Policy 17 of the Plan, the use of the term "public" should be used. It is noted that the word "people" can include private use. The Hearing Panel agrees and recommends granting the relief sought.</p> |
| 40 – Te Rūnanga o Ngāti Mutunga | 165 | <p>Amend</p> <p>Submitter seeks amendment to Objective 12 of the Plan to read: <i>People's use and enjoyment of the coastal environment, including amenity values, traditional practices and public access to and within the coastal environment is maintained and enhanced <u>without adversely impacting on cultural and environmental values</u>.</i></p> | <p>Grant in kind</p> <p>The submitter's concerns are that people's use and development of the coastal environment should be subject to the appropriate management of adverse effects on cultural and environmental values. The Hearing Panel recommends granting the relief sought in kind by amending Objective 12 to recognise that people's use and enjoyment of the coast should not be to the detriment of other uses and values. However, the Hearing Panel does not believe it appropriate to specify or confine the Objective to the consideration of only those values specified in the submission. First, the suggested amendments by the submitter introduce a strict avoidance threshold with no regard to the significance of the effects. Second, the suggested amendments do not recognise other circumstances, where coastal public access should be subject to avoiding, remedying or mitigating adverse impacts on other uses and values (e.g. public health and safety). These are outlined later in Policy 17. The Hearing Panel recommend that Objective 12 be amended to read:</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <i>The public's use and enjoyment of the coastal environment, including amenity values, traditional practices and appropriate public access to and within the coastal environment, is maintained and enhanced.</i> |
| 41 – Te Korowai o Ngāruahine Trust | 166 | <p>Amend</p> <p>Submitter seeks amendment to Objective 12 of the Plan to read: <i>People's use and enjoyment of the coastal environment, including amenity values, traditional practices and public access to and within the coastal environment is maintained and enhanced <u>without adversely impacting on cultural and environmental values.</u></i></p> | <p>Grant in kind</p> <p>The submitter's concerns are that people's use and development of the coastal environment should be subject to the appropriate management of adverse effects on cultural and environmental values.</p> <p>The Hearing Panel recommends granting the relief sought in kind by amending Objective 12 to recognise that people's use and enjoyment of the coast should not be to the detriment of other uses and values. However, the Hearing Panel does not believe it appropriate to specify or confine the Objective to the consideration of only those values specified in the submission. First, the suggested amendments by the submitter introduce a strict avoidance threshold with no regard to the significance of the effects. Second, the suggested amendments do not recognise other circumstances, where coastal public access should be subject to avoiding, remedying or mitigating adverse impacts on other uses and values (e.g. public health and safety). These are outlined later in Policy 17.</p> <p>The Hearing Panel recommends that Objective 12 be amended to read: <i>The public's use and enjoyment of the coastal environment, including amenity values, traditional practices and appropriate public access to and within the coastal environment, is maintained and enhanced.</i></p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 167 | <p>Amend</p> <p>Submitter seeks amendment to Objective 12 of the Plan to recognise additional matters set out in Policy 16(a), Policy 18(a), (b), (d) and (e), Policy 19(1), (3) and (4), and Policy 20 of the <i>New Zealand Coastal Policy Statement</i>.</p> | <p>No relief necessary</p> <p>No precise details of amendments sought to Objective 12 have been provided and the amendments sought by the submitter are considered unnecessary.</p> <p>The Hearing Panel notes the Plan comprises of a suite of objectives, policies and methods, including rules that collectively give effect to the <i>New Zealand Coastal Policy Statement</i>. Plan provisions need to be read together (while also acknowledging the different statutory responsibilities and powers of territorial authorities and district plans for giving effect to specific elements of the <i>New Zealand Coastal Policy Statement</i>).</p> <p>The Hearing Panel refers the submitter to Policies 17 [Public access], 18 [Amenity values], 19 [Surf breaks], of the Plan, and Implementation Methods 32 to 36 and 39, which specifically address Policy 16(a), Policy 18(a), (b), (d) and (e), Policy</p> |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | |

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| | | | 19(1), (3) and (4), and Policy 20 of the <i>New Zealand Coastal Policy Statement</i> . Other Plan provisions also apply. |
| 47 – Fonterra | 168 | <p>Amend</p> <p>Submitter seeks amendment to Objective 12 of the Plan to read: <i>People's use and enjoyment of the coastal environment, including amenity values, traditional practices and public access to and within the coastal environment, is maintained and or enhanced <u>where appropriate</u>.</i></p> | <p>Accept in part</p> <p>There are two parts to the relief sought by the submitter.</p> <p>First, the submitter considers that it is not possible to maintain <u>and</u> enhance public access at the same time and requests that this be recognised by using an 'or' instead of an 'and'. The Hearing Panel notes that this objective is not site specific and instead applies to the entire coastal environment and so is appropriate to maintain and enhance use and enjoyment across the coastal environment. In addition, the wording follows the wording used in the <i>New Zealand Coastal Policy Statement</i> policies 18 [Public open space] and Policy 19 [Walking access] which is considered appropriate to follow. The Hearing Panel therefore recommends declining this part of the relief.</p> <p>Second, the submitter suggests there may be occasions where it is necessary to limit public access, even if only temporarily. The Hearing Panel agrees that Objective 12 should be amended to recognise that people's use and enjoyment of the coast should not be to the detriment of other uses and values. Accordingly, the Hearing Panel recommends that Objective 12 be amended to read:</p> <p><i>The public's use and enjoyment of the coastal environment, including amenity values, traditional practices and <u>appropriate</u> public access to and within the coastal environment, is maintained and enhanced.</i></p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | <p>Oppose</p> | |
| 48 – Taranaki District Health Board | 169 | <p>Support</p> <p>Retain Objective 12 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Objective 12 is retained subject to minor amendments as requested by other submitters.</p> |
| 58 – Te Atiawa | 170 | <p>Amend</p> <p>Submitter seeks amendment to Objective 12 of the Plan to read: <i>People's use and enjoyment of the coastal environment, including amenity values, traditional practices and public access to and within the coastal environment is maintained and enhanced <u>without adversely impacting on cultural and environmental values</u>.</i></p> | <p>Grant in kind</p> <p>The submitter's concerns are that people's use and development of the coastal environment should be subject to the appropriate management of adverse effects on cultural and environmental values.</p> <p>The Hearing Panel recommends granting the relief sought in kind by amending Objective 12 to recognise that people's use and enjoyment of the coast should not be to the detriment of other uses and values. However, the Hearing Panel do not consider it appropriate to specify or confine the Objective to the consideration of specific values. First, the suggested amendments by the submitter introduce a</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>strict avoidance threshold with no regard to the significance of the effects. Second, the suggested amendments do not recognise other circumstances, where coastal public access should be subject to avoiding, remedying or mitigating adverse impacts on other uses and values (e.g. public health and safety). These are outlined later in Policy 17.</p> <p>The Hearing Panel recommends that Objective 12 be amended to read: <i>The public's use and enjoyment of the coastal environment, including amenity values, traditional practices and <u>appropriate</u> public access to and within the coastal environment, is maintained and enhanced.</i></p> |
| 59 – KiwiRail | 171 | <p>Amend</p> <p>Submitter seeks amendment to Objective 12 of the Plan to read: <i>People's use and enjoyment of the coastal environment, including amenity values, traditional practices and public access to and within the coastal environment, is maintained and enhanced <u>where appropriate</u>.</i></p> | <p>Grant in kind</p> <p>The Hearing Panel recommends that Objective 12 be amended to give effect to the submitter's request subject to minor amendment that also gives effect to relief sought by other submitters.</p> <p>The revised Objective would read as follows: <i>The public's use and enjoyment of the coastal environment, including amenity values, traditional practices and <u>appropriate</u> public access to and within the coastal environment, is maintained and enhanced.</i></p> |
| Further submissions – Te Atiawa (58) | | Oppose | |
| Objective 13 – Coastal hazards risk and public health and safety | | | |
| 2 – Federated Farmers | 172 | <p>Support</p> <p>Retain Objective 13 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Objective 13 is retained subject to minor amendments as requested by other submitters.</p> |
| 20 – Meridian Energy Limited | 173 | <p>Amend</p> <p>Submitter seeks amendment to Objective 13 of the Plan to read: <i>The risk of social, cultural, environmental, and economic harm from coastal hazards is not increased and public health, safety and property is not compromised by <u>subdivision</u>, use and development of the coastal <u>environment marine area</u>.</i></p> | <p>Accept in part</p> <p>The relief sought by the submitter has two parts. First, it seeks to expand the scope of the Objective to address subdivision and, second, it seeks to expand its scope so that it applies to the coastal environment (rather than just the coastal marine area).</p> <p>In relation to expanding the scope of Objective 13 so that it applies to the coastal environment (rather than just the coastal marine area), the Hearing Panel agrees that the objective should address the wider coastal environment. Accordingly, the Hearing Panel recommends amending the Objective to refer to the coastal environment but note that reference to the coastal marine area at the end of the</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>objective will be retained to reflect that the rules only addresses use and development within the coastal marine area.</p> <p>The Hearing Panel further recommends that the objective reference subdivision as sought by the submitter. The Hearing Panel recommends amending Objective 13 (in line with reliefs sought by other submitters) to read as follows:</p> <p><i>The risk of social, cultural, environmental, and economic harm in the coastal environment from coastal hazards is not increased and public health, safety and property is not compromised by use and development of the coastal marine area.</i></p> |
| 43 – Royal Forest and Bird Protection Society | 174 | <p>Amend</p> <p>Submitter seeks amendment to Objective 13 of the Plan to address the wider coastal environment and to reflect the matters set out in Policy 24, Policy 25, Policy 26, and Policy 27 of the <i>New Zealand Coastal Policy Statement</i>.</p> | <p>Accept in part</p> <p>No precise details of amendments sought to Objective 13 have been provided. The Hearing Panel recommends minor amendment to make clear that Objective 13 applies to the wider coastal environment and that only the second part of the objective that relates to use and development is specific to the coastal marine area.</p> <p>However, as previously noted in submission point 165, the Hearing Panel does not believe it necessary or appropriate to make further amendments to reflect the <i>New Zealand Coastal Policy Statement</i>.</p> <p>The Hearing Panel notes the Plan comprises a suite of objectives, policies and methods, including rules that collectively give effect to the <i>New Zealand Coastal Policy Statement</i>. Plan provisions need to be read together (while also acknowledging the different statutory responsibilities and powers of territorial authorities and district plans for giving effect to specific elements of the <i>New Zealand Coastal Policy Statement</i>).</p> <p>The Hearing Panel refers the submitter to Policies 20 [Coastal hazards], 21 [Natural hazard defences] and Implementation Methods 37 to 42, which specifically address matters set out in Policy 24, Policy 25, Policy 26, and Policy 27 of the <i>New Zealand Coastal Policy Statement</i>. Other Plan provisions may also apply.</p> <p>The Hearing Panel recommends amending Objective 13 (in line with reliefs sought by other submitters) to read as follows:</p> <p><i>The risk of social, cultural, environmental, and economic harm in the coastal environment from coastal hazards is not increased and public health, safety and property is not compromised by use and development of the coastal marine area.</i></p> |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | |
| | 175 | Amend | Decline |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | | Submitter seeks amendment to Objective 13 of the Plan to read: <i>The risk of social, cultural, environmental, and economic harm from coastal hazards is not increased to unacceptable levels and public health, safety and property is not compromised by use and development of the coastal marine area.</i> | The Hearing Panel recommends declining the relief sought by the submitter. An objective should clearly identify the resource management outcome sought and it is unusual for an objective to allow any increase in environmental risk. The Hearing Panel is also concerned that reference to “unacceptable level” infers that some increase is allowed, which is contrary to Policy 25(a) of the <i>New Zealand Coastal Policy Statement</i> , which refers to “avoid increasing the risk of social, environmental and economic harm from coastal hazards”. |
| Further submissions – Transpower (26), Petroleum Exploration and Production Association of New Zealand (37) | Support | | |
| Further submissions – Department of Conservation (29), Te Rūnanga o Ngāti Ruanui Trust (61) | Oppose | | |
| 48 – Taranaki District Health Board | 176 | Support Retain Objective 13 of the Plan as notified | Accept Support noted. Objective 13 is retained subject to minor amendments as requested by other submitters. |
| Objectives 1 – 14 | | | |
| 41 – Te Korowai o Ngāruahine Trust | 177 | Amend Submitter seeks amendment to objectives section of the Plan to include commentary from the Section 32 Evaluation Report to explain the focus and intent of Plan objectives. | Decline The Council has deliberately chosen to make its Plan concise and focus its content matters on the mandatory content matters set out in Section 67 of the RMA to guide the setting of rules and consenting processes. As such, it contains very little or minimal optional content such as issues, explanations, and methods (other than rules). Notwithstanding that, the Hearing Panel appreciates the submitter's comments on the usefulness of the explanation of Plan provisions provided in the Section 32 Explanation Report and recommends that Council finalise that report with the intention that it be a companion document to the Plan to assist readers in the interpretation and application of Plan provisions. The Hearing Panel further recommend that Council investigate the preparation of practice notes based on the Section 32 Evaluation Report to explain the intent of Plan provisions once adopted. |

4.4 Policies

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Section 5 – Preamble | | | |
| 43 – Royal Forest and Bird Protection Society | 178 | Support | Decline |
| | | <p>Submitter seeks amendment to the introduction of Section 5 of the Plan, on page 19, to read:</p> <p><i>Section 5.1 contains [...] which relate to:</i></p> <p><i>1. [...]</i></p> <p><i><u>1A. protection of significant and outstanding values and characteristics of the coastal environment [...]</u></i></p> | <p>The Hearing Panel notes that the bullet points relate to the third order headings adopted for the Policies section of the Plan for the reader's ease of reference. The headings bundle similar policies by shared themes. Policies relating to the protection of significant and outstanding values and characteristics of the coastal environment are already addressed under the heading of "Natural form and functioning".</p> |
| 43 – Royal Forest and Bird Protection Society | 179 | Amend | Accept in part |
| | | <p>Submitter seeks amendment to the introduction of Section 5.1 of the Plan, on page 20, to read:</p> <p><i>This section provides the overall direction for achieving integrated management <u>for the protection</u> of significant <u>and outstanding</u> values and matters in the coastal environment (i.e. both the coastal marine area and areas <u>landward</u> where coastal processes, influences or qualities are significant) in order to achieve the objectives of this Plan.</i></p> <p><i>The policies apply to all activities in the coastal environment, regardless of which coastal management area the activity may fall within (coastal management areas are identified in Schedule 1 and their characteristics are described in Policy 1).</i></p> | <p>The Hearing Panel recommends amending the introduction of Section 5.1 but notes that the Plan policies cover use, development and protection of all coastal values not just "the protection of significant and outstanding values." The Hearing Panel therefore recommends an alternative relief that takes into account reliefs sought in other submissions. The amended introduction would read as follows:</p> <p><i>This section provides the overall direction for achieving integrated management in the coastal environment (i.e. both the coastal marine area and areas <u>landward</u> where coastal processes, influences or qualities are significant <u>and as indicatively shown on the planning maps</u>) in order to achieve the objectives of this Plan.</i></p> <p><i>The policies apply to all activities in the coastal <u>environment</u>. <u>The policies set out a coastal management framework, provide for use and development, protect, maintain and enhance significant and outstanding values, and manage coastal hazards and risks to public health and safety.</u></i></p> |
| Further submissions – Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support in part | |
| 43 – Royal Forest and Bird Protection Society | 180 | Amend | Accept |
| | | <p>Submitter seeks amendment to the introduction of Section 5.1 of the Plan, on page 20, to clarify the extent of the coastal management areas set out in the planning maps.</p> | <p>Both South Taranaki and New Plymouth district councils have commenced or are about to commence their respective district plan reviews, which includes a coastal protection zone. For the purposes of integrated management and to promote</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Department of Conservation (29) | | Support | <p>alignment between the respective regional and district plans, the Hearing Panel recommends that the Plan (and associated GIS layers and planning maps) be amended to include an indicative extent of the coastal environment that is aligned with the coastal environment lines (or there equivalent) identified in the South Taranaki and New Plymouth district plans.</p> <p>Consequential amendments throughout the Plan, including Section 5.1, are further recommended to ensure appropriate linkages between Plan provisions, the schedules, and the planning maps.</p> |
| 43 – Royal Forest and Bird Protection Society | 181 | <p>Amend</p> <p>Submitter seeks amendment to the introduction of Section 5.1 of the Plan, on page 20, to clarify that the extent of the coastal management areas lists Policy 1(a), (b), (c) and (e) areas and that the Open Coast is not identified.</p> | <p>Decline</p> <p>The Hearing Panel notes that the Open Coast is identified in the Plan and it is not unreasonable to expect Plan readers to understand that the Open Coast coastal management area pertains to that part of the coastal marine area not already identified as being Outstanding, Estuary Unmodified, Estuary Modified and Port coastal management areas. Of note, this Policy is a continuation of an existing policy in the current Coastal Plan and for which there have been no issues previously identified by Plan users in relation to its interpretation and application.</p> <p>Notwithstanding the above, consequential amendments are recommended to Policy 1 to clarify that coastal management areas relate to the coastal marine area only.</p> |
| 57 – Heritage New Zealand | 182 | <p>Amend</p> <p>Submitter seeks amendment to the introduction of Section 5 of the Plan, on page 19, to include an additional bullet point and read:</p> <p><i>Section 5.1 contains [...] which relate to:</i></p> <p><u><i>Relationship of Māori and their culture and traditions with the coastal environment.</i></u></p> | <p>Grant in kind</p> <p>The Hearing Panel notes that the bullet points relate to the third order headings adopted for the Policies section of the Plan for the reader's ease of reference. The headings bundle similar policies by shared themes. Policies relating to the relationship of Māori and their culture and traditions with the coastal environment are currently addressed under the heading of "Natural and historic heritage and values". However, recognition and provision for the relationship of Māori contains cultural elements specific to tangata whenua and additional to those covered by the natural heritage, the environment, and historic heritage policies.</p> <p>The Hearing Panel recommends granting the relief and identifying tangata whenua culture, values and traditions with the coastal environment as a separate stand-alone heading. This heading will also be adopted within the policies section for the relationship of tangata whenua (Policy 16).</p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | <p>The Hearing Panel recommends granting the relief and identifying tangata whenua culture, values and traditions with the coastal environment as a separate stand-alone heading. This heading will also be adopted within the policies section for the relationship of tangata whenua (Policy 16).</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 61 – Te Rūnanga o Ngāti Ruanui Trust | 183 | <p>Other</p> <p>Submitter notes that Plan policies do not cover the Exclusive Economic Zone and, for the purposes of integrated management, seeks that the Council follows the directions of the High Court and/or seek legal advice on the 'defect' of the RMA to ensure that the sustainable management purpose of the RMA is followed.</p> | <p>No relief necessary</p> <p>Comments noted.</p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Neutral | |
| Further submissions – Te Atiawa (58) | | Support | |
| Policy 1 – Coastal management areas | | | |
| 5 – Point Board Riders | 184 | <p>Support</p> <p>Submitter supports the inclusion of Policy 1(d)(iii) of the Plan. Retain as notified.</p> | <p>Accept</p> <p>Support noted. Policy 1(d)(iii) is retained as notified.</p> |
| 6 – Trans-Tasman Resources Ltd | 185 | <p>Support</p> <p>Submitter supports Policy 1(d)(i) of the Plan acknowledging the existing high energy wave environment and current coastal erosion in the open coast.</p> | <p>Accept</p> <p>Support noted. Policy 1(d)(i) is retained as notified.</p> |
| 15 – Surfbreak Protection Society | 186 | <p>Support</p> <p>Submitter supports the inclusion of Policy 1 (d)(iii) of the Plan. Retain as notified.</p> | <p>Accept</p> <p>Support noted. Policy 1(d)(iii) is retained as notified.</p> |
| 20 – Meridian Energy Limited | 187 | <p>Amend</p> <p>Submitter seeks amendment to the first paragraph of Policy 1 of the Plan to read: <i>Manage the coastal marine area environment in a way that recognises that some areas have values, characteristics or uses that are vulnerable or sensitive to the effects of some activities, or that have different management needs than other areas [...]</i></p> | <p>Accept</p> <p>Policy 1 has two parts. The first part, to which the relief applies to the whole coastal environment and recognises that some areas have different values, characteristics, uses, vulnerabilities, sensitivities or management needs to other areas. The second part relates to the coastal management areas, which are of relevance to the rules in and relate to the coastal marine area only.</p> <p>The Hearing Panel recommends granting the relief sought by the submitter as the concept of some areas having different values, characteristics, uses, vulnerabilities, sensitivities or management needs to other areas applies to the wider coastal environment and not just the coastal marine area. However, the second part of the Policy clearly relates to identifying the five coastal management areas to which rules</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>will specifically apply. The Hearing Panel further recommends other consequential amendments to Policy 1 to clarify that the coastal management areas apply only to the coastal marine area.</p> <p>The proposed amendments would read as follows:</p> <p><i>Manage the coastal environment in a way that recognises that some areas have values, characteristics or uses that are more vulnerable or sensitive to the effects of some activities, or that have different management needs than other areas.</i></p> <p><i>In managing the use, development and protection of resources in the coastal marine area under the Plan, recognition will be given to the following coastal management areas (identified in Schedule 1) and their distinguishing values, characteristics and uses: [...]</i></p> |
| 23 – New Plymouth District Council | 188 | Support | Accept |
| | | Retain Policy 1 of the Plan as notified. | Policy 1 is retained subject to minor amendments as requested by other submitters. |
| 26 – Transpower NZ Ltd | 189 | Support | Accept |
| | | Retain Policy 1 of the Plan as notified. | Policy 1 is retained subject to minor amendments as requested by other submitters. |
| 28 – Grant Knuckey | 190 | Amend | Decline |
| | | Submitter seeks amendment to Policy 1 of the Plan by incorporating mana whenua values from Policy 16 [Relationship of tangata whenua] into Policy 1. | The Hearing Panel notes the introductory sentence to Section 5 of the Plan on page 19 that “... when assessing an activity, all relevant general and activity-based policies are to be considered and no individual policy viewed in isolation. ” It is therefore unnecessary to cross reference Policy 16 (and other policies) in Policy 1 for it to be considered. Both Policy 1 and 16 will be considered together (plus the other General Policies and relevant Activity-specific Policies) in the assessment of any resource consent applications. |
| 28 – Grant Knuckey | 191 | Amend | Decline |
| | | Submitter seeks amendment to Policy 1 of the Plan by identifying two new marine spatial coastal management areas – wahi tapu areas and wahi taonga areas. | The Hearing Panel recommends declining the relief sought in that the relief is unnecessary and has already been given effect to in the Plan, albeit in a different manner than that sought by the submitter. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | Policy 1 sets out a zonal approach for the application of rules in the coastal marine area. The coastal marine area has been divided into five coastal management areas |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | <p>based upon shared values, characteristics, uses, vulnerability or sensitivity, and different management needs. The zones allow rules to 'bundle' compatible activities or effects of these activities together and restrict activities or effects which are incompatible. The coastal management areas enables some activities, and restricts other activities.</p> <p>The Hearing Panel notes that Policy 1 is based upon the current coastal management regime, which included similar coastal management areas and has largely been effective in managing adverse effects in the coastal marine area.</p> <p>Notwithstanding the above, across all the coastal management areas and at a finer spatial scale, there will be specific sites and places with regionally significant values located within the coastal management area. They include sites, places and attributes identified as significant for their natural character, indigenous biodiversity, historic heritage and amenity values. Through this Coastal Plan review considerable effort has been made to identify and/or map sites of significance to tangata whenua in Schedule 5B of the Plan and associated planning maps. These sites include wahi tapu areas and wahi taonga areas to ensure that any adverse effects on these sites and places are properly considered and adverse effects avoided, remedied or mitigated. The Hearing Panel notes that supporting policies and rules in the Plan apply relating to the protection of wahi tapu, wahi taonga and other significant sites of significance to Māori.</p> |
| 29 – Department of Conservation | 192 | <p>Amend</p> <p>Submitter seeks amendment to Policy 1(d) [Open Coast] of the Plan to include a new characteristic to read: <i>v) provide important habitats for marine species.</i></p> | <p>Grant in kind</p> <p>The submitter refers to the Section 32 Evaluation Report which recognizes that within the open coast there is a range of marine habitats that none of the other management areas have.</p> <p>The Hearing Panel recommends granting the relief sought in kind by amending Policy 1(d)(ii) to refer to marine systems (which encompass, amongst other things, reef systems that provide habitats for marine life), and migration paths, breeding areas and nursery areas for marine mammals and seabirds. The Hearing Panel further recommends that, as a consequential amendment, Policy 1(d)(ii) is split into two clauses and that the values of mahinga kai are identified separately.</p> <p>The revised Policy 1(d) would read as follows:</p> <p>[...]</p> <p><i>(ii) include marine systems and habitat, including migratory paths, breeding areas for marine mammals and seabirds;</i></p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
|--|------------------|---|---|
| | | | <i>(iiA) include marine systems and marine life valued by Māori for mahinga kai; [...]</i> |
| 32 – Port Taranaki | 193 | <p>Amend</p> <p>Submitter generally supports Policy 1 but questions the relevance or significance of Clause (e)(v) and recommends deleting it:</p> <p><i>(v) can have significant effects on areas outside of the Port, including contributing to coastal erosion along the New Plymouth foreshore</i></p> | <p>Accept</p> <p>The Hearing Panel agrees that activities able to have significant effects outside the area of operation and able to have an impact on coastal erosion are not confined to the Port and recommend deleting the clause.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Oppose | |
| 40 – Te Rūnanga o Ngāti Mutunga | 194 | <p>Amend</p> <p>Submitter seeks amendment to Policy 1(b) and (c) of the Plan to re-instate (from the Draft Coastal Plan) the following characteristics for Estuaries Unmodified and Estuaries Modified:</p> <p><i>[...] valued by Māori for Mahinga Kai.</i></p> | <p>Accept</p> <p>The Hearing Panel recommends amending Policy 1(b) and (c) as through the exercise of mapping sites of significance to Māori, inevitably estuaries have been identified as important for a variety of reasons including mahinga kai. However, the Hearing Panel recommends broadening the relief to 'capture' not just mahinga kai values but other potential cultural, spiritual, historical and traditional associations.</p> <p>The amended Policy 1(b) and (c) will include a clause that will read as follows:</p> <p><i>[...] are valued by Māori for taonga species, and cultural, spiritual, historical and traditional associations.</i></p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 41 – Te Korowai o Ngāruahine Trust | 195 | <p>Amend</p> <p>Submitter seeks amendment of Policy 1 of the Plan to recognise the place of marine spatial planning and ecosystem based management and other associated environmental and kaitiaki plans and recognise Māori values within each of the coastal management areas.</p> | <p>No relief necessary</p> <p>No precise details of amendments sought to Policy 1 have been provided but the Hearing Panel believes that Plan provisions, when read as a whole, give effect to the relief sought by the submitter and no further change is necessary.</p> <p>Policy 1 already includes an element of marine spatial planning. It sets out a zonal approach for the application of rules in the coastal marine area. The coastal marine area has been divided into five coastal management areas based upon shared values, characteristics, uses, vulnerability or sensitivity, and different management needs. The zones allow rules to 'bundle' compatible activities or effects of these activities together and restrict activities or effects which are incompatible. The coastal management areas enables some activities, and restricts other activities.</p> <p>Notwithstanding the above, across all the coastal management areas and at a finer spatial scale, there will be specific sites and places with regionally significant values. Through this Coastal Plan review considerable effort has been made to identify and/or map these values in the Plan schedules and associated planning maps, which</p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
|---|------------------|--|---|
| | | | include wahi tapu areas and wahi taonga areas to ensure that any adverse effects on these sites and places are properly considered and adverse effects avoided, remedied or mitigated. |
| 43 – Royal Forest and Bird Protection Society | 196 | Other | No relief necessary |
| | | Submitter seeks discussion around Policy 1 to determine whether the characteristics listed under Outstanding Value, Estuaries Unmodified, Estuaries Modified, Open Coast and Port require all characteristics to apply together as indicated by the use of “and” within the listings. | Comments noted. The Hearing Panel notes that the matters listed are but a general description of distinguishing values, characteristics and uses that underpin the identification of the five very broad coastal management areas. The Hearing Panel has been advised that Council officers have discussed this matter further with the submitter as part of the pre-hearing engagement process. It was noted that all these characteristics <u>broadly</u> apply in the specified coastal management area but it is not necessary for all these characteristics to apply in every locality within the coastal management area |
| Further submissions – Port Taranaki Ltd (32) | | Support in part | |
| 43 – Royal Forest and Bird Protection Society | 197 | Other | No relief necessary |
| | | Submitter questions whether the current wording of Policy 1 of the Plan, and its subheadings, account for the protection of biodiversity and associated values or merely define large management areas, which then have their values protected or uses provided through other policies. If this is the case it is unclear where these protective provisions are. | No relief is sought. However, as previously noted, Policy 1 is a general description of distinguishing values, characteristics and uses that underpin the identification of the five coastal management areas. In relation to the “protective provisions” the Hearing Panel refers the submitter to the rest of the Plan. The Hearing Panel notes the introductory sentence to Section 5 on page 19 that “... when assessing an activity, regard will be had to all relevant general and activity-based policies are to be considered and no individual policy viewed in isolation. ” |
| Further submissions – Port Taranaki Ltd (32) | | Support in part | The Hearing Panel believes the ‘suite’ of General Policies plus relevant Activity Policies triggered by use and development activities in the coastal marine area address, amongst other things, the use and development and protection of natural and physical coastal resources. |
| 43 – Royal Forest and Bird Protection Society | 198 | Amend | Accept in part |
| | | Submitter seeks amendment to the Plan by deleting Policy 1 of the Plan OR Amend Policy 1 by: <ul style="list-style-type: none"> setting out an area based management approach based on mapped and scheduled areas. Refer to relevant policies to identify characteristics in those areas which are not already for those areas in | The Hearing Panel recommends amendments to Policy 1 that give partial effect to the relief sought by the submitter but which also addresses issues/matters raised by other submitters. The submitter’s concerns with the coastal management area approach are noted. However, the Hearing Panel notes that the approach has been in place since 1997 and to date no issues have been identified in relation to its application. The current |

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| | | <p>a schedule AND move the amended policy to section 5.2 so that it clearly sets out a management approach only within the coastal marine area and applies only to the activities which are controlled under rules in the plan</p> <ul style="list-style-type: none"> amending the description of the management approach as per the submitter's suggestions relating to Section 1.7 above and Policies 1(a), (b), (c), (d) and (e) below including a statement that explains that Policy 1 does not provide direction for subdivision, use or development activities within the management areas. | <p>Coastal Plan, which includes the same zonal approach and has an equivalent policy, has been demonstrated to be efficient and effective in managing adverse effects in the coastal marine area through interim reviews and state of the environment monitoring. The Hearing Panel therefore does not believe it necessary nor appropriate to delete Policy 1.</p> <p>Notwithstanding the above, the Hearing Panel notes recommendations that give partial relief to other reliefs sought by the submitter. These include amendments to the Policy 1 plus other inconsequential changes in Section 1.7 of the Plan to clarify that the application of the coastal management areas (i.e. spatial extent) applies only to the coastal marine area.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | |
| Further submissions – Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support/Oppose in part | |
| 43 – Royal Forest and Bird Protection Society | 199 | <p>Amend</p> <p>Submitter seeks amendment to Policy 1(a) of the Plan to read:</p> <p><i>In managing the use, development and protection of resources under the Plan, recognition will be given to the following coastal management areas (identified in Schedule 1) and their distinguishing values, characteristics and uses:</i></p> <p>(a) Outstanding Value: Coastal areas of outstanding value (identified in Schedule 2) that characteristically:</p> <p>(i) are areas of outstanding natural character and/or outstanding natural features or landscapes;</p> <p>(ii) contain values and attributes that are exceptional, including in relation to landforms, land cover, biodiversity, cultural and heritage associations, and visual qualities identified in Schedule 2 (refer corresponding Policy 7);</p> <p>(iii) contain marine areas with legal protection, including Parininihi Marine Reserve, Ngā Motu/Sugar Loaf Islands Marine Protected Area and Tapuae Marine Reserve (identified in Schedule 1); and</p> <p>(iv) are iconic to the region's identity and sense of place—These coastal management areas represent those areas that have been identified to meet the criteria under Policy 8: Outstanding Natural Character and Policy 9: Outstanding</p> | <p>Accept in part</p> <p>The Hearing Panel does not consider it is appropriate or necessary to paraphrase and reference the <i>New Zealand Coastal Policy Statement</i> or other policies in the Plan.</p> <p>The Hearing Panel also does not consider it necessary to amend Policy 1(a) to delete references to the distinguishing values, characteristics and uses set out in Clauses (ii), (iii) and (iv). The Hearing Panel notes that Policy 1(a) is similar to an equivalent policy in the current Plan for which no issues have been identified in relation to its interpretation and application. The Hearing Panel notes requests by other submitters seeking to have additional values identified.</p> <p>Notwithstanding the above, the Hearing Panel recommends granting relief in part. The Hearing Panel recommends amendments to Policy 1(a) based upon the relief sought by the submitter (and others) that reads as follows:</p> <p>(a) Outstanding Value: <u>refers to those areas listed in Schedule 1(a) and are identified as having outstanding natural character and/or outstanding natural features or landscapes values. These areas</u> characteristically:</p> <p>(i) contain values and attributes that are exceptional [...]</p> |

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| | | <i>Natural Features and Landscapes. They are listed in Schedule 1(a) and shown on the Planning maps. The values and characteristics of these identified areas are set out in Schedule 2.</i> | |
| Further submissions – Port Taranaki (32) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 200 | Amend Submitter seeks amendment to Policy 1(a) of the Plan to include specific provisions for marine reserves and protected marine areas under relevant policies. | Decline The Hearing Panel does not consider it is necessary in Taranaki to include specific provisions for marine reserves and protected marine areas. In Taranaki, all marine reserves already have a high level of protection via the Plan as they have been identified an assessed as Outstanding Value coastal management areas and as 'significant indigenous biodiversity'. Separate stand-alone policies would be unnecessary and redundant. The Hearing Panel further highlights that constraints on use and development also apply under other legislation, including the <i>Marine Reserves Act 1971</i> and the <i>Fisheries Act 1996</i> . |
| Further submissions – Port Taranaki (32) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 201 | Amend Submitter seeks amendment to Policy 1(b) of the Plan to read: <i>In managing the use, development and protection of resources under the Plan, recognition will be given to the following coastal management areas (identified in Schedule 1) and their distinguishing values, characteristics and uses:</i> [...] <i>(b) Estuaries Unmodified: Estuaries, not identified in (a) or (c) of this policy, that are permanently open to tidal movements and characteristically:</i> <i>(i) provide a natural focal point for human activity but are generally not significantly modified and are surrounded by minimal urban development and unmodified environments;</i> <i>(ii) have significantly different and more complex natural processes than the open coast; and</i> <i>(iii) provide important habitats, migration paths, brooding areas and nursery areas for marine and bird life.</i> <i>These coastal management areas are those estuaries that are permanently open to tidal movements. These areas do not include estuaries identified as</i> | Accept in part The Hearing Panel does not believe it is appropriate or necessary to paraphrase and reference the <i>New Zealand Coastal Policy Statement</i> or other policies in the Plan. The Hearing Panel also does not believe it necessary to amend Policy 1(b) to delete references to the distinguishing values, characteristics and uses set out in Clauses (i), (ii) and (iii). The Hearing Panel notes that Policy 1(b) is similar to an equivalent policy in the current Plan for which no issues have been identified in relation to its interpretation and application. The Hearing Panel further notes requests by other submitters seeking to have additional values identified in this Policy. Notwithstanding the above, the Hearing Panel recommends amendments to Policy 1(b) that partially give effect to the changes sought by the submitter that reads as follows: <i>(b) Estuaries Unmodified: <u>refers to those</u> estuaries that are permanently open to tidal movements <u>and listed in Schedule 1(b)</u>. <u>These areas do not include estuaries identified in (a) or (c) of this policy</u> and characteristically:</i> <i>(i) <u>have high natural character</u>. [...]</i> |

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| | | <p><i>Outstanding value areas. They are listed in schedule 1(b) and shown on the Planning maps. In determining the values and characteristic in these estuaries have particular regard to Policy 14 Indigenous Biodiversity, Policy X High natural character, Policy X other natural character, Policy X other natural features.</i></p> | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 202 | <p>Amend</p> <p>Submitter seeks amendment to Policy 1(c) of the Plan to read:</p> <p><i>In managing the use, development and protection of resources under the Plan, recognition will be given to the following coastal management areas (identified in Schedule 1) and their distinguishing values, characteristics and uses:</i></p> <p>[...]</p> <p><i>(c) Estuaries Modified: Pātea, Waiwhakaiho and Waitara estuaries that are permanently open to tidal movements and characteristically:</i></p> <p><i>(i) have been modified by flood protection works and placement of structures;</i></p> <p><i>(ii) are surrounded by urban, extensively modified environments;</i></p> <p><i>(iii) have significantly different and more complex natural processes than the open coast; and</i></p> <p><i>(iv) provide important habitats, migration paths, breeding areas and nursery areas for marine and bird life.</i></p> <p><i><u>These coastal management areas are those estuaries that are permanently open to tidal movements and have been modified. These areas do not include estuaries identified as Outstanding value areas or Estuary Unmodified. They are listed in schedule 1(b) and shown on the Planning maps.</u></i></p> <p><i><u>In determining the values and characteristic in these estuaries have particular regard to Policy 14 Indigenous Biodiversity, Policy X High natural character, Policy X other natural character, Policy X other natural features and landscapes and Policy XX water quality.</u></i></p> | <p>Accept in part</p> <p>The Hearing Panel does not believe it is appropriate or necessary to paraphrase and reference the <i>New Zealand Coastal Policy Statement</i> or other policies in the Plan.</p> <p>The Hearing Panel also does not believe it necessary to amend Policy 1(c) to delete references to the distinguishing values, characteristics and uses set out in Clauses (i), (ii), (iii) and (iv). The Hearing Panel notes that Policy 1(c) is similar to an equivalent policy in the current Plan for which no issues have been identified in relation to its interpretation and application. The Hearing Panel further notes requests by other submitters seeking to have additional values identified in this Policy.</p> <p>Notwithstanding the above, the Hearing Panel recommends amending Policy 1(c) to give partial effect to some of the changes sought by the submitter.</p> <p>The amended Policy 1(c) reads as follows:</p> <p><i>(c) Estuaries Modified: <u>refers to the Pātea, Waiwhakaiho and Waitara estuaries that are permanently open to tidal movements and listed in Schedule 1(c). These areas characteristically:</u></i></p> <p>[...]</p> |
| Further submissions – Port Taranaki (32) | | Oppose | |

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| 43 – Royal Forest and Bird Protection Society | 203 | <p>Amend</p> <p>Submitter seeks amendment to Policy 1(d) of the Plan to read: <i>In managing the use, development and protection of resources under the Plan, recognition will be given to the following coastal management areas (identified in Schedule 1) and their distinguishing values, characteristics and uses:</i> [...]</p> <p><i>(d) Open Coast: Areas of the open coast not identified in (a),(b),(c) and (e) of this Policy that characteristically:</i></p> <p><i>(i) are subject to a high energy westerly wave environment and the coastal land behind the foreshore is generally naturally eroding;</i></p> <p><i>(ii) include reef systems that provide habitat to marine life, and are valued by Māori for mahinga kai;</i></p> <p><i>(iii) include nationally and regionally important surf breaks identified in Schedule 7 (refer corresponding Policy 19); and</i></p> <p><i>(iv) contain fisheries that are recreationally, culturally and commercially valuable. This coastal management area represents the remaining areas of the coastal marine area not identified in (a),(b),(c) and (e) of this Policy, this includes estuaries which are not permanently open to the sea.</i></p> <p><i><u>All other policies of the plan are relevant to determining values and characteristics of the coastal environment in this area.</u></i></p> | <p>Accept in part</p> <p>The Hearing Panel does not believe it is appropriate or necessary to paraphrase and reference the <i>New Zealand Coastal Policy Statement</i> or other policies in the Plan.</p> <p>The Hearing Panel also do not believe it necessary to amend Policy 1(d) to delete references to the distinguishing values, characteristics and uses set out in Clauses (i), (ii), (iii) and (iv). The Hearing Panel notes that Policy 1(d) is similar to an equivalent policy in the current Plan for which no issues have been identified in relation to its interpretation and application. The Hearing Panel further notes requests by other submitters seeking to have additional values identified in this Policy.</p> <p>Notwithstanding the above, the Hearing Panel recommends amending Policy 1(d) to give partial effect to some of the changes sought by the submitter.</p> <p>The amended Policy 1(d) reads as follows:</p> <p><i>(d) Open Coast: <u>refers to remaining areas of the coastal marine area</u> not identified in (a), (b), (c) and (e) of this Policy that characteristically: [...]</i></p> |
| Further submissions – Port Taranaki (32) | | <p>Oppose</p> | |
| 43 – Royal Forest and Bird Protection Society | 204 | <p>Amend</p> <p>Submitter seeks amendment to Policy 1(e) of the Plan to read: <i>In managing the use, development and protection of resources under the Plan, recognition will be given to the following coastal management areas (identified in Schedule 1) and their distinguishing values, characteristics and uses:</i> [...]</p> <p><i>(e) Port: <u>Port Taranaki, which is a highly modified environment that characteristically:</u></i></p> <p><i><u>(i) enables people and communities to provide for their economic wellbeing;</u></i></p> | <p>Accept in part</p> <p>The Hearing Panel does not believe it is appropriate or necessary to paraphrase and reference the <i>New Zealand Coastal Policy Statement</i> or other policies in the Plan.</p> <p>The Hearing Panel also do not believe it necessary to amend Policy 1(e) to delete references to the distinguishing values, characteristics and uses set out in Clauses (i), (ii), (iii), (iv) and (v). The Hearing Panel notes that Policy 1(e) is similar to an equivalent policy in the current Plan for which no issues have been identified in relation to its interpretation and application. The Hearing Panel further notes requests by other submitters seeking to have additional values identified in this Policy.</p> |

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| | | <p>(ii) contains nationally and regionally important infrastructure;</p> <p>(iii) contains port related activities that are accepted as appropriate uses of this coastal management area;</p> <p>(iv) has low levels of natural character, although is located adjacent to an area of outstanding value; and</p> <p>(v) can have significant effects on areas outside of the Port, including contributing to coastal erosion along the New Plymouth foreshore.</p> <p><u>This coastal management area represents the operational management area of Port Taranaki. The operational considerations and provisions for development capacity are set out in Policy X.</u></p> <p><u>In determining the values and characteristic in these estuaries have particular regard to Policy X Port of Taranaki, Policy 14 Indigenous Biodiversity, Policy X High natural character, Policy X other natural character, Policy X other natural features and landscapes and Policy XX water quality.</u></p> | <p>Notwithstanding the above, the Hearing Panel recommends amending Policy 1(e) to give partial effect to some of the changes sought by the submitter.</p> <p>The amended Policy 1(e) reads as follows:</p> <p>(e) Port: <u>refers to the operational management area of Port Taranaki. The area is a highly modified environment that characteristically:</u></p> <p>[...]</p> |
| Further submissions – Port Taranaki (32) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 205 | <p>Amend</p> <p>Submitter seeks amendment to the Plan to include a new Policy specific to the Port of Taranaki and consistent with Policy 9 [Port] of the <i>New Zealand Coastal Policy Statement</i>.</p> | <p>Decline</p> <p>The Hearing Panel do not believe it is appropriate or necessary to include a new policy specific to the Port to give effect to Policy 9 of the <i>New Zealand Coastal Policy Statement</i>.</p> |
| Further submissions– Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support in part | <p>The Hearing Panel notes the introductory sentence to Section 5 on page 19 that “...when assessing an activity, regard will be had to all relevant general and activity-based policies are to be considered and no individual policy viewed in isolation.” It is therefore unnecessary to include a new policy specific to the Port when matters outlined in Policy 9 of the <i>New Zealand Coastal Policy Statement</i> have been more fully covered and addressed via Policy 1 [Coastal management areas], Policy 5 [Use and development], Policy 6 [Regionally important infrastructure] and Policy 7 [Reverse sensitivity]. These and the other General Policies and relevant Activity Policies will contribute to the efficient and safe operation of Port Taranaki.</p> |

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| 45 – Powerco | 206 | <p>Amend</p> <p>Submitter supports Policy 1 of the Plan subject to an amendment that recognises the existence of existing infrastructure in areas of Outstanding Value, Estuaries Unmodified and Estuaries Modified, unless the mapping is amended such that this is not the case. Seek amendment to policies 1(a), 1(b) and 1(c) to read: <u>these areas may contain regionally important infrastructure.</u></p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter in that the suggested amendments are for a value or attribute that is not a distinguishing feature of the coastal management area (i.e. regionally important infrastructure could be located anywhere in Taranaki).</p> <p>Policy 1 sets out a zonal approach for the application of rules in the coastal marine area. The coastal marine area has been divided into five broad coastal management areas based upon shared values, characteristics, uses, vulnerability or sensitivity, and different management needs. The zones allow rules to 'bundle' compatible activities or effects of these activities together and restrict activities or effects which are incompatible. The coastal management areas enable some activities, and restrict other activities.</p> <p>As noted in Policy 1(a), (b) and (c) the listed matters refer to attributes and values characteristic of the area. There is no value in identifying values and attributes (already recognised and provided for by policies elsewhere) and which can occur anywhere in the coastal marine area.</p> |
| Further submissions – Transpower (26) | Support | | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | Oppose | | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 207 | <p>Amend</p> <p>Submitter supports Policy 1 of the Plan subject to an amendment that recognises the existence of existing infrastructure in areas of Outstanding Value, Estuaries Unmodified and Estuaries Modified, unless the mapping is amended such that this is not the case. Seek amendment to policies 1(a), 1(b) and 1(c) to read: <u>these areas may contain regionally important infrastructure.</u></p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter in that the suggested amendments are for a value or attribute that is not a distinguishing feature of the coastal management area.</p> <p>Policy 1 sets out a zonal approach for the application of rules in the coastal marine area. The coastal marine area has been divided into five broad coastal management areas based upon shared values, characteristics, uses, vulnerability or sensitivity, and different management needs. The zones allow rules to 'bundle' compatible activities or effects of these activities together and restrict activities or effects which are incompatible. The coastal management areas enable some activities, and restrict other activities.</p> <p>As noted in Policy 1(a), (b) and (c) the listed matters refer to attributes and values characteristic of the area. There is no value in identifying values and attributes (already recognised and provided for by policies elsewhere) and which can occur anywhere in the coastal marine area.</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | Oppose | | |

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| 47 – Fonterra | 208 | <p>Amend</p> <p>Submitter seeks amendment to Policy 1 of the Plan to include a new clause (d)(v) that reads:</p> <p><i>(d) Open Coast: Areas of the open coast not identified in (a), (b), (c) and (e) of this Policy characteristically:</i></p> <p>[...]</p> <p><i>(v) may contain infrastructure, structures and activities that enable people and communities to provide for their economic and social wellbeing.</i></p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought in that the suggested amendments are for a value or attribute that is not a distinguishing feature of the coastal management area.</p> <p>Policy 1 sets out a zonal approach for the application of rules in the coastal marine area. The coastal marine area has been divided into five broad coastal management areas based upon shared values, characteristics, uses, vulnerability or sensitivity, and different management needs. The zones allow rules to 'bundle' compatible activities or effects of these activities together and restrict activities or effects which are incompatible. The coastal management areas enable some activities, and restrict other activities.</p> <p>As noted in Policy 1(a), (b) and (c) the listed matters refer to attributes and values characteristic of the area. There is no value in identifying values and attributes (already recognised and provided for by policies elsewhere) and which can occur anywhere in the coastal marine area.</p> |
| Further submissions – Transpower (26), Powerco (45) | | Support | |
| 58 – Te Atiawa | 209 | <p>Amend</p> <p>Submitter seeks amendment to Policy 1(b) and (c) of the Plan to re-instate (from the Draft Coastal Plan) the following characteristics for Estuaries Unmodified and Estuaries Modified:</p> <p>[...] <i>valued by Māori for Mahinga Kai.</i></p> | <p>Accept</p> <p>The Hearing Panel agrees to amend Policy 1(b) and (c) as through the exercise of mapping sites of significance to Māori, inevitably estuaries have been identified as important for a variety of reasons, including mahinga kai. The Hearing Panel recommends granting the relief, alongside other potential cultural, spiritual, historical and traditional associations to include an additional clause that will read as follows:</p> <p>[...] <i>are valued by Māori for taonga species, and cultural, spiritual, historical and traditional associations.</i></p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 59 - KiwiRail | 210 | <p>Support</p> <p>Retain Policy 1 of the Plan as notified.</p> | <p>Accept</p> <p>Policy 1 is retained subject to minor amendments as requested by other submitters that does not change the policy intent.</p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 211 | <p>Amend</p> <p>Submitter seeks amendment to Policy 1(a) of the Plan (and associated schedules) to include:</p> <ul style="list-style-type: none"> • Tangahoe – Hawera – Manutahi Reef system • Patea Beach and the Patea River Estuary | <p>Decline</p> <p>Policy 1(a) identifies coastal management areas of outstanding (exceptional) natural character and/or outstanding natural features and landscapes across the Taranaki region. Outstanding Value coastal management areas were based upon the current Coastal Plan. However, through the Coastal Plan review additional investigations</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <ul style="list-style-type: none"> Ohawe – Manawapou – Waihi Beaches. | <p>were carried out, which resulted in a few additional sites being identified. However, that assessment did not identify the aforementioned areas as being exceptional for their natural character and/or for their natural features and landscapes. This finding is consistent with South Taranaki District Council conclusions as encapsulated in their Proposed District Plan.</p> <p>The Hearing Panel notes that the submitter has not introduced any new information in support of these sites being outstanding natural character, features or landscapes.</p> <p>Notwithstanding the above, the Hearing Panel suggests granting the relief may not be necessary as the Plan already recognises the aforementioned sites as being 'regionally significant' for a variety of reasons, including for the cultural and historical heritage values. The Tangahoe - Hawera – Manutahi reef system is identified in Schedule 3, the Patea Beach and the Patea River Estuary are identified in Schedule 5B, while the Ohawe – Manawapou – Waihi beaches are identified in Schedule 6. The aforementioned places are also identified in Appendix 2 [Statutory acknowledgement] of the Plan (and associated planning maps).</p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 212 | <p>Amend</p> <p>Submitter seeks amendment to Policy 1(b) of the Plan (and associated schedules) to include:</p> <ul style="list-style-type: none"> Huroto Stream Waihi Stream Katewheta Stream Waikaikai Stream Mangaroa Stream Kaikura Stream Whenuakura River Manawapou River. | <p>Accept in part</p> <p>The Hearing Panel recommends granting the relief in part.</p> <p>Policy 1(b) identifies larger estuaries based upon those identified in the current Plan. They are generally described as having high/unmodified natural character unmodified.</p> <p>With the exception of the Whenuakura River, which is already identified as an Estuary Unmodified, the streams identified by the submitter are relatively small and for spatial mapping and coastal management purposes there is little to differentiate these streams from other streams recognising that, when mapping the stream mouths, the RMA definition of the coastal marine area, where the line crosses these rivers, is “...the point upstream that is calculated by multiplying the width of the river mouth by 5.”</p> <p>Notwithstanding the above, of note the aforementioned stream mouths are recognised and have been mapped at a finer spatial scale to recognise that they are regionally significant for their cultural and historic heritage (and other) values. The aforementioned places are identified in Schedule 5B and Appendix 2 [Statutory acknowledgement] of the Plan (and associated planning maps).</p> |

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| 61 – Te Rūnanga o Ngāti Ruanui Trust | 213 | <p>Amend</p> <p>Submitter seeks amendment to Policy 1(b), (c) and (d) of the Plan to include the following characteristics for coastal management areas Estuaries Unmodified, Estuaries Modified and Open Coast:</p> <p><i>[...] provide for taonga species, cultural and traditional associations and cultural heritage.</i></p> | <p>Accept in part</p> <p>The Hearing Panel agrees to amend Policy 1(b) and (c) as through the exercise of mapping sites of significance to Māori, inevitably estuaries have been identified as important for a variety of reasons. The Hearing Panel recommends granting the relief, alongside other potential cultural, spiritual, historical and traditional associations: <i>[...] are valued by Māori for mahinga kai, taonga species, cultural, spiritual, historical and traditional associations.</i></p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | <p>However, the Hearing Panel recommends Policy 1(d) is retained as currently notified. The Hearing Panel note that Policy 1(d)(ii) and (iv) already contain a cultural component and therefore no changes to that part of the policy are considered necessary.</p> |
| NEW Policy 1A – Coastal management areas (Port) | | | |
| 43 – Royal Forest and Bird Protection Society | 214 | <p>Amend</p> <p>Submitter seeks amendment to the Plan to include a new Policy specific to the Port of Taranaki and consistent with Policy 9 [Port] of the <i>New Zealand Coastal Policy Statement</i>.</p> | <p>Decline</p> <p>The Hearing Panel does not believe it is appropriate or necessary to include a new policy specific to the Port to give effect to Policy 9 of the <i>New Zealand Coastal Policy Statement</i>.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | <p>The Hearing Panel notes the introductory sentence to Section 5 on page 19 that “... when assessing an activity, regard will be had to all relevant general and activity-based policies are to be considered and no individual policy viewed in isolation.” It is therefore unnecessary to include a new policy specific to the Port when matters outlined in Policy 9 of the <i>New Zealand Coastal Policy Statement</i> have been more fully covered and addressed via Policy 1 [Coastal management areas], Policy 5 [Use and development], Policy 6 [Regionally important infrastructure] and Policy 7 [Reverse sensitivity]. These and the other General Policies and relevant Activity-specific Policies will contribute to the efficient and safe operation of Port Taranaki.</p> |
| Policy 2 – Integrated management | | | |
| 2 – Federated Farmers | 215 | <p>Support</p> <p>Submitter notes support of Policy 2 of the Plan as notified</p> | <p>Accept</p> <p>Support noted. Policy 2 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |

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| 7 – Waikato Regional Council | 216 | <p>Other</p> <p>Submitter seeks that the Council consider, in its Coastal Plan, provisions related to integrated management, cross-boundary issues and the need to work collaboratively with the Waikato Regional Council, which may include incorporating a new section with cross boundary related provisions, or expanding Policy 2 to more explicitly state how cross-boundary matters will be managed through collaboration.</p> | <p>No relief necessary</p> <p>Submitter's comments are noted.</p> <p>The Hearing Panel notes that as part of the development of the Proposed Coastal Plan the Council considered all matters relating to the structure, format and content of a revised Plan including a stand-alone section setting out integrated management/cross boundary provisions and determined on the approach as adopted in the proposal, which includes a stand-alone Policy but also includes other Plan provisions that contribute to more effective integrated management including Plan objectives, General Policies and Implementation Methods that apply across the coastal environment.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Support | |
| 7 – Waikato Regional Council | 217 | <p>Other</p> <p>Notes the Waikato Regional Council will be working collaboratively with other agencies on a long-term strategy on coastal erosion and flooding for the Mokau area.</p> | <p>No relief necessary</p> <p>Comments noted.</p> |
| Further submissions –Te Atiawa (58) | | Support | |
| 12 – Chorus New Zealand Limited | 218 | <p>Support</p> <p>Retain Policy 2 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 2 is retained subject to amendments sought by other submitters.</p> |
| 13 – Spark New Zealand Trading Limited | 219 | <p>Support</p> <p>Retain Policy 2 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 2 is retained subject to amendments sought by other submitters.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 14 – Vodafone New Zealand Limited | 220 | <p>Support</p> <p>Retain Policy 2 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 2 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 19 – South Taranaki District Council | 221 | Amend | No relief necessary |
| | | Submitter notes support for this policy but requests amendment to Policy 2(e) and (g) of the Plan to add reference to working cooperatively with the territorial local authorities of the region and iwi. | In relation to amending Policy 2(e) and (g) to add reference to working cooperatively with the territorial local authorities of the region and iwi, the Hearing Panel note that clause (g) already references this and no further amendments are considered necessary except to correct the Policy reference in (g) to refer to Policy 16 [Relationship of tangata whenua]. |
| 19 – South Taranaki District Council | 222 | Amend | Accept |
| | | Submitter seeks amendment to Policy 2(g) of the Plan noting that reference to Policy 15 is in error and should be corrected to Policy 16. | The Hearing Panel recommends granting the relief sought. |
| 20 – Meridian Energy Limited | 223 | Amend | Accept |
| | | Submitter seeks minor amendments to Policy 2(b) and (e) of the Plan to clarify that they apply only to the Taranaki region: <i>Provide for the integrated management of the coastal environment by:</i> [...] <i>(b) implementing policies, methods and rules in other regional plans for Taranaki in relation to managing adverse effects associated with diffuse and direct discharges to freshwater and air, and soil disturbance;</i> [...] <i>(e) considering the effects of activities in the coastal marine area on outstanding natural features and landscapes or areas of outstanding natural character identified in other regional or district plans for the Taranaki Region.</i> | The Hearing Panel recommends amending Policy 2 to clarify in clauses 2(b) and (e) that the Taranaki region is the area being managed. |
| Further submissions – Te Atiawa (58) | | Oppose | |
| 20 – Meridian Energy Limited | 224 | Amend | Accept |
| | | Amend Clause (c) of Policy 2 of the Plan to clarify what is meant by “cross-media effects”. | Cross-media effects refer to effects that may traverse environmental domains, e.g. activities that occur on land such as a discharge that have an impact on water quality. The Hearing Panel recommends amending Policy 2 to clarify the concept of cross-media effects by deleting clause (c) and inserting a new clause (aa) that reads as follows: |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <i>(aa) recognising ki uta ki tai by taking into account the interconnected nature of resources and natural processes in the management of adverse effects across air, land, fresh water bodies and the coastal environment; [...]</i> |
| 21 – Climate Justice Taranaki | 225 | <p>Amend</p> <p>Submitter notes support for this policy but suggests amendment to Policy 2(g) of the Plan to add reference to working cooperatively with government departments and authorities (e.g. Environmental Protection Authority) to avoid, mitigate and manage any potential impacts from activities proposed/conducted in the Exclusive Economic Zone (e.g. seabed and petroleum mining), on Taranaki's coastal environment.</p> | <p>No relief necessary</p> <p>Support noted. In relation to amending Policy 2(g) to add reference to working cooperatively with the government departments and authorities, the Hearing Panel notes that clause (g) already references this and further amendment to specify which departments under what scenarios is not considered necessary.</p> |
| 26 – Transpower NZ Ltd | 226 | <p>Amend</p> <p>Submitter seeks amendment to Policy 2(f) of the Plan to read: <i>Provide for the integrated management of the coastal environment by: [...]</i> <i>(f) managing natural and physical coastal resources in a manner that recognises and provides for has regard to the social, economic and cultural objectives and well-being of the community, and the functional, technical, operational and/or locational constraints of nationally or regionally important infrastructure [...]</i></p> | <p>Accept</p> <p>The submitter requests this policy is amended to provide a stronger directive approach. The submitter suggests that the amendment would give better effect to Policy 1 and Policy 3 of the <i>National Policy Statement for Electricity Transmission</i>.</p> <p>The Hearing Panel recommends granting the relief sought by the submitter with minor word changes to maintain consistent wording with other areas of the Plan.</p> <p>The amended Policy 2(f) would read as follows: <i>[...]</i> <i>(f) managing natural and physical resources in a manner that recognises and provides for the social, economic and cultural objectives and well-being of the community and the functional needs and/or operational needs of regionally important infrastructure and industry; and [...]</i></p> |
| 29 – Department of Conservation | 227 | <p>Amend</p> <p>Submitter seeks amendment to Policy 2(c) of the Plan to clarify how taking into account the potential for cross media effects and the connections between freshwater bodies and coastal water will provide for integrated management.</p> | <p>Accept in part</p> <p>The submitter suggests that Policy 2(c) is unclear and would like to know how Clause (c) of Policy 2 will provide for integrated management of the coastal area.</p> <p>Integrated management, for the purposes of the Plan, means managing use, development and protection of natural and physical resources as a whole. It recognises that natural and physical resources exist as parts of complex and interconnected social and biophysical systems, where effects on one part of the system may affect other parts of the system. Integrated management also recognises that the management of systems involves a number of agencies with different roles and</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>responsibilities. Clause (c) – management of cross-media effects – is therefore an essential part of integrated coastal management.</p> <p>Cross-media effects refer to effects that may traverse environmental domains, e.g. activities that occur on land such as a discharge that have an impact on water quality. In the case of the coastal marine area, activities inside the coastal marine area may have an adverse effect on the wider coastal environment, or vice versa. Therefore, such effects need to be recognised and taken into account when implementing the Plan.</p> <p>No precise details of amendments sought to Policy 2(a) have been provided. However, the Hearing Panel recommends, in response to this and other submissions, amending Policy 2 to clarify the concept of cross-media effects by deleting clause (c) and inserting a new clause (aa) that reads as follows:</p> <p><i><u>(aa) recognising ki uta ki tai by taking into account the interconnected nature of resources and natural processes in the management of adverse effects across air, land, fresh water bodies and the coastal environment; [...]</u></i></p> |
| 35 – Radio New Zealand Ltd | 228 | <p>Support</p> <p>Retain Policy 2 of the Plan as notified</p> | <p>Accept</p> <p>Support noted. Policy 2 is retained subject to amendments sought by other submitters.</p> |
| 40 – Te Rūnanga o Ngāti Mutunga | 229 | <p>Support</p> <p>Submitter seeks amendment to Policy 2(a) of the Plan to read: <i>Provide for the integrated management of the coastal environment by: [...]</i> <i>(a) implementing policies under section 5.1 of the Plan in managing the effects of activities (positive and negative adverse) undertaken in the coastal marine area on significant values and characteristics of the wider coastal environment [...]</i></p> | <p>Accept</p> <p>The Hearing Panel recommends granting the relief sought. The Hearing Panel agrees that the use of “adverse” provide a clearer meaning of Policy 2 and makes it consistent with wording elsewhere in the Proposed Plan and the RMA.</p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 230 | <p>Amend</p> <p>Submitter suggests that the current wording of Policy 2 of the Plan does not give effect to Policy 4 [Integration] and Policy 5 [Land or waters managed of held under other acts] of the <i>New Zealand Coastal Policy Statement</i> and is not consistent with the purpose of the RMA set out in Section 5.</p> | <p>Decline</p> <p>No precise details of amendments sought to Policy 2 have been provided but the Hearing Panel believes that Plan provisions, when read as a whole, give effect to the relief sought by the submitter and no further change is necessary.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>The Hearing Panel notes that there is no <i>New Zealand Coastal Policy Statement</i> requirement for a single agency, and/or a single planning document, to give effect to all its policies. The Proposed Coastal Plan is one of a number of planning instruments necessary to give effect to the <i>New Zealand Coastal Policy Statement</i>. Other agencies and other planning instruments also have a role to play.</p> <p>The Hearing Panel further notes the introductory sentence to Section 5 on page 19 that “...when assessing an activity, regard will be had to all relevant general and activity-based policies are to be considered and no individual policy viewed in isolation.” The Hearing Panel believes the ‘suite’ of General Policies plus relevant Activity Policies triggered by use and development activities in the coastal marine area address, amongst other things, the matters set out in Policy 4 [Integration] and Policy 5 [Land or waters managed or held under other acts] of the <i>New Zealand Coastal Policy Statement</i> and is consistent with the purpose of the RMA as set out in Section 5 of the Act.</p> |
| 43 – Royal Forest and Bird Protection Society | 231 | <p>Amend</p> <p>Submitter seeks amendment to Policy 2(a) of the Plan to read: <i>Provide for the integrated management of the coastal environment by:</i> <i>(a) implementing policies under section 5.1 of the Plan in managing the <u>location, form and limits effects</u> of activities (positive and negative) undertaken in the coastal marine area <u>to protect and preserve the indigenous biodiversity, natural character, natural feature and landscape on significant</u> values and characteristics of the wider coastal environment; [...]</i></p> | <p>Accept in part</p> <p>Aspects of the relief sought to Policy 2(a) seem to be district plan oriented and unnecessary confines the scope of the Policy to the protection and preservation of indigenous biodiversity, natural character, and natural feature and landscapes. Other matters addressed within Section 5.1 [General Policies] of the Plan are excluded. The relief sought further confines the scope of the Policy to focus only on the “protection” of specific natural and physical resources to the exclusion of recognising and providing for use and development.</p> |
| Further submissions – Radio New Zealand (35) | | Oppose | <p>The Hearing Panel notes that the matters/values that the submitter wishes to protect are adequately provided for in other Policies within the Plan, for example Policy 9 [Natural character and natural features and landscapes] and Policy 14 [Indigenous Biodiversity]. The Hearing Panel encourages users to read the Policies section as a whole, as intended, and recognise that all policies apply.</p> <p>Notwithstanding the above, the Hearing Panel recommends making some of the changes to Policy 2(g) that give partial relief to the changes sought by the submitter. It is recommended that Policy 2(g) be amended to read:</p> <p><i>Provide for the integrated management of the coastal environment by:</i> <i>(a) implementing Plan provisions in managing the effects of activities (positive and <u>adverse</u>) by <u>having regard to the location, form and limits of the activity</u> undertaken in the coastal marine area on significant values and characteristics of the wider coastal environment; [...]</i></p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 43 – Royal Forest and Bird Protection Society | 232 | Amend | Decline |
| | | Submitter seeks amendment to Policy 2(b) of the Plan to read: <i>Provide for the integrated management of the coastal environment by: [...]</i> <i>(b) implementing policies, methods and rules in other regional plans in relation to <u>managing</u> adverse effects associated with diffuse and direct discharges to freshwater and air, and soil disturbance; [...]</i> | The submitter considers the term “manage” to be uncertain and points out that “avoidance” is required by the <i>New Zealand Coastal Policy Statement</i> . The Hearing Panel is unclear as to what the concerns are. It is the Hearing Panel's view that managing adverse effects is an accurate description of what the Plan is attempting to do. It is not the Hearing Panel's view that the <i>New Zealand Coastal Policy Statement</i> adopts a strictly “avoidance” regime. As previously noted in other submission points. The Policies must be read together. In addition to the General Policies, Activity-specific Policies 22 to 30 provide additional guidance and direction that, when read together, give effect to the <i>New Zealand Coastal Policy Statement</i> . |
| 43 – Royal Forest and Bird Protection Society | 233 | Amend | Accept |
| | | Submitter seeks amendment to Policy 2(e) of the Plan to read: <i>Provide for the integrated management of the coastal environment by:</i> <i>(e) considering the effects of activities in the coastal marine area on outstanding natural features and landscapes or areas of outstanding natural character <u>or significant indigenous biodiversity</u> identified in other regional or district plans; [...]</i> | The Hearing Panel recommends granting the relief sought noting that activities in the coastal marine area can quite clearly have adverse effects on significant indigenous biodiversity as identified in other regional or district plans. It is recommended that Policy 2(e) be amended to read: <i>(e) considering the effects of activities in the coastal marine area on outstanding natural features and landscapes or areas of outstanding natural character <u>or significant indigenous biodiversity</u> identified in other regional or district plans <u>for the Taranaki region</u>; [...]</i> |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 234 | Amend | Accept |
| | | Submitter expresses concern regarding Policy 2(c) of the Plan, which contains terminology that does not have a common meaning. | The submitter has not expanded upon this comment and Hearing Panel assume they refer to “cross media effects”. In response to this and other submissions, the Hearing Panel recommends amending Policy 2 by deleting Clause (c) and inserting a new Clause (aa) that adopts a more plain English reading but also includes the principle of ki uta ki tai or interconnectedness. The new Clause (aa) would reads as follows: <i><u>(aa) recognising ki uta ki tai by taking into account the interconnected nature of resources and natural processes in the management of adverse effects across air, land, fresh water bodies and the coastal environment; [...]</u></i> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 43 – Royal Forest and Bird Protection Society | 235 | Amend | No relief necessary |
| | | Submitter seeks amendment Policy 2(d) or Schedule 1 of the Plan to specify which areas have legal protection. | The Hearing Panel notes that all policies must be read together. Policy 1(a)(iii) already identifies marine areas with legal protection, these being Parinihi Marine Reserve, Ngā Motu/Sugar Loaf Islands Marine Protected Area and Tapuae Marine Reserve. Furthermore, the associated planning maps also specify which marine areas have legal protection. Further Plan changes as requested by the submitter to Policy 2(d) or Schedule 1 are not considered necessary. |
| 43 – Royal Forest and Bird Protection Society | 236 | Amend | Accept in part |
| | | Submitter seeks amendment to Policy 2(g) of the Plan to provide for collaboration consistent with Policies 4 and 5 of the <i>New Zealand Coastal Policy Statement</i> . | The submitter suggests that Policy 2(g) is uncertain as it appears to limit collaboration to Policy 15 matters [Historic heritage] of the Plan and seek that the Policy align with Policies 4 [Integration] and 5 [Land or water managed or held under other acts] of the <i>New Zealand Coastal Policy Statement</i> . The submitter has identified a drafting error in the Policy whereby reference to working collaboratively with tangata whenua in accordance with Policy 15 [Historic heritage] is meant to be a reference to Policy 16 [Relationship with tangata whenua]. The Hearing Panel recommends that the drafting error be corrected while noting that Policy 2 (and other relevant policies in the Plan), when read as a whole, already give effect to Policies 4 [Integration] and 5 [Land or water managed or held under other acts] of the <i>New Zealand Coastal Policy Statement</i> . |
| 45 – Powerco | 237 | Amend | Accept |
| | | Submitter supports Policy 2 of the Plan subject to the amendment of Policy 2(f) to read: <i>Provide for the integrated management of the coastal environment by: [...]</i> <i>(f) managing natural and physical coastal resources in a manner that has regard to the social, economic and cultural objectives and well-being of the community and the functional <u>need</u> and/or location constraints of nationally or regionally important infrastructure; and [...]</i> | The Hearing Panel agrees with the submitter that reference to “functional need” provides more clarity to Plan users noting that this has been defined in the Plan. Further to this, the Plan also defines “operational needs” which encompasses locational constraints which is recommended to be included following functional needs in Policy 2(f). The amended Policy 2(f) would read as follows: <i>(f) managing natural and physical resources in a manner that <u>recognises and provides for</u> the social, economic and cultural objectives and well-being of the community and the functional <u>needs and/or operational needs</u>, of regionally important infrastructure; <u>and industry</u> [...]</i> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 238 | Amend | Accept |
| | | Submitter seeks amendment to Policy 2(f) of the Plan to read: <i>Provide for the integrated management of the coastal environment by: [...]</i> <i>(f) managing natural and physical coastal resources in a manner that has regard to the social, economic and cultural objectives and well-being of the community and the functional <u>need</u> and/or location constraints of nationally or regionally important infrastructure; and [...]</i> | As per Hearing Panel's response in submission point 237 above. |
| Further submissions – Transpower (26) | | Support | |
| 47 – Fonterra | 239 | Amend | Accept |
| | | Submitter generally supports Policy 2 of the Plan subject to an amendment to Policy 2(f) to read: <i>Provide for the integrated management of the coastal environment by: [...]</i> <i>(f) managing natural and physical coastal resources in a manner that has regard to the social, economic and cultural objectives and well-being of the community and the functional and/or location constraints of nationally or regionally important infrastructure <u>and industry</u>; [...]</i> | The submitter supports Policy 2 but believes the provisions should be extended to include regionally significant industry alongside regionally significant infrastructure. This request is made as the submitter considers that it is appropriate to recognise nationally and regionally important industry to the same extent as infrastructure, given the contribution of significant industry to the social and economic wellbeing of the region. The Hearing Panel notes that the Policy relates to integrated management and that it may be appropriate to consider regionally important industry, the Hearing Panel agrees with the submitter and recommend granting the relief sought. |
| Further submissions – Federated Farmers (2) | | Support | |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Oppose | |
| 48 – Taranaki District Health Board | 240 | Amend | Accept |
| | | Submitter seeks amendment to Policy 2(g) of the Plan to read: <i>Provide for the integrated management of the coastal environment by: [...]</i> <i>(g) working collaboratively with government departments, territorial authorities, <u>district health boards</u>, other agencies, and tangata whenua in accordance with Policy 15 [...]</i> | The submitter requests specific reference to “district health boards” in Policy 2(g). The Hearing Panel believes that the suggested amendment to explicitly recognise the close working relationship between the Council and the Taranaki District Health Board, particularly in relation to coastal water quality, is appropriate and recommend that Policy 2(g) be amended accordingly. |
| | 241 | Amend | Accept |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 50 – Te Kāhui o Taranaki Trust | | Submitter seeks amendment to Policy 2(a) of the Plan to read: <i>Provide for the integrated management of the coastal environment by:</i> <i>(a) implementing policies under section 5.1 of the Plan in managing the effects of activities (positive and negative adverse) undertaken in the coastal marine area on significant values and characteristics of the wider coastal environment [...]</i> | The Hearing Panel recommends granting the relief sought by the submitter and agrees that the use of “adverse” provides Plan users with a clearer meaning of Policy 2 and makes it consistent with wording elsewhere in the Proposed Plan and the RMA. |
| 51 – Taranaki Energy Watch | 242 | Support | Accept |
| | | Submitter supports the integrated management principles of Policy 2 of the Plan, in particular integrated activities to oil and gas activities that cross jurisdictional boundaries as well as being managed under multiple regimes. | Support noted. Policy 2 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 58 – Te Atiawa | 243 | Support | Accept |
| | | Submitter supports the integrated management principles of Policy 2 of the Plan, in particular integrated activities to oil and gas activities that cross jurisdictional boundaries as well as being managed under multiple regimes. | Support noted. Policy 2 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 58 – Te Atiawa | 244 | Support | Accept |
| | | Submitter seeks amendment to Policy 2 of the Plan to read: <i>Provide for integrated management of the coastal environment by:</i> <i>(a) implementing policies under section 5.1 of the Plan in managing the effects of activities (positive and negative adverse) undertaken in the coastal marine area on significant values and characteristics of the wider coastal environment [...]</i> | The Hearing Panel recommends granting the relief sought by the submitter. |
| 59 - KiwiRail | 245 | Support | Accept |
| | | Retain Policy 2(f) of the Plan as notified. | Support noted. Policy 2(f) is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| Policy 3 – Precautionary approach | | | |
| 5 – Point Board Riders | 246 | Support | Accept |
| | | Retain Policy 3 of the Plan as notified. | Policy 3 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 20 – Meridian Energy Limited | 247 | Support Retain Policy 3 of the Plan as notified. | Accept in part Policy 3 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. The submitter presented a hearing statement for the Hearing Panel's consideration and requested that “ <i>adaptive management</i> ” be returned to the Plan as per the notified version (as opposed to the Section 42A report) and considers that the reference would be useful for Plan users. The Hearing Panel recommends declining this relief noting that adaptive management is not precluded from consideration during consent applications. Further, the Hearing Panel are concerned that if it is referenced within the policy that Plan users may assume that adaptive management approaches are inherently precautionary. The Hearing Panel considers that the inclusion provides more uncertainty for Plan users than being silent on the matter. |
| Further submissions 32 – Port Taranaki Ltd (32), Fonterra (47) | | Support | |
| 29 – Department of Conservation | 248 | Support Retain Policy 3 of the Plan as notified. | Accept Policy 3 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 37 – Petroleum Exploration and Production Association of NZ | 249 | Support Retain Policy 3 of the Plan as notified. | Accept Policy 3 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 43 – Royal Forest and Bird Protection Society | 250 | Amend The submitter references Policy 3 [Precautionary approach] of the <i>New Zealand Coastal Policy Statement</i> and notes that “adaptive management” is not included within the parameters of the precautionary approach. The submitter suggests that because it is not referenced within the <i>New Zealand Coastal Policy Statement</i> it should not be included within Policy 3 as it is not inherently precautionary but is, instead, a trial and error approach. Submitter seeks amendment to Policy 3 of the Plan to remove reference to “ <i>adaptive management</i> ”. | Accept The Hearing Panel does not agree that adaptive management equates to a “trial and error approach”. Adaptive management requires that decisions, following the granting of a resource consent, be periodically reviewed and adjusted depending on monitoring and established trigger points. Thus, adaptive management may be useful for the management of some, but not all activities, in particular activities that are protracted and involve a number of decisions to be made throughout the life of the activity. Case law has determined that adaptive management can correctly be applied in relation to the requirements of the <i>New Zealand Coastal Policy Statement</i> even though it is not explicitly provided for within the Policy Statement itself. |
| Further submissions – Trans-Tasman Resources Ltd (6), Meridian Energy Ltd (20), Petroleum Exploration and | | Oppose | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Production Association of New Zealand (37) | | | Notwithstanding the above, the Hearing Panel agrees with the submitter that it is not necessary to explicitly reference "adaptive management" within Policy 3. |
| Further submissions – Taranaki Energy Watch (51) | | Support | The Hearing Panel recommends deleting reference to "adaptive management" in Policy 3. The reference is unnecessary and could be viewed as encouraging its application in circumstances where it might not be appropriate. However, the Hearing Panel notes that deleting the term from the Policy would not preclude a resource consent application from considering adaptive management under the appropriate circumstances. |
| 43 – Royal Forest and Bird Protection Society | 251 | <p>Amend</p> <p>The submitter requests that Policy 3 include reference to the effects of climate change in order to provide for Policy 3(2) of the <i>New Zealand Coastal Policy Statement</i> which requires a precautionary approach to be adopted to use and management of coastal resources potentially vulnerable to the effects of climate change.</p> <p>Submitter seeks rewording of Policy 3 of the Plan to include reference to the effects of climate change and give effect to Policy 3 of the <i>New Zealand Coastal Policy Statement</i>.</p> | <p>No relief necessary</p> <p>The Hearing Panel agrees the precautionary approach is necessary for resources that may be vulnerable to the effects of climate change. However, explicit reference to climate change within Policy 3 is not considered necessary as it has been provided for elsewhere in the Plan.</p> <p>The Hearing Panel notes that all Policies must be read together and there are additional Policies that incorporate a precautionary approach to climate change. In particular, Policies 20 [Coastal hazards] and 46 [Reclamation] require structures, reclamations and works to be assessed over at least 100 year time frame to take into account the expected effects of climate change and sea level rise. The Hearing Panel recommends that Policy 3 be kept high level to promote its broad application to all coastal related issues rather than just climate change.</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 252 | <p>Support</p> <p>Retain Policy 3 of the Plan as notified.</p> | <p>Accept</p> <p>Policy 3 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |
| 50 – Te Kāhui o Taranaki Trust | 253 | <p>Amend</p> <p>Submitter seeks amendment to Policy 3 of the Plan to read:</p> <p><i>Adopt a precautionary approach, which may include using an adaptive management approach, where the effects of any activity on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse.</i></p> | <p>Decline</p> <p>The Hearing Panel notes that Policy 3 and the adoption of the precautionary approach contributes to giving effect to Policy 3 [Precautionary approach] of the <i>New Zealand Coastal Policy Statement</i>. The <i>New Zealand Coastal Policy Statement</i> requires coastal plans to adopt a precautionary approach toward proposed activities where the effects to the coastal environment are uncertain, unknown, or little understood.</p> |
| Further submissions – Taranaki Energy Watch (51) | | Oppose | Given the coastal environment is a dynamic environment, the effects of activities may often be uncertain, unknown or little understood. Accordingly, it is considered |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | appropriate that Policy 3 adopt a cautious approach when uncertain about the effects of use and development activities in the coastal management area. |
| 55 –Kiwis Against Seabed Mining | 254 | Other Submitter states that the precautionary approach should be applied to objectives, policies and rules in the plan that relate to oil and gas, fishing and seabed mining activities. | No relief necessary The Hearing Panel notes that all General Policies and relevant Activity-specific Policies need to be read together. Policy 3 is a General Policy that applies when considering all use and development activities in the coastal marine area, including oil and gas, fishing and sea bed mining activities regulated under this Plan. |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| Further submissions – Taranaki Energy Watch (51), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| | | | |
| 56 – Greenpeace | 255 | Other Submitter states that the precautionary approach should be applied to objectives, policies and rules in the Plan that relate to oil and gas, fishing and seabed mining activities. | No relief necessary The Hearing Panel notes that all General Policies and relevant Activity-specific Policies need to be read together. Policy 3 is a General Policy that applies when considering all use and development activities in the coastal marine area, including oil and gas, fishing and sea bed mining activities regulated under this Plan. |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| Further submissions – Taranaki Energy Watch (51), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| | | | |
| 58 – Te Atiawa | 256 | Amend Submitter seeks amendment to Policy 3 of the Plan to read: <i>Adopt a precautionary approach, which may include using an adaptive management approach, where the effects of any activity on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse.</i> | Decline The Hearing Panel notes that Policy 3 and the adoption of the precautionary approach contributes to giving effect to Policy 3 [Precautionary approach] of the <i>New Zealand Coastal Policy Statement</i> . The <i>New Zealand Coastal Policy Statement</i> requires coastal plans to adopt a precautionary approach toward proposed activities where the effects to the coastal environment are uncertain, unknown or little understood. |
| Further submissions – Taranaki Energy Watch (51) | | Oppose | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | appropriate that Policy 3 adopt a cautious approach when uncertain about the effects of use and development activities in the coastal management area. |
| Policy 4 – Extent and characteristics of the coastal environment | | | |
| 2 – Federated Farmers | 257 | <p>Amend</p> <p>Submitter generally supports Policy 4 of the Plan but would like the Plan to be amended to map the coastal environment.</p> | <p>Accept</p> <p>Support noted.</p> <p>The Council has worked closely with New Plymouth and South Taranaki district councils in identifying and mapping coastal areas of outstanding natural character and outstanding natural features and landscapes. Both district councils have commenced or about to commence their respective district plan reviews, which includes a coastal protection zone.</p> <p>For the purposes of integrated management and to promote alignment between the respective regional and district plans the Hearing Panel recommendeds that the Plan (and associated GIS layers and planning maps) be amended include an indicative extent of the coastal environment that is aligned with the coastal environment lines (or their equivalent) identified in the South Taranaki and New Plymouth district plans.</p> <p>Of note Policy 4 is still retained and aligns with Policy 1 of the <i>New Zealand Coastal Policy Statement</i>. Through the consenting process there will be opportunities for Council to further consider the indicative line and to confirm the extent and characteristics of the coastal environment on a case-by-case basis.</p> |
| 19 – South Taranaki District Council | 258 | <p>Support</p> <p>Retain Policy 4 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 4 is retained subject to amendments to include a coastal environment line.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 29 – Department of Conservation | 259 | <p>Amend</p> <p>Submitter seeks amendment to or deletion of Policy 4 of the Plan to instead identify and map the landward extent of the coastal environment.</p> | <p>Grant in kind</p> <p>Policy 4 gives effect to Policy 1 of the <i>New Zealand Coastal Policy Statement</i> in that it identifies the characteristics of the coastal environment line. The Council has worked closely with New Plymouth and South Taranaki district councils in identifying and mapping coastal areas of outstanding natural character and outstanding natural features and landscapes. Both district councils have commenced or about to commence their respective district plan reviews, which includes a coastal protection/environment zone.</p> |

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| | | | <p>For the purposes of integrated management and to promote alignment between the respective regional and district plans, the Hearing Panel recommends that Policy 4 and associated GIS layers and planning maps be amended to identify an indicative landward extent of the coastal environment that is aligned with the coastal environment lines (or their equivalent) identified in the South Taranaki and New Plymouth district plans.</p> <p>However, the Hearing Panel considers that it is important for Policy 4 to continue to recognise and provide for opportunities, through the consenting process, to further consider the extent and characteristics of the coastal environment on a case-by-case basis.</p> <p>The reader is referred to the Department of Conservation's guidance on the <i>New Zealand Coastal Policy Statement</i>. The guidance simply describes 'coastal environment' as that part of the environment in which the coast is a significant part or element. However, the guidance also notes the difficulties in setting out an abstract definition which is capable of simple and ready application to any given situation. What constitutes the coastal environment will vary from place to place and according to the position from which a place is viewed.</p> <p>The Hearing Panel does not recommend deleting Policy 4. However, in the interests of certainty and clarity, the Hearing Panel recommends that the Plan (and associated GIS layers and planning maps) be amended to identify the indicative extent of the coastal environment that is aligned with the coastal environment lines (or their equivalent) identified in the South Taranaki and New Plymouth district plans. Such a line would make it easier for the submitter (and others) to assess whether activities are likely to fall within or outside the coastal environment.</p> <p><i>Determine the inland extent of the coastal environment for the purposes of policies under Section 5.1 of the Plan by:</i></p> <p><i><u>(a) having particular regard to areas identified in a district plan or proposed district plan as being the coastal environment or equivalent (map link); and</u></i></p> <p><i><u>(b) on a case-by-case basis, recognising:</u></i></p> <p><i><u>(i) areas landward of the coastal environment line where coastal processes, influences or qualities are significant, including areas at risk from coastal hazards; coastal vegetation and coastal habitat of indigenous species; elements and features of natural character, landscapes, visual qualities or amenity values; inter-related coastal marine and terrestrial systems; and may include items of cultural and historic heritage and physical resources and built facilities, coastal lakes, lagoons, tidal estuaries, salt marshes, coastal wetlands and the margins of these areas; and</u></i></p> |

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| | | | <i>(ii) the geographic extent to which activities within the coastal marine area may cause adverse effects on significant values and characteristics landward of the coastal marine area.</i> |
| 35 – Radio New Zealand Ltd | 260 | <p>Amend</p> <p>The submitter considers the current wording of Policy 4 to be too broad and may be difficult to implement in practice. They would also like clarification as to whether the Radio New Zealand Ltd facilities fall within or outside of the “coastal environment”, because it is not clear what the threshold is for “significance” of coastal processes or influences.</p> <p>Submitter seeks amendment to Policy 4 of the Plan to read:</p> <p><i>Determine the inland extent of the coastal environment for the purpose of policies under Section 5.1 of the Plan on a case-by-case basis by having regard to:</i></p> <p><i>(a) areas where coastal processes, influences or qualities are significant, <u>and where activities may cause adverse effects on significant values and characteristics in the coastal marine area</u>, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands and the margins of these areas [...]</i></p> | <p>Grant in kind</p> <p>The reader is referred to the Department of Conservation’s guidance on the <i>New Zealand Coastal Policy Statement</i>. The guidance simply describes ‘coastal environment’ as that part of the environment in which the coast is a significant part or element. However, the guidance also notes the difficulties in setting out an abstract definition which is capable of simple and ready application to any given situation. What constitutes the coastal environment will vary from place to place and according to the position from which a place is viewed.</p> <p>The Hearing Panel does not recommend amending Policy 4(a) in the manner suggested by the submitter but do agree with amending the Plan to provide greater certainty in relation to where the coastal environment lies. It is recommended that the Plan (and associated GIS layers and planning maps) be amended to identify the indicative extent of the coastal environment that is aligned with the coastal environment lines (or their equivalent) identified in the South Taranaki and New Plymouth district plans. Such a line would make it easier for the submitter to assess whether their facilities fall within or outside the coastal environment.</p> <p>The revised Policy would read as follows:</p> <p><i>Determine the inland extent of the coastal environment for the purposes of policies under Section 5.1 of the Plan by:</i></p> <p><i>(a) <u>having particular regard to areas identified in a district plan or proposed district plan as being the coastal environment or equivalent (map link);</u></i></p> <p><i>(b) <u>on a case-by-case basis, recognising:</u></i></p> <p><i>(i) areas <u>landward of the coastal environment line</u> where coastal processes, influences or qualities are significant, including <u>areas at risk from coastal hazards; coastal vegetation and coastal habitat of indigenous species; elements and features of natural character, landscapes, visual qualities or amenity values; inter-related coastal marine and terrestrial systems; and may include items of cultural and historic heritage and physical resources and built facilities, coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands and the margins of these areas; and</u></i></p> |

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| | | | (ii) the geographic extent to which activities within the coastal marine area may cause adverse effects on significant values and characteristics landward of the coastal marine area. |
| 43 – Royal Forest and Bird Protection Society | 261 | Amend Submitter seeks amendment to Policy 4 of the Plan to remove “case-by-case”. | Decline The Hearing Panel does not recommend granting the relief sought by the submitter but does propose an alternative relief that may address some of their concerns. For the purposes of integrated management and to promote alignment between the respective regional and district plans, the Hearing Panel recommends that Policy 4 and associated GIS layers and planning maps be amended to identify an indicative landward extent of the coastal environment that is aligned with the coastal environment lines (or their equivalent) identified in the South Taranaki and New Plymouth district plans. However, the Hearing Panel considers that it is important for Policy 4 to continue to recognise and provide for opportunities, through the consenting process, to further consider the extent and characteristics of the coastal environment on a case-by-case basis. The reader is referred to the Department of Conservation’s guidance on the <i>New Zealand Coastal Policy Statement</i> . The guidance notes that the term ‘coastal environment’ is an environment in which the coast is a significant part or element. However, the guidance notes the difficulties in setting out an abstract definition which is capable of simple and ready application to any given situation. What constitutes the coastal environment will vary from place to place and according to the position from which a place is viewed and potential changes to that environment over time. |
| Further submissions – Meridian Energy Ltd (20) | | Support in part | |
| 43 – Royal Forest and Bird Protection Society | 262 | Amend Submitter seeks amendment to Policy 4 of the Plan to capture the extent and characteristics in Policy 1 of the <i>New Zealand Coastal Policy Statement</i> OR Alternatively amend Policy 4 to refer to the extent of the coastal environment set out on the planning maps and that the maps identify the landward extent as per Policy 1 of the <i>New Zealand Coastal Policy Statement</i> . | Accept The submitter (and others) are seeking certainty in terms of delineating the landward extent of the coastal environment. Policy 4 gives effect to Policy 1 of the <i>New Zealand Coastal Policy Statement</i> in that it identifies the characteristics of the coastal environment line. Council has worked closely with New Plymouth and South Taranaki district councils in identifying and mapping coastal areas of outstanding natural character and outstanding natural features and landscapes. Both district councils have commenced or about to commence their respective district plan reviews, which includes a coastal protection/environment zone. For the purposes of integrated management and to promote alignment between the respective regional and district plans it is recommended that Policy 4 (and associated |
| Meridian Energy Ltd (20) | | Support in part | |
| Further submissions – Radio New Zealand (35) | | Support in part/Oppose in part | |

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| | | | <p>GIS layers and planning maps) be amended to include an indicative extent of the coastal environment that is aligned with the coastal environment lines (or their equivalent) identified in the South Taranaki and New Plymouth district plans.</p> <p>At the hearing, the submitter spoke further to the issue of alignment between the Policy 4 of the Plan and Policy 1 of the <i>New Zealand Coastal Policy Statement</i>. Specific amendments to the Policy were suggested that provided for case-by-case considerations by restating the matters set out in Policy 1(d) to (i) of the <i>New Zealand Coastal Policy Statement</i> into Policy 4 of the Plan.</p> <p>In response to this, the Hearing Panel agrees in part to the relief sought by the submitter and recommends further changes to Policy 4(b) that closer align with Policy 1 of the <i>New Zealand Coastal Policy Statement</i>. The revised Policy would read as follows:</p> <p><i>Determine the inland extent of the coastal environment for the purposes of policies under Section 5.1 of the Plan by:</i></p> <p><i>(a) <u>having particular regard to areas identified in a district plan or proposed district plan as being the coastal environment or equivalent (map link); and</u></i></p> <p><i>(b) <u>on a case-by-case basis, recognising:</u></i></p> <p><i>(i) areas landward of the coastal environment line where coastal processes, influences or qualities are significant, including <u>areas at risk from coastal hazards; coastal vegetation and coastal habitat of indigenous species; elements and features of natural character, landscapes, visual qualities or amenity values; inter-related coastal marine and terrestrial systems; and may include items of cultural and historic heritage and physical resources and built facilities, coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands and the margins of these areas; and</u></i></p> <p><i>(ii) the geographic extent to which activities within the coastal marine area may cause adverse effects on significant values and characteristics landward of the coastal marine area.</i></p> |
| 45 – Powerco | 263 | <p>Amend</p> <p>The submitter notes that Policy 4 sets out a case-by-case approach to defining the coastal environment. The submitter believes that such an approach is neither efficient nor effective and would lead to significant costs and uncertainties, including potential disputes as to whether the Coastal Plan for Taranaki is relevant to a particular activity. The submitter suggests deleting the Policy as</p> | <p>Grant in kind</p> <p>The reader is referred to the Department of Conservation's guidance on the <i>New Zealand Coastal Policy Statement</i>. The guidance notes that the term 'coastal environment' is an environment in which the coast is a significant part or element. However, the guidance notes the difficulties in setting out an abstract definition which is capable of simple and ready application to any given situation. What constitutes the</p> |

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| | | <p>currently worded and replacing it with comprehensive mapping of the coastal environment (not just the coastal marine area).</p> <p>Submitter seeks amendment to the Plan by deleting Policy 4 and referring to a comprehensive map of the coastal environment in its place:</p> <p><i>Policy 4: Extent and characteristics of the coastal environment to determine the inland extent of the coastal environment for the purposes of policies under Section 5.1 of the Plan on a case-by-case basis by having regard to:</i></p> <p><i>(a) areas where coastal processes, influences or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands and the margins of these areas; and</i></p> <p><i>(b) the geographic extent to which activities within the coastal</i></p> | <p>coastal environment will vary from place to place and according to the position from which a place is viewed.</p> <p>The Hearing Panel does not recommend amending Policy 4(a) in the manner suggested by the submitter but does agree with amending the Plan to provide more certainty in relation to where the coastal environment lies. It is recommended that the Plan (and associated GIS layers and planning maps) be amended to include an indicative extent of the coastal environment that is aligned with the coastal environment lines (or their equivalent) identified in the South Taranaki and New Plymouth district plans.</p> <p>In addition, the Hearing Panel recommends amending Policy 4 to have particular regard to the coastal environment line while also providing for case-by-case considerations based upon matters set out in Policy 1 of the <i>New Zealand Coastal Policy Statement</i>. The revised policy would read as follows:</p> <p>The revised Policy would read as follows:</p> <p><i>Determine the inland extent of the coastal environment for the purposes of policies under Section 5.1 of the Plan by:</i></p> <p><i>(a) <u>having particular regard to areas identified in a district plan or proposed district plan as being the coastal environment or equivalent (map link);</u></i></p> <p><i>(b) <u>on a case-by-case basis, recognising:</u></i></p> <p><i>(i) <u>areas landward of the coastal environment line where coastal processes, influences or qualities are significant, including areas at risk from coastal hazards; coastal vegetation and coastal habitat of indigenous species; elements and features of natural character, landscapes, visual qualities or amenity values; inter-related coastal marine and terrestrial systems; and may include items of cultural and historic heritage and physical resources and built facilities, coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands and the margins of these areas; and</u></i></p> <p><i>(ii) <u>the geographic extent to which activities within the coastal marine area may cause adverse effects on significant values and characteristics landward of the coastal marine area.</u></i></p> |
| Further submissions – Meridian Energy Ltd (20), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| Further submissions – Transpower NZ Ltd (26) | | Support | |
| Further submissions – Fonterra (47) | | Support in part | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 264 | <p>Amend</p> <p>The submitter notes that Policy 4 sets out a case-by-case approach to defining the coastal environment. The submitter believes that such an approach is neither efficient nor effective and would lead to significant costs and uncertainties, including potential disputes as to whether the Coastal Plan is relevant to a</p> | <p>Grant in kind</p> <p>The reader is referred to the Department of Conservation's guidance on the <i>New Zealand Coastal Policy Statement</i>. The guidance notes that the term 'coastal environment' is an environment in which the coast is a significant part or element. However, the guidance notes the difficulties in setting out an abstract definition which</p> |

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| | | <p>particular activity. The submitter is unclear on whether the Council considers the existing terminals of oil companies to be within the coastal environment. The submitter suggests deleting the Policy as currently worded and replacing it with comprehensive mapping of the coastal environment (not just the coastal marine area).</p> <p>Submitter seeks amendment to the Plan by deleting Policy 4:</p> <p><i>Policy 4: Extent and characteristics of the coastal environment to determine the inland extent of the coastal environment for the purposes of policies under Section 5.1 of the Plan on a case-by-case basis by having regard to:</i></p> <p><i>(a) areas where coastal processes, influences or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands and the margins of these areas; and</i></p> <p><i>(b) the geographic extent to which activities within the coastal marine area may cause adverse effects on significant values and characteristics landward of the coastal marine area.</i></p> | <p>is capable of simple and ready application to any given situation. What constitutes the coastal environment will vary from place to place and according to the position from which a place is viewed.</p> <p>The Hearing Panel does not recommend amending Policy 4(a) in the manner suggested by the submitter but does agree with amending the Plan to provide more certainty in relation to where the coastal environment lies. It is recommended that the Plan (and associated GIS layers and planning maps) be amended to include an indicative extent of the coastal environment that is aligned with the coastal environment lines (or their equivalent) identified in the South Taranaki and New Plymouth district plans.</p> <p>In addition, the Hearing Panel recommends amending Policy 4 to have particular regard to the coastal environment line while also providing for case-by-case considerations based upon matters set out in Policy 1 of the <i>New Zealand Coastal Policy Statement</i>. The revised policy would read as follows:</p> <p><i>Determine the inland extent of the coastal environment for the purposes of policies under Section 5.1 of the Plan by:</i></p> <p><i>(a) having particular regard to areas identified in a district plan or proposed district plan as being the coastal environment or equivalent (map link);</i></p> <p><i>(b) on a case-by-case basis, recognising:</i></p> <p><i>(i) areas landward of the coastal environment line where coastal processes, influences or qualities are significant, including areas at risk from coastal hazards; coastal vegetation and coastal habitat of indigenous species; elements and features of natural character, landscapes, visual qualities or amenity values; inter-related coastal marine and terrestrial systems; and may include items of cultural and historic heritage and physical resources and built facilities; coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands and the margins of these areas; and</i></p> <p><i>(ii) the geographic extent to which activities within the coastal marine area may cause adverse effects on significant values and characteristics landward of the coastal marine area.</i></p> |
| 47 – Fonterra | 265 | <p>Support</p> <p>Retain Policy 4 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 4 is retained subject to amendments to include a coastal environment line. It is further noted that the Policy has been amended to closer align with Policy 1 of the <i>New Zealand Coastal Policy Statement</i>.</p> |

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| Policy 5 – Appropriate use and development of the coastal environment | | | |
| 2 – Federated Farmers | 266 | Support Retain Policy 5 of the Plan as notified. | Accept Support noted. Policy 5 is retained subject to amendments made to offer relief to other submitters concerns where appropriate. |
| 6 – Trans-Tasman Resources Ltd | 267 | Amend Submitter seeks amendments to Policy 5(b), (e), (f) and (g) of the Plan to recognise benefits from non-renewable resources and for the purposes of certainty and clarity in their interpretation and to read as follows: <i>Determine whether use and development of the coastal environment is in an appropriate place and form and within appropriate limits by having regard to:</i> <i>(a) the functional need for [...]</i> <i>(b) the benefits to be derived from the activity at a local, regional and national level, including the potential contribution of aquaculture and marine based renewable energy or mineral resources;</i> [...] <i>(e) the degree to which the activity will be threatened by, or contribute to, coastal hazard risk, or pose a threat to public health and safety risks with particular reference to Policy 20;</i> <i>(f) the degree to which the activity contributes to the <u>maintenance</u>, enhancement or restoration of natural or historic heritage including by buffering areas and sites of historical heritage value;</i> <i>(g) the degree to which the activity contributes to the <u>maintenance</u>, enhancement or restoration of public access or public use of the coast including for recreation;</i> [...] | Accept in part The Hearing Panel considers the inclusion of “renewable energy” within Policy 5(b) to be in line with the requirements of Policy 6(1)(g) [Activities in the coastal environment] of the <i>New Zealand Coastal Policy Statement</i> to take into account the potential for renewable resources. However, the Hearing Panel considers the addition of mineral resources within the Policy to also be in line with Policy 6(2)(a) of the <i>New Zealand Coastal Policy Statement</i> whereby contributions to social, economic and cultural wellbeing of people and communities from use and development, including (but not limited to) the potential for renewable marine energy are recognised. Therefore, the Hearing Panel recommends granting the relief in part whereby the scope of Policy 5(b) is broadened to explicitly recognise mineral resources alongside aquaculture, renewable energy and other marine based energy plus other consequential changes to the Policy as requested by other submitters to read: [...] <i>(b) the benefits to be derived from the <u>other activities</u> at a local, regional and national level, including <u>the existing and potential contribution of petroleum and mineral resources, and the potential contribution of agriculture, aquaculture, and renewable energy resources;</u> [...]</i> The Hearing Panel also recommends recognising “maintenance” in (f) and (g). |
| Further submissions – Karen Pratt (9), Department of Conservation (29), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37), | | Support | |

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| Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46), Taranaki Energy Watch (51) | | | |
| 6 – Trans-Tasman Resources Ltd | 268 | <p>Amend</p> <p>Submitter seeks amendment to Policy 5(c) of the Plan to recognise that an alternative assessment, and the need for an activity to be the best practicable option is not always required, particularly where there are no significant adverse effects.</p> | <p>Accept</p> <p>The Hearing Panel recommends amending Policy 5(c) to state that having regard to possible alternative may include consideration of best practicable options for preventing or minimising adverse effects on the environment.</p> <p>The amended clause would read as follows:</p> <p><i>(c) the appropriateness of the proposed design, methodology, location or route of the activity in the context of the receiving environment and any possible alternatives, including best practicable options for preventing or minimising adverse effects on the environment [...]</i></p> |
| Further submissions – Karen Pratt (9), Taranaki Energy Watch (51), Te Atiawa (58) | | Oppose | |
| Further submissions –Powerco (45) | | Support | |
| 12 – Chorus New Zealand Limited | 269 | <p>Support</p> <p>Retain Policy 5 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 5 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |
| 13 – Spark New Zealand Trading Limited | 270 | <p>Support</p> <p>Retain Policy 5 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 5 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |
| 14 – Vodafone New Zealand Limited | 271 | <p>Support</p> <p>Retain Policy 5 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 5 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |
| 19 – South Taranaki District Council | 272 | <p>Support</p> <p>Retain Policy 5 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 5 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |
| 20 – Meridian Energy Limited | 273 | <p>Amend</p> <p>Submitter seeks amendment to Policy 5 of the Plan to read:</p> <p><i>Policy 5: Appropriate <u>subdivision</u>, use and development in the coastal environment</i></p> | <p>Accept</p> <p>Submitter suggests that Policy 5 would better reflect Policy 25 [Subdivision, use, and development in areas of coastal hazard risk] of the <i>New Zealand Coastal Policy Statement</i> by including references to “subdivision”.</p> |

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| | | <i>Determine whether <u>subdivision</u>, use and development of the coastal environment is in an appropriate place and form and within appropriate limits by having regard to: [...]</i> | The Hearing Panel agrees that the Policy applies to the coastal environment and therefore may apply to activities such as subdivision for which other parties (i.e. territorial authorities) have statutory responsibilities. The Hearing Panel therefore recommends amending Policy 5 to include reference to subdivision alongside other use and development. A new definition for "subdivision" is also recommended. |
| 25 – New Zealand Petroleum and Minerals | 274 | Amend Submitter seeks amendment to Policy 5(b) of the Plan to recognise benefits from petroleum and mineral resources to read: <i>Determine whether use and development of the coastal environment is in an appropriate place and form and within appropriate limits by having regard to: [...]</i> <i>(b) the benefits to be derived from the activity at a local, regional and national level, including the potential contribution of aquaculture and marine based energy resources, <u>and the existing and potential contribution of petroleum and mineral resources</u>; [...]</i> | Accept Submitter believes that there should be explicit recognition of the economic and social benefits that petroleum and mineral resources provide the region and requests amending Policy 5 to achieve this. The Hearing Panel agrees and recommends amending Policy 5(b) to read: <i>(b) the benefits to be derived from <u>other activities</u> at a local, regional and national level, including <u>the existing and potential contribution of agricultural, petroleum and mineral resources</u>, <u>and the potential contribution of aquaculture and renewable energy resources</u>; [...]</i> |
| Further submissions – Trans-Tasman Resources Ltd (6), Petroleum Exploration and Production Association of New Zealand (37) | | Support | |
| Further submissions – Taranaki Energy Watch (51) | | Support in part | |
| Further submissions – Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 26 – Transpower NZ Ltd | 275 | Amend Submitter seeks an amendment to Policy 5 of the Plan to read: <i>Determine whether Provide for use and development of the coastal environment is in an appropriate place and form and within appropriate limits by having regard to:</i> <i>(a) the functional need <u>or technical, operational and/or locational need</u> for the activity to be located in the coastal marine area; <u>conversely, activities that do not have a functional need to be located in the coastal marine area should not be</u></i> | Accept in part The suggested amendments have two parts. The Hearing Panel recommends granting part of the relief sought by the submitter. The Hearing Panel notes that Policy 5 provides direction and guidance on the 'appropriateness' of use and development. The Hearing Panel does not believe it appropriate that the Policy be amended to provide for <u>all</u> use and development, as some use and development is clearly not appropriate having regard to other policies in the Plan. Notwithstanding that, the Hearing Panel recommends amending Policy |

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| | | <i>located there (unless the non-marine related activity complements the intended use and function of the area) [...]</i> | 5(a) to refer to operational requirements (as well as functional needs) for activities located in the coastal marine area. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Support in part/Neutral in part | The revised Policy would read as follows: <i>Consider whether subdivision and use and development of the coastal environment is in an appropriate location and form, and within appropriate limits, by having regard to (but not limited to) the following:</i> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | <i>(a) the functional need or operational need for the activity to be located in the coastal marine area. Activities that do not have a functional need or operational need to be located in the coastal marine area generally should not be located there (unless the non-marine related activity complements the intended use and function of the area); [...]</i> |
| 32 – Port Taranaki | 276 | Amend The submitter suggests that Policy 5 does not adequately recognise important security and public safety issues facing ports and seeks amendments to Clause (g) that qualifies the enhancement or restoration of public access to exclude the Port and other area where public safety and security needs would be jeopardised. Submitter seeks an amendment to Policy 5(g) to read as follows: <i>Determine whether use and development of the coastal environment is in an appropriate place and form and within appropriate limits by having regard to: [...]</i> <i>(g) the degree to which the activity contributes to the enhancement or restoration of public access or public use of the coast including for recreation, unless the type of activity, and the need to maintain public safety, makes enhancement or restoration of public access inappropriate; [...]</i> | Grant in kind The Hearing Panel notes that Policy 5 contains a suite of considerations and must be read in conjunction with the other General Policies and relevant Activity-specific Policies. Policy 5(e) already addresses public health and safety risks while Policy 17 [Public access] sets out circumstances where public access would not be appropriate. Accordingly, the Hearing Panel does not believe it necessary or appropriate to paraphrase other Plan provisions. Indeed there are risks in creating legal uncertainty and ambiguity in doing so. The Hearing Panel recommends an alternative relief whereby Policy 5(g) is amended to refer to 'appropriate' public access or use. Policy 17 would then apply and provides the guidance and direction on what constitutes appropriate public access and use in the coastal environment. |
| Further submissions – Trans-Tasman Resources Ltd (6), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support | |
| Further submissions – Taranaki Energy Watch (51) | | Oppose | |
| 35 – Radio New Zealand Ltd | 277 | Amend Submitter seeks amendment to Policy 5(a) of the Plan to read: | Decline The Hearing Panel recommends declining the relief sought by the submitter. |

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| | | <p>Determine whether use and development of the coastal environment is in an appropriate place and form and within appropriate limits by having regard to:</p> <p>(a) the functional need for the activity to be located in the coastal marine area <u>or the coastal environment</u>. Conversely, activities that do not have a functional need to be located in the coastal marine area <u>or the coastal environment</u> generally should not be located there [...]</p> | <p>The Hearing Panel notes that Policy 5(a) is deliberately confined to activities being located in the coastal marine area because they have a functional need or operational need. This reflects the coastal marine area being a public space. The Hearing Panel does not believe that such restrictions are necessary or appropriate on the landward part of the coastal environment.</p> |
| Further submissions – Powerco (45) | Support | | |
| Further submissions – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | Support in part | | |
| 40 – Te Rūnanga o Ngāti Mutunga | 278 | <p>Amend</p> <p>Submitter seeks amendment to Policy 5 of the Plan to include a new clause to read (based on Policy 4(d) from the Draft Coastal Plan):</p> <p>Determine whether use and development of the coastal environment is in an appropriate place and form and within appropriate limits by having regard to: [...]</p> <p><u>(dd) avoiding, remedying or mitigating adverse effects on the values and attributes of coastal areas of outstanding value, significant indigenous biodiversity and significant historic heritage and significant amenity values in accordance with policies 8, 11, 12 and 15.</u></p> | <p>No relief necessary</p> <p>The Hearing Panel notes the concerns of the submitter with regards to managing activities to avoid, remedy or mitigate adverse effects on the values and attributes of coastal areas of outstanding value, significant indigenous biodiversity, historic heritage and amenity values but believe that the relief is not necessary on the basis that these concerns are addressed separately and in more detail within Policy 8 [Areas of outstanding value], Policy 14 [Indigenous biodiversity], Policy 15 [Historic heritage] and Policy 18 [Amenity values].</p> <p>It is important to note that the General Policies (and relevant Activity-specific Policies) must be read as a whole and it is not necessary or useful to repeat or paraphrase the provisions of other policies.</p> |
| 40 – Te Rūnanga o Ngāti Mutunga | 279 | <p>Amend</p> <p>Submitter seeks amendment to Policy 5(j)(iii) of the Plan to read:</p> <p>Determine whether use and development of the coastal environment is in an appropriate place and form, and within appropriate limits, by having regard to:</p> <p>(j) the degree and significance of actual or potential adverse effects of the activity on the environment, including consideration of: [...]</p> <p>(iii) the efficacy of measures to avoid, remedy or mitigate such effects, or provide environmental compensation where effects cannot be <u>avoided</u>, remedied or mitigated [...]</p> | <p>Decline</p> <p>The Hearing Panel notes that effects can always be avoided (e.g. cease operations) but that there is an expectation that in circumstances that adverse effects cannot be avoided then, at the very least, effects should be remedied or mitigated.</p> <p>Policy 5(j)(iii) deliberately targets those circumstances where residual effects remain despite measures to avoid, remedy or mitigate various adverse effects. In that situation environmental compensation could be considered. However, it should not be an option in lieu of an avoidance policy.</p> |
| Further submissions – Taranaki Energy Watch (51) | | Oppose | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 41 – Te Korowai o Ngāruahine Trust | 280 | Amend | No relief necessary |
| | | Submitter supports Policy 5 of the Plan with the recognition that has been given to the extent to which an activity may be commensurate to Māori values, culture, practices and traditions but seek amendment to Policy 5 to reinstate references (from the Draft Coastal Plan) to the protection of indigenous biodiversity, historic heritage and amenity values of the coastal environment. | The Hearing Panel notes the concerns of the submitter with regards to managing activities to avoid, remedy or mitigate adverse effects on the values and attributes of coastal areas of outstanding value, significant indigenous biodiversity, historic heritage and amenity values, but believes that the relief is not necessary on the basis that these concerns are already adequately addressed within Policy 8 [Areas of outstanding value], Policy 14 [Indigenous biodiversity], Policy 15 [Historic heritage] and Policy 18 [Amenity values]. It is important to note that the Policies must be read as a whole and it is not necessary or useful to repeat or paraphrase the provisions of other policies in this Policy. |
| 43 – Royal Forest and Bird Protection Society | 281 | Amend | Decline |
| | | The submitter expresses concern regarding the application of Policy 5 and seeks an amendment to the Plan to better provide for Policies 11, 13, 15, 17 and 20 of the <i>New Zealand Coastal Policy Statement</i> and achieve Plan objectives by identifying: <ul style="list-style-type: none"> • appropriate places or specify appropriate forms or limits • any areas where particular activities are inappropriate • appropriate places for aquaculture. | The submitter is seeking a level of specificity not considered appropriate or necessary in the Plan. As previously discussed all Policies must be read as a whole and it is not necessary or useful to repeat or paraphrase the provisions of the <i>New Zealand Coastal Policy Statement</i> . Nor is it considered necessary or appropriate to identify/specify/map appropriate places, forms or limits and conversely identify/specify/map where particular activities are inappropriate. Such matters would generally require a more nuanced consideration having regard to the various policies through the consenting process. The Hearing Panel further notes that there is no aquaculture in Taranaki and nor is there likely to be given the wild and rugged nature of the Taranaki coastal marine area. However, in the event that there was a proposal, the appropriateness of and location would be easily determined in accordance with the General Policies. |
| Further submissions – Transpower NZ Ltd (26) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 282 | Amend | Accept in part |
| | | Submitter seeks amendment to Policy 5 of the Plan to <ul style="list-style-type: none"> • insert “location” instead of “place” • amend Policy 5(b) to remove reference to “aquaculture” from Clause (b) due to the uncertainty of which locations this activity would be allowed and to recognise the potential for renewable energy consistent with Policy 6(2)(a) of the <i>New Zealand Coastal Policy Statement</i> and if necessary to provide for Policy 8(c) of the <i>New Zealand Coastal Policy Statement</i>. | At the hearing, the submitter presented some alternative relief to address their concerns that Policy 5 could be used independently of and derogate from the policy intent of other General Policies when determining what use and development might be “appropriate” within the coastal environment. The Hearing Panel recommends that for the purposes of certainty and clarity, Policy 5 be amended to refer to ‘consider’ instead of ‘determine’ at the onset of the policy and also to clarify that clauses (a) to (j) are not the only considerations to determine the appropriateness of use and development within the coastal environment. The |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <ul style="list-style-type: none"> remove reference in Clause (j)(ii) to Policy 1 given it does not set out the values and characteristics which require protection under the <i>New Zealand Coastal Policy Statement</i> and is therefore maybe misleading and ambiguous. <p>The changes sought to Policy 5 are as follows:</p> <p><i>Determine whether use and development of the coastal environment is in an appropriate place location and form and within appropriate limits by having regard to:</i></p> <p><i>(a) the functional need for [...]</i></p> <p><i>(b) the benefits to be derived from the activity at a local, regional and national level, including the potential contribution of aquaculture and marine based energy resources</i></p> <p><i>[...]</i></p> <p><i>(j) the degree and significance of actual or potential adverse effects of the activity on the environment, including consideration of:</i></p> <p><i>(i) cumulative effects of otherwise minor activities;</i></p> <p><i>(ii) the sensitivity of the environment with particular reference to Policy 1; [...]</i></p> | <p>Hearing Panel also agrees that the amendment sought to “<i>appropriate locations</i>”, which provides consistency with wording adopted in other Plan provisions.</p> <p>The beginning of Policy 5 would read as follows:</p> <p><i>Consider whether <u>subdivision and</u> use and development of the coastal environment is in an appropriate <u>location</u> and form, and within appropriate limits, by having regard to <u>(but not limited to) the following</u>: [...]</i></p> <p>The Hearing Panel further agrees to amending Clause (j)(ii) to delete reference to Policy 1. Policy 1 only refers to the coastal management areas while other policies in the Plan (recognising that all General Policies must be read together) are at a finer spatial scale and are likely to be more applicable when determining the sensitivity of the environment.</p> <p>In relation to deleting reference to aquaculture, the Hearing Panel does not recommend granting the relief sought. Policy 8 [Aquaculture] of the <i>New Zealand Coastal Policy Statement</i> requires those exercising functions and powers under the RMA to recognise the potential contribution of aquaculture by, amongst other things, including provisions for such activities in Coastal Plan. However, unlike other regions, the nature of the Taranaki coast is such that it is not suited to traditional aquaculture activities due to the very rough seas and high turbidity offshore and nil demand for space for aquaculture. Taranaki has no aquaculture and so far has not had to identify Aquaculture Management Areas. Notwithstanding that, some explicit but limited policy recognition in the Plan for potential aquaculture activities is considered appropriate should changes in technology or in potential species for marine farming occur over the life of the Plan.</p> <p>In relation to amending the Policy to recognise the importance of renewable energy, the Hearing Panel believes this has already been provided for within the current drafting of Policy 5(b) of the Plan, which reads “...<i>the benefits would be derived from the activity at a local, regional and national level, including the potential contribution of aquaculture and marine based <u>renewable</u> energy resources [...]</i>”.</p> <p>However, the Hearing Panel notes that other requested amendments have also been made to broaden the scope of Clause (b) to read:</p> <p><i>(b) the benefits to be derived from <u>other activities</u> at a local, regional and national level, including <u>the existing and potential contribution of agricultural, petroleum and mineral resources, and the potential contribution of aquaculture and renewable energy resources;</u> [...]</i></p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 45 – Powerco | 283 | <p>Amend</p> <p>Submitter seeks amendment to Policy 5(a) and (c) of the Plan to more clearly convey the intent of the Policy and to read as follows:</p> <p><i>Determine whether use and development of the coastal environment is in an appropriate place and form and within appropriate limits by having regard to:</i></p> <p><i>(a) the functional need for the activity to be located in the coastal marine area.</i> Conversely, aActivities that do not have a functional need to be located in the coastal marine area generally should not be located there (unless the non-marine related activity complements the intended use and function of the area);</p> <p>[...]</p> <p><i>(c) the appropriateness of the proposed design, and methodology, and whether it is the best practicable option, location or route of the activity in the context of the receiving environment and any possible alternatives; [...]</i></p> | <p>Accept in part</p> <p>The Hearing Panel recommends amending Policy 5(a) as sought by the submitter but notes consequential changes made to Clause (c) in response to other submitters that reads as follows:</p> <p><u>Consider whether subdivision and use and development of the coastal environment is in an appropriate location and form, and within appropriate limits, by having regard to (but not limited to) the following:</u></p> <p><i>(a) the functional need or operational need for the activity to be located in the coastal marine area. Activities that do not have a functional need or operational need to be located in the coastal marine area generally should not be located there (unless the non-marine related activity complements the intended use and function of the area); [...]</i></p> <p><i>(c) the appropriateness of the proposed design, methodology, location or route of the activity in the context of the receiving environment and any possible alternatives, including best practicable options for preventing or minimising adverse effects on the environment; [...]</i></p> |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 284 | <p>Amend</p> <p>Submitter seeks amendment to Policy 5(a), (c) and (e) of the Plan to read:</p> <p><i>Determine whether use and development of the coastal environment is in an appropriate place and form and within appropriate limits by having regard to:</i></p> <p><i>(a) the functional need for the activity to be located in the coastal marine area.</i> Conversely, aActivities that do not have a functional need to be located in the coastal marine area generally should not be located there (unless the non-marine related activity complements the intended use and function of the area);</p> <p>[...]</p> <p><i>(c) the appropriateness of the proposed design, and methodology, and whether it is the best practicable option, location or route of the activity in the context of the receiving environment and any possible alternatives;</i></p> <p>[...]</p> <p><i>(e) The degree to which the activity will be threatened by, or contribute to, subject to unacceptable risks or exacerbate adverse effects arising from coastal hazards</i></p> | <p>Accept in part</p> <p>The Hearing Panel recommends amending Policy 5(a) as sought by the submitter but recommend alternative reliefs to that proposed with additional changes made to Clauses (c) and (e) in response to other submitters and to reflect that often little can be done to control the coastal hazard risk. The amended Clauses (c) and (e) would read as follows:</p> <p><i>(c) the appropriateness of the proposed design, methodology, location or route of the activity in the context of the receiving environment and any possible alternatives, including best practicable options for preventing or minimising adverse effects on the environment; [...]</i></p> <p><i>(e) the degree to which the activity will be subject to unacceptable risks or exacerbated coastal hazards, or public health and safety with particular reference to Policy 20; [...]</i></p> |

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| | | <i>risk, or pose a threat to public health and safety with particular reference to Policy 20; [...]</i> | |
| 47 – Fonterra | 285 | <p>Amend</p> <p>Submitter believes that it is appropriate to provide for structures in the coastal marine area that have an operational requirement to be located in the coastal environment and not limit Policy 5(a) to those activities that have a functional need only.</p> <p>Submitter seeks amendment to Policy 5(a) of the Plan to read:</p> <p><i>Determine whether use and development of the coastal environment is in an appropriate place and form and within appropriate limits by having regard to:</i></p> <p><i>(a) the functional need <u>or operational requirement</u> of the activity to be located in the coastal marine area. Conversely, activities that do not have a functional need <u>or operational requirement</u> to be located in the coastal marine area generally should not be located there (unless the non-marine related activity complements the intended use and function of the area); [...]</i></p> | <p>Accept</p> <p>The Hearing Panel recommends granting the relief sought by the submitter. The amendment of Policy 5(a) would provide for activities that might not have "functional need" to be located within the coastal marine area but nevertheless their operational needs or constraints justify their presence there.</p> |
| Further submissions – Transpower NZ Ltd (26) | | Support in part | |
| 47 – Fonterra | 286 | <p>Amend</p> <p>Submitter requests specific recognition of the contribution that industries, such as dairy processing, make to the economic and social well-being of the region</p> <p>Submitter seeks amendment to Policy 5(b) of the Plan to read:</p> <p><i>Determine whether use and development of the coastal environment is in an appropriate place and form and within appropriate limits by having regard to:</i></p> <p><i>(b) the benefits to be derived from the activity at a local, regional and national level, including the potential contribution of <u>dairy manufacturing</u>, aquaculture and marine based renewable resources. [...]</i></p> | <p>Grant in kind</p> <p>At the hearing of submissions, the submitter noted that Policy 5 already refers to specific industries with reference to petroleum and mineral resources, aquaculture and renewable energy resources and considers that reference to 'dairy manufacturing' should also be made.</p> <p>The Hearing Panel note that reference to petroleum and mineral resources, aquaculture and renewable energy resources are consistent with those activities identified in Policy 6 (1)(a), Policy 6 (2)(a) and Policy 8 of the <i>New Zealand Coastal Policy Statement</i> . Notwithstanding that, the Hearing Panel acknowledges that agriculture is the largest industry in the region and therefore agrees with the submitter that the importance of agriculture to this region is a point of difference from many other regions and it should be acknowledged in the Policy.</p> <p>The Hearing Panel recommends an alternative relief whereby Policy 5(b) is amended to refer to "agriculture", which encompasses, but is not limited to dairy manufacturing.</p> |
| | 287 | Support | Accept |

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| 48 – Taranaki District Health Board | | Retain Policy 5 of the Plan as notified. | Support noted. Policy 5 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 50 – Te Kāhui o Taranaki Trust | 288 | Amend | Decline |
| | | Submitter seeks amendment to Policy 5(j)(iii) of the Plan to read: <i>Determine whether use and development of the coastal environment is in an appropriate place and form and within appropriate limits by having regard to:</i> [...] <i>(j)(iii) the efficacy of measures to avoid, remedy or mitigate such effects, or provide environmental compensation where effects cannot be <u>avoided, remedied or mitigated</u> [...]</i> | The Hearing Panel notes that effects can always be avoided (e.g. cease operations) but that there is an expectation that in circumstances that adverse effects cannot be avoided then, at the very least, effects should be remedied or mitigated. Policy 5(j)(iii) deliberately targets those circumstances where residual effects remain despite measures to avoid, remedy or mitigate various adverse effects. In that situation environmental compensation could be considered. However, it should not be an option in lieu of an avoidance policy. |
| 51 – Taranaki Energy Watch | 289 | Amend | Decline |
| | | Submitter seeks amendment to Policy 5(j) of the Plan to incorporate the precautionary approach. | The Hearing Panel recommends declining the relief sought as this matter is already addressed in a separately stand-alone policy (Policy 3) that also applies alongside other relevant policies when considering use and development in the coastal marine area. |
| 58 – Te Atiawa | 290 | Amend | No relief necessary |
| | | Submitter seeks amendment to Policy 5 of the Plan to include a new clause and read (based on Policy 4(d) from the Draft Coastal Plan): [...] <u>avoiding, remedying or mitigating adverse effects on the values and attributes of coastal areas of outstanding value, significant indigenous biodiversity and significant historic heritage and significant amenity values in accordance with policies 8, 11, 12 and 15.</u> | The Hearing Panel notes the concerns of the submitter with regards to managing activities to avoid, remedy or mitigate adverse effects on the values and attributes of coastal areas of outstanding value, significant indigenous biodiversity, historic heritage and amenity values, but believes that the relief is not necessary on the basis that these concerns are already addressed within Policy 8 [Areas of outstanding value], Policy 14 [Indigenous biodiversity], Policy 15 [Historic heritage] and Policy 18 [Amenity values]. It is important to note that the policies must be read as a whole and it is not necessary or useful to repeat or paraphrase the provisions of other policies. |
| 58 – Te Atiawa | 291 | Amend | Decline |
| | | Submitter seeks amendment to Policy 5(j)(iii) of the Plan to read: <i>Determine whether use and development of the coastal environment is an appropriate place and form and within appropriate limits by having regard to: [...]</i> | The Hearing Panel notes that effects can always be avoided (e.g. cease operations) but that there is an expectation that in circumstances that adverse effects cannot be avoided then, at the very least, effects should be remedied or mitigated. |

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| | | <p>(j) the degree and significance of actual or potential adverse effects of the activity on the environment, including consideration of: [...]</p> <p>(iii) the efficacy of measures to avoid, remedy or mitigate such effects, or provide environmental compensation where effects cannot be avoided, remedied or mitigated [...]</p> | Policy 5(j)(iii) deliberately targets those circumstances where residual effects remain despite measures to avoid, remedy or mitigate various adverse effects. In that situation environmental compensation could be considered. However, it should not be an option in lieu of an avoidance policy. |
| 59 – KiwiRail | 292 | <p>Support</p> <p>Retain Policy 5 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 5 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |
| 60 – Te Kaahui o Rauru | 293 | <p>Other</p> <p>In relation to Policy 5 of the Plan, submitter seeks clarification as to why the aspirations of iwi to “develop, use or protect” was removed from equivalent policy in the Draft Coastal Plan.</p> | <p>No relief necessary</p> <p>In relation to the submitter’s query, following consultation on the Draft Plan, amendments were made to the Plan to highlight to the reader that all General Policies need to be considered collectively (and not individually) in the application of regional rules. It was therefore unnecessary to constantly cross reference individual General Policies to other policies and indeed there are risks inherent in ‘cherry picking’ such policies (while being silent on others).</p> |
| NEW Policy 5A – Aquaculture | | | |
| 43 – Royal Forest and Bird Protection Society | 294 | <p>Amend</p> <p>Submitter seeks amendment to the Plan by:</p> <ul style="list-style-type: none"> • including a new policy that identifies appropriate places for aquaculture; AND • until ‘appropriate’ places are identified, ensuring Plan provisions: <ul style="list-style-type: none"> – exclude aquaculture activities from Outstanding Value, Estuaries Unmodified, Estuaries Modified coastal management areas – state that consents will not be granted for aquaculture in any area with the values and characteristics set out in Policy 14 of the Plan (as revised to address submitter’s relief) – aquaculture proposals must be consistent with General Policies 1 to 21 of the Plan. | <p>Decline</p> <p>The Hearing Panel does not consider it appropriate or necessary to identify appropriate places for aquaculture as the Taranaki coastal marine area is not currently conducive to aquaculture activities. The nature of the Taranaki coast is such that it is not suited to traditional aquaculture activities due to the very rough seas and high turbidity offshore and nil demand for space for aquaculture. Taranaki has no aquaculture and so far has not had to identify Aquaculture Management Areas.</p> <p>As a result, the Hearing Panel suggests that the other reliefs requested by the submitter are not necessary. However, the Hearing Panel notes that in all instances of resource consent applications all the General Policies (1 to 21) and the relevant Activity-specific policies apply and will be considered.</p> |

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| Further submissions – Department of Conservation (29) | | Support | |
| Policy 6 – Activities important to the well-being of people and communities | | | |
| 2 – Federated Farmers | 295 | <p>Amend</p> <p>Submitter seeks amendment to Policy 6 of the Plan to read: <i>Recognise and provide for new and existing infrastructure and farming activities of regional importance or of significance to the social, economic and cultural well-being of people and communities in Taranaki, subject to appropriate management of adverse environmental effects.</i></p> | <p>Decline</p> <p>The Hearing Panel recognises that farming is regionally significant but recommends declining the relief sought as Policy 6 addresses regionally important infrastructure assets – particularly those required to be provided for through national environmental standards and the resulting obligations that regional and district councils recognise and provide for these assets. This approach is consistent with other second generation regional plans around New Zealand.</p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | <p>Oppose</p> | <p>The Hearing Panel recommends minor changes to the Policy to clarify that policy direction and guidance is on regionally important infrastructure (for which there is a definition). Of note farming activities are already adequately provided for under Policy 5, which determines the 'appropriateness' of <u>all</u> use and development activities in the coastal environment by having regard to the benefits to be derived from activities at a local, regional and national level. Policy 5(b) is also recommended to be amended to recognise the existing and potential contribution of agricultural activities to this region.</p> |
| 19 – South Taranaki District Council | 296 | <p>Support</p> <p>Retain Policy 6 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 6 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |
| 20 – Meridian Energy Limited | 297 | <p>Support</p> <p>Retain Policy 6 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 6 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |
| 23 – New Plymouth District Council | 298 | <p>Support</p> <p>Retain Policy 6 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 6 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |
| 26 – Transpower NZ Ltd | 299 | <p>Amend</p> <p>The submitter supports the intent of Policy 5 but is concerned that infrastructure that is “nationally significant” may not be interpreted to also be “regionally</p> | <p>Accept in part</p> <p>Of note the Plan's definition of “regionally important infrastructure” includes infrastructure of regional and national importance and includes the national electricity</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p><i>significant</i>". The submitter further wishes to include explicit recognition of the benefits of a reliable and secure supply of electricity. The submitter believes that such amendments would give better effect to Policy 1 of the <i>National Policy Statement on Electrical Transmission</i>.</p> <p>Submitter seeks amendment to Policy 6 of the Plan to read:</p> <p><i>Recognise and provide for new and existing infrastructure of <u>national or regional importance or of significance to the social, economic and cultural well-being of people and communities in Taranaki, including recognition of the benefits of a reliable, secure and efficient supply of electricity,</u> subject to appropriate management of adverse environmental effects:[...]</i></p> <p>OR</p> <p>Amend the Plan to include a standalone policy which recognises and provides for the benefits of a reliable, secure and efficient supply of electricity.</p> | <p>grid. The Hearing Panel do not recommend granting the relief in the manner sought by the submitter and note that inconsequential amendments are recommended to the Plan to remove reference to "<i>nationally important infrastructure</i>" where it is used to promote consistency in the use of terminology throughout the Plan.</p> <p>Notwithstanding the above, the Hearing Panel does recommend amending Policies 5 and 6 in response to issues raised by the submitter. The amendments include the addition of a new sub clause for Policy 5 which reads:</p> <p>[...]</p> <p><i>(aa) whether the activity relates to the use, operation, maintenance and alteration of regionally important infrastructure [...]</i></p> <p>The Hearing Panel further recommends amending the heading and content of Policy 6 to include reference to the safe and efficient operation of regionally important infrastructure to read (Hearing Panel notes additional amendments as sought by other submitters are also included):</p> <p><i>Policy 6: <u>Benefits of regionally important infrastructure</u></i></p> <p><i>Recognise <u>the benefits of</u> new and existing regionally important <u>infrastructure</u> to the social, economic and cultural well-being of people and communities in Taranaki, <u>and provide for the safe and efficient operation of regionally important infrastructure</u> subject to appropriate <u>avoidance, remediation or mitigation</u> of adverse environmental effects.</i></p> <p>A new Policy 6A [Management of adverse effects of the National Grid] is also proposed.</p> |
| Further submissions – Powerco (45) | | Support in part | |
| 27 – Taranaki Chamber of Commerce | 300 | <p>Support</p> <p>Retain Policy 6 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 6 is retained, however, amendments have been made to offer relief to other submitters' concerns where appropriate.</p> |
| 32 – Port Taranaki | 301 | <p>Amend</p> <p>Submitter seeks amendment to Policy 6 of the Plan to better reflect the intention to capture Regionally Important Infrastructure as defined in the definitions section of the Plan.</p> | <p>Accept</p> <p>The Hearing Panel agrees and recommends amending Policy 6 (and making consequential amendments to Policy 5) to specifically refer to "<i>regionally important infrastructure</i>".</p> <p>The revised Policy would read as follows:</p> <p><i>Recognise <u>the benefits of</u> new and existing regionally important <u>infrastructure</u> to the social, economic and cultural well-being of people and communities in Taranaki, <u>and provide for the safe and efficient operation of regionally important infrastructure</u></i></p> |

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| | | | subject to appropriate avoidance, remediation or mitigation of adverse environmental effects. |
| 33 - New Zealand Defence Force | 302 | Support | Accept |
| | | Retain Policy 6 of the Plan as notified. | Support noted. Policy 6 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 35 – Radio New Zealand Ltd | 303 | Support | Accept |
| | | Retain Policy 6 of the Plan as notified. | Support noted. Policy 6 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 37 – Petroleum Exploration and Production Association of NZ | 304 | Support | Accept |
| | | Retain Policy 6 of the Plan as notified. | Support noted. Policy 6 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 43 – Royal Forest and Bird Protection Society | 305 | Amend | Accept |
| | | <p>Submitter seeks amendment to Policy 6 to:</p> <ul style="list-style-type: none"> • provide for new infrastructure as set out in the <i>National Policy Standard – Electricity Transmission</i> • provide for activities regulated under the <i>National Environmental Standards</i> • provide for maintenance to enable the safe operation of existing regionally important infrastructure • provide for new regionally important infrastructure consistent with Policy 5 (subject to submitter's amendments) • provide for activities subject to appropriate avoidance, remediation or mitigation of adverse environmental effects. | <p>It is the Hearing Panel' view that Policy 6 already provides the reliefs sought by the submitter. The Hearing Panel also refers the submitter to the definition of "regionally important infrastructure" which includes infrastructure and activities covered by national environmental standards.</p> <p>Notwithstanding the above, for the purposes of certainty and clarity, the Hearing Panel recommends minor changes to Policy 6 that do not change the policy intent.</p> <p>The revised policy would read as follows:</p> <p><i>Recognise the benefits of new and existing regionally important infrastructure to the social, economic and cultural well-being of people and communities in Taranaki, and provide for the safe and efficient operation of regionally important infrastructure subject to appropriate avoidance, remediation or mitigation of adverse environmental effects.</i></p> |
| Further submissions – Transpower NZ Ltd (26) | | Support in part | A new Policy 6A [Management of adverse effects of the National Grid] is also proposed. |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | |

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| 45 – Powerco | 306 | Amend | Accept |
| | | Submitter seeks amendment to Policy 6 of the Plan to read: <i>Recognise and provide for the safe and efficient operation of new and existing infrastructure of regional importance or of significance to the social, economic and cultural well-being of people and communities in Taranaki, subject to appropriate management of adverse environmental effects.</i> | Accept amendment to Policy 6 to provide for the safe and efficient operation of infrastructure. |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 307 | Amend | Accept |
| | | Submitter seeks amendment to Policy 6 of the Plan to read: <i>Recognise and provide for the safe and efficient operation of new and existing infrastructure of regional importance or of significance to the social, economic and cultural well-being of people and communities in Taranaki, subject to appropriate management of adverse environmental effects.</i> | Accept amendment to Policy 6 to provide for the safe and efficient operation of regionally important infrastructure. |
| 47 – Fonterra | 308 | Amend | Decline |
| | | The submitter seeks the inclusion of “ <i>industry</i> ” alongside infrastructure within Policy 6 as industry also contributes to the social and economic well-being of local and regional communities and suggest that the amendment will provide for the expansion or substantial upgrade of necessary infrastructure and industry while still being subject to appropriate management of adverse environmental effects. Submitter seeks amendment to Policy 6 of the Plan to read: <i>Recognise and provide for new and existing infrastructure and industry of regional importance or of significance to the social, economic and cultural well-being of people and communities in Taranaki, subject to appropriate management of adverse environmental effects.</i> | The Hearing Panel recognises that industry, either individually or cumulatively, may indeed be regionally significant but recommends declining the relief as Policy 6 addresses infrastructure assets – particularly those required to be provided for through national environmental standards and the resulting obligations that regional and district councils recognise and provide for these assets. This approach is consistent with other second generation regional plans. The Hearing Panel recommends minor changes to Policy 6 to clarify that the policy direction and guidance relates to regionally important infrastructure (for which there is a definition). Of note industrial activities are already provided for under Policy 5, which determines the ‘appropriateness’ of use and development in the coastal environment by having regard to the benefits to be derived from activities at a local, regional and national level. |
| Further submissions- Federated Farmers (2) | | Support | |
| 59 – KiwiRail | 309 | Support | Accept |
| | | Retain Policy 6 of the Plan as notified. | Support noted. Policy 6 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |

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| Policy 7 – Impacts on established operations and activities | | | |
| 2 – Federated Farmers | 310 | Support | Accept |
| | | Retain Policy 7 of the Plan as notified. | Support noted. Policy 7 is retained subject to amendments as requested by other submitters that do not change the policy intent. |
| 12 – Chorus New Zealand Ltd | 311 | Support | Accept |
| | | Retain Policy 7 of the Plan as notified. | Support noted. Policy 7 is retained subject to amendments as requested by other submitters that do not change the policy intent. |
| 13 – Spark New Zealand Trading Ltd | 312 | Support | Accept |
| | | Retain Policy 7 of the Plan as notified. | Support noted. Policy 7 is retained subject to amendments as requested by other submitters that do not change the policy intent. |
| 14 – Vodafone New Zealand Ltd | 313 | Support | Accept |
| | | Retain Policy 7 of the Plan as notified. | Support noted. Policy 7 is retained subject to amendments as requested by other submitters that do not change the policy intent. |
| 19 – South Taranaki District Council | 314 | Support | Accept |
| | | Retain Policy 7 of the Plan as notified. | Support noted. Policy 7 is retained subject to amendments as requested by other submitters that do not change the policy intent. |
| 20 – Meridian Energy Ltd | 315 | Support | Accept |
| | | Retain Policy 7 of the Plan as notified. | Support noted. Policy 7 is retained subject to amendments as requested by other submitters that do not change the policy intent. |
| 26 – Transpower NZ Ltd | 316 | Support | Accept |
| | | Retain Policy 7 of the Plan as notified. | Support noted. Policy 7 is retained subject to amendments as requested by other submitters that do not change the policy intent. |
| 35 – Radio New Zealand Ltd | 317 | Support | Accept |
| | | Retain Policy 7 of the Plan as notified. | Support noted. Policy 7 is retained subject to amendments as requested by other submitters that do not change the policy intent. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 45 – Powerco | 318 | <p>Amend</p> <p>The submitter suggests that Policy 7 is not considered sufficiently directive to give effect to Objective 3 [Reverse Sensitivity] of the Plan or Policy 1 of the <i>Regional Policy Statement</i>.</p> <p>Submitter seeks amendment to Policy 7 of the Plan to read:</p> <p>Avoid, remedy or mitigate the adverse effects of activities, including reverse sensitivity impacts, on existing lawfully established activities Restricting the establishment or intensification of activities that may result in reverse sensitivity effects by:</p> <p><i>(a) avoiding significant adverse effects on infrastructure of national or regional importance</i></p> <p><i>(b) avoiding, remedying or mitigating other adverse effects on infrastructure of national or regional importance</i></p> <p><i>(c) avoiding, remedying or mitigating adverse effects on other activities.</i></p> | <p>Accept</p> <p>The Hearing Panel agrees to amend Policy 7 in line with the relief sought by the submitter (noting some minor changes are made to align the reading of the Policy with other policies in the Plan).</p> <p>The revised Policy would read as follows:</p> <p><u>Protect existing lawfully established activities from reverse sensitivity effects that may arise from the establishment of new activities or the intensification of existing activities by:</u></p> <p><i>(a) avoiding significant adverse effects on regionally important infrastructure;</i></p> <p><i>(b) avoiding, remedying or mitigating other adverse effects on regionally important infrastructure; and other activities.</i></p> |
| Further submissions – Transpower NZ Ltd (26) | | Support | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 319 | <p>Amend</p> <p>Submitter suggests that Policy 7 is not sufficiently directive to give effect to Objective 3 [Reverse Sensitivity] of the Plan or Policy 1 of the RPS and seeks amendment to Policy 7 of the Plan to read:</p> <p>Avoid, remedy or mitigate the adverse effects of activities, including reverse sensitivity impacts, on existing lawfully established activities Restricting the establishment or intensification of activities that may result in reverse sensitivity effects by:</p> <p><i>(a) avoiding significant adverse effects on infrastructure of national or regional importance;</i></p> <p><i>(b) avoiding, remedying or mitigating other adverse effects on infrastructure of national or regional importance;</i></p> <p><i>(c) avoiding, remedying or mitigating adverse effects on other activities.</i></p> | <p>Accept</p> <p>The Hearing Panel recommends amending Policy 7 in line with the relief sought by the submitter (noting some minor changes are made to align the reading of the policy with other policies in the Plan).</p> <p>The revised Policy would read as follows:</p> <p><u>Protect existing lawfully established activities from reverse sensitivity effects that may arise from the establishment of new activities or the intensification of existing activities by:</u></p> <p><i>(a) avoiding significant adverse effects on regionally important infrastructure;</i></p> <p><i>(b) avoiding, remedying or mitigating other adverse effects on regionally important infrastructure; and other activities.</i></p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 47 – Fonterra | 320 | <p>Amend</p> <p>The submitter supports the inclusion of Policy 7 but suggests amendments are required to make the Policy clearer for Plan users.</p> <p>Submitter seeks amendments to Policy 7 of the Plan to read:</p> <p><i>Avoid, remedy or mitigate the adverse effects <u>reverse sensitivity effects from of new activities, including reverse sensitivity impacts,</u> on existing lawfully established activities.</i></p> | <p>Accept in part</p> <p>The Hearing Panel agrees to amend Policy 7 but recommends alternative wording to that sought by the submitter to provide clearer policy direction in relation to the management of reverse sensitivity effects.</p> <p>The revised Policy would read as follows:</p> <p><i><u>Protect existing lawfully established activities from reverse sensitivity effects that may arise from the establishment of new activities or the intensification of existing activities by:</u></i></p> <p><i><u>(a) avoiding significant adverse effects on regionally important infrastructure;</u></i></p> <p><i><u>(b) avoiding, remedying or mitigating other adverse effects on regionally important infrastructure; and other activities.</u></i></p> <p>At the hearing, the submitter presented further on Policy 7 requesting that the policy be reworded to refer to the “<i>establishment of new sensitive activities</i>” and “<i>other existing sensitive activities</i>”. The Hearing Panel does not consider that reference to “sensitive” adds any additional value or clarification for Plan users and considers that reverse sensitivity is a well known and understood concept and that the changes are unnecessary for Plan users.</p> |
| Further submissions – Taranaki Energy Watch (51) | | Oppose | |
| 59 – KiwiRail | 321 | <p>Support</p> <p>Retain Policy 7 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 7 is retained subject to amendments as requested by other submitters that do not change the policy intent.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| Policy 8 – Areas of outstanding value | | | |
| 2 – Federated Farmers | 322 | <p>Amend</p> <p>Submitter seeks amendment to Policy 8 of the Plan to read:</p> <p><i>Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 1 from inappropriate use and development by:</i></p> <p><i>(a) avoiding adverse effects of activities on the values and characteristics identified in Schedule 2 that contribute to areas:</i></p> <p><i>(i) having outstanding natural character; and/or</i></p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought.</p> <p>The Hearing Panel notes that activities undertaken adjoining Outstanding Value areas can, over time, adversely affect the values associated with an outstanding area. Seascapes and visual corridors are important values associated with natural features and landscapes and therefore require protection as per Policy 15 of the <i>New Zealand Coastal Policy Statement</i>. Accordingly, for the purposes of integrated coastal management, it would be inappropriate to exclude consideration of the wider</p> |

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| | | <p>(ii) being outstanding natural features and landscape; within or adjoining coastal management area – Outstanding Value; and (b) maintaining significant seascapes and visual corridors associated with outstanding natural features and landscapes, including views from within the landscapes or features, and views of the landscapes and features.</p> | <p>landscape and would derogate from Council's efforts seeking to give effect to Policies 13 and 15 of the <i>New Zealand Coastal Policy Statement</i>.</p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Support in part/neutral in part | |
| Further submissions – Port Taranaki Ltd (32), Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support in part | |
| Further submissions –Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 6 – Trans-Tasman Resources Ltd | 323 | <p>Amend</p> <p>The submitter is unsatisfied with Policy 8 as the current wording would require the avoidance of all adverse effects no matter how trivial or transitory. While the current wording is consistent with wording within the <i>New Zealand Coastal Policy Statement</i> (Policy 13 1(a) [Preservation of natural character] and Policy 15(a) [Natural features and natural landscapes]) the Supreme Court in <i>King Salmon</i> recognised that those <i>New Zealand Coastal Policy Statement</i> policies were not intended to ban any effects, no matter how minor, or transitory.</p> <p>Submitter seeks amendment to Policy 8 to read:</p> <p><i>Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 1 from inappropriate use and development by:</i></p> <p>(a) avoiding adverse effects of activities (other than minor or transitory effects) on the values and characteristics identified in Schedule 2 that contribute to areas: [...]</p> | <p>Decline</p> <p>The Hearing Panel agrees that minor or transitory effects are not necessarily required to be avoided within Policy 8. In the recent <i>King Salmon</i> decision, the Supreme Court ruled that avoidance policies do not necessarily rule out minor and transitory effects. Notwithstanding that, the Hearing Panel does not consider it necessary to include explicit recognition of minor and transient effects within Plan policies. Indeed there are risks in doing so. The Hearing Panel believes that it is more appropriate for the interpretation of Plan policies to rely on case law when determining the extent of effects which are necessary to be avoided. The current wording reflects the wording of the <i>New Zealand Coastal Policy Statement</i> and will ensure that any evolution of case law can be taken into consideration during the consenting process.</p> |
| Further submissions – Karen Pratt (9), Bruce Boyd (11), Te Rūnanga o Ngāti Mutunga (40), Taranaki energy | | Oppose | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Watch (51), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | | |
| Further submissions – Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support | |
| 19 – South Taranaki District Council | 324 | Amend Retain Policy 8 as notified. | Accept Support noted. Policy 8 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 26 – Transpower NZ Ltd | 325 | Amend Submitter seeks amendment to Policy 8 of the Plan to delete Clause (b) or replace it with a new clause specifically addressing the National Grid. The submitter wishes that the Plan clearly recognise that the planning and development of transmission infrastructure in the coastal parts of the rural environment should 'seek to avoid' rather than 'avoid' adverse effects on the values and characteristics of outstanding natural landscapes and areas of high natural character. The submitter believes that current wording would be unreasonably restrictive in respect of the planning and development of transmission infrastructure. Further, the submitter explains that Policy 8 of the <i>National Policy Statement of Electricity Transmission</i> requires the National Grid to ' <u>seek to avoid</u> '. Proposed amendments read as follows: <i>Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 1 from inappropriate use and development by:</i> [...] (b) maintaining significant seascapes and visual corridors associated with outstanding natural features and landscapes, including views from within the landscapes or features, and views of the landscapes and features. OR <u>(b) specific to the National Grid, seeking to avoid adverse effects of activities associated with the National Grid on the values and characteristics identified in Schedule 2 that contribute to areas:</u> | Accept The Hearing Panel recommends amending the Plan to include a new National Grid specific policy that addresses the concerns raised by the submitter and gives effect to the <i>National Policy Statement for Electricity Transmission</i> (NPS-ET). In particular, the Hearing Panel recognises that the NPS-ET directs the National Grid to "seek to avoid" adverse effects which is reflected in the policy. The new Policy would read as follows: <u>Policy 6A: Management of adverse effects of the National Grid</u> <u>Where the National Grid has a functional need or operational need to locate in the coastal environment, manage the adverse effects arising from their activities by:</u> <u>(a) recognising there may be some areas in the coastal environment where avoidance of adverse effects is required to protect the identified special values of those areas;</u> <u>(b) seeking to avoid adverse effects on:</u> <u>(i) areas of outstanding value;</u> <u>(ii) significant indigenous biodiversity;</u> <u>(iii) historic heritage as identified in schedules 5A and 5B; and</u> <u>(iv) nationally or regionally significant surf breaks as identified in Schedule 7A and B;</u> <u>(c) where it is not practicable to avoid adverse effects on the values of the areas listed in (b) above because of the functional needs or operational needs of the National Grid, remedy or mitigate adverse effects on those values; and</u> <u>(d) avoiding, remedying or mitigating other adverse effects.</u> |

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| | | <p><i>(i) having outstanding natural character; and/or</i></p> <p><i>(ii) being outstanding natural features and landscape; within or adjoining coastal management area – Outstanding Value [...]</i></p> | Supplementary evidence presented by the submitter at the hearing, suggested a variation of the above based upon discussions with the Department of Conservation and Royal Forest and Bird Society. However, at the time of writing this report, neither of these parties have indicated their support for their suggested amendments. The Hearing Panel recommends retaining the previous suggested wording for Policy 6A |
| 29 – Department of Conservation | 326 | <p>Amend</p> <p>Submitter seeks amendment to Policy 8 to read:</p> <p><i>Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 42 from inappropriate use and development by [...]</i></p> | <p>Accept</p> <p>Schedule 1 identifies the five coastal management areas, including those of Outstanding Value, and is specific to the coastal marine area. Schedule 2 provides additional information specific to coastal areas of Outstanding Value and which applies to both the coastal marine area and landward components of the coastal environment. The Hearing Panel therefore recommends that the suggested amendment be accepted to ensure the broader consideration of values, characteristics and attributes that make these areas outstanding, irrespective of being on the seaward or landward parts of the coastal environment.</p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 327 | <p>Amend</p> <p>The submitter suggests that the approach under Policy 8 limits the identification of outstanding natural features and landscapes to those areas set out in Schedules 1 and 2. This creates uncertainty as to whether the plan would recognise or enable the identification of other outstanding areas landward of the CMA.</p> <p>The submitter further suggests that the lack of criteria setting out the values and characteristics upon which the outstanding natural features and landscapes were determined means it is uncertain whether the scheduled areas achieve Policy 13 [Preservation of natural character] and 15 [Natural Features and natural landscapes] of the <i>New Zealand Coastal Policy Statement</i>.</p> <p>Submitter seeks amendment to the Plan by deleting Policy 8.</p> | <p>Decline</p> <p>The Hearing Panel does not believe it necessary or appropriate to delete Policy 8 of the Plan.</p> <p>The issue raised by the submitter refers to the inclusions and identification criteria of the Scheduled areas that relate to Policy 8. Of note, the Council has worked closely with the New Plymouth and South Taranaki district councils in identifying, mapping and describing natural character, features and landscapes along the Taranaki coastline. Much of this work was addressed in a separate report <i>Regional Landscape Study of the Taranaki Coastal Environment</i>, which was prepared and consulted on as part of the Coastal Plan review. This work and consultation on the report informed the section 32 analysis relating to the Plan.</p> <p>Given that coastal areas of outstanding value should, by their definition of being outstanding or exceptional, be clearly identifiable (and that Schedule 2 of the Plan already identifies such areas), the Hearing Panel does not believe it is necessary to revisit this work.</p> |
| 43 – Royal Forest and Bird Protection Society | 328 | <p>Amend</p> <p>Submitter seeks amendment to Policy 8 of the Plan to read:</p> | <p>Accept in part</p> <p>Schedule 1 identifies the five coastal management areas, including those of Outstanding Value, and is specific to the coastal marine area. Schedule 2 provides additional information specific to coastal areas of Outstanding Value and which</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p>Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value, <u>including those areas</u> identified in Schedule 42 from inappropriate use and development by:</p> <p>(a) avoiding adverse effects of activities, <u>including those areas on the values and characteristics identified in Schedule 2, that contribute to areas:</u> [...]</p> | <p>applies to both the coastal marine area and landward components of the coastal environment. The Hearing Panel therefore recommend that the suggested amendment to refer to Schedule 2 (rather than Schedule 1) be accepted to promote the broader consideration of values, characteristics and attributes that make these areas outstanding, irrespective of being on the seaward or landward parts of the coastal environment.</p> <p>In relation to the other amendments sought, the Hearing Panel considers Schedule 2 to be a complete and comprehensive list of areas of outstanding value. Therefore, reference to "including" is not appropriate. However, notwithstanding the above, the Hearing Panel consider that the values identified in Schedule 2 may not be definitive and agree with the submitter that there may be scope for additional values to be included over time.</p> <p>The Hearing Panel recommend amending the Policy 8 of the Plan to read as follows:</p> <p><i>Policy 8 Areas of outstanding value</i></p> <p>[...]</p> <p>(a) avoiding adverse effects of activities on the values and characteristics, <u>including those identified in Schedule 2</u> [...]</p> |
| 45 – Powerco | 329 | <p>Amend</p> <p>Submitter seeks that the Council revisit mapping of areas of outstanding natural features and landscapes</p> <p>OR</p> <p>amend Policy 8 of the Plan to recognise the presence of infrastructure within areas of outstanding natural features and landscapes by adding a new clause (c) to read:</p> <p><i>Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 1 from inappropriate use and development by: [...]</i></p> <p><u>(c) recognising the need to provide for the ongoing operation, maintenance, and upgrade of existing infrastructure.</u></p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. Of note, the Council has worked closely with the New Plymouth and South Taranaki district councils in identifying and mapping coastal areas of outstanding natural character and outstanding natural features and landscapes and there is alignment between the plans in relation to the areas identified. Mapping was appropriately based on values and attributes of the area rather than the presence (or otherwise) of particular use and development.</p> <p>In relation to the alternative relief of amending Policy 8, the Hearing Panel does not believe any relief is necessary. The Hearing Panel notes all General Policies must be read together. Policies 5, 6 and 7 already recognise the need to provide for the ongoing operation, maintenance, and upgrade of existing infrastructure.</p> |
| Further submissions – Transpower NZ Ltd (26) | | Support | |

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| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 330 | <p>Amend</p> <p>Submitter seeks that the Council revisit mapping of areas of outstanding natural features and landscapes</p> <p>OR</p> <p>amend Policy 8 of the Plan by adding a new clause (c) to read:</p> <p><i>Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 1 from inappropriate use and development by: [...]</i></p> <p><i>(c) recognising the need to provide for the ongoing operation, maintenance, and upgrade of existing infrastructure.</i></p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. Of note, the Council has worked closely with the New Plymouth and South Taranaki district councils in identifying and mapping coastal areas of outstanding natural character and outstanding natural features and landscapes and there is alignment between the plans in relation to the areas identified. Mapping was appropriately based on values and attributes of the area rather than the presence (or otherwise) of particular use and development.</p> <p>In relation to the alternative relief of amending Policy 8, the Hearing Panel does not believe any relief is necessary. The Hearing Panel notes all General Policies must be read together. Policies 5, 6 and 7 already recognise the need to provide for the ongoing operation, maintenance, and upgrade of existing infrastructure.</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 60 – Te Kaahui o Rauru | 331 | <p>Amend</p> <p>Submitter seeks amendment to Policy 8 to include “underwater” visual quality as part of seascape.</p> | <p>No relief necessary</p> <p>The Hearing Panel suggests that Policy 8 already addresses underwater visual quality where that attribute contributes to the sensory or associative values identified in Schedule 2 of the Plan for coastal areas of outstanding values.</p> <p>In addition, Policy 8 reads “(b) maintaining significant seascapes and visual corridors associated with outstanding natural features and landscapes, <u>including views from within the landscapes or features, and views of the landscapes and features</u>”. The Hearing Panel considers that underwater visual quality is encompassed by the underlined provision where the underwater visual quality of the area is significant. No change is therefore considered necessary.</p> |
| Policies 8 to 15 – Natural and historic heritage and values | | | |
| 41 – Te Korowai o Ngāruahine Trust | 332 | <p>Amend</p> <p>Submitter seeks amendment to Policies 8 to 15 of the Plan to delete reference to significant adverse effects and replace with <u>adverse effects</u>.</p> | <p>Decline</p> |

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| Further submissions – Transpower NZ Ltd (26) | | Oppose | <p>Use of the term “<i>significant adverse effects</i>” in policies of the Plan is deliberate. The application of the term will depend upon its context but indicates adverse effects on values and uses of the coastal environment that are more than minor.</p> <p>All activities have some effect and granting the relief would unnecessarily preclude many use and development activities across the coastal environment, regardless of the benefits of the activity and or whether the effects were minor or transitional. Policies 8(a), 12, 14(a) and 15(a) already require a high level of protection through the avoidance of all adverse effects on areas of outstanding value, areas where coastal water is to be restored, significant indigenous biodiversity and historic heritage. However, a tiered level of protection has deliberately been adopted whereby other policies provide a lower but still very high level of protection relating to avoiding significant adverse effects on other natural and historic heritage values (refer Policy 9, 13, 14(b) and 15(b)). The Policy references to “<i>significant adverse effects</i>” is deliberate and, in the Hearing Panel's view, appropriate.</p> |
| Further submissions –Te Rūnanga o Ngāti Mutunga (40), Taranaki Energy Watch (51), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| Policy 9 – Natural character and natural features and landscapes | | | |
| 2 – Federated Farmers | 333 | Support | Accept |
| | | Submitter supports the list of matters to have regard to in Policy 9 of the Plan. | Support noted. Policy 9 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 19 – South Taranaki District Council | 334 | Support | Accept |
| | | Retain Policy 9 of the Plan as notified. | Support noted. Policy 9 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 20 – Meridian Energy Ltd | 335 | Amend | Accept in part |
| | | <p>The submitter believes that the current wording suggests that natural character must be enhanced or restored and argues this not consistent with Policy 14 [Restoration of natural character] of the <i>New Zealand Coastal Policy Statement</i> or Policy 10 of the proposed plan.</p> <p>In addition, the submitter considers Clause (iv) of Policy 8 to be outside the scope of the Policy as it relates to historic heritage covered by Policy 15 [Historic heritage].</p> <p>Submitter seeks amendment to Policy 9(a)(i) of the Plan and deletion of Clause (iv) as follows:</p> | <p>The Hearing Panel agrees that Policy 9(a)(i) be amended to refer to the maintenance of natural character alongside enhancement and restoration, and accept this part of the relief sought by the submitter.</p> <p>However, in relation to deleting Clause (vi), the Hearing Panel believes it is appropriate for activities to have regard for, amongst other things, maintaining the integrity of historic heritage. The definition of historic heritage refers to any natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures and includes the wider surroundings. The Hearing</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p>Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 1 from inappropriate use and development by:</p> <p>(a) avoiding significant adverse effects, and avoiding, remedying or mitigating other adverse effects on natural character and natural features and landscapes by having regard to the extent to which the activity:</p> <p>(i) <u>maintains or</u> contributes to the enhancement or restoration of natural character;</p> <p>[...]</p> <p>(iv) <u>maintains the integrity of historic heritage.</u></p> | Panel therefore recommends that Policy 9(a)(iv) is retained as notified (subject to minor amendments sought by another submitter). |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 23 – New Plymouth District Council | 336 | <p>Support</p> <p>Retain Policy 9 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 9 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |
| 29 – Department of Conservation | 337 | <p>Amend</p> <p>Submitter seeks amendment to Policy 9 of the Plan to read:</p> <p>Protect <u>all other areas of the natural character, features, and landscapes of the coastal environment not identified in Schedule 2</u> by: [...]</p> | <p>Accept</p> <p>The submitter considers that Policy 9 offers a broader, wider range of considerations and policies for the protection of natural character that should also apply to areas of outstanding value. The Hearing Panel recommends granting the relief as requested so that Policy 9 reads:</p> <p>Protect <u>the natural character, features and landscapes of the coastal environment not addressed in Policy 8</u> by: [...]</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Support | |
| 35 – Radio New Zealand Ltd | 338 | <p>Support</p> <p>Retain Policy 9 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 9 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |
| 37 – Petroleum Exploration and Production Association of NZ | 339 | <p>Amend</p> <p>Submitter supports Policy 9 of the Plan but seeks amendment to the Policy to avoid subjective language such as “<i>sympathetic</i>” and to refer to positive actions (such as maintain or minimise) rather than negative language. The submitter suggests Policy 9 to read:</p> | <p>Accept</p> <p>Subjective wording can create grey areas and issues of interpretation for Plan users. The Hearing Panel therefore agrees that more directive terminology is appropriate to clarify the intent of Policy 9 and recommends that the Policy be amended to read:</p> |

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| | | <p>Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 1 from inappropriate use and development by:</p> <p>(a) avoiding significant adverse effects, and avoiding, remedying and mitigating other adverse effects on natural character and natural features and landscapes by having regard to the extent to which the activity:</p> <p>(i) contributes to the enhancement or restoresation of natural character</p> <p>(ii) is compatible with the existing level of modification to the environment including by having particular regard for Policy 1</p> <p>(iii) is appropriate for the context of the area within the surrounding landscape, its representativeness and ability to accommodate change</p> <p>(iv) is of an appropriate form, scale and design to be sympathetic <u>minimise effects on the character, visual amenity and quality of</u> to the existing landforms, features and vegetation (excluding high visibility markers required for safety or conservation purposes) [...]</p> | <p>Protect <u>the natural character, features and landscapes of</u> the coastal environment by: [...]</p> <p>(a) avoiding significant adverse effects, and avoiding, remedying and mitigating other adverse effects on natural character and natural features and landscapes by having regard to the extent to which the activity:</p> <p><u>(i) maintains, enhances or restores</u> natural character;</p> <p>(ii) is compatible with the existing level of modification to the environment, including by having particular regard to Policy 1;</p> <p>(iii) is appropriate within the surrounding landscape, its representativeness and ability to accommodate change;</p> <p>(iv) is of an appropriate form, scale and design to <u>minimise adverse effects on values of</u> the existing landforms, features and vegetation (excluding high visibility markers required for safety or conservation purposes) or is of a temporary nature and any adverse effects are of a short duration and are reversible; [...]</p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Support in part/Oppose in part | |
| Further submissions – Taranaki Energy Watch (51) | | Support in part | |
| 40 – Te Rūnanga o Ngāti Mutunga | 340 | <p>Amend</p> <p>Submitter seeks an amendment to Policy 9(a)(vi) of the Plan to read:</p> <p>Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 1 from inappropriate use and development by:</p> <p>(a) avoiding significant adverse effects, and avoiding, remedying or mitigating other adverse effects on natural character and natural features and landscapes by having regard to the extent to which the activity:</p> <p>[...]</p> <p>(vi) Maintain the integrity of <u>historical and cultural</u> heritage.</p> | <p>Accept</p> <p>The submitter would like this Policy to maintain consistent wording with other Policies within the section by including specific reference to “historical and cultural heritage” and to reflect the values attached to the sites of significance in Schedule 5B.</p> <p>The Hearing Panel agrees to the relief sought noting that natural character, features and landscapes may have broader cultural, spiritual and traditional associations not necessarily captured in the RMA definition of “historic heritage”.</p> |
| | 341 | <p>Amend</p> | <p>Decline</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 40 – Te Rūnanga o Ngāti Mutunga | | <p>Submitter seeks amendment to Policy 9 of the Plan by including a new Clause (b) to differential between 'natural character' and 'natural features and landscapes' to read as follows:</p> <p><i><u>(b) Recognise that natural character is not the same as natural features and landscapes or amenity values and may include matters such as:</u></i></p> <p><i><u>(i) Natural elements, processes and patterns;</u></i></p> <p><i><u>(ii) Biophysical, ecological, geological and geomorphological aspects;</u></i></p> <p><i><u>(iii) Natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs and surf breaks;</u></i></p> <p><i><u>(iv) The natural movement of water and sediment;</u></i></p> <p><i><u>(v) The natural darkness of the night sky;</u></i></p> <p><i><u>(vi) Places or areas that are wild or scenic;</u></i></p> <p><i><u>(vii). A range of natural character from pristine to modified and</u></i></p> <p><i><u>(viii). Experiential attributes, including the sounds and smell of the sea; and their context or setting.</u></i></p> | <p>The submitter considers that the requested addition would bring the policy in line with the <i>New Zealand Coastal Policy Statement</i> and add depth to the definition of natural character as protected in the Plan.</p> <p>The requested addition represents an unnecessarily high level of detail, which is essentially supporting information. Such matters were previously addressed in a separate report <i>Regional Landscape Study of the Taranaki Coastal Environment</i>, which was prepared and consulted on as part of the Coastal Plan review.</p> <p>The Hearing Panel further notes that the detail provided by the submitter has already been considered by the Council and has informed the drafting of the Plan and its mapping. Recognition that natural character, natural feature, natural landscapes and amenity values is encompassed within the Plan's definition for those terms, even if those characteristics are not expressly or independently mentioned.</p> <p>The Hearing Panel believes the proposed relief sought by the submitter is unnecessary and does not recommend amending the Policy as sought by the submitter.</p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 342 | <p>Amend</p> <p>Submitter seeks amendment to the Plan by deleting Policy 9.</p> | <p>Decline</p> <p>The submitter contends that Policy 9 of the Plan is uncertain. The submitter suggests that the inclusion of significant areas of indigenous vegetation and historic heritage in the policy overlaps and creates inconsistency with Policies 14 and 15 of the Plan. The submitter further suggests that the policy does not recognise that natural character is different to natural features and landscapes, nor does it provide for the assessment or identification required under Policies 13 and 15 of the <i>New Zealand Coastal Policy Statement</i>.</p> <p>The Hearing Panel does not recommend deleting Policy 9. The Hearing Panel believes that the Plan has given full effect to the <i>New Zealand Coastal Policy Statement</i>, including undertaking a regional landscape study of the Taranaki coastal environment. Notwithstanding the above, Hearing Panel recommends amendments to Policy 9 to address some of the concerns raised by the submitter (refer submission point 343 below).</p> |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | |
| | 343 | Amend | Accept in part |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 43 – Royal Forest and Bird Protection Society | | <p>Submitter seeks amendments to Policy 9 of the Plan by:</p> <ul style="list-style-type: none"> including a new clause that reads: <i>Protect the natural character, features, and landscapes of the coastal environment by: [...]</i> <i>(ix) avoiding adverse effects of activities on natural character of the coastal environment with outstanding natural character and on outstanding natural features;</i> amending Policy 9(a)(v) to read: <i>(v) maintains the integrity of significant areas of indigenous vegetation protects significant indigenous biodiversity and maintains or enhances indigenous biodiversity [...]</i> | <p>The submitter is concerned that Policy 9 does not provide for avoidance of adverse effects for outstanding values which may not be identified in Schedule 2.</p> <p>The submitter is also concerned that there are inconsistencies with directive policies for protection. In particular, it is the submitter's view that Clause (a)(v) is uncertain as the provisions do not currently identify significant areas of vegetation, nor does it reflect the protection required by Policy 14 [Indigenous biodiversity] of the Plan.</p> <p>The Hearing Panel recommends granting relief in relation to Policy 8 (submission point 328) and consider this relief to address the first part of the submitters concern in Policy 9. As a result, Policy 8(a) is recommended to be amended to not limit its application only to the effects of activities in values and characteristics <u>identified</u> in Schedule 2.</p> |
| Further submissions ² – Federated Farmers (2), Port Taranaki Ltd (32) | | Oppose | <p>The Hearing Panel further recommends amending Policy 9 (a)(v) as requested by the submitter as the suggestion is more directive and aligns language to that used elsewhere in the Plan.</p> |
| Further submissions – Radio New Zealand (35) | | Oppose in part | <p>At the hearing of submissions, the submitter indicated that the relief proposed addressed some of their concerns but that further amendments are required to better align with the <i>New Zealand Coastal Policy Statement</i>, particularly in relation to 'high natural character' areas. The Hearing Panel agrees and recommends that Policy 9 be amended to include a new clause that reads as follows:</p> <p><i>(ix) in areas of high natural character in the coastal marine area, minimises to the extent practicable, seabed and foreshore disturbances and modifications, placement of structures, and discharges of contaminants.</i></p> |
| 45 – Powerco | 344 | <p>Amend</p> <p>The submitter wishes to revisit whether regionally important infrastructure falls within areas of natural character and natural features and landscapes, or for Policy 9 to recognise the presence of regionally important infrastructure within areas of outstanding natural features and landscapes. The submitter seeks that mapping of areas of natural character and natural features and landscapes be revisited</p> <p>OR</p> <p>that the policy enables the ongoing operation, maintenance and upgrade of such infrastructure by amending Policy 9 of the Plan to include a new clause (ix) to read:</p> | <p>Decline</p> <p>The Hearing Panel does not believe the requested amendment is necessary. Of note, the Council has worked closely with the New Plymouth and South Taranaki district councils in identifying, mapping and describing natural character, features and landscapes along the Taranaki coastline. Much of this work was addressed in a separate report <i>Regional Landscape Study of the Taranaki Coastal Environment</i>, which was prepared and consulted on as part of the Coastal Plan review. The Hearing Panel does not believe it is necessary to revisit this work. Mapping was appropriately based on values and attributes of the area rather than the presence (or otherwise) of particular use and development.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p><i>Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 1 from inappropriate use and development by:</i></p> <p><i>(a) avoiding significant adverse effects, and avoiding, remedying or mitigating other adverse effects on natural character and natural features and landscapes by having regard to the extent to which the activity:</i></p> <p>[...]</p> <p><u><i>(ix) is necessary to provide for the safe and efficient operation, maintenance, upgrade and development of regionally important infrastructure.</i></u></p> | <p>In relation to the alternative relief of amending Policy 9, the Hearing Panel does not believe any relief is necessary. The Hearing Panel notes all General Policies must be read together. Policies 5, 6 and 7 already recognise the need to provide for the ongoing operation, maintenance, and upgrade of existing infrastructure.</p> |
| Further submissions – Transpower NZ Ltd (26) | | Support | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 345 | <p>Amend</p> <p>The submitter wishes to revisit whether regionally important infrastructure falls within areas of natural character and natural features and landscapes, or for Policy 9 to recognise the presence of regionally important infrastructure within areas of outstanding natural features and landscapes. The submitter seeks that mapping of areas of natural character and natural features and landscapes be revisited</p> <p>OR</p> <p>that the policy enables the ongoing operation, maintenance and upgrade of such infrastructure by amending Policy 9 of the Plan to include a new clause (ix) to read:</p> <p><i>Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 1 from inappropriate use and development by:</i></p> <p><i>(a) avoiding significant adverse effects, and avoiding, remedying or mitigating other adverse effects on natural character and natural features and landscapes by having regard to the extent to which the activity:</i></p> <p>[...]</p> | <p>Decline</p> <p>The Hearing Panel does not believe the requested amendment is necessary. Of note, the Council has worked closely with the New Plymouth and South Taranaki district councils in identifying, mapping and describing natural character, features and landscapes along the Taranaki coastline. Much of this work was addressed in a separate report <i>Regional Landscape Study of the Taranaki Coastal Environment</i>, which was prepared and consulted on as part of the Coastal Plan review. The Hearing Panel does not believe it is necessary to revisit this work. Mapping was appropriately based on values and attributes of the area rather than the presence (or otherwise) of particular use and development.</p> <p>In relation to the alternative relief of amending Policy 9, the Hearing Panel does not believe any relief is necessary. The Hearing Panel notes all General Policies must be read together. Policies 5, 6 and 7 already recognise the need to provide for the ongoing operation, maintenance, and upgrade of existing infrastructure.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <i>(ix) is necessary to provide for the safe and efficient operation, maintenance, upgrade and development of regionally important infrastructure.</i> | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 58 – Te Atiawa | 346 | <p>Amend</p> <p>The submitter would like Policy 9 to use consistent wording with other Policies and to reflect the values associated with sites of significance in Schedule 5B. Submitter seeks amendment to Policy 9(a)(vi) of the Plan to read:</p> <p><i>Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 1 from inappropriate use and development by:</i></p> <p><i>(a) avoiding significant adverse effects, and avoiding, remedying or mitigating other adverse effects on natural character and natural features and landscapes by having regard to the extent to which the activity:</i></p> <p>[...]</p> <p><i>(vi) maintain the integrity of cultural historic heritage.</i></p> | <p>Accept</p> <p>The submitter would like this Policy to maintain consistent wording with other Policies within the section by including specific reference to “historical and cultural heritage” and to reflect the values attached to the sites of significance in Schedule 5B.</p> <p>The Hearing Panel recommends granting the relief sought noting that natural character, features and landscapes may have broader cultural, spiritual and traditional associations not necessarily captured in the RMA definition of “historic heritage”.</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 347 | <p>Amend</p> <p>The submitter would like Policy 9 to use consistent wording with other Policies and to reflect the values associated with sites of significance in Schedule 5B. Submitter seeks amendment to Policy 9(a)(vi) of the Plan to read:</p> <p><i>Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 1 from inappropriate use and development by:</i></p> <p><i>(a) avoiding significant adverse effects, and avoiding, remedying or mitigating other adverse effects on natural character and natural features and landscapes by having regard to the extent to which the activity:</i></p> <p>[...]</p> <p><i>(vi) maintain the integrity of cultural historic heritage.</i></p> | <p>Accept</p> <p>The submitter would like this Policy to maintain consistent wording with other Policies within the section by including specific reference to “historical and cultural heritage” and to reflect the values attached to the sites of significance in Schedule 5B.</p> <p>The Hearing Panel recommends granting the relief sought noting that natural character, features and landscapes may have broader cultural, spiritual and traditional associations not necessarily captured in the RMA definition of “historic heritage”.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| NEW Policy 9A – Criteria for identifying areas of outstanding or high natural character | | | |
| 43 – Royal Forest and Bird Protection Society | 348 | <p>Amend</p> <p>Submitter seeks amendment to the Plan to include a new Policies that:</p> <ul style="list-style-type: none"> • determines/identifies areas of Outstanding Natural Character • to preserve areas of High Natural Character • for other natural character in all areas of the coastal environment • to provide a basis for determining outstanding natural features and landscapes • other natural features and landscapes in all areas of the coastal environment. | <p>Grant in kind</p> <p>The Hearing Panel does not believe the requested amendment is necessary. Of note, the Council has worked closely with the New Plymouth and South Taranaki district councils in identifying, mapping and describing natural character, features and landscapes along the Taranaki coastline. Much of this work was addressed in a separate report <i>Regional Landscape Study of the Taranaki Coastal Environment</i>, which was prepared and consulted on as part of the Coastal Plan review. It was this work, which was used for determining and identifying outstanding natural features and landscapes but also examined natural character across the entirety of the Taranaki coastline.</p> |
| Further submissions20 – Meridian Energy Ltd (20, Port Taranaki Ltd (32) | | Oppose | <p>The Hearing Panel further notes that the Plan already contains policies addressing the protection of natural character, features and landscapes (Policies 8, 9 and 10) and do not believe additional policies are necessary or appropriate. All General Policies apply to any use and development activities in the coastal marine area and must be read together.</p> |
| Further submissions – Department of Conservation – (29) | | Support | <p>At the hearing, the submitter supported some of the changes proposed by officers to address some of their concerns but strongly advocated for the inclusion of mapped areas of 'high natural character' in addition to amendments to Policy 9.</p> |
| Further submissions – Powerco (45) | | Oppose in part/Oppose | |
| Further submissions – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Oppose in part | <p>The Hearing Panel agrees and recommends that Policy 9 be amended as previously discussed in submission point 343. The Hearing Panel further recommends granting the submitter relief in kind by amending relevant planning maps to identify those areas already identified in the Plan as having high (or higher) natural character in the coastal marine area - these being outstanding areas and estuaries unmodified, i.e:</p> <ul style="list-style-type: none"> • Whitecliffs • Mimi Estuary • Paritutu • Ngā Motu (Sugar Loaf Islands) • Tapuae • Hangatahua River • Oaonui (Sandy Bay) • Kaupokonui |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <ul style="list-style-type: none"> • Kapuni • Whenuakura • Waipipi Dunes • Project Reef • North and South Traps • Waverley Beach • Waitotara • Urenui estuary • Onaero estuary • Waiongana estuary • Oākura estuary • Waingongoro estuary • Tangahoe estuary • Manawapou estuary • plus any additional areas identified in Appendix II of the <i>Regional Policy Statement for Taranaki</i> as having high natural character (refer to submission point 1320 for further information). |
| Policy 10 – Restoration of natural character | | | |
| 19 – South Taranaki District Council | 349 | Support Retain Policy 10 of the Plan as notified. | Accept Support noted. Policy 10 is retained as notified. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 350 | Support Retain Policy 10 of the Plan as notified. | Accept Support noted. Policy 10 is retained as notified. |
| 45 – Powerco | 351 | Support Retain Policy 10 of the Plan as notified. | Accept Support noted. Policy 10 is retained as notified. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Federated Farmers (2), Transpower NZ Ltd (26) | | Support | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 352 | Support Retain Policy 10 of the Plan as notified. | Accept Support noted. Policy 10 is retained as notified. |
| 49 – Cam Twigley | 353 | Amend Submitter seeks amendment to Policy 10 of the Plan to include the restoration and rehabilitation of natural character within the Significant Surfing Area. | No relief necessary No precise details of amendments sought to Policy 10 have been provided. However, the Hearing Panel suggests that Policy 10 does not need the level of specificity sought by the submitter and through this Plan (but also through other planning mechanisms) opportunities already exist to investigate supporting the restoration and rehabilitation of natural character within the Significant Surfing Area. Policy 10 recognises that the natural character of parts of the coastal environment may be degraded and seeks to provide for the restoration or rehabilitation of the coast where this appropriate. Sensitive or vulnerable coastal habitat types have been highlighted. Rules and other (non regulatory) methods will be used to implement the Policy. |
| Policy 11 – Coastal water quality | | | |
| 6 – Trans-Tasman Resources Ltd | 354 | Amend The submitter questions the practical application of how to maintain and enhance coastal water quality at the same time and seeks to amend Policy 11 of the Plan to read: <i>Maintain or and enhance coastal water quality by avoiding, remedying and mitigating the adverse effects of activities on [...]</i> | Accept in part The Hearing Panel agrees but recommends an additional relief to that requested by the submitter whereby Policy 11 is amended to specify and limit the circumstances where coastal water quality will be maintained or enhanced. The revised Policy reads as follows: <i>Maintain <u>coastal water quality where it is good or</u> enhance coastal water quality <u>where it is degraded</u> by avoiding, remedying and mitigating the adverse effects of activities on: [...]</i> |
| Further Submissions – Federated Farmers (2) | | Support in part | |
| Further Submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| | 355 | Support | Accept |

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| 19 – South Taranaki District Council | | Retain Policy 11 of the Plan as notified. | Support noted. Policy 11 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 40 – Te Rūnanga o Ngāti Mutunga | 356 | Support Retain Policy 11 of the Plan as notified. | Accept Support noted. Policy 11 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 43 – Royal Forest and Bird Protection Society | 357 | Support Retain Policy 11 of the Plan as notified (but seek an additional Policy 11A – refer below). | Accept Support noted. Policy 11 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 358 | Support Retain Policy 11 of the Plan as notified. | Accept Support noted. Policy 11 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 47 – Fonterra | 359 | Amend The submitter questions the practical application of how to maintain and enhance coastal water quality at the same time and seeks amendment to Policy 11 of the Plan to read: <i>Maintain coastal water quality where it is good and enhance coastal water quality where it is degraded by avoiding, remedying and mitigating the adverse effects of activities on: [...]</i> | Accept The Hearing Panel recommends granting the relief sought by the submitter so that Policy 11 more clearly specifies and limits the circumstances where coastal water quality will be maintained or enhanced as requested by the submitter. |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| 48 – Taranaki District Health Board | 360 | Support Retain Policy 11 of the Plan as notified. | Accept Support noted. Policy 11 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 58 – Te Atiawa | 361 | Support Retain Policy 11(b) of the Plan as notified. | Accept Support noted. Policy 11(b) is retained as notified. |

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| 60 – Te Kaahui o Rauru | 362 | <p>Amend</p> <p>Submitter seeks amendment to Policy 11 of the Plan to include native species of value to Māori.</p> | <p>Decline</p> <p>The Hearing Panel does not recommend amending Policy 11 of the Plan to expand its scope to reference native species of value to Māori. Presence or abundance of native species are not necessarily a meaningful indicator of coastal water quality with some taonga species being quite tolerant of reduced water quality.</p> <p>The Hearing Panel notes Schedule 3 of the Plan identifies areas where there is localised degradation of water quality, which (through Policy 12) will be targeted for enhancement. Of note these 'degraded areas' do contain native species of value to Māori, including shellfish. The issue is not the presence or abundance of these species but <i>E. coli</i> levels are such that there are restrictions on the harvesting of these species.</p> <p>The Hearing Panel further notes that all General Policies need to be read together and that other policies and recommended changes to the Plan may address some of the issues of concern. Native species, including species of value to Māori, are implicitly provided for in Policy 11 in that avoiding, remedying and mitigating adverse effects of activities on the life supporting capacity of coastal water, the māuri and wairua of coastal water and the integrity and functioning of natural coastal processes will contribute to the maintenance and enhancement of native species of value to Māori. Native species are also covered by Policy 14 [Indigenous biodiversity] and Policy 15 [Historic heritage]. Hearing Panel are further recommending that a new Policy 14B be included in the Plan to recognise and provide for the maintenance and enhancement of taonga species. In giving effect to the Plan all General Policies and relevant Activity-specific policies must be read together.</p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 363 | <p>Amend</p> <p>Submitter seeks amendment to Policy 11 of the Plan to read:</p> <p><i>Policy 11: Coastal water quality and mauri values</i> <i>Maintain and enhance coastal water quality and mauri values by avoiding, remedying and mitigating the adverse effects of activities on:</i> <i>[...]</i> <i>(a) the mauri or life-supporting capacity of coastal water;</i></p> | <p>No relief necessary</p> <p>The Hearing Panel notes that māuri values are already addressed within the Policy in Clause (b) and that it is not necessary to repeat the reference as the Policy is already clearly identifying māuri to be a component of coastal water quality. The Hearing Panel considers that no further relief is necessary.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Ngāruahine Trust (41), Te Atiawa (58) | | | |
| NEW Policy 11A – Water quality limits | | | |
| 43 – Royal Forest and Bird Protection Society | 364 | Amend Submitter seeks amendment to the Plan to include a new Policy 11A [Coastal water quality limits] to achieve Objective 5 [Coastal water quality]. The new Policy would set water quality targets and standards for freshwater and coastal water in the coastal environment to ensure that upstream water quality does not result in adverse effects in the coastal environment. | Decline The submitter does not specify what attributes and numerics would be acceptable for coastal water quality and marine health. The Hearing Panel notes Council concerns that the adoption of standardised and universal water quality targets and standards would have a perverse outcome in that such targets are likely to be too high or too low depending upon uses and values in the locality. Such matters are best dealt with through the consenting process where the type, scale and significance of the activity and the vulnerability and sensitivities of the receiving environment (including cultural interests), and an appropriate mixing zone may be considered on a case-by-case basis. |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | |
| Further submissions – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Oppose in part | The Council's approach involves taking into account recognised national/international guideline values as appropriate. The Hearing Panel notes that Taranaki only has seven major municipal and/or industrial discharges to the coastal marine area and that coastal water quality is generally good. In localities where that is not the case, a new Policy 12 has been included in the Plan seeking the restoration of local coastal water quality. |
| Policy 12 – Restoration of coastal water quality | | | |
| 15 – Surfbreak Protection Society | 365 | Amend The submitter believes that Policy 12 does not provide adequate protection of the awa and coastal areas. The submitter is concerned that waiting until there are significant effects could impact on shellfish gathering, cultural activities, and water based recreational activities and seeks that the word "significant" be deleted from the policy. | Decline The Hearing Panel notes that pursuant to the RMA, the Council will, as a minimum be maintaining Taranaki's generally high coastal water quality. Any activity may have an adverse effect on water quality but, for most activities, their effects are localised or temporal and/or effects can be mitigated. Policy 12 is a new policy that seeks to restore coastal water quality where it has been degraded. It recognises localised adverse effects where there is <u>already</u> significant adverse effect on coastal ecosystems, natural habitats or water based recreational activities, or is restricting existing uses such as shellfish gathering and cultural activities (these areas are identified in Schedule 3). The use of the term "significant" is deliberate and appropriate and provides context to where restoration will be promoted. It is also consistent with national directions set out in Policy 21 of the <i>New</i> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <i>Zealand Coastal Policy Statement</i> . The Hearing Panel recommends retaining Policy 12 as notified. |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 366 | Support Retain Policy 12 of the Plan as notified. | Accept Support noted. Policy 12 is retained subject to minor amendment as requested by another submitter that do not change the policy intent. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 367 | Amend Submitter seeks amendment to Policy 12 of the Plan to read: <i>Policy 12: Restoration of coastal water quality and mauri values.</i> | No relief necessary It is the Hearing Panel's understanding that each iwi, hapū or whanau may have their own concept of māuri. However, the term is generally understood to be the life principle, life force, vital essence, special nature, a material symbol of a life principle, source of emotions – the essential quality and vitality of a being or entity. The term may also refer to a physical object, individual, ecosystem or social group in which the essence is located. The Hearing Panel has concerns that introducing the term “māuri” and making it a policy requirement to restore māuri (and māuri possibly being something different from water quality) reduces certainty and clarity in respect of its application. The Hearing Panel further suggests that the relief sought is not necessary in that the term “māuri” is used elsewhere in the Plan's policy framework with all General Policies needing to be read together. Policy 13 is a specific policy that, in line with the <i>New Zealand Coastal Policy Statement</i> , is seeking to promote the restoration of coastal water quality in areas (identified in Schedule 3) where degraded water quality has resulted in restrictions to existing uses such as shellfish gathering and cultural activities. Under Policy 11 [Coastal water quality] the constituent parts of coastal water quality include the life supporting capacity, māuri , wairua of water and more. Therefore, Policy 12 already addresses māuri as part of the restoration of coastal water quality. |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| Policy 13 – Coastal air quality | | | |
| 6 – Trans-Tasman Resources Ltd | 368 | Amend Submitter seeks amendment to Policy 13 of the Plan to read: <i>Maintain or and enhance coastal air quality by avoiding, remedying and mitigating the adverse effects of activities on the life supporting capacity of air.</i> | Decline The submitter considers that it is not possible to maintain and enhance coastal air quality at the same time and prefers that Policy 13 provide for the maintenance “or” enhancement of coastal air quality. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further Submissions – Federated Farmers (2) | | Support in part | The Hearing Panel notes that the Policy is not site specific and applies regionally to all coastal air. It is suggested that it is indeed appropriate to maintain <u>and</u> enhance coastal air quality. Policy 13 is aligned with the wording from the <i>New Zealand Coastal Policy Statement</i> and other policies within the Plan. |
| Further Submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 369 | Support Retain Policy 13 of the Plan as notified. | Accept Support noted. Policy 13 is retained. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| Policy 14 Indigenous biodiversity | | | |
| 6 – Trans-Tasman Resources Ltd | 370 | Amend Submitter seeks amendment to Policy 14 of the Plan to read: <i>Protect areas of significant indigenous biodiversity in the coastal environment and maintain and enhance indigenous biodiversity by:</i> <i>(a) avoiding adverse effects of activities on:</i> <i>(i) indigenous taxa that are nationally threatened or at risk (declining), or regionally distinctive, including those identified in Schedule 4A;</i> <i>(ii) taxa that are internationally threatened including those identified in Schedule 4A;</i> <i>(iii) indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare, as identified in Schedule 4A;</i> <i>(iv) habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;</i> <i>(v) areas containing nationally significant examples of indigenous community types; and</i> <i>(vi) areas set aside for full or partial protection of indigenous biological diversity under other legislation; and</i> | Decline The submitter believes there are issues between the Schedules and Policy 14 that sets out to avoid significant adverse effects and avoid, remedy or mitigate other effects on ecosystems and habitats set out in Schedule 4B. However, the submitter does not specify what these issues are. The relief sought involves amending Policy 14 of the Plan and has four parts: <ul style="list-style-type: none"> Reference to 'at risk' taxa in Clause (a)(i) to be confined to 'at risk (declining) taxa: The Hearing Panel does not recommend granting this relief as it would be inconsistent with Policy 11(a)(i) of the <i>New Zealand Coastal Policy Statement</i>, which requires activities to avoid adverse effects on indigenous taxa listed as 'at risk' in the New Zealand Threat Classification System lists. According to that list 'at risk' taxa can be further categorised as 'declining', 'recovering', 'relict' and 'naturally uncommon'. All four categories of 'at risk' taxa are appropriately captured by the Policy as currently notified. Delete reference in Clause (a) to 'regionally distinctive' taxa: |

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| | | <p>(b) avoiding significant adverse effects and avoiding, remedying and mitigating other adverse effects of activities on:</p> <p>(i) areas of predominantly indigenous vegetation in the coastal environment;</p> <p>(ii) habitats in the coastal environment that are important during the vulnerable life stage of indigenous species including:</p> <p>i. estuaries;</p> <p>ii. spawning areas (e.g. snapper-trevally spawning area in the North Taranaki Bight between Mōhakatino River and Pariokariwa Point);</p> <p>iii. areas that provide passage for diadromous species;</p> <p>iv. marine mammal resting, feeding and breeding areas; and</p> <p>v. bird roosting and nesting areas;</p> <p>(iii) indigenous ecosystems and habitats found only in the coastal environment and which are particularly vulnerable to modification including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass, and saltmarsh areas, and sensitive marine benthic habitats as identified in Schedule 4B,[...]</p> | <p>The Hearing Panel does not recommend granting this relief as it would be inconsistent with Bio Policy 4 of the <i>Regional Policy Statement</i>, which refers to, amongst other things, the presence of regionally distinctive species as a criteria for identifying significant indigenous biodiversity values in Taranaki. The category also contributes to giving effect to Policy 11(a)(iv) of the <i>New Zealand Coastal Policy Statement</i>. It is the Hearing Panel's view that Policy 14 should recognise the local context and provide for the protection of indigenous species that are locally significant to the Taranaki region, irrespective of their national threat status.</p> <ul style="list-style-type: none"> Delete reference to 'naturally rare' ecosystems and vegetation types: The Hearing Panel does not recommend granting this relief as it would be inconsistent with Policy 11(a)(iii) of the <i>New Zealand Coastal Policy Statement</i>, which requires activities to avoid adverse effects on indigenous ecosystems and vegetation types that are "naturally rare". Delete reference in Clause (b)(iii) to "sensitive marine benthic habitats": The Hearing Panel recommends declining the relief sought. Sensitive benthic habitats refer to marine habitats identified in the report https://www.trc.govt.nz/assets/Documents/Plans-policies/CoastalPlanReview/SensitiveHabitats.PDF that have low tolerance to habitat damage and for which the time for the habitat to recover from any damage would be significant. Given the sensitivity and vulnerability of such marine habitats, the Hearing Panel considers it appropriate that they be recognised and provided for in Policy 14(b)(iii) of the Plan. |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 19 – South Taranaki District Council | 371 | Support Retain Policy 14 of the Plan as notified. | Accept Support noted. Policy 14 is retained subject to minor amendments as requested by other submitter that do not change the policy intent. |
| 23 – New Plymouth District Council | 372 | Support Retain Policy 14 of the Plan as notified. | Accept Support noted. Policy 14 is retained subject to minor amendments as requested by other submitter that do not change the policy intent. |
| 26 – Transpower NZ Ltd | 373 | Amend Submitter seeks amendment to Policy 14(b) of the Plan to read: | Grant in kind. |

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| | | <p>Protect areas of significant indigenous biodiversity in the coastal environment and maintain and enhance indigenous biodiversity by:</p> <p>[...]</p> <p>(b) avoiding significant adverse effects and avoiding, remedying and mitigating other adverse effects of activities on:</p> <p>(i) areas of predominantly indigenous vegetation in the coastal environment;</p> <p>(ii) habitats in the coastal environment that are important during the vulnerable life stage of indigenous species including:</p> <p>i. estuaries;</p> <p>ii. spawning areas (e.g. snapper-trevally spawning area in the North Taranaki Bight between Mōhakatino River and Pariokariwa Point);</p> <p>iii. areas that provide passage for diadromous species;</p> <p>iv. marine mammal resting, feeding and breeding areas; and</p> <p>v. bird roosting and nesting areas;</p> <p><u>unless following a route, site and method selection process, the activity is necessary for the provision of regionally important infrastructure, avoidance of adverse effects is not practicable and adverse effects are remedied or mitigated to the extent reasonably practicable; [...]</u></p> | <p>The submitter requests that the Policy be aligned to address the requirements for the National Grid with regards to the <i>National Policy Statement for Electricity Transmission</i> (NPSET). Policy 4 of the NPSET requires the provision of effective operation, maintenance, upgrade and development of the electrical transmission network.</p> <p>Of note, both the <i>New Zealand Coastal Policy Statement</i> (NZCPS) and the NPSET contain direction for how effects on biodiversity are managed. The NPSET includes a direction for the National Grid to “seek to avoid adverse effects” while the NZCPS applies to a broader range of activities.</p> <p>The Hearing Panel notes that Policy 14(b) is aligned with Policy 11(b) [Indigenous biological diversity] of the NZCPS and is considered appropriate as written. Granting the relief sought by the submitter would significantly derogate from the policy intent of the NZCPS. As an alternative relief, noting that the policy intent of different national policy directions such as the NZCPS and NPSET need to be balanced and weighed against each other, the Hearing Panel recommends the inclusion of a new Policy 6A that more explicitly addresses the management of adverse effects arising from the National Grid. All General Policies, including Policy 6A and 14 of the Plan, must be read together.</p> <p>Refer to submission point 626 for further discussion on Policy 6A [Management of adverse effects of the National Grid].</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 28 – Grant Knuckey | 374 | Amend | Decline |
| | | Submitter seeks amendment to Policy 14 of the Plan to refer to maintenance, enhancement and restoration of the mauri of wāhi tapu and wāhi taonga areas. | Policy 14 relates to maintenance, enhancement and protection of indigenous biodiversity. Of note, Policy 15 addresses matters relating to historic heritage which encompasses those sites identified as wāhi tapu and wāhi taonga. Therefore, the Hearing Panel does not believe it is necessary or appropriate to address other values within this particular policy. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | All General Policies need to be read as a suite of policies. The Hearing Panel recognises that Māori have traditional and continuing relationships with indigenous biodiversity. The identification of wāhi tapu and wāhi taonga sites and places have been identified and mapped where the information has been available. Under Policies |

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| | | | 14 and 15 of the Plan, the consideration of indigenous biodiversity and historic heritage, which includes sites of significance to Māori including wāhi tapu and wāhi taonga areas, would be considered together. |
| 29 – Department of Conservation | 375 | <p>Amend</p> <p>It is the submitter's view that since the Plan has not defined or mapped areas of significant indigenous biodiversity it is not appropriate to refer to "areas" of significant indigenous biodiversity. Further, the submitter suggests that to incorporate only those areas that have been mapped would limit the protection of indigenous biodiversity to those areas and requests that Policy 14 be expanded to include all indigenous biodiversity in the coastal area.</p> <p>Submitter seeks amendment to Policy 14 of the Plan to read:</p> <p><i>Protect areas of significant indigenous biodiversity in the coastal environment and maintain and enhance indigenous biodiversity by [...]</i></p> | <p>Accept</p> <p>The Hearing Panel notes that the Policy's reference to "areas" do not refer to mapped areas as suggested by the submitter. The Hearing Panel further notes that the Plan's definition of significant indigenous biodiversity reads as meaning areas or habitats that meet criterion set out within this Policy.</p> <p>Notwithstanding that, the Hearing Panel recommends granting the relief sought in that it represents a small change that better aligns the Policy with the Plan's adopted definition of "<i>significant indigenous biodiversity</i>".</p> <p>The revised Policy, including amendment sought by another submitter, would read as follows:</p> <p><i>Protect areas of significant indigenous biodiversity in the coastal environment and maintain and enhance indigenous biodiversity by: [...]</i></p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Support | |
| 40 – Te Rūnanga o Ngāti Mutunga | 376 | <p>Amend</p> <p>Submitter seeks amendment to Policy 14(a) of the Plan to read:</p> <p><i>Protect areas of significant indigenous biodiversity in the coastal environment and maintain and enhance indigenous biodiversity by:</i></p> <p><i>(a) avoiding adverse effects of activities on[...]</i></p> <p><i><u>(vii) taonga species as identified by tangata whenua [...]</u></i></p> | <p>Grant in kind</p> <p>The relief sought by the submitter would have the perverse outcome of derogating from the relationship of tangata whenua culture, values and traditions with the coastal environment. Given the importance of some of these species as mahinga kai, their inclusion in Policy 14 (with its strong avoidance direction) would potentially preclude/restrict customary activities (such as harvesting, fishing) that have adverse effects on their populations, abundance and distribution.</p> <p>The Hearing Panel therefore recommends an alternative relief that provides for strong recognition and provision for taonga species in the Plan. It is recommended that a new Policy 14B be included to ensure activities avoid, remedy or mitigate adverse effects on taonga species. It is further recommended that a definition for taonga species be provided and a new schedule included to identify taonga species.</p> <p>The new Policy 14B would read as follows:</p> <p><u>Policy 14B: Taonga species</u></p> <p><i><u>Maintain or enhance taonga species as identified in Schedule 4C by:</u></i></p> <p><i><u>(a) avoiding significant adverse effects of activities on the habitat of taonga species, mahinga kai, tāiapure or mataitai and customary uses and values unless:</u></i></p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

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| | | | <p><i>the activity is necessary for the provision of regionally important infrastructure, avoidance of adverse effects is not practicable and adverse effects are remedied or mitigated to the extent practicable; and</i></p> <p><i>(b) avoiding, remedying or mitigating other adverse effects of activities on taonga species habitat, mahinga kai, tāiapure or mataitai.</i></p> <p>The definition for “Taonga species” would read as follows:</p> <p><i>Taonga species means the species of birds, plants and animals identified as such by treaty settlements and described in Schedule 4C.</i></p> |
| 40 – Te Rūnanga o Ngāti Mutunga | 377 | <p>Amend</p> <p>Submitter seeks amendment of Policy 14 of the Plan to include a new Clause (c) that reads:</p> <p><i>Protect areas of significant indigenous biodiversity in the coastal environment and maintain and enhance indigenous biodiversity by: [...]</i></p> <p><i>(c) recognising and providing for the role of tangata whenua as kaitiaki, when identifying and managing significant areas of indigenous biodiversity in the coastal area.</i></p> | <p>Grant in kind</p> <p>The Hearing Panel recommends granting an alternative relief to that sought by the submitter.</p> <p>The Hearing Panel believes that Policy 16 [Relationship of tangata whenua] is the more relevant policy for recognising the role of tangata whenua as kaitiaki and that that role is not confined to coastal indigenous biodiversity. The Hearing Panel notes that all General Policies (and relevant Activity-specific Policies) must be read together. Accordingly, the Hearing Panel recommends amending Policy 16 to explicitly recognise and provide for the role of tangata whenua as kaitiaki across <u>all</u> aspects of managing use, development and protection in the coastal environment (rather than just biodiversity).</p> <p>The amendment to Policy 16 would read as follows:</p> <p><i>Recognise and provide for the relationship of tangata whenua culture, values and traditions with the coastal environment, including the role of tangata whenua as kaitiaki, and take into account the principles of the Treaty of Waitangi.</i></p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |

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| 41 – Te Korowai o Ngāruahine Trust | 378 | <p>Amend</p> <p>Submitter seeks amendment of Policy 14 of the Plan by:</p> <ul style="list-style-type: none"> referencing Schedule 5B of the Plan expanding the scope of the Policy to also address taonga species. | <p>Grant in kind</p> <p>The relief sought by the submitter would have the perverse outcome of derogating from the relationship of tangata whenua culture, values and traditions with the coastal environment. Given the importance of some of these species as mahinga kai, their inclusion in Policy 14 (with its strong avoidance direction) would potentially preclude/restrict any activity (such as harvesting) that has adverse effects on their populations, abundance and distribution.</p> <p>The Hearing Panel therefore recommends an alternative relief that provides for strong recognition and provision for taonga species. It is recommended that a new Policy 14B be included to ensure activities avoid, remedy or mitigate adverse effects on taonga species. It is further recommended that a definition for taonga species be provided and a new schedule included to identify taonga species.</p> <p>The new Policy 14B would read as follows:</p> <p><u>Policy 14B: Taonga species</u></p> <p><u>Maintain or enhance taonga species as identified in Schedule 4C by:</u></p> <p><u>(a) avoiding significant adverse effects of activities on the habitat of taonga species, mahinga kai, tāiapure or mataitai and customary uses and values unless:</u></p> <p><u>the activity is necessary for the provision of regionally important infrastructure, avoidance of adverse effects is not practicable and adverse effects are remedied or mitigated to the extent practicable; and</u></p> <p><u>(b) avoiding, remedying or mitigating other adverse effects of activities on taonga species habitat, mahinga kai, tāiapure or mataitai.</u></p> <p>The definition for “Taonga species” would read as follows:</p> <p><u>Taonga species means the species of birds, plants and animals identified as such by treaty settlements and described in Schedule 4C.</u></p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 42 – Ngati Rahiri Hapū | 379 | <p>Other</p> <p>Submitter seeks clarification as to whether shellfish and crayfish, and the habitat for both, are protected by Policy 14 of the Plan.</p> | <p>No relief necessary</p> <p>The Hearing Panel notes that significant indigenous biodiversity protected in Policy 14 are identified in Schedule 4A. While shellfish and crayfish are not identified in that Schedule as threatened, at risk or regionally distinctive species (and as defined by the Plan) they are nevertheless protected under Policy 14. Of particular note, the primary habitats of these species are largely reefs, which have a very high level of protection in the Plan compared with other marine habitats.</p> |

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| | | | <p>The Hearing Panel notes however that, in response to reliefs sought by other submitters, other changes are proposed to the Plan to better recognise and protect taonga species. The Hearing Panel recommends amending the Plan to include a new Policy 4B to ensure activities avoid, remedy or mitigate adverse effects on taonga species. It is further recommended that a definition for taonga species be provided and a new schedule included to identify taonga species that may include shellfish and crayfish.</p> <p>The new Policy 14B would read as follows:</p> <p><u>Policy 14B: Taonga species</u> <u>Maintain or enhance taonga species as identified in Schedule 4C by:</u> <u>(a) avoiding significant adverse effects of activities on the habitat of taonga species, mahinga kai, tāiapure or mataitai and customary uses and values unless:</u> <u>the activity is necessary for the provision of regionally important infrastructure, avoidance of adverse effects is not practicable and adverse effects are remedied or mitigated to the extent practicable; and</u> <u>(b) avoiding, remedying or mitigating other adverse effects of activities on taonga species habitat, mahinga kai, tāiapure or mataitai.</u></p> <p>The definition for “Taonga species” would read as follows: <u>Taonga species means the species of birds, plants and animals identified as such by treaty settlements and described in Schedule 4C.</u></p> |
| 43 – Royal Forest and Bird Protection Society | 380 | <p>Amend</p> <p>Submitter seeks amendment to Policy 14 of the Plan by removing reference to “maintaining and enhancing indigenous biodiversity” so that it sets out the characteristics and values to be protected under Policy 11 of the <i>New Zealand Coastal Policy Statement</i></p> <p>AND</p> <p>Include a separate policy for the maintenance and enhancement of indigenous biodiversity in the coastal environment</p> <p>AND</p> <p>Include guidance on relevant habitats under Clause (a)(iv).</p> | <p>Accept in part</p> <p>The Hearing Panel recommends largely granting the reliefs sought by the submitter. Policy 14 is directly aligned with Policy 11 [Indigenous biodiversity] of the <i>New Zealand Coastal Policy Statement</i>. Although the matters covered in Policy 14 cover most aspects of indigenous biodiversity, the submitter, quite rightly, points out that indigenous biodiversity is much broader than those aspects highlighted in Policy 14. The Hearing Panel therefore recommends amending the Plan to include a separate stand-alone policy to address the remaining aspects of indigenous biodiversity not otherwise covered by Policy 14.</p> <p>The new Policy 14A would read as follows: <u>Policy 14A: Indigenous biodiversity</u> <u>Maintain or enhance indigenous biodiversity generally in the coastal environment by:</u> <u>(a) as far as is practicable, avoiding, remedying and mitigating the adverse effects of activities on indigenous biodiversity; and</u></p> |
| Further submissions – Powerco (45) | | Oppose in part | |

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| | | | <p><i><u>(b) when assessing adverse effects on indigenous biodiversity, having regard to the extent of effects, including consideration of:</u></i></p> <p><i><u>(i) the association of the ecological site and values with other interrelated, but not necessarily contiguous, ecological sites and values;</u></i></p> <p><i><u>(ii) the nature, location, extent and design of the proposed development and the effects of these factors on indigenous biodiversity;</u></i></p> <p><i><u>(iii) the degree to which indigenous biodiversity values will be lost, damaged, destroyed, or enhanced, recognising that:</u></i></p> <p><i><u>i. the scale of the effect of an activity is proportional to the size and sensitivity of the ecological area and associated indigenous biodiversity values;</u></i></p> <p><i><u>ii. discrete, localised or otherwise minor effects not impacting on the ecological area may be acceptable; and</u></i></p> <p><i><u>iii. activities with transitory effects may be acceptable, where they can demonstrate the effects are not long-term and/or irreversible.</u></i></p> <p>In relation to adding guidance in the Plan on relevant habitats under Clause (a)(iv), habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare. The Hearing Panel does not believe this level of specificity is necessary or appropriate for a regulatory plan. While the Council contains some information on the distribution and abundance of some indigenous biodiversity species, currently such information is generally fragmented and incomplete. The Hearing Panel suggests that such guidance more appropriately sits outside a Plan so that it can be easily developed and amended over time as better information is gathered.</p> <p>At the hearing, the submitter sought additional amendments to Policy 14 to include a new Clause (c) that refers to controlling the effects of activities in significant marine animal and seabird areas consistent with Policy 14(a) and (b) of the notified Plan. The Hearing Panel agrees that these areas require special mention and that clauses (a) and (b) may apply depending. The Panel recommends amending Policy 14 to include a new clause that reads as follows:</p> <p><i><u>(c) avoiding, remedying or mitigating the adverse effects of activities in significant marine animal and seabird areas consistent with (a) and (b) above.</u></i></p> |
| 43 – Royal Forest and Bird Protection Society | 381 | <p>Amend</p> <p>Submitter seeks amendment to Policy 14 of the Plan or add a new policy to identify areas of significant indigenous biodiversity including criteria for determination.</p> | <p>Decline</p> <p>The submitter when presenting at the hearing supports the Council being able to identify 'significant indigenous biodiversity' areas through resource consent processes</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p>At the hearing, the submitter further submitted on this point and sought the addition of a new clause to identify areas of significant indigenous biodiversity based upon a new appendix setting out suggested 'significance' criterion.</p> | <p>and through any future surveys and assessment processes. The Hearing Panel believes the Council can already do this through its current policy framework.</p> <p>The Hearing Panel notes that BIO Policy 4 of the <i>Regional Policy Statement</i> already provides the relief sought by the submitter. BIO Policy 4 reads:</p> <p><i>"When identifying ecosystems, habitats and areas with significant indigenous biodiversity values, matters to be considered will include:</i></p> <p><i>(a) the presence of rare or distinctive indigenous flora and fauna species; or</i></p> <p><i>(b) the representativeness of an area; or</i></p> <p><i>(c) the ecological context of an area.</i></p> <p><i>Once identified as significant, consideration should be given to the sustainability of the area to continue to be significant in future when deciding on what action to be taken (if any) should reasonably and practicably be taken to protect the values of the area."</i></p> <p>The above criteria adopted in the <i>Regional Policy Statement for Taranaki</i> for identifying significant indigenous biodiversity has been effective as demonstrated by the Council's significant involvement and success in promoting passive and active protection of terrestrial, freshwater and marine sites identified as having regionally significant values.</p> <p>The Hearing Panel does not believe it is necessary for all regional plans to repeat policies set out in other planning instruments and indeed there are risks in unnecessarily paraphrasing other policy instruments (of note the criterion suggested by the submitter in their Appendix is based upon proposals relating to a proposed <i>National Policy Statement for Indigenous Biodiversity</i> that has not even been consulted on yet).</p> <p>The Hearing Panel suggest that 'criterion' type policies be left for inclusion in the <i>Regional Policy Statement for Taranaki</i>, which both regional and district plans must then give effect to. The Hearing Panel notes that the <i>Regional Policy Statement</i> is due to be reviewed in 2020 and it would be timely to review its 'significance criteria' taking into account the submitter's suggestions and any new Government directions such as a proposed <i>National Policy Statement for Indigenous Biodiversity</i>. The Hearing Panel recommends the inclusion of a new Implementation Method that commits the Council to this course of action. The new Implementation Method (section 6.2) 8B would read as follows:</p> |

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| | | | <u><i>Review and, if necessary, amend the Regional Policy Statement for Taranaki to set out criteria for assessing the significance of natural character, natural features and landscapes, and indigenous biodiversity.</i></u> |
| 43 – Royal Forest and Bird Protection Society | 382 | <p>Amend</p> <p>The submitter is concerned that Policy 14(a)(iii) is not broad enough or will not allow for protection of ecosystems or vegetation that may be identified as threatened or naturally rare at a later date. Submitter seeks an amendment to Policy 14(a)(iii) of the Plan to read:</p> <p><i>Protect areas of significant indigenous biodiversity in the coastal environment and maintain and enhance indigenous biodiversity by:</i></p> <p><i>(a) avoiding adverse effects of activities on: [...]</i></p> <p><i>(iii) indigenous ecosystems and habitats found only in the coastal environment and which are particularly vulnerable to modification including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass, saltmarsh, and sensitive marine benthic habitats as, including those identified in Schedule 4B; [...]</i></p> | <p>No relief necessary</p> <p>The relief sought is unnecessary as the Policy already notes that the listed types are not an exclusive list.</p> <p><i>iii) indigenous ecosystems and habitats found only in the coastal environment and which are particularly vulnerable to modification including [emphasis added] estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass, saltmarsh, and sensitive marine benthic habitats as identified in Schedule 4B; [...]</i></p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 383 | <p>Other</p> <p>Submitter comments that Policy 14 of the Plan is unclear about how Clause (a) (<i>avoiding adverse effects of activities on: [...]</i>) and clause (b) (<i>avoiding significant adverse effects and avoiding, remedying and mitigating other adverse effects of activities on; [...]</i>) will be achieved to give effect to the <i>New Zealand Coastal Policy Statement</i>.</p> | <p>No relief necessary</p> <p>The Hearing Panel notes that the means for achieving all of the policies are set out under the methods section and/or the rules. In particular, methods relating to indigenous biodiversity are explicitly covered in Methods 13 to 20 and also more broadly within the entire Methods section of the Plan. Rules also apply that prohibit or restrict activities where they impact on indigenous biodiversity.</p> <p>The Hearing Panel further notes that these issues are also covered within the methods of implementation within the indigenous biodiversity section of the <i>Regional Policy Statement for Taranaki</i> and again in the <i>Biodiversity Strategy for the Taranaki Regional Council</i>. The Hearing Panel therefore believes that this issue is addressed sufficiently within the Plan and also within the <i>Regional Policy Statement</i>.</p> |
| | 384 | Other | No relief necessary |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | | Submitter seeks that the Council ensure Policy 14 of the Plan and corresponding rules provide appropriately for the operation, maintenance and upgrade of existing regionally important infrastructure. | Comments noted. The Hearing Panel notes that all the General Policies (and relevant Activity-specific Policies) need to be read together, which includes considering Policies 5 [Use and development] and 6 [Regionally important infrastructure] of the Plan alongside biodiversity considerations set out in Policy 14. |
| 47 – Fonterra | 385 | Support Retain Policy 14 as notified. | Accept Support noted. Policy 14 is retained subject to minor amendments as requested by other submitter that do not change the policy intent. |
| 58 – Te Atiawa | 386 | Amend Submitter seeks amendment to Policy 14(a) of the Plan to include a new clause to read: <i>Protect areas of significant indigenous biodiversity in the coastal environment and maintain and enhance indigenous biodiversity by:</i> <i>(a) avoiding adverse effects of activities on [...]</i> <i><u>(vii) Taonga species as identified by tangata whenua [...]</u></i> | Grant in kind The relief sought by the submitter would have the perverse outcome of derogating from the relationship of tangata whenua culture, values and traditions with the coastal environment. Given the importance of some of these species as mahinga kai, their inclusion in Policy 14 (with its strong avoidance direction) would potentially preclude/restrict customary activities (such as harvesting) that has adverse effects on their populations, abundance and distribution. The Hearing Panel therefore recommends an alternative relief that provides for strong recognition and provision for taonga species. It is recommended that a new Policy 14A be included to ensure activities avoid, remedy or mitigate adverse effects on taonga species. It is further recommended that a definition for taonga species be provided and a new schedule included to identify taonga species. The new Policy 14B would read as follows: <i><u>Policy 14B: Taonga species</u></i> <i><u>Maintain or enhance taonga species as identified in Schedule 4C by:</u></i> <i><u>(a) avoiding significant adverse effects of activities on the habitat of taonga species, mahinga kai, tāiapure or mataitai and customary uses and values unless:</u></i> <i><u>the activity is necessary for the provision of regionally important infrastructure, avoidance of adverse effects is not practicable and adverse effects are remedied or mitigated to the extent practicable; and</u></i> <i><u>(b) avoiding, remedying or mitigating other adverse effects of activities on taonga species habitat, mahinga kai, tāiapure or mataitai.</u></i> The Hearing Panel also recommend amending the Plan to include a definition for “Taonga species” to read: |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <u><i>Taonga species means the species of birds, plants and animals identified as such by treaty settlements and described in Schedule 4C.</i></u> |
| 58 – Te Atiawa | 387 | <p>Amend</p> <p>Submitter seeks amendment to Policy 14 to of the Plan include a new clause (c) that reads:</p> <p><i>Protect areas of significant indigenous biodiversity in the coastal environment and maintain and enhance indigenous biodiversity by: [...]</i></p> <p><u><i>(c) recognising and providing for the role of tangata whenua as kaitiaki, when identifying and managing significant areas of indigenous biodiversity in the coastal area.</i></u></p> | <p>Grant in kind</p> <p>The Hearing Panel does not recommend granting the relief noting that it relates to a framework setting out tiered protection of indigenous biodiversity rather than identifying particular relationships for implementing the policy. The Hearing Panel notes that the relief proposed only addresses the role of tangata whenua as kaitiaki and is silent on the role of others parties who may also have a significant involvement and/or interest in indigenous biodiversity protection.</p> <p>Rather than making changes to Policy 14, the Hearing Panel recommends an alternative relief that may partially give effect to the submitters wish for the role of tangata whenua as kaitiaki to be recognised. The Hearing Panel recommends minor amendment to Policy 16 to explicitly recognise for the role of tangata whenua as kaitiaki across all aspects of managing use, development and protection in the coastal environment (rather than just biodiversity). The Hearing Panel notes that all General Policies (and relevant Activity-specific Policies) must be read together.</p> <p>The amendment to Policy 16 would read as follows:</p> <p><i>Recognise and provide for the relationship of tangata whenua culture, values and traditions with the coastal environment, <u>including the role of tangata whenua as kaitiaki</u>, and take into account the principles of the Treaty of Waitangi.</i></p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 60 – Te Kaahui o Rauru | 388 | <p>Amend</p> <p>Submitter seeks amendment to Policy 14 of the Plan to include native species of value to Māori.</p> | <p>Grant in kind</p> <p>The relief sought by the submitter would have the perverse outcome of derogating from the relationship of tangata whenua culture, values and traditions with the coastal environment. Given the importance of some of these species as mahinga kai, their inclusion in Policy 14 (with its strong avoidance direction) would potentially preclude/restrict customary activities (such as harvesting) that has adverse effects on their populations, abundance and distribution.</p> <p>The Hearing Panel therefore recommends an alternative relief that provides for strong recognition and provision for taonga species. It is recommended that a new Policy 14B be included to ensure activities avoid, remedy or mitigate adverse effects on taonga species. It is further recommended that a definition for taonga species be provided and a new schedule included to identify taonga species.</p> <p>The new Policy 14B would read as follows:</p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

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| | | | <p><u><i>Policy 14B: Taonga species</i></u> <u><i>Maintain or enhance taonga species as identified in Schedule 4C by:</i></u> <u><i>(a) avoiding significant adverse effects of activities on the habitat of taonga species, mahinga kai, tāiapure or mataitai and customary uses and values unless:</i></u> <u><i>the activity is necessary for the provision of regionally important infrastructure, avoidance of adverse effects is not practicable and adverse effects are remedied or mitigated to the extent practicable; and</i></u> <u><i>(b) avoiding, remedying or mitigating other adverse effects of activities on taonga species habitat, mahinga kai, tāiapure or mataitai.</i></u></p> <p>The Hearing Panel also recommend amending the Plan to include a definition for “Taonga species” to read as follows: <u><i>Taonga species means the species of birds, plants and animals identified as such by treaty settlements and described in Schedule 4C.</i></u></p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 389 | <p>Amend</p> <p>Submitter seeks amendment to Policy14(a) of the Plan to read: <i>Protect areas of significant indigenous biodiversity in the coastal environment and maintain and enhance indigenous biodiversity by:</i> <i>(a) avoiding adverse effects of activities on [...]</i> <u><i>(iv) taonga species protected under Taranaki iwi Deed of Settlement, as identified in Schedule 4C; [...]</i></u></p> | <p>Grant in kind</p> <p>The relief sought by the submitter would have the perverse outcome of derogating from the relationship of tangata whenua culture, values and traditions with the coastal environment. Given the importance of some of these species as mahinga kai, their inclusion in Policy 14 (with its strong avoidance direction) would potentially preclude/restrict customary activities (such as harvesting) that has adverse effects on their populations, abundance and distribution.</p> <p>The Hearing Panel therefore recommends an alternative relief that provides for strong recognition and provision for taonga species. It is recommended that a new Policy 14B be included to ensure activities avoid, remedy or mitigate adverse effects on taonga species. It is further recommended that a definition for taonga species be provided and a new schedule included to identify taonga species.</p> <p>The new Policy 14B would read as follows: <u><i>Policy 14B: Taonga species</i></u> <u><i>Maintain or enhance taonga species as identified in Schedule 4C by:</i></u> <u><i>(a) avoiding significant adverse effects of activities on the habitat of taonga species, mahinga kai, tāiapure or mataitai and customary uses and values unless:</i></u> <u><i>the activity is necessary for the provision of regionally important infrastructure, avoidance of adverse effects is not practicable and adverse effects are remedied or mitigated to the extent practicable; and</i></u></p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | <p>Oppose</p> | <p>The Hearing Panel therefore recommends an alternative relief that provides for strong recognition and provision for taonga species. It is recommended that a new Policy 14B be included to ensure activities avoid, remedy or mitigate adverse effects on taonga species. It is further recommended that a definition for taonga species be provided and a new schedule included to identify taonga species.</p> <p>The new Policy 14B would read as follows: <u><i>Policy 14B: Taonga species</i></u> <u><i>Maintain or enhance taonga species as identified in Schedule 4C by:</i></u> <u><i>(a) avoiding significant adverse effects of activities on the habitat of taonga species, mahinga kai, tāiapure or mataitai and customary uses and values unless:</i></u> <u><i>the activity is necessary for the provision of regionally important infrastructure, avoidance of adverse effects is not practicable and adverse effects are remedied or mitigated to the extent practicable; and</i></u></p> |

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| | | | <p><u>(b) avoiding, remedying or mitigating other adverse effects of activities on taonga species habitat, mahinga kai, tāiapure or mataitai.</u></p> <p>The Hearing Panel also recommend amending the Plan to include a definition for "Taonga species" to read:</p> <p><u>Taonga species means the species of birds, plants and animals identified as such by treaty settlements and described in Schedule 4C.</u></p> |
| Policy 15 – Historic heritage | | | |
| 2 – Federated Farmers | 390 | <p>Amend</p> <p>Submitter seeks that historic heritage sites should be accurately mapped to give certainty and that normal farming activities are recognised as co-existing with heritage values and enabled to continue.</p> | <p>No relief necessary</p> <p>The submitter's comments have been noted. However, the Hearing Panel does not believe any relief is necessary. Historic heritage sites, in or adjoining the coastal marine area, have been mapped where possible. In many cases accurate mapping of historic heritage on the seabed is not possible.</p> |
| 20 – Meridian Energy Ltd | 391 | <p>Amend</p> <p>Submitter seeks amendment to Policy 15 of the Plan to read: <i>Protect historic heritage in the coastal environment from inappropriate <u>subdivision</u>, use and development by: [...]</i></p> | <p>Accept</p> <p>The submitter wishes to include "subdivision" within Policy 15 to be consistent with Policy 15 [Natural features and natural landscapes] of the <i>New Zealand Coastal Policy Statement</i>. The Hearing Panel notes that subdivision falls outside the statutory functions of regional councils and is instead the responsibility of district and unitary councils pursuant to Section 31 of the RMA. However, for the purpose of integrated management, the Hearing Panel recommends amending Policy 15 to include reference to subdivision. This relief is similar in kind to other reliefs sought by the submitter whereby Objective 11 [Cultural and historic heritage] has been amended to reference subdivision.</p> <p>A new definition for "subdivision" is also recommended.</p> |
| 40 – Te Rūnanga o Ngāti Mutunga | 392 | <p>Amend</p> <p>Submitter wishes to see a greater level of protection within Policy 15(b) of the Plan by removing the word "significant" to read: <i>Protect historic heritage in the coastal environment from inappropriate use and development by: [...]</i> <i>(b) avoiding significant adverse effects and avoiding, remedying and mitigating other adverse effects on the [...]</i></p> | <p>Decline</p> <p>The level of protection that Policy 15(b) provides sites of significance to Māori is considered appropriate by Hearing Panel. Policy 15(b) represents a high level of protection but does allow activities that have less than minor adverse effects and/or where the effects maybe transitory. Granting the relief sought by the submitter by deleting the term "significant" would make the Policy unnecessarily broad and prohibitive.</p> |

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| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | Of note, the relief sought by the submitter would also have the perverse outcome of derogating from the relationship of tangata whenua culture, values and traditions with the coastal environment. For example, sites of significance to Māori identified in Schedule 5B of the Plan include a large number of kaimoana sites. Granting the relief sought, where all effects must be avoided, would potentially preclude/restrict customary activities (such as harvesting). |
| 41 – Te Korowai o Ngāruahine Trust | 393 | Amend Submitter seeks amendment to Policy 15(d) of the Plan to specifically recognise the role of kaitiaki and mātauranga supplied by tangata whenua/mana whenua and their experts. | Grant in kind The Hearing Panel does not recommend granting the relief as proposed by the submitter. The Hearing Panel notes that Policy 15 sets out a framework for the tiered protection of historic heritage. Policy 15(d) already referring to the outcomes of consultation with relevant bodies or individuals, including local iwi and hapū. Amending the Policy to include an amended Clause, focusing on the roles of one organisations or stakeholder group (while remaining silent on other relevant organisations and groups) is not considered appropriate or necessary. Rather than making changes to Policy 15, the Hearing Panel recommends an alternative relief that may partially give effect to the submitter's wish for the role of tangata whenua as kaitiaki to be recognised. The Hearing Panel recommends minor amendment to Policy 16 to explicitly recognise for the role of tangata whenua as kaitiaki across all aspects of managing use, development and protection in the coastal environment (rather than just historic heritage). The Hearing Panel notes that all General Policies (and relevant Activity-specific Policies) must be read together. The Hearing Panel further recommends other consequential changes to the methods of the Plan that incorporate the concept of mātauranga Māori based methods or cultural indicators into resource consent conditions. |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 45 – Powerco | 394 | Support Retain Policy 15 of the Plan as notified. | Accept Support noted. Policy 15 is retained subject to minor amendment as requested by another submitter that does not change the policy intent. |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 395 | Support Retain Policy 15 of the Plan as notified. | Accept Support noted. Policy 15 is retained subject to minor amendment as requested by another submitter that does not change the policy intent. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |

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| 57 – Heritage new Zealand | 396 | <p>Support</p> <p>Retain Policy 15 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 15 is retained subject to minor amendment as requested by another submitter that does not change the policy intent.</p> |
| 58 – Te Atiawa | 397 | <p>Amend</p> <p>Submitter seeks amendment to Policy 15(b) of the Plan to read: <i>Protect historic heritage in the coastal environment from inappropriate use and development by: [...]</i> [...] (b) avoiding significant adverse effects and avoiding, remedying and mitigating other adverse effects on the associated values with sites of significance to Māori identified in Schedules 5A.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought. The relief sought would potentially restrict all activities in or near Māori sites of significant, even if such activities would only have minor or transitional effects. See above response to Te Rūnanga o Ngāti Mutunga for additional details and considerations (submission point 392).</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 58 – Te Atiawa | 398 | <p>Amend</p> <p>Submitter seeks amendment to Policy 15(d) of the Plan to include a new Clause (x) that reads: <i>Protect historic heritage in the coastal environment from inappropriate use and development by:</i> [...] (d) when assessing adverse effects on historic heritage, giving regard to the extent of effects, including consideration of: [...] <u>(x) evidence supplied by tangata whenua including that of kaumatua and pukenga.</u></p> | <p>No relief necessary</p> <p>The Hearing Panel further notes that Policy 15(d)(viii) and (ix) already refer to assessments of adverse effects on historic heritage taking into consideration any investigations and documentation of the site and the outcome of consultation with iwi and hapū, which could include evidence supplied by kaumatua and pukenga. Amending the Policy to include a new Clause, focusing on one potential source of information, is not considered necessary. At the hearing, the submitter noted concern for sites not scheduled in the Plan and considers that Policy 15(d) and (e) do not provide sufficient protections for unscheduled sites. The Hearing Panel recognises the concern of the submitter, but notes Council's efforts to identify all known sites of significance in the Plan's schedules. Inevitably over the life of the Plan new sites may be identified. These 'new' sites may be included in the schedules through a plan change. In the interim, Policy 15(c) and (d) will apply.</p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 399 | <p>Amend</p> <p>Submitter seeks amendment to Policy 15 of the Plan to read: Policy 15: <u>Cultural and</u> Historic heritage</p> | <p>Decline</p> <p>The Hearing Panel does not consider it necessary or appropriate to include reference to "cultural" alongside "Historic heritage". Historic heritage has a broad definition</p> |

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| | | <p>Protect <u>cultural and</u> historic heritage in the coastal environment from inappropriate use and development by:</p> <p>(a) avoiding adverse effects on the values associated with Category A archaeological sites of significance and <u>cultural and</u> historic areas identified in Schedule 5A <u>and GIS map layer #</u>;</p> <p>(b) avoiding significant adverse effects, and avoiding, remedying and mitigating other adverse effects on the values associated with <u>cultural heritage</u> sites of significance to Māori identified in Schedules 5A and 5B <u>and GIS map layer #</u>;</p> <p>(c) avoiding, remedying or mitigating adverse effects on the values associated with all other <u>cultural and</u> historic heritage sites, including those identified in Schedule 5 <u>and GIS map layer #</u> and those identified by New Zealand Archaeological Association's ArchSite (Archaeological Site Recording Scheme) <u>and tangata whenua</u>;</p> <p>(d) when assessing adverse effects on <u>cultural and</u> historic heritage, giving regard to the extent of effects, including consideration of:</p> <p>i. the association of the site with other interrelated, but not necessarily contiguous, cultural and historic heritage sites and their collective significance in the context of historic landscapes and areas;</p> <p>ii. the degree to which <u>cultural and</u> historic heritage values will be lost, damaged, destroyed, or enhanced;</p> <p>iii. the nature, location, extent, design and appearance of the proposed development and the effects of these factors on <u>cultural and</u> historic heritage values;</p> <p><u>iv. the location of the proposed development in terms of the Cultural Zone (buffer zone between the proposed development and the cultural and historic heritage sites) identified on GIS map layer # and the effects of its location on cultural heritage values</u>;</p> <p>v. the classification given to the <u>cultural and</u> historic heritage, as set out in Schedule 5A and the reasons for which it has been scheduled;</p> <p>vi. the extent to which the <u>cultural and</u> historic heritage has been damaged by natural events, weather, or environmental factors and any subsequent risk to public safety;</p> <p><u>vii. spatial planning considerations which involves (but not limited to) neighbouring rural nature, landscape, cultural history values and development-</u></p> | <p>under Section 2 of the RMA and includes reference to cultural qualities as well as sites of significance to Māori. Section 2 definition of "historic heritage" reads as follows:</p> <p>"...historic heritage means:</p> <p>(a) those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:</p> <p>(i) archaeological,</p> <p>(ii) architectural,</p> <p>(iii) cultural,</p> <p>(iv) historic,</p> <p>(v) scientific,</p> <p>(vi) technological, and</p> <p>(b) includes—</p> <p>(i) historic sites, structures, places, and areas; and</p> <p>(ii) archaeological sites, and</p> <p>(iii) sites of significance to Māori, including wāhi tapu, and</p> <p>(iv) surroundings associated with the natural and physical resources."</p> <p>The Hearing Panel also have concerns that these and other amendments would reduce certainty in the application of Plan provisions including rules. It is currently quite clear what is meant by the term historic heritage and that it includes sites of significance to Māori and cultural aspects. That is not the case with the term "cultural heritage", which potentially has a much broader meaning in the context of this policy. Notwithstanding the above, the Hearing Panel has recommended changes elsewhere in the Plan to strengthen references to cultural heritage. This included expanding the scope of Objective 11 to refer to cultural heritage, the inclusion of a new policy (and schedule) addressing taonga species, and new standards, terms and conditions addressing the protection of taonga species and sites of significance.</p> <p>Other suggested changes by the submitter include referencing the GIS map layer. This was considered unnecessary as the schedule includes all appropriate map links and referencing tangata whenua in Policy 15 (c) was considered unnecessary as</p> |

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| | | <p><i>related interests; identification of conflicting activities that would impact on mana whenua issues, areas of interest and cultural significance;</i></p> <p><i>viii the importance (if any) of land surrounding the cultural and historic heritage;</i></p> <p><i>ix. the degree of compliance with Heritage New Zealand's Pohere Taonga Archaeological requirements;</i></p> <p><i>x. any investigation and documentation of the site to provide a historical record; and</i></p> <p><i>xi. the outcome of any consultation including written approvals with any relevant body or individual, such as Heritage New Zealand Pohere Taonga, the Department of Conservation, or local iwi and/or hapū; [...]</i></p> | <p>such matters are more appropriately addressed in (b) which provides a higher level of protection.</p> <p>The submitter also sought reliefs that rely on a cultural zone. The submitter does not identify how or what would be considered a cultural zone or how such zones would be identified.</p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | Oppose (cultural zone) | | |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | Support | | |
| Further submissions – Te Atiawa (58) | Oppose | | |
| Policy 16 – Relationship of tangata whenua | | | |
| 6 – Trans-Tasman Resources Ltd | 400 | <p>Amend</p> <p>Submitter seeks amendment to Policy 16(i) and (j) of the Plan to read:</p> <p><i>Recognise and provide for the relationship of tangata whenua culture, values and traditions with the coastal environment and take into account the principles of the Treaty of Waitangi, and kaitiakitanga. The Taranaki Regional Council will provide opportunities for tangata whenua to actively participate in the resource management process where decisions are being made on issues of significance to tangata whenua by:</i></p> <p><i>[...]</i></p> <p><i>(i) requiring that resource consent applications or plan change applications assess provide cultural and/or historic heritage/archaeological impacts assessments and/or archaeological assessments where relevant appropriate; and</i></p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter.</p> <p>In relation to amending Clause (i), the Hearing Panel suggests that the current wording is appropriate in that it notes that cultural impact assessments will be provided where appropriate. What is appropriate will depend upon individual circumstances and the wider context. Such matters are routinely canvassed and effectively addressed as part of any consenting process. The Hearing Panel notes that the Policy does not require cultural impact assessments to be provided in <u>all</u> circumstances (which is the matter of concern to the submitter). The suggested amendments to Policy 16(1), as supplied by the submitter, were not considered appropriate as it is not the duty of the applicant to assess – only tangata whenua can do this and the policy is about tangata whenua rather than wider historic heritage matters.</p> |

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| | | <i>(j) involving taking into account any views of tangata whenua in the development of on any relevant proposed consent conditions, compliance monitoring plans and/or enforcement procedures where appropriate.</i> | Similarly, in relation to amending Clause (j) the Hearing Panel notes that the Policy is seeking to involve tangata whenua in resource management processes where it is appropriate. Providing tangata whenua with opportunities to actively participate in resource management processes requires more than this Council just taking into account their views. Again the Hearing Panel suggests that the current wording is appropriate in that it requires tangata whenua involvement, where appropriate. |
| Further submissions – Federated Farmers (2) | | Support in part | |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 15 – Surfbreak Protection Society | 401 | Support Retain Policy 16 of the Plan as notified. | Accept Support noted. Policy 16 is retained subject to minor amendments as requested by other submitter that do not change the policy intent. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 19 – South Taranaki District Council | 402 | Support Retain Policy 16 of the Plan as notified. | Accept in part Support noted. Policy 16 is retained subject to minor amendments as requested by other submitter that do not change the policy intent. |
| 40 – Te Rūnanga o Ngāti Mutunga | 403 | Amend Submitter seeks amendment to Policy 16 of the Plan to read: <i>Recognise and provide for the relationship of tangata whenua culture, values and traditions with the coastal environment and take into account the principles of the Treaty of Waitangi, and kaitiakitanga. The Taranaki Regional Council will provide opportunities for tangata whenua to actively participate in the resource management process where decisions are being made on issues of significance to tangata whenua by:</i> <i>(a) taking into account any relevant iwi planning documents <u>and consider providing practical assistance to iwi or hapū who have indicated a wish to develop iwi/hapū resource management plans:</u></i> [...] | Accept in part The submitter seeks a number of amendments to Policy 16 relating to iwi/hapū involvement in the resource management process. The Hearing Panel notes that many of the requests are actually methods and are already provided for in other, more appropriate, areas of the Plan and do not require repeating within this Policy. For example, the relief sought in (a) is a method that is already provided for in Section 5 [Methods of implementation] of the Plan, and more specifically Methods 22 and 26, which refers to the Council actively supporting and assisting in surveys, research and investigations and technical advice and support for preparing iwi planning documents. Notwithstanding the above, the Hearing Panel recommends amending Policy 16 to further strengthen tangata whenua involvement in RMA processes under the Plan, |

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| | | <p><u>(k) the Council ensures the active involvement of the appropriate iwi/hapū in management of the coastal environment when activities may affect their interests and values;</u></p> <p><u>(l) provide for opportunities for iwi/hapū to exercise kaitiakitanga over waters, forest, lands and fisheries in the coastal environment through such measures as:</u></p> <p><u>(i) bringing cultural understanding to monitoring of natural resources</u></p> <p><u>(ii) providing appropriate methods for the management, maintenance and protecting of the Taonga of tangata whenua</u></p> <p><u>(iii) having regards to regulations, rules or bylaws relating to ensuring sustainability of fishing resources such as taiapure, mahinga mataitai or other non-commercial Māori customary fishing</u></p> <p><u>(m) where proposals are likely to have an adverse effect on the mauri of the coastal environment, the Council shall consider imposition of consent conditions that incorporate the use of mātauranga Māori based methods or cultural indicators that recognise and express Māori values to monitor the effects of the activity on the mauri of the natural and physical resources of the coastal environment.</u></p> | <p>including a new Clause (k) (plus other consequential changes sought by other submitters) that reads as follows:</p> <p><i>Recognise and provide for the relationship of tangata whenua culture, values and traditions with the coastal environment, <u>including the role of tangata whenua as kaitiaki</u>, and take into account the principles of the Treaty of Waitangi.</i></p> <p><i>The Taranaki Regional Council will provide opportunities for <u>working in partnership with</u> tangata whenua to actively participate in the resource management process where decisions are being made on issues of significance to tangata whenua by:</i></p> <p><i>[...]</i></p> <p><u>(k) considering consent conditions that incorporate the use of mātauranga Māori based methods or cultural indicators that recognise and express Māori values to monitor the effects of the activity on the mauri of the natural and physical resources of the coastal environment.</u></p> <p>The Hearing Panel further recommends amending the Plan to include a new Policy and Schedule addressing the protection of taonga species plus amendments to Implementation Methods.</p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 41 – Te Korowai o Ngāruahine Trust | 404 | <p>Amend</p> <p>Submitter supports the inclusion of Policy 16 of the Plan but seeks amendments to read:</p> <p><i>Recognise and provide for the relationship of tangata whenua culture, values and traditions with the coastal environment and take into account the principles of the Treaty of Waitangi, and kaitiakitanga. The Taranaki Regional Council will provide opportunities for tangata whenua to actively participate in the resource management process where decisions are being made on issues of significance to tangata whenua by:</i></p> <p><i>(a) taking into account any relevant iwi planning documents, <u>including but not limited to Environmental Plans, Management Plans, Kaitiaki Plans and Marine Spatial Plans;</u></i></p> | <p>Accept in part</p> <p>The submitter seeks a number of amendments to Policy 16 relating to iwi/hapū involvement in the resource management process.</p> <p>The Hearing Panel recommends granting in part most of the requests sought in relation to Policy 16, with some rewording to provide internal consistency with other areas of the Plan, to further strengthen tangata whenua involvement in RMA processes under the Plan. The Hearing Panel further recommends amending the Plan to include a new Policy and Schedule addressing the protection of taonga species plus amendments to Implementation Methods.</p> <p>The revised Policy 16 would read as follows:</p> |

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| | | <p>[...]</p> <p>(d) <u>responding to requests for taking into account</u> Mana Whakahono a Rohe <u>that provide agreements about how to enhance the opportunities for collaboration with iwi may contribute to resource management practices;</u></p> <p>[...]</p> <p>(g) providing for the appointment of a person(s)...</p> <p>(h) <u>providing for the inclusion of and</u> recognising the importance of mātauranga [...]</p> <p>(i) requiring that resource consent applications or plan change applications provide cultural impact assessment and/or archaeological assessments where <u>deemed</u> appropriate <u>and/or necessary by iwi;</u></p> <p>[...]</p> <p><u>(k) providing for and responding to the considerations of tino rangatiratanga, kaitiakitanga, tikanga, customary values and practices, wāhi tapu and taonga tapu species in matters of significance and relevance to tangata whenua;</u></p> <p><u>(l) development of cultural monitoring practices and expertise;</u></p> <p><u>(m) actively protecting sites of significance, wāhi tapu and taonga tapu.</u></p> | <p>Recognise and provide for the relationship of tangata whenua culture, values and traditions with the coastal environment, <u>including the role of tangata whenua as kaitiaki</u>, and take into account the principles of the Treaty of Waitangi.</p> <p>The Taranaki Regional Council will provide opportunities for <u>working in partnership with</u> tangata whenua to actively participate in the resource management process where decisions are being made on issues of significance to tangata whenua by:</p> <p>(a) taking into account any relevant iwi planning document, <u>including but not limited to environmental plans, management plans, kaitiaki plans and marine spatial plans recognised by an iwi authority;</u></p> <p>(b) taking into account any relevant memorandum of understanding <u>or kaitiaki agreement with</u> the iwi authorities;</p> <p>(c) implementing the relevant legal requirements of Treaty settlements, including representation on Council committees; and taking into account other aspects of Treaty settlements including, statements of association, protection principles and statutory acknowledgements;</p> <p>(d) <u>give effect to</u> Mana Whakahono a Rohe <u>that provide agreements about how</u> iwi <u>may contribute to resource management processes;</u></p> <p>(e) providing for tikanga Māori and interpretation services for the use of Māori language in presenting evidence;</p> <p>(f) providing for marae-based pre-hearing meetings and hearings where appropriate;</p> <p>(g) providing for the appointment of a person(s) with recognised expertise in tikanga Māori to any hearing committee where a resource consent application raises significant issues for tangata whenua, <u>in consultation with the relevant iwi authority;</u></p> <p>(h) recognising the importance of mātauranga Māori, customary, traditional and intergenerational knowledge;</p> <p>(i) requiring that resource consent applications or plan change applications provide cultural impact assessments and/or archaeological assessments where appropriate;</p> <p>(j) <u>taking into account any views of</u> tangata whenua <u>on any relevant proposed consent conditions, compliance monitoring plans and/or enforcement procedures; and</u></p> <p><u>(k) considering consent conditions that incorporate the use of mātauranga Māori based methods or cultural indicators that recognise and express Māori values to monitor the effects of the activity on the mauri of the natural and physical resources of the coastal environment.</u></p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose (Clause (i)) | |
| Further submissions – Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

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| 48 – Taranaki District Health Board | 405 | <p>Amend</p> <p>The submitter would like to enhance the partnership with tangata whenua whilst acknowledging holistic views of the environment. Submitter seeks amendments to Policy 16 of the Plan to read:</p> <p><i>Recognise and provide for the relationship of tangata whenua culture, values and traditions with the coastal environment and take into account the principles of the Treaty of Waitangi, and kaitiakitanga. The Taranaki Regional Council will provide opportunities for <u>working in partnership with</u> tangata whenua to actively participate in the resource management process where decisions are being made on issues of significance to tangata whenua by:</i></p> <p><i>(a) <u>encouraging taking into account</u> the use of relevant iwi planning document [...]</i></p> | <p>Accept in part</p> <p>The Hearing Panel recommends amending Policy 16 to include reference to “working in partnership with tangata whenua”.</p> <p>However, the Hearing Panel recommends declining the requested amendment for “encouraging” to replace “taking into account”. “Taking into account” will require the Council to be aware of the relevant iwi planning document and to take into consideration the planning provisions included. However, the Hearing Panel does not believe it is the role of Council to “encourage” the use of iwi planning documents. Indeed there might be occasion when iwi management provisions (which have not gone through a RMA or public plan process) are inconsistent with Coastal Plan provisions and might be inappropriate to encourage their use/application.</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 57 – Heritage New Zealand | 406 | <p>Amend</p> <p>Submitter seeks amendment to Policy 16(b) of the Plan to read:</p> <p><i>(b) Taking into account any relevant memorandum of understanding <u>or kaitiaki agreement with between the Taranaki Regional Council and the iwi authorities</u>;</i></p> <p>OR</p> <p>Alternatively, amend Policy 13(a)(ii) to reference kaitiaki agreements.</p> | <p>Accept</p> <p>The submitter wishes to amend Policy 16(b) to include reference to kaitiakitanga agreements. The Hearing Panel recommends granting the relief sought by stating that the Council will take into account any kaitiakitanga agreements alongside any memorandum of understanding agreements.</p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| 58 – Te Atiawa | 407 | <p>Amend</p> <p>The submitter wishes to adapt the wording of Policy 16 to better reflect their view on the Council's legal obligation to consult and involve Māori in decision making. The submitter seeks amendment to Policy 16 of the Plan to read:</p> <p><i>Recognise and provide for the relationship of tangata whenua cultural, values and traditions with the coastal environment and take into account the principles of the Treaty of Waitangi, and kaitiakitanga. The Taranaki Regional Council will provide opportunities for tangata whenua to actively participate in the resource</i></p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought on the basis that they believe the Plan provisions do give effect to Council's statutory obligations to consult and involve Māori in resource management. The Hearing Panel notes that active participation in resource management is not necessarily the same thing as decision-making. Clauses (a) to (k) provide a suite of mechanisms for providing and enhancing tangata whenua involvement in RMA processes. Some of them such as (g) [Māori representation on Council committees] have a decision making component. However,</p> |

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| | | <i>management process, <u>including decision-making</u>, where decisions are being made on issues of significance to tangata whenua by:</i> | most relate to mechanisms for enabling or promoting tangata whenua involvement and input into different planning, consenting and implementation processes. Ultimately, Council is responsible under the RMA for local decisions relating to its section 30 RMA functions. |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 58 – Te Atiawa | 408 | Amend Submitter seeks amendment to Policy 16(a) of the Plan to read: <i>(a) taking into account any relevant iwi planning documents <u>and consider providing practical assistance to iwi or hapū who have indicated a wish to develop iwi/hapū resource management plans. [...]</u></i> | Decline The Hearing Panel recommends declining the relief sought. It is suggested that the submitter's request is a method rather than a policy. The Hearing Panel notes that the requested amendment is already covered in Implementation Methods 24, 25, 26 and 28 of the Plan and it is not necessary to repeat these provisions within the Policies section. |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| 58 – Te Atiawa | 409 | Amend Submitter seeks amendment to Policy 16 of the Plan by adding a new Clause (k) and (l) to read: <i>(k) <u>provide for review conditions on coastal permits where necessary to address unforeseen adverse effects on sites of significance to Māori as in Schedule 5 which may arise from the exercise of the consent;</u></i> <i>(l) <u>provide for opportunities for tangata whenua to exercise kaitiakitanga over waters and fisheries in the coastal environment through such measures as:</u></i> <i>(i) <u>bringing cultural understanding to monitoring of natural resources; and</u></i> <i>(ii) <u>providing appropriate methods for the management, maintenance and protection of the taonga and tangata whenua; and</u></i> <i>(iii) <u>having regards to regulations, rules or bylaws relating to ensuring sustainability of fishing resources such as taiapure, mahinga mataitai or other non-commercial Māori customary fishing.</u></i> | Accept in part The submitter wishes to broaden Policy 16 to address unforeseen adverse effects on sights of significance to Māori with the inclusion of a new clause (k) and provide for the role of tangata whenua as kaitiaki with the inclusion of a new clause (l). The Hearing Panel notes that many of the requests are already provided for in other, more appropriate, areas of the Plan so do not require repeating within this Policy. For example, protection of sites of significance to Māori, is already fully addressed within Policy 15 [Historic heritage]. Other suggested amendments are actually methods. Rather than restating matters covered in other policies or restating methods as policies, the Hearing Panel recommends alternative reliefs to better recognise and provide for tangata whenua values. The reliefs include the inclusion of a new Policy 14B (and associated Schedule) that includes avoiding, remedying or mitigating adverse effects on taonga species habitat, mahinga kai, tāiapure or mataitai and the inclusion of a new Clause, reframed to align with relief sought by other submitters, to read: <i>(k) <u>considering consent conditions that incorporate the use of mātauranga Māori based methods or cultural indicators that recognise and express Māori values to monitor the effects of the activity on the mouri of the natural and physical resources of the coastal environment.</u></i> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose (Clause (k)) | |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |

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| 60 - Te Kaahui o Rauru | 410 | Amend | Grant in kind |
| | | Submitter seeks amendment to Policy 16(g) of the Plan to include the right of local iwi/hapū to choose said person of expertise, as long as there has been no illustrated conflict of interest. | Policy 16 (g) allows a person of tikanga Māori expertise the ability to be heard in any hearing committee if a resource consent application raises significant issues for tangata whenua. The Hearing Panel considers that consultation with iwi authorities when providing for the appointment of the person of expertise is necessary and appropriate and recommends Policy 16(g) be amended to read: <i>(g) providing for the appointment of a person(s) with recognised expertise in tikanga Māori to any hearing committee where a resource consent application raises significant issues for tangata whenua. <u>in consultation with the relevant iwi authority;</u></i> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| 60 - Te Kaahui o Rauru | 411 | Amend | Grant in kind |
| | | Submitter seeks amendment to Policy 16(h) of the Plan to read: <i>(h) recognising <u>and providing for</u> the importance of matauranga maaori, customary, traditional and intergenerational knowledge [...]</i> | The Hearing Panel recommends an alternative relief to that sought by the submitter but which better recognises and provides for mātauranga Māori. The Hearing Panel recommends, in response to this and other submitter requests, the inclusion of a new clause that further strengthens consideration of mātauranga Māori that reads: <i><u>(k) considering consent conditions that incorporate the use of mātauranga Māori based methods or cultural indicators that recognise and express Māori values to monitor the effects of the activity on the mouri of the natural and physical resources of the coastal environment.</u></i> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 412 | Amend | Accept in part |
| | | Submitter seeks amendment to Policy 16 of the Plan to clearly articulate tangata whenua participation and to list existing formal relationships between tangata whenua and councils (include reference to any agreement document). Besides Mana Whakahono a Rohe/Iwi Participation Arrangements, this includes (but not limited to) Transfer of Powers under Section 33 of the RMA, Memoranda of Understanding, co-management agreements, specific consultation processes with tangata whenua, and details of agreement as determined in consultation with tangata whenua. The recommended amendments to Policy 16 read as follows: <i>Recognise and provide for the relationship of tangata whenua culture, values and traditions with the coastal environment and take into account the principles of the Treaty of Waitangi, and kaitiakitanga. The Taranaki Regional Council will <u>provide</u></i> | The Hearing Panel notes consequential changes to Policy 16 that accept in part the relief sought by submitter. Hearing Panel do not believe it is appropriate or necessary to list formal agreements and consultative processes with iwi in a Policy. Such matters are operational detail rather than policy considerations and are already recognised and provided for in the Plan methods of Implementation. For example, Method 11 already refers to the consideration of section 33 transfer of powers, Method 30 refers to memoranda of understandings, and Method 31 refers to tangata whenua representation on Council's standing committees. The methods are deliberately high level. Specifying or listing particular agreements would inevitably lead to details in the Plan becoming out dated as new or amended agreements are reached and recognising iwi interest in |

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| | | <p>opportunities ensure the active participation of <i>for tangata whenua to actively participate</i> in the resource management process where decisions are being made on issues of significance to tangata whenua by:</p> <p>[...]</p> <p>(c) implementing the relevant legal requirements of Treaty settlements, including representation on Council committees; and <i>have regard to taking into account</i> other aspects of Treaty settlements including, statements of association, protection principles and statutory acknowledgements;</p> <p>(d) <i>responding to requests for Mana Whakahono a Rohe to enhance the opportunities for collaboration with iwi provide for Mana Whakahono a Rohe. Transfer of Powers under section 33 of the RMA, Memoranda of Understanding, co-management agreements, specific consultation processes including details of agreement as determined in consultation with tangata whenua to enhance the opportunities for collaboration with iwi;</i></p> <p>[...]</p> <p>(i) requiring that resource consent applications, <i>notice of requirements</i> or plan change applications provide cultural impact assessments and/or archaeological assessments where <i>deemed</i> appropriate <i>by mana whenua or heritage authorities;</i></p> <p>(j) <i>recognise the matters/values identified and proposed for protection by mana whenua in the cultural impact assessment; [...]</i></p> | <p>developing and reaching agreement on Mana a Whakahono a Rohe provisions of the RMA.</p> <p>Notwithstanding the above, amendments are proposed in Policy 16 to accommodate some of the amendments sought by this and other submitters. The changes proposed will strengthen mechanisms for recognising and providing for tangata whenua involvement in RMA processes under the Plan.</p> <p>The revised Policy would read as follows:</p> <p><i>Recognise and provide for the relationship of tangata whenua culture, values and traditions with the coastal environment, including the role of tangata whenua as kaitiaki, and take into account the principles of the Treaty of Waitangi.</i></p> <p><i>The Taranaki Regional Council will provide opportunities for working in partnership with tangata whenua to actively participate in the resource management process where decisions are being made on issues of significance to tangata whenua by:</i></p> <p>(a) taking into account any relevant iwi planning document, <i>including but not limited to environmental plans, management plans, kaitiaki plans and marine spatial plans recognised by an iwi authority;</i></p> <p>(b) taking into account any relevant memorandum of understanding <i>or kaitiaki agreement with</i> the iwi authorities;</p> <p>(c) implementing the relevant legal requirements of Treaty settlements, including representation on Council committees; and taking into account other aspects of Treaty settlements including, statements of association, protection principles and statutory acknowledgements;</p> <p>(d) <i>give effect to</i> Mana Whakahono a Rohe <i>that provide agreements about how iwi may contribute to resource management processes;</i></p> <p>(e) providing for tikanga Māori and interpretation services for the use of Māori language in presenting evidence;</p> <p>(f) providing for marae-based pre-hearing meetings and hearings where appropriate;</p> <p>(g) providing for the appointment of a person(s) with recognised expertise in tikanga Māori to any hearing committee where a resource consent application raises significant issues for tangata whenua, <i>in consultation with the relevant iwi authorities;</i></p> <p>(h) recognising the importance of mātauranga Māori, customary, traditional and intergenerational knowledge;</p> <p>(i) requiring that resource consent applications or plan change applications <i>assess</i> cultural <i>and/or historic heritage</i> impacts <i>assessments</i> where <i>relevant;</i></p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |

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| | | | <p>(j) <u>taking into account any views of tangata whenua on any relevant proposed consent conditions, compliance monitoring plans and/or enforcement procedures; and</u></p> <p>(k) <u>considering consent conditions that incorporate the use of mātauranga Māori based methods or cultural indicators that recognise and express Māori values to monitor the effects of the activity on the mauri of the natural and physical resources of the coastal environment.</u></p> |
| NEW Policy 16A – Relationship of tangata whenua | | | |
| 28 – Grant Knuckey | 413 | <p>Amend</p> <p>Submitter seeks amendment to the Plan to include policies for the Taranaki Regional Council to partner with mana whenua to maintain and enhance coastal values in the coastal marine area, including the establishment of ecological bottom lines or agreed targets for maintaining the natural character, biodiversity and cultural resources of the coastal marine area and whenua.</p> | <p>Accept in part</p> <p>No precise details of amendments sought to the Plan have been provided but the submitter is seeking the inclusion of additional policies.</p> <p>The Hearing Panel notes that, in response to a number of submitters, consequential amendments have been made to Policy 16 that may partially give effect to the relief sought by the submitter.</p> <p>The submitter also refers to the setting of ecological bottom lines or agreed targets for maintaining the natural character, biodiversity and cultural resources of the coastal marine area and whenua. Hearing Panel note that all General Policies (and relevant Activity-specific Policies must be read together). These policies already address values associated with natural character, indigenous biodiversity, and historic heritage, which includes sites of significance to Māori. In response to submissions, the Hearing Panel further recommends amending the Plan to include a new Policy 14A and B that addresses the protection of biodiversity generally plus taonga species.</p> |
| Policy 17 – Public access | | | |
| 2 – Federated Farmers | 414 | <p>Amend</p> <p>Submitter seeks that Policy 17 of the Plan be amended to read:</p> <p><i>Maintain and <u>as far as practical</u> enhance <u>where a demand exists</u>, public access to, along and adjacent to the coastal environment <u>marine area, while minimising conflict with other land users</u> by:</i></p> <p>(a) avoiding, remedying or mitigating any adverse effects of activities on public access;</p> | <p>Accept in part</p> <p>The Hearing Panel recommends granting the relief sought by the submitter, in part. In particular, the Hearing Panel agrees that Policy 17 be amended to align with Policy 19(2) of the <i>New Zealand Coastal Policy Statement</i> which refers to the “coastal marine area” (rather than coastal environment). The amendments do not change the policy intent of the Policy as it still quite clearly applies to the landward parts of the coastal environment adjacent to the coastal marine area.</p> |

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| | | <p><i>(b) promoting the enhancement or restoration of public access including for the connection of areas of public open space, access to mahinga kai, access to sites of historical and/or cultural importance, improving outdoor recreation opportunities, access to surf breaks and providing access for people with disabilities; and</i></p> <p><i>(c) only imposing a restriction on public access, including vehicles, where such a restriction is necessary to:</i></p> <p><i>(i) protect significant natural or historic heritage values;</i></p> <p><i>(ii) protect dunes, estuaries and other sensitive natural areas or habitats;</i></p> <p><i>(iii) protect sites and activities of cultural value to Māori;</i></p> <p><i>(iv) protect threatened or at risk indigenous species and rare and uncommon ecosystem types as identified in Schedule 4A;</i></p> <p><i>(v) protect public health or safety, including where the safety of other coastal or beach users is threatened by inappropriate use of vehicles on beaches and vessels offshore;</i></p> <p><i>(vi) provide for defence purposes in accordance with the Defence Act 1990 or port or airport purposes;</i></p> <p><i>(vii) avoid or reduce conflict between public uses of the coastal marine area and its margins;</i></p> <p><i>(viii) provide for temporary activities or special events;</i></p> <p><i>(ix) ensure a level of security consistent with the activity, including protection of equipment; ✕</i></p> <p><i><u>(x) to maintain a level of security for lawfully established activities, users and management of areas within or adjacent to the coastal marine areas;</u></i></p> <p><i><u>(xi) where the coastal marine area is in private ownership; or</u></i></p> <p><i>(xii) provide for other exceptional circumstances where restriction to public access is justifiable;</i></p> <p><i>and alternative access routes for the public have been considered and provided where practicable.</i></p> <p><i><u>Public access over private land remains at the discretion of the landowner.</u></i></p> | <p>However, the submitter has also sought other changes to address their concerns on conflict between coastal public access and private ownership. Some of these changes were considered unnecessary in that public access over private land is subject to other legislation, are already adequately addressed within the Policy, and/or are not decision making considerations.</p> <p>Recommended changes to the Policy in response to this submission (and other submitters) are as follows:</p> <p><i>Maintain and enhance public access to, along and adjacent to the coastal <u>marine area</u> by: [...]</i></p> <p><i>(b) promoting the enhancement or restoration of public access, <u>where demand exists</u>, including for the connection of areas of public open soace, improving outdoor recreation opportunities, access to surf breaks and providing access for people with disabilities; and</i></p> <p><i>(c) imposing a restriction on public access, including vehicles, where such a restriction is necessary to: [...]</i></p> <p><i>(ix) ensure a level of security <u>for lawfully established activities</u> consistent with the activity, including protection of equipment; [...]</i></p> |

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| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| Further submissions – Taranaki Energy Watch (51) | | Oppose in part | |
| 5 – Point Board Riders | 415 | Support | Accept |
| | | Submitter supports policy promoting the enhancement or restoration of public access in the circumstances listed in Policy 17(b) of the Plan. | Support noted. Policy 17(b) is retained subject to minor amendments as requested by other submitter that does not change the policy intent. |
| 6 – Trans-Tasman Resources Ltd | 416 | Support | Accept |
| | | Submitter supports recognition in Policy 17(c)(vii) and (ix) of the Plan that in some circumstances there may be a need to restrict access to parts of the coastal environment. | Support noted. Policy 17(c)(viii) and (ix) is retained subject to minor amendment as requested by another submitter that does not change the policy intent. |
| 15 – Surfbreak Protection Society | 417 | Support | Accept |
| | | Submitter supports policy promoting the enhancement or restoration of public access in the circumstances listed in Policy 17(b) of the Plan. | Support noted. Policy 17(b) is retained subject to minor amendments as requested by other submitter that does not change the policy intent. |
| 20 – Meridian Energy Ltd | 418 | Amend | Accept |
| | | Submitter seeks amendment to Policy 17 of the Plan to read: <i>Maintain and enhance public access to, along and adjacent to the coastal environment marine area by: [...]</i> | The Hearing Panel recommend granting the relief sought by the submitter. |
| 20 – Meridian Energy Ltd | 419 | Amend | Decline |
| | | Submitter seeks amendment to Policy 17(c)(vii) of the Plan to clarify what sort of conflict it seeks to avoid or reduce between public uses of the coastal marine area and its margins. It is their view that the intention of the clause has not been clarified sufficiently. | No precise details of amendments sought to the Policy 17(c)(vii) to address the submitter's concerns have been provided. However, the Hearing Panel notes that the Oxford Dictionary defines "conflict" as a serious disagreement or argument, typically a protracted one. What constitutes a conflict is likely to be determined on a case-by-case basis and depends upon a wider context. The Hearing Panel therefore does not believe it is necessary to specify or list what constitutes conflict in the Policy and indeed there would be risks in doing so. Any referencing of specific conflicts is unlikely to cover all situations and circumstances. Potentially some conflicts could be unnecessarily identified and others not listed. Of |

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| | | | note, the language is consistent with Policy 19(3)(f) of the <i>New Zealand Coastal Policy Statement</i> . |
| 22 – Lyndon DeVantier | 420 | Amend | Decline |
| | | Submitter support aspirations in Policy 17 of the Plan but opposed to Policy 17(c)(viii) providing for restrictions on public access necessary to provide for temporary activities or special events. | Of note, the language in Policy 17(c)(viii) of the Plan is consistent with Policy 19(3)(f) of the <i>New Zealand Coastal Policy Statement</i> , which the Council must give effect to. |
| 33 - New Zealand Defence Force | 421 | Support | Accept |
| | | Retain Policy 17 of the Plan as notified, particularly clause (c)(vi). | Support noted. Policy 17(c)(vi) is retained as currently notified. |
| 35 – Radio New Zealand Ltd | 422 | Support | Accept |
| | | Retain Policy 17 of the Plan as notified. | Support noted. Policy 17 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 40 – Te Rūnanga o Ngāti Mutunga | 423 | Amend | Accept |
| | | Submitter does not support the promotion of public access to all of the iwi's sites of significance as detailed in Schedule 5B and requests to amend Policy 17(b) of the Plan to read: <i>Maintain and enhance public access to, along and adjacent to the coastal environment-by:</i> [...] <i>(b) promoting the enhancement or restoration of public access including for the connection of public open space, access to mahinga kai, access to sites of historical and/or cultural importance improving outdoor recreation [...]</i> | The Hearing Panel agrees that it may be inappropriate and unnecessary to promote public access to sites of significance to Māori and recommends granting the relief sought by the submitter (i.e. by deleting reference to access to mahinga kai, and sites of historical and/or cultural importance in Policy 17(b)). |
| 41 – Te Korowai o Ngāruahine Trust | 424 | Amend | Accept |
| | | Submitter notes concerns regarding public access to sites of significance to Māori and seeks amendment to Policy 17 of the Plan so as to not enhance public access to the coastal environment where that activity comprises the sites of significance (Schedule 5A and B) and where that access would adversely affect indigenous biodiversity, wāhi tapu and wāhi taonga. | The Hearing Panel agrees and recommends amending Policy 17(b) to remove reference to mahinga kai and sites of historical and/or cultural importance. In line with relief requested by this and other submitters, Policy 17(b) would read as follows: <i>(b) promoting the enhancement or restoration of public access including for the connection of public open space, improving outdoor recreation [...]</i> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58), | | Support | The other concerns addressed by the submitter are already recognised and provided for in Policy 18(c), which identifies instances for which public access may be restricted. Clause (c)(i) identifies significant natural or historic heritage values, (iii) |

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| Te Rūnanga o Ngāti Ruanui Trust (61) | | | identifies sites and activities of cultural value to Māori, and (iv) identifies indigenous species and eco system types identified in Schedule 4A. |
| 42 – Ngati Rahiri Hapū | 425 | Amend Submitter notes concerns regarding public access to sites of significance to Māori and seeks amendment to Policy 17(b) of the Plan to protect cultural sites from public access. | Accept The Hearing Panel agrees and recommends amending Policy 17(b) to remove reference to mahinga kai and sites of historical and/or cultural importance. In line with relief requested by this and other submitters, Policy 17(b) would read as follows: <i>(b) promoting the enhancement or restoration of public access including for the connection of public open space improving outdoor recreation [...]</i> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 45 – Powerco | 426 | Support Retain Policy 17 of the Plan as notified. | Accept Support noted. Policy 17 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 427 | Support Retain Policy 17 of the Plan as notified. | Accept Support noted. Policy 17 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 47 – Fonterra | 428 | Support Retain Policy 17 of the Plan as notified. | Accept Support noted. Policy 17 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 48 – Taranaki District Health Board | 429 | Support Retain Policy 17 of the Plan as notified. | Accept Support noted. Policy 17 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 52 – Emily Bailey | 430 | Amend Submitter seeks amendment to Policy 17(c) of the Plan to restrict public access to cultural sites and privately owned land. | Accept The Hearing Panel agrees with the submitter that restrictions on public access may be inappropriate in relation to cultural sites and privately owned land. However, it is the view of Hearing Panel that these concerns are already recognised and provided for in the Policy. In particular, Policy 17(c)(iii) addresses restrictions to protect sites and activities of cultural value to Māori. However, to address the submitter's concerns, the Hearing Panel recommends amending Policy 17(b) to remove |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |

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| | | | <p>reference to promoting access to mahinga kai sites and sites of historical and/or cultural importance.</p> <p>Issues associated with public access on privately owned land are more appropriately addressed under other legislation and other plans and do not fall within the jurisdiction of this Council. Notwithstanding that, the issue of public access conflicting with private interests is implicitly covered by Clause (c)(ix) which is recommended to be amended to read:</p> <p><i>(ix) ensure a level of security <u>for lawfully established activities</u> consistent with the activity, including protection of equipment;</i></p> |
| 58 – Te Atiawa | 431 | <p>Support</p> <p>Submitter notes concerns regarding public access to sites of significance to Māori and seeks to amend Policy 17(b) of the Plan to read:</p> <p><i>Maintain and enhance public access to, along and adjacent to the coastal environment by:</i></p> <p><i>[...]</i></p> <p><i>Promoting the enhancement or restoration of public access including for the connection of areas of public open space, <u>access to mahinga kai, access to sites of historical and/or cultural importance</u>, improving outdoor recreation [...]</i></p> | <p>Accept</p> <p>The Hearing Panel agrees with the submitter that promoting public access to sites of significance may not be appropriate. Accordingly, it is recommended that Policy 17(b) be amended to delete reference to mahinga kai and sites of historical and/or cultural importance. In line with relief requested by this and other submitters, Policy 17(b) would read as follows:</p> <p><i>(b) promoting the enhancement or restoration of public access, <u>where a demand exists</u>, including for the connection of public open space, improving outdoor recreation [...]</i></p> |
| 59 – KiwiRail | 432 | <p>Support</p> <p>Retain Policy 17 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 17 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |
| Policy 18 – Amenity values | | | |
| 5 – Point Board Riders Ltd | 433 | <p>Support</p> <p>Submitter supports Policy 18 of the Plan maintaining and enhancing significant amenity values associated with surf breaks identified in Schedule 7.</p> | <p>Accept</p> <p>The Hearing Panel notes the submitter's support for Policy 18(b).</p> |
| 15 – Surfbreak Protection Society | 434 | <p>Amend</p> <p>Submitter supports in part Policy 18 of the Plan but seeks amendments to Policy 18(c) noting that the Policy only seeks to maintain and enhance significant amenity values associated with those surf breaks identified in Schedule 7. The submitter believes that the current provisions are not consistent with section 5 of</p> | <p>Decline</p> <p>The Hearing Panel notes that Schedule 7 identifies 140 surf breaks of national, regional and local significance. Identification and classification of these surf breaks was a comprehensive and collaborative exercise involving community and expert advice to identify surf breaks across Taranaki. That exercise identified 140 surf</p> |

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| | | the RMA. The submitter wishes to see the protections within Policy 18(c) expanded to also include local surf breaks not listed in Schedule 7. | breaks with attributes and characteristics triggering our significance criterion. The Council is unaware of any surf breaks that are not identified within Schedule 7 and would welcome any additional information that the submitter can offer. The submitter believes that the current protections provided for are not consistent with section 5 of the RMA but has not indicated how or why this view is held. The Hearing Panel has a contrary view and believe that the Council is to the forefront in surf break protection in New Zealand under the RMA. |
| 20 – Meridian Energy | 435 | Amend Submitter wishes to see the reference to historic heritage deleted from Policy 18. The submitter notes that historic sites do not necessarily have any amenity values and that appropriate historic heritage matters are already covered in Policy 15 [Historic heritage]. Submitter seeks amendment to Policy 18 of the Plan to delete reference to historic heritage: <i>Maintain and enhance significant amenity values by avoiding, remedying or mitigating adverse effects on: [...]</i> (d) historic heritage sites including those identified in Schedule 5. | Decline The Hearing Panel recommends declining the relief sought by the submitter seeking that reference to historic heritage in Policy 18(d) be deleted. Officer acknowledge the point made by the submitter, however, the inclusion of the term "historic heritage" was intentional noting that historic heritage is commonly associated with high amenity values. For example, the RMA definition of "historic heritage" includes sites of significance to Māori. As identified in Schedule 5 there are a number of historic sites and places that clearly overlap with amenity values. They include mahinga kai, mataitai, hi ika sites not counting wild or scenic values that may also be associated with these sites and places. The Hearing Panel notes that many submitters have requested expanding Policy 18(d) in order to better recognise and provide for historic heritage sites that also have amenity values. |
| Further submissions – Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 22 – Lyndon DeVantier | 436 | Support Submitter supports aspirations in Policy 18 of the Plan to maintain and enhance significant amenity values. | Accept Support noted. Policy 18 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 29 – Department of Conservation | 437 | Amend Submitter seeks amendment to Policy 18 of the Plan by including a new provision to read: <i>(e) other areas of the coastal environment with significant amenity values not identified in the Schedules referred to in (a), (b), (c) and (d). [...]</i> | Accept The submitter wishes to broaden the coverage of Policy 18 to include other areas with significant amenity values not identified in the Schedules. The Hearing Panel recommends granting the relief sought by the submitter to include a new clause (e). The Hearing Panel notes that the suggested amendment is in accordance with Policies 6 [Activities in the coastal environment], 13 [Preservation of natural character] and 18 [Public open spaces] of the <i>New Zealand Coastal Policy Statement</i> . |
| Further submissions – Federated Farmers (2), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

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| 41 – Te Korowai o Ngāruahine Trust | 438 | Amend | Accept in part |
| | | Submitter seeks amendment to Policy 18 of the Plan by: <ul style="list-style-type: none"> including references to Schedule 5A and B [Historic Heritage] rather than Schedule 5 including references to Schedule 4A [Significant species and ecosystems]. | The Hearing Panel recommends granting the relief sought by the submitter. Amenity values, as defined by the RMA, refers to any natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes. Clearly indigenous biodiversity and cultural and historic heritage values may contribute to amenity values. The Hearing Panel therefore recommends amending Policy 18(d) to broaden its focus to require consideration of amenity attributes and values associated with sites scheduled in the Plan as significant for their indigenous biodiversity, taonga species and historic heritage. The revised Policy would read as follows: <i>Maintain and enhance significant amenity values by avoiding, remedying or mitigating adverse effects on those qualities and characteristics that contribute to amenity values in: [...]</i> <i>(d) coastal sites with significant indigenous biodiversity identified in Schedule 4, taonga species identified in Schedule 4C, or historic heritage identified in Schedule 5A and B and Appendix 2 [...]</i> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 439 | Amend | Accept |
| | | Submitter supports Policy 18 of the Plan but requests that it be amended to recognise amenity values associated with protecting indigenous biodiversity. | The Hearing Panel agrees with the requested amendment to protect indigenous biodiversity. The revised Policy would read as follows: <i>Maintain and enhance significant amenity values by avoiding, remedying or mitigating adverse effects on those qualities and characteristics that contribute to amenity values in: [...]</i> <i>(d) coastal sites with significant indigenous biodiversity identified in Schedule 4, taonga species identified in Schedule 4, or historic heritage identified in Schedule 5A and B and Appendix 2 [...]</i> |
| Further submissions – Meridian Energy Ltd (20) | | Oppose | |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| 45 – Powerco | 440 | Support | Accept |
| | | Retain Policy 18 of the Plan as notified. | Support noted. Policy 18 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| | 441 | Support | Accept |

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| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | | Retain Policy 18 of the Plan as notified. | Support noted. Policy is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 47 – Fonterra | 442 | Support | Accept |
| | | Retain Policy 18 of the Plan as notified. | Support noted. Policy 18 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 58 – Te Atiawa | 443 | Amend | Accept |
| | | Submitter seeks amendment to Policy 18 to refer specifically to Schedule 5A and 5B [Historic Heritage] rather than Schedule 5 and to include Schedule 4A [Significant species and ecosystems]. | The Hearing Panel agrees with the requested amendments to include Schedule 4A and to refer to Schedule 5 as Schedule 5A and B. The revised Policy would read as follows: <i>Recognise and provide for the maintenance and enhancement of significant amenity values by avoiding, remedying or mitigating adverse effects on on those qualities and characteristics that contribute to amenity values in: [...]</i> <i>(d) coastal sites with significant indigenous biodiversity identified in Schedule 4, taonga species identified in Schedule 4C, or historic heritage identified in Schedule 5A and B and Appendix 2 [...]</i> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 444 | Amend | Accept |
| | | Submitter seeks amendment to Policy 18 to read: <i>Maintain and enhance significant amenity values by avoiding, remedying or mitigating adverse effects on:</i> <i>(a) coastal areas of outstanding value identified in Schedules 1 and 2;</i> <i>[...]</i> <i>(d) cultural and historic heritage sites including those habitats with taonga species identified in Schedule 4C and sites identified in Schedule 5 and Appendix 2.</i> | The submitter proposes amendments to Policy 18(a) and (d). The Hearing Panel notes that many other submitters have requested similar amendments and recommend granting the requested relief. The revised Policy would read as follows: <i>Recognise and provide for the maintenance and enhancement of significant amenity values by avoiding, remedying or mitigating adverse effects on those qualities and characteristics that contribute to amenity values in:</i> <i>(a) coastal areas of outstanding value identified in Schedules 1 and 2; [...]</i> <i>(d) coastal sites with significant indigenous biodiversity identified in Schedule 4, taonga species identified in Schedule 4C, or historic heritage identified in Schedule 5A and B and Appendix 2 [...]</i> |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |

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| Policy 19 – Surf breaks and Significant Surfing Area | | | |
| 2 – Federated Farmers | 445 | <p>Amend</p> <p>Submitter seeks amendment to the Plan and associated planning maps to move the inland boundary of the Significant Surfing Area seaward to the mean high water springs or similar, to avoid potential (and probably unintended) restrictions on normal farming activities.</p> | <p>Accept</p> <p>The inland extent of the Significant Surfing Area was initially influenced by the Southern Taranaki District Council's coastal protection area with the intention of maintaining the seascape. However, the policy is primarily for the protection of surf breaks not landscape values and, therefore, after considering the implications this may have on privately owned land, the Hearing Panel recommends moving the inland extent of the Significant Surfing Area to the coastal marine area as requested.</p> |
| 2 – Federated Farmers | 446 | <p>Amend</p> <p>Submitter seeks amendment to Policy 19(b) and (d) to read:</p> <p><i>Protect surf breaks and their use and enjoyment from the adverse effects of other activities in the coastal environment Coastal Marine Area by:</i></p> <p><i>(a) avoiding adverse effects on:</i></p> <p><i>(i) all nationally significant surf breaks as identified in Schedule 7; and</i></p> <p><i>(ii) all surf breaks within the designated Significant Surfing Area as identified in Schedule 7;</i></p> <p><i>(b) avoiding adverse effects on all regionally significant surf breaks, identified in Schedule 7, that are outside of the Significant Surfing Area unless the activity is necessary for the provision of regionally important infrastructure or farming activities, avoidance of effects is not possible and adverse effects are remedied or mitigated;</i></p> <p><i>(c) avoiding, remedying or mitigating adverse effects on all locally significant surf breaks listed in Schedule 7;</i></p> <p><i>(d) within the Significant Surfing Area, avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects on seascape, including development within the Coastal Marine Area which would have an adverse effect on the remote feel of the area; and</i></p> <p><i>(e) in managing adverse effects in accordance with clauses (a), (b) and (c), having regard to:</i></p> <p><i>(i) effects on the quality or consistency of the surf break by considering the extent to which the activity may: change or interrupt coastal sediment dynamics; change or interrupt swell within the swell corridor including through the reflection,</i></p> | <p>Accept in part</p> <p>The Hearing Panel notes that references to the “coastal environment” in Policy 19 (rather than “coastal marine area”) is intentional. It ensures that when managing adverse effects of use and development in the coastal marine area, there is wider consideration (through Policy 19) of effects on the wider coastal environment.</p> <p>Policy 19 and its application to the coastal environment promotes the integrated management of the wider area across environmental domains and local authority jurisdictional boundaries. This is consistent with Policy 4 of the <i>New Zealand Coastal Policy Statement</i> and contributes to meeting Objective 1 [Integrated management] of the Plan.</p> <p>Provisions for (b) is limited to regionally important infrastructure and the Hearing Panel does not recommend that it should extend to include farming activities. However, the Hearing Panel notes that the application of the Policy is through rules which pertain to activities in the coastal marine area. As such, land based farming activities are highly unlikely to create the types of effects outlined in (e).</p> <p>Clause (d) relates to development within the Significant Surfing Area. However, the Hearing Panel does not believe it is necessary or appropriate to refer to the coastal marine area and suggest that farming activities are not particularly affected by this Policy. Notwithstanding that, the Hearing Panel suggests some of the submitter's concerns may be partially addressed by granting relief sought by other submitters whereby the landward extent of the Significant Surfing Area is amended to be the mean high water springs.</p> <p>Within Clause (e)(ii), the Hearing Panel recommends granting the relief in part by removing reference to “access to”. Access to surf breaks is but one of many important consideration for managing adverse effects and it is suggested that this</p> |

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| | | <p><i>refraction or diffraction of wave energy; or change the morphology of the foreshore or seabed; and</i></p> <p><i>(ii) the effects on access to surf breaks and other qualities of surf breaks, including natural character, water quality and amenity values.</i></p> | <p>clause focus more broadly on other qualities of surf breaks. The revised Clause would read as follows:</p> <p><i>(ii) effects on other qualities and characteristics that contribute to use and enjoyment of surf breaks.</i></p> |
| Further submissions – Powerco (45) | | Support in part | |
| 5 – Point Board Riders | 447 | Support | Accept |
| | | Retain Policy 19 of the Plan as notified. | Support noted. Policy 19 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 15 – Surfbreak Protection Society | 448 | Amend | Accept in part |
| | | <p>The submitter supports, in part, Policy 19 but seeks amendments to address concerns that Policy 19(b) only requires, in relation to activities necessary for the provision of Regional Important Infrastructure, that adverse effects that cannot be avoided, to be remedied or mitigated.</p> <p>Also have concerns that Policy 19(c) only seeks to avoid, remedy or mitigate adverse effects on locally significant surf breaks identified in Schedule 7.</p> | <p>The Hearing Panel recommend granting the relief sought by the submitter in part.</p> <p>In relation to the submitter's concerns relating to Policy 19(b), and as a response to requests sought by other submitters (refer submission points 451 and 1355), the Hearing Panel recommends amending Policy 19(b) to delete reference that adverse effects associated with Regionally Important Infrastructure (that cannot be avoided) only need to be remedied or mitigated. These consequential changes related to the inclusion of a new policy addressing the national grid and the re-designation of the Breakwater surf break from regionally significant to locally significant in Schedule 7A and associated planning maps that makes the current wording of the clause redundant.</p> <p>The Hearing Panel also notes the submitter's concerns that Policy 19(c) only seeks to avoid, remedy or mitigate adverse effects on locally significant surf breaks identified in Schedule 7. However, this is considered appropriate and reflects the hierarchical protection inherent in the the Policy based upon the relative national, regional and local values of Taranaki surf breaks.</p> |
| 19 – South Taranaki District Council | 449 | Amend | Accept |
| | | <p>Submitter seeks amendment to Policy 19 to read:</p> <p><i>Protect surf breaks and their use and enjoyment from the adverse effects of other activities toby:</i></p> <p><i>(a) avoid, <u>remedy or mitigate</u> significant adverse effects on: [...]</i></p> <p>OR</p> | <p>The submitter notes that the Council is wishing to provide a higher level of protection for a higher number of surf breaks than required by the <i>New Zealand Coastal Policy Statement</i>, The submitter suggests that under Policy 19 it would be very difficult for any activity that gives rise to any adverse effects on amenity or natural character to</p> |

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| | | remove reference to "natural character" and "amenity values" from Policy 19(e)(ii). | find support because the Policy does not refer to an acceptable level of effects or provide for effects to be remedied or mitigated. |
| Further submissions – Powerco (45) | | Support in part | The Hearing Panel notes the concerns of the submitter and recommend granting the relief sought by the submitter by amending Policy 19(e)(ii) to delete reference to "natural character" and "amenity values". |
| 22 – Lyndon DeVantier | 450 | <p>Other</p> <p>Submitter supports aspirations in Policy 19 but raises concerns relating to impacts arising from the Significant Surfing Area, the engagement process, and the threats posed by surfing competitions and increased visitor numbers.</p> | <p>No relief necessary</p> <p>The submitter does not expressly request amendments to Policy 19 but does highlight a number of concerns, presumably in opposition to the concept of the Significant Surfing Area, that warrant a response.</p> <p>Concerns relating to the engagement process are noted. However, the Hearing Panel notes that the proposals to identify and provide a high level of protection to all surf breaks between Kahihi Road and Cape Road originated from a consultant's report entitled <i>Taranaki Surf breaks of National Significance</i>, with attributes of surf breaks in that area being later confirmed through an online community survey. The proposal was further consulted on through a Draft Proposal that was widely distributed to interested parties and then the Proposed Plan.</p> <p>Concerns raised by the submitter primarily relate to matters outside the jurisdiction of the Council. They include issues around conflict between organised events, overcrowding at surf breaks, tourism impacts on the environment, freedom camping, and the provision of infrastructure. The concerns are valid and though largely outside the regulatory framework of the Plan (whereby the rules apply to the coastal marine area only), it does highlight the importance of Plan methods and the need for this Council, district councils and other parties to work together to address the concerns.</p> |
| 26 – Transpower NZ Ltd | 451 | <p>Amend</p> <p>The submitter wishes to amend Policy 19 in order to bring the Policy into closer alignment with Policy 8 [Aquaculture] of the <i>New Zealand Coastal Policy Statement</i> by amending Policy 19(b) to read:</p> <p><i>Protect surf breaks and their use and enjoyment from the adverse effects of other activities by:</i></p> <p>[...]</p> <p><i>(b) avoiding adverse effects on all regionally significant surf breaks, identified in Schedule 7, that are outside of the Significant Surfing Area;</i></p> | <p>Grant in kind</p> <p>The submitter requests that the word "<i>possible</i>" has a very confined meaning and conveys only a technical requirement whereas there may be a variety of other reasons why adverse effects cannot be avoided. The suggested replacement "<i>practicable</i>" is in accordance with the Policy 8 <i>National Policy Statement for Electrical Transmission</i>. The submitter also requests to include "adverse" effects within the Policy to clarify that it is adverse effects which are the issue.</p> <p>The Hearing Panel notes that in response to other submitters it is recommended that the exclusion for regionally important infrastructure be deleted. Instead an alternative relief is recommended to address submitter's (and others) concerns that makes this provision now redundant and potentially confusing. The submitter is referred to</p> |

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| | | unless <i>following a route, site and method selection process</i> , the activity is necessary for the provision of regionally important infrastructure, avoidance of <i>adverse effects</i> is not <i>possible practicable</i> and adverse effects are remedied or mitigated <i>to the extent reasonably practicable</i> :[...] | submission point 325 where a new Policy 6A specifically recognises and provides for the National Grid in a similar, but more appropriate, manner and in a manner that is more aligned with the provisions of the <i>National Policy Statement for Electricity Transmission</i> . |
| 32 – Port Taranaki | 452 | <p>Amend</p> <p>Submitter seeks amendment to Policy 19(b) of the Plan to read:</p> <p><i>Protect surf breaks and their use and enjoyment from the adverse effects of other activities by:</i></p> <p>[...]</p> <p><i>(b) avoiding adverse effects on all regionally significant surf breaks, identified in Schedule 7, that are outside of the Significant Surfing Area;</i></p> <p><i>unless the activity is necessary for the provision of regionally important infrastructure, avoidance of effects is not possible, and adverse effects are remedied or mitigated; [...]</i></p> | <p>Grant in kind</p> <p>The submitter is concerned that Policy 19(b) and the exemption for regionally important infrastructure is unclear. In particular, the submitter is concerned that the provision that avoidance of effects is not possible is ambiguous and potentially sets unrealistic expectations.</p> <p>The Hearing Panel notes that most of the concern relating to this provision relates around the relative significance of the Breakwater surf break, its 'regional' status, and the potential for the Policy to impact on the Port's operational requirements in the future. However, the Hearing Panel considers that an alternative relief involving amendments to Schedule 7 [Surfbreaks] under submission point 1355 will address these concerns and recommends that the exemption for regionally important infrastructure be deleted.</p> |
| 41 – Te Korowai o Ngāruahine Trust | 453 | <p>Amend</p> <p>Submitter seeks amendment to Policy 19 of the Plan to ensure the protection of the surf breaks is not incompatible with the traditional cultural sites of significance, including those set out in Schedule 5B.</p> | <p>Accept in part</p> <p>The Hearing Panel notes that all General Policies (and relevant Activity-specific Policies) must be considered together. Accordingly, all activities, not just those associated with protection of surfing values, need to consider adverse effects on traditional cultural sites of significance, including those set out in Schedule 5B. The submitter has highlighted an issue in this part of the Policy whereby some associative values have been identified (and not others) thereby potentially derogating from the aforementioned approach. It is not considered necessary to paraphrase other Policies and indeed there are risks in doing so.</p> <p>The Hearing Panel recommends an alternative relief whereby Policy 19(e) is reframed to focus only on surfing attributes and adverse effects on other values be addressed in their relevant policies elsewhere (e.g. under the relevant natural character, historic heritage or public access policies).</p> <p>The amended Policy 19(e) would read as follows:</p> <p><i>Protect surf breaks and their use and enjoyment from the adverse effects of other activities by:</i></p> <p>[...]</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Support | |

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| | | | <p>(e) in managing adverse effects in accordance with clauses (a), (b) and (c), having regard to:</p> <p>(i) effects on the quality or consistency of the surf break by considering the extent to which the activity may: change or interrupt coastal sediment dynamics; change or interrupt swell within the swell corridor including through the reflection, refraction or diffraction of wave energy; or change the morphology of the foreshore or seabed; and</p> <p>(ii) effects on other qualities and characteristics that contribute to use and enjoyment of surf breaks.</p> |
| 43 – Royal Forest and Bird Protection Society | 454 | <p>Support</p> <p>Retain Policy 19 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 19 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |
| 45 – Powerco | 455 | <p>Support</p> <p>Retain Policy 19 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 19 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |
| 49 – Cam Twigley | 456 | <p>Amend</p> <p>Submitter seeks amendment to Policy 19(d) of the Plan to read:</p> <p><i>Protect surf breaks and their use and enjoyment from the adverse effects of other activities by: [...]</i></p> <p><i>(d) within the Significant Surfing Area, avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects on seascape, including development which would have an adverse effect on the remote feel of the area; and in managing adverse effects in accordance with clauses (a), (b) and (c), having regard to: [...]</i></p> | <p>Grant in kind</p> <p>The submitter believes that Policy 19(d) is in conflict with Policy 19(a)(ii) in relation to the levels of protection provided for. In Policy 19(a) there is a requirement to avoid adverse effects of all surf breaks within the designated Significant Surfing Area while in Policy 19(d) there is only need to avoid significant adverse effects.</p> <p>The Hearing Panel agrees that there are conflicts between the differing levels of protection for the Significant Surfing Area provided in Clauses (a) and (d) of Policy 19, which require resolving.</p> <p>Clause (d) refers to seascapes. The Hearing Panel recommends an alternative relief to that proposed by the submitter by deleting Clause (d).</p> <p>Seascapes are more appropriately provided for under Policy 8(b) [Areas of outstanding value] and/or Policy 9 [Natural character]. In response to reliefs sought by other submitters to the planning maps, the Hearing Panel has recommended confining the extent of the significant surfing zone to the coastal marine area line and removing the inland component of the coastal environment. This amendment makes Clause (d) redundant as seascapes are no longer captured within the designated area.</p> |

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| 58 – Te Atiawa | 457 | Amend | Accept |
| | | Submitter seeks amendment to Policy 19 of the Plan to ensure that the protection of the surf breaks is not incompatible with the traditional cultural uses expressed by Māori in Schedules 5B. | <p>The Hearing Panel notes that all General Policies (and relevant Activity-specific Policies) must be considered together. Accordingly, all activities, not just those associated with protection of surfing values, need to consider adverse effects on traditional cultural sites of significance, including those set out in Schedule 5B. The submitter has highlighted an issue in this part of the Policy whereby some associative values have been identified (and not others) thereby derogates from the aforementioned approach. It is not considered necessary to paraphrase other policies and indeed there are risks in doing so.</p> <p>The Hearing Panel therefore recommends an alternative relief whereby Policy 19(e) is reframed to focus only on surfing attributes and adverse effects on other values be addressed in their relevant policies elsewhere (e.g. under the relevant natural character, historic heritage or public access policies).</p> <p>The amended Policy 19(e) would read as follows:</p> <p><i>Protect surf breaks and their use and enjoyment from the adverse effects of other activities by:</i></p> <p><i>[...]</i></p> <p><i>(e) in managing adverse effects in accordance with clauses (a), (b) and (c), having regard to:</i></p> <p><i>(i) effects on the quality or consistency of the surf break by considering the extent to which the activity may: change or interrupt coastal sediment dynamics; change or interrupt swell within the swell corridor including through the reflection, refraction or diffraction of wave energy; or change the morphology of the foreshore or seabed; and</i></p> <p><i>(ii) effects on other qualities and characteristics that contribute to use and enjoyment of surf breaks.</i></p> |
| Policy 20 – Avoidance of increasing coastal hazard or public safety risks | | | |
| 2 – Federated Farmers | 458 | Other | No relief necessary |
| | | Submitter seeks that provisions designed to protect against coastal hazards avoid unnecessarily capturing farm infrastructure. | The Hearing Panel recognises the concerns of the submitter but note that Policy 20 only addresses infrastructure that <u>increases</u> the risk from coastal hazards and is therefore more likely to protect farm infrastructure at risk from natural hazards such as coastal erosion. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 6 – Trans-Tasman Resources Ltd | 459 | <p>Amend</p> <p>Submitter seeks amendment Policy 20 of the Plan to read: <i>Avoid increasing the risk of social, environmental and economic harm from coastal hazards or posing a threat and avoid increased risks to public health and safety, or aircraft or navigation safety including by:[...]</i></p> | <p>Accept</p> <p>The submitter suggests that the use of the words “...posing a threat” in Policy 20 is too uncertain and instead the Policy should be amended to refer to avoiding increased risks to public health and safety and aircraft and navigation safety. The Hearing Panel agrees and recommends amending Policy 20 for the purposes of improved certainty and clarity to read: <i>Avoid increasing the risk of social, environmental and economic harm from coastal hazards <u>and avoid increased risks</u> to public health and safety, or aircraft or navigation safety including by: [...]</i></p> |
| Further submissions – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support in part | |
| Further submissions – Taranaki Energy Watch – Support) | | Support | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 460 | <p>Amend</p> <p>Submitter supports Policy 20 of the Plan subject to following amendments: <i>Avoid <u>unacceptable</u> increases<u>ing</u> in the risk of social, environmental and economic harm from coastal hazards or posing a threat to public health and safety, or aircraft or navigation safety including by:[...]</i></p> | <p>Decline</p> <p>To address another submitter's relief, amendments to Policy 20 are recommended but these changes are unlikely to address the concerns raised by the submitter.</p> <p>The submitter is concerned that the Policy might be interpreted to “excluding any increase in [natural hazard] risk” is noted. However, the Hearing Panel notes that the current Policy is aligned with Policy 25(a) of the <i>New Zealand Coastal Policy Statement</i> and the use of the term “unacceptable” would be ambiguous thereby reducing the certainty and clarity to those applying the policy.</p> <p>The amended Policy 20 to reads as follows: <i>Avoid increasing the risk of social, environmental and economic harm from coastal hazards <u>and avoid increased risks</u> to public health and safety, or aircraft or navigation safety including by: [...]</i></p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 48 – Taranaki District Health Board | 461 | <p>Support</p> <p>Retain Policy 20 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 20 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | |

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| Policy 21 – Natural hazard defences | | | |
| 2 – Federated Farmers | 462 | Amend Submitter supports in part Policy 21 of the Plan but seeks that provisions designed to protect against coastal hazards avoid unnecessarily capturing farm infrastructure. | No relief necessary The Hearing Panel suggests no relief is necessary. The Hearing Panel note that Policy 21 relates to natural hazard defences, therefore, any capture of farm infrastructure is likely to be very limited. |
| 42 – Ngati Rahiri Hapū | 463 | Amend Submitter supports Policy 21 of the Plan but seek amendment to show how or what will be done to provide a natural defence from coastal hazards. | Decline Policy 21 gives effect to Policy 26 [Natural defences against coastal hazards] of the <i>New Zealand Coastal Policy Statement</i> . It recognises that natural defences should be provided for where appropriate. However, the Hearing Panel does not believe it is necessary for the Policy to go into the details of how this is to be achieved. Such detail is better outlined elsewhere in the Plan and through consenting processes. Section 6 [Methods of implementation] sets out non regulatory methods for addressing natural hazard defences. The Policy will also inform consenting processes associated with implementing rules. The detail as to how or what will be done to provide a natural hazard defence should be considered at the consenting level having regard to all the relevant policies, methods and rules. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 464 | Support Retain Policy 21 of the Plan as notified. | Accept Support noted. Policy 21 is retained as currently notified. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| Section 5.2 – Activity-based policies | | | |
| 57 – Heritage New Zealand | 465 | Amend Submitter seeks amendment to the preamble in Section 5.2 [Activity-based policies] of the Plan to read: <i>[...] The activity-based policies must be considered alongside the general policies and never in isolation. <u>Where a policy in this section conflicts with a general policy in 5.1, the general policy takes precedence.</u></i> | Accept The submitter wishes to clarify the relationship between the General Policies in 5.1 and the activity-based policies, in particular, set out what takes precedence when the policies in each section are in conflict. The submitter considers the general policies should take precedence and the activity-based policies function be to provide additional detail. |

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| Further submissions – Trans-Tasman Resources Ltd (6), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Oppose | The Hearing Panel agrees noting that this is how the Plan provisions should be read and applied. It is therefore recommended that Section 5.2 be amended with slightly different wording to maintain consistency throughout the Plan that achieves the intent sought by the submitter. |
| Policy 22 – Discharge of water or contaminants to coastal water | | | |
| 8 – Silver Fern Farms | 466 | Support Retain Policy 22 of the Plan to provide for the discharge of contaminants to coastal waters, where it is the most practicable option. | Accept Support noted. Policy 22 is retained subject to minor amendments as requested by other submitters that does not change the policy intent. |
| Further submissions – Federated Farmers (2) | | Support | |
| 15 – Surfbreak Protection Society | 467 | Other Submitter supports in part Policy 22 of the Plan but question what and how to measure “acceptable quality”. | No relief necessary The term “ <i>acceptable quality</i> ” recognises that discharges of water or contaminants to water in the coastal marine area takes many forms – ranging from point source discharges to land runoff of rainfall. The effects of the discharges are likely to vary based upon the type volume of contaminants in the discharge plus location. Policy 22(a) therefore necessarily requires discharges to be considered on a case-by-case basis that determines the acceptability of the discharge based upon the matters considered in Policy 22(a)(i) to (iii). These relate to having regard to the sensitivity of the receiving environment, including associated values, the nature and concentration of the contaminants and the efficiency of waste reduction, treatment and disposal measures and the capacity of the receiving environment to assimilate the contaminants. What is considered “ <i>acceptable quality</i> ” will be determined on a case-by-case basis through the consenting process being directed by the requirements of Policy 22 (in addition to any other requirements arising from the General Policies). |
| 33 - New Zealand Defence Force | 468 | Support Retain Policy 22 of the Plan as notified. | Accept Support noted. Policy 22 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |

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| 40 – Te Rūnanga o Ngāti Mutunga | 469 | Amend | Accept The use of terms with similar meanings such as “ <i>must</i> ”, “ <i>will</i> ” and “ <i>shall</i> ” has been alternatively adopted throughout many second generation planning documents, including national policy statements and regional plans. A number of submitters have identified they prefer the term “ <i>must</i> ”, instead of “ <i>will</i> ” in relevant policies. Some have argued that the use of the term “ <i>must</i> ” is more legally robust. The Hearing Panel has no objection to making the change noting that the policy intent of this Policy is that the activity needs to comply with the provision. Unless the context indicates otherwise, the Hearing Panel recommends additional consequential amendments throughout Plan policies to align language to consistently refer to “ <i>must</i> ”. |
| | | Submitter seeks amendment to Policy 22 of the Plan to read: <i>Discharges of water or contaminants to water in the coastal marine area will will <u>must</u>: [...]</i> | |
| 43 – Royal Forest and Bird Protection Society | 470 | Support | Accept Support noted. Policy 22 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| | | Retain Policy 22 of the Plan as notified. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 471 | Amend | Accept in part The submitter wishes to amend the policy to provide greater clarity for Plan users regarding Policy 22(a)(ii). The Hearing Panel agrees that there is no need to focus on “ <i>waste</i> ” when referring to reduction, treatment and disposal measures in the Policy and recommend an alternative relief that deletes the term. The revised Policy 22(a)(ii) would read as follows: <i>(ii) the nature and concentration of the contaminants to be discharged and the efficacy of reduction, treatment and disposal measures; [...]</i> |
| | | Submitter supports Policy 22 of the Plan subject to following amendments: <i>Discharges of water or contaminants to water in the coastal marine area will:</i> <i>(a) be of an acceptable quality with regard to:</i> <i>(i) the sensitivity of the receiving environment;</i> <i>(ii) the nature and concentration of the contaminants to be discharged and the efficacy of waste <u>contaminant</u> reduction, treatment and disposal measures [...]</i> | |
| 47 – Fonterra | 472 | Amend | Accept The submitter considers that Policy 22(c) does not sufficiently identify the circumstances in which the best practicable option should be implemented. They suggest the amendment would ensure consistency with the definition of “ <i>best practicable option</i> ” as set out in the RMA. The Hearing Panel recommends amending Clause (c) as requested. |
| | | Submitter seeks amendment to Policy 22(c), (d) and (e) of the Plan to read: <i>Discharges of water or contaminants to water in the coastal marine area will:</i> <i>[...]</i> <i>(c) Adopt the best practicable option <u>for the treatment and discharge</u> to prevent or minimise adverse effects on the environment [...]</i> | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p>(d) be required, where appropriate, to reduce adverse environmental effects through a defined programme of works <u>over an appropriate timeframe</u> set out as a condition of consent for either new resource consents or during a renewal or review process for existing resource consents;</p> <p>(e) use the smallest mixing zone necessary to achieve the required water quality in the receiving environment and minimise as far as practicable the adverse effects <u>on life supporting capacity</u> within the mixing zone; [...]</p> | <p>For Clause (d) the submitter considers it necessary to make reference to the programme of works occurring over an appropriate timeframe. The Hearing Panel agrees to the proposed relief as it is reasonable to allow an appropriate timeframe where it is set out within a resource consent.</p> <p>The submitter seeks to amend Clause (e) to refer to "life supporting capacity". This would maintain consistency with Policy 23(1)(e) and (f) of the <i>New Zealand Coastal Policy Statement</i>. The Hearing Panel agrees to this amendment as sought by the submitter.</p> |
| 48 – Taranaki District Health Board | 473 | <p>Amend</p> <p>Submitter seeks amendment to Policy 22 of the Plan to read: <i>Discharges of water or contaminants to water in the coastal marine area <u>will must</u>: [...]</i></p> | <p>Accept</p> <p>The use of terms with similar meanings such as "must", "will" and "shall" has been alternatively adopted throughout many second generation planning documents, including national policy statements and regional plans.</p> <p>A number of submitters have identified they prefer the term "must", instead of "will" in relevant policies. Some have argued that the use of the term "must" is more legally robust. The Hearing Panel has no objection to making the change noting that the policy intent of this Policy is that the activity needs to comply with the provision.</p> <p>Unless the context indicates otherwise, the Hearing Panel recommends additional consequential amendments throughout Plan policies to align language to consistently refer to "must".</p> |
| 51 - Taranaki Energy Watch | 474 | <p>Amend</p> <p>Submitter seeks amendment to Policy 22 of the Plan to incorporate a precautionary approach.</p> | <p>No relief necessary</p> <p>A precautionary approach is set out in Policy 3 of the Plan and, as a General Policy, applies to all activities in the coastal environment, regardless of which coastal management area the activity may fall within. For this reason, it is unnecessary to repeat the provisions of Policy 3 within Policy 22. Both policies must be read and applied together.</p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| 60 – Te Kaahui o Rauru | 475 | <p>Amend</p> <p>Submitter seeks amendment to Policy 22(a) of the Plan to include Māori values as a criteria for acceptable quality.</p> | <p>Grant in kind</p> <p>At the hearing, the submitter requested that the policy recognise the importance of Mātauranga and Māori Values to be included in the list of matters to be considered.</p> <p>The Hearing Panel notes that both Mātauranga and Māori Values will be considered for discharges of water or contaminants to coastal water through the relevant policy pathways. In particular, all General Policies apply, including Policy 16 [Relationship of tangata wenua], which refers to a large number of matters including Māori values and Mātauranga Māori methods or cultural indicators. The Hearing Panel does not believe</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | | <p>it necessary to restate some (but not all) matters in the Activity-specific Policies when the matters are already addressed elsewhere.</p> <p>Notwithstanding the above, the Hearing Panel recommends an alternative relief to more explicitly recognise associative uses and values associated with coastal waters, the Hearing Panel recommends an amendment to Policy 22(a)(i) to read:</p> <p><i>Discharges of water or contaminants to water in the coastal marine area will:</i></p> <p>(a) be of an acceptable quality with regard to:</p> <p>(i) the sensitivity of the receiving environment <i>and associated uses and values</i>; [...]</p> <p>The Hearing Panel also notes that Clause (f) refers to adverse effects generally, which includes Māori values. Policy 22 needs to be read in conjunction with the General Policies, including Policies 12 and 13.</p> |
| Policy 23 – Discharge of untreated human sewage | | | |
| 15 – Surfbreak Protection Society | 476 | Support | Accept |
| | | Retain Policy 23 of the Plan prohibiting discharges of untreated human sewage. | Support noted. Policy 23 is retained as notified. |
| 40 – Te Rūnanga o Ngāti Mutunga | 477 | Support | Accept |
| | | Retain Policy 23 of the Plan prohibiting discharges of untreated human sewage. | Support noted. Policy 23 is retained as notified. |
| 43 – Royal Forest and Bird Protection Society | 478 | Support | Accept |
| | | Retain Policy 23 of the Plan as notified. | Support noted. Policy 23 is retained as notified. |
| 48 – Taranaki District Health Board | 479 | Support | Accept |
| | | Retain Policy 23 of the Plan as notified. | Support noted. Policy 23 is retained as notified. |
| Policy 24 – Discharge of treated wastewater containing human sewage | | | |
| 15 – Surfbreak Protection Society | 480 | Other | No relief necessary |
| | | Submitter suggests Policy 24 of the Plan is in conflict with other water quality policies and seems more permissive. | <p>The submitter has not indicated how or where such conflicts occur nor what specific relief is sought to alleviate their concerns.</p> <p>The Hearing Panel does not consider Policy 24 to be permissive or to be in conflict with other policies relating to discharges to the coastal marine area. Policy 24 recognises that there are circumstances when treated discharges of wastewater</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>containing human sewage may be appropriate (most cities in New Zealand discharge wastewater either directly or indirectly to the coastal marine area). The Policy only allows existing discharges to the open coast and only following careful evaluation of alternatives to discharging (including land disposal and wetland treatment) and consultation with tangata whenua and the community generally. Through the consenting process (whereby such discharges are confined to the Open Coast coastal management area and are processed as a discretionary activity) Policy 24 would be read alongside all other General Policies and is required to fulfil the other General Policies as well as Policy 24.</p> <p>The Hearing Panel notes that amendments have been made to the introduction of Section 5.2 of the Plan to clarify that in the event of any inconsistency between an Activity-specific Policy and a General Policy, the General Policy will take precedence.</p> |
| 40 – Te Rūnanga o Ngāti Mutunga | 481 | <p>Amend</p> <p>Submitter seeks amendment to Policy 24 of the Plan to replace proposed Policy so as to prohibit any discharges of wastewater to the coastal marine area with: <u><i>Discharges of treated wastewater containing human sewage will not be allowed.</i></u></p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. The relief sought would immediately preclude existing lawful discharges of municipal waste discharges to the coastal marine area in the absence of any other practicable options. To divert the quantities of waste onto land or other receiving environments is likely to be impracticable due to fiscal and technical constraints plus result in worst environmental outcomes due to the quantities involved and the lack of suitable locations to ensure the waste can be properly and safely assimilated to avoid, minimise or mitigate adverse environmental effects.</p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | <p>The Hearing Panel notes that the Taranaki region only has three municipal wastewater discharges. The resource consents for these marine outfalls include conditions that the consent holder must adhere to. These conditions are designed to prevent adverse effects by including limits on the discharge (pertaining to quality and quantity) and impact on the receiving environment. Consent holders must regularly reassess whether the current system remains to be the best practicable option, in light of technological advances and changing circumstances. Community involvement in the monitoring and management of these discharges, through involvement plans and stakeholder meetings, is also required in the resource consents.</p> <p>The Hearing Panel suggests that some provision must be made in the policies and the rules to provide for the discharge of wastewater that contains treated human sewage. Most New Zealand cities discharge treated wastewater directly or indirectly into the coastal marine area. However, this rule is a discretionary activity, which means a resource consent may be granted or declined subject to the policies. A</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>discharge consent application is subject to meeting the directions and guidance set out in General Policies 1 to 21 and Activity-specific Policies 22, 24 and 26. With these policies any discharge of treated wastewater must be of an acceptable quality and can only be considered when more appropriate alternatives have been considered. These Plan provisions are in line with the requirements of the <i>New Zealand Coastal Policy Statement</i> Policy 23 [Discharge of contaminants] (2) and (3) and meets the requirements of the RMA.</p> <p>It is the Hearing Panel's view that providing the option to consider existing discharges of treated wastewater into the coastal marine area is necessary in order to provide for the requirements of the general public. The Hearing Panel is satisfied that through the resource consents process, adverse environmental effects can be appropriately avoided, remedied or mitigated. Policy 26 in particular is highlighted whereby it is Council's expectation that the best practicable option be adopted to improve the quality of the discharge and reduce the quantity of the discharge.</p> <p>Of note, other changes are recommended elsewhere in the Plan that prohibit new wastewater discharges containing human sewage to the coastal marine area.</p> |
| 41 – Te Korowai o Ngāruahine Trust | 482 | Amend | No relief necessary |
| | | Submitter seeks amendment to Policy 24 of the Plan to explicitly reference iwi as distinct from the general community. | The Hearing Panel believes that the sought relief is already provided for within Policy 24(b), which requires adequate consultation with tangata whenua so that their values, and the effects on those values, are understood. Tangata whenua includes iwi authorities and may include hapū and whanau groups. |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 483 | Amend | No relief necessary |
| | | Submitter seeks amendment to Policy 24 of the Plan to ensure that treated wastewater discharges will not occur where they would result in adverse effects that are to be avoided. | The Hearing Panel consider that no changes to the Policy are required to give effect to the submitter's relief. Of note, Policy 24 must be read in conjunction with General Policies 1 to 21, which includes policies addressing adverse effects on coastal values and uses that are to be avoided. |
| 48 – Taranaki District Health Board | 484 | Support | Accept |
| | | Retain Policy 24 of the Plan as notified. | Support noted. Policy 24 is retained as notified. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 58 – Te Atiawa | 485 | Amend | Decline |

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| | | Submitter seeks amendment to Policy 24 of the Plan to read: Discharges of treated wastewater containing human sewage to coastal water will: Discharges of treated wastewater containing human sewage will not be allowed. | The Hearing Panel recommends declining the relief sought by the submitter. The relief sought would immediately preclude existing lawful discharges of municipal waste discharges to the coastal marine area in the absence of any other practicable options. To divert the quantities of wastewater onto land or other receiving environments is likely to be impracticable due to fiscal and technical constraints plus result in worst environmental outcomes due to the quantities involved and the lack of suitable locations to ensure the waste can be properly and safely assimilated to avoid, minimise or mitigate adverse environmental effects. |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | <p>The Hearing Panel notes that the Taranaki region only has three municipal wastewater discharges. The resource consents for these marine outfalls include conditions that the consent holder must adhere to. These conditions are designed to prevent adverse effects by including limits on the discharge (pertaining to quality and quantity) and impact on the receiving environment. Consent holders must regularly reassess whether the current system remains to be the best practicable option, in light of technological advances and changing circumstances. Community involvement in the monitoring and management of these discharges, through involvement plans and stakeholder meetings, is also required in the resource consents.</p> <p>The Hearing Panel suggests that some provision must be made in the policies and the rules to provide for the discharge of wastewater that contains treated human sewage. Most New Zealand cities discharge water directly or indirectly into the coastal marine area. However, this rule is a discretionary activity, which means a resource consent may be granted or declined subject to the policies. A discharge consent application is subject to meeting the directions and guidance set out in General Policies 1 to 21 and Activity-specific Policies 22, 24 and 26. With these policies, any discharge of treated wastewater must be of an acceptable quality and can only be considered when more appropriate alternatives have been considered. This rule is in line with the requirements of the <i>New Zealand Coastal Policy Statement</i> Policy 23 [Discharge of contaminants] (2) and (3) and meets the requirements of the RMA.</p> <p>It is the Hearing Panel's view that providing the option to consider existing discharges of treated wastewater into the coastal marine area is necessary in order to provide for the requirements of the general public. The Hearing Panel is satisfied that through the resource consents process, adverse environmental effects can be appropriately avoided, remedied or mitigated. Policy 26 in particular is highlighted whereby it is Council's expectation that the best practicable option be adopted to improve the quality of the discharge and reduce the quantity of the discharge.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | Of note, other changes are recommended elsewhere in the Plan that prohibit new wastewater discharges containing human sewage to the coastal marine area. |
| Policy 25 – New discharge of treated wastewater containing human sewage | | | |
| 15 – Surfbreak Protection Society | 486 | Support Retain Policy 25 of the Plan prohibiting new discharges of wastewater containing human sewage in coastal management areas: Outstanding Value, Estuaries Modified, Estuaries Unmodified, and Port. | Accept Support noted. Policy 25 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 40 – Te Rūnanga o Ngāti Mutunga | 487 | Amend Submitter seeks amendment to Policy 25 of the Plan to read: <u>New discharges of treated wastewater containing human sewage will not be allowed.</u> | Accept The Hearing Panel recommends granting the relief sought by the submitter by amending Policy 25 to prohibit new discharges of treated wastewater containing human sewage into the coastal marine area. |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | Experience has shown that discharges of this nature have inevitably resulted in the localised degradation of coastal water quality. Given the Plan has a requirement to maintain coastal water quality where it is good under Policy 11 [Coastal water quality] the Hearing Panel is recommending that the Plan adopt a precautionary approach whereby new discharges of treated wastewater will no longer be allowed to avoid any degradation in coastal water quality. Of note, other options for the disposal of small volumes of treated wastewater containing human sewage are available, including discharges to land. Consequential amendments to Rule 7 [Wastewater treatment plant discharges] are also recommended. This recommendation does not preclude existing discharges from continuing under Policy 24 [Existing discharge of treated wastewater containing human sewage]. |
| 41 – Te Korowai o Ngāruahine Trust | 488 | Amend Submitter seeks amendment to Policy 25 of the Plan to prohibit any discharges of wastewater to the coastal marine area. | Accept The Hearing Panel recommends granting the relief sought by the submitter by amending Policy 25 to prohibit new discharges of treated wastewater containing human sewage into the coastal marine area. Experience has shown that discharges of this nature have inevitably resulted in the localised degradation of coastal water quality. Given the Plan has a requirement to maintain coastal water quality where it is good under Policy 11 [Coastal water quality] the Hearing Panel is recommending that the Plan adopt a precautionary approach whereby new discharges of treated wastewater will no longer be allowed to avoid any |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>degradation in coastal water quality. Of note, other options for the disposal of small volumes of treated wastewater containing human sewage are available, including discharges to land.</p> <p>Consequential amendments to Rule 7 [Wastewater treatment plant discharges] are also recommended.</p> <p>This recommendation does not preclude existing discharges from continuing under Policy 24 [Existing discharge of treated wastewater containing human sewage].</p> |
| 43 – Royal Forest and Bird Protection Society | 489 | Amend | No relief necessary |
| | | Submitter seeks amendment to Policy 25 of the Plan to ensure that treated wastewater discharges will not occur where they would result in adverse effects that are to be avoided. | <p>The submitter's concerns are noted.</p> <p>The Hearing Panel notes that in response to reliefs sought by other submitters no new wastewater discharges are allowed in the coastal marine area (thereby avoiding all adverse effects).</p> <p>The Hearing Panel recommends amending Policy 25 to read as follows: <i>New discharges of treated wastewater containing human sewage <u>are not allowed</u>.</i></p> |
| 48 – Taranaki District Health Board | 490 | Support | Decline |
| | | Submitter notes their view that Policy 25 meets the section 5 purpose of the RMA and also requirements under the <i>Health Act 1956</i> to protect the health of the public. Retain Policy 25 of the Plan as notified. | <p>Submitter's comments relating to the protection of public health are noted. However, the Hearing Panel notes that in response to other submitters it is recommended that Policy 25 be amended to preclude new discharges to the entire coastal marine area (previously new discharges were precluded from all parts of the coastal marine area except for the Open Coast).</p> <p>Notwithstanding the above, the Hearing Panel believes that these amendments will contribute to better public health outcomes as sought by the submitter.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 58 – Te Atiawa | 491 | Amend | Accept |
| | | Submitter seeks amendment to Policy 25 of the Plan to read: <i>New discharges of treated wastewater containing human sewage will not occur <u>not be allowed</u> in the coastal management areas: Outstanding Value, Estuaries Unmodified, Estuaries Modified and Port.</i> | <p>The Hearing Panel agrees that the proposed wording provides a stronger directive for Plan users. The Hearing Panel also notes that, in response to relief sought by other submitters, it is recommended to prohibit all new discharges of treated wastewater containing human sewage to the coastal marine area, including the Open Coast coastal management area.</p> <p>Amendments to Policy 25 would read as follows: <i>New discharges of treated wastewater containing human sewage <u>are not allowed</u>.</i></p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| Policy 26 – Improving existing wastewater discharges | | | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 5 – Point Board Riders | 492 | Support | Accept |
| | | Retain Policy 26 of the Plan seeking to improve existing wastewater discharges to coastal waters. | Support noted. Policy 26 is retained as notified. |
| 15 – Surfbreak Protection Society | 493 | Support | Accept |
| | | Retain Policy 26 of the Plan seeking to improve existing wastewater discharges to coastal waters. | Support noted. Policy 26 is retained as notified. |
| 23 – New Plymouth District Council | 494 | Support | Accept |
| | | Retain the use of the phrase “best practicable option” in Policy 26(a) of the Plan. | Support noted. Policy 26 is retained as notified. |
| 40 – Te Rūnanga o Ngāti Mutunga | 495 | Support | Accept |
| | | Submitter supports Policy 26 of the Plan but, in relation to Clause (b), seeks that the Taranaki Regional Council work with current consent holders to see if improvements could occur within the shortest possible time rather than allowing it to occur until the end of the current consent. | The Hearing Panel notes that the Council annually monitors and works with current consent holders to not only ensure compliance with consent conditions, which includes regularly reassessments to ensure the current system remains the best practicable option, in light of technological advances and changing circumstances. Community involvement in the monitoring and management of these discharges, through involvement plans and stakeholder meetings, is also required in the resource consents. Through this process, improvements are expected to occur within the shortest possible time frame rather than allowing it to occur only once the current consent time has lapsed. |
| 41 – Te Korowai o Ngāruahine Trust | 496 | Other | No relief necessary |
| | | Submitter support Policy 26 of the Plan and the implementation of the best practicable option and suggests that the adoption of the Plan would require a section 128 review of existing wastewater consents under the RMA. | Comments noted. |
| 43 – Royal Forest and Bird Protection Society | 497 | Amend | Decline |
| | | Submitter seeks amendment of Policy 26 of the Plan to include a new clause giving priority to improving water quality in outstanding and significant areas. | The Hearing Panel notes that all General Policies (Policies 1 – 21) and relevant Activity-specific Policies need to be read together. General Policies already address the protection of outstanding and significant areas with Policy 12 being particularly relevant in that it targets areas where there are wastewater discharges that have impacted on coastal water quality and where Council will be seeking a restoration of that water quality. |

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| | | | The Hearing Panel further notes Policy 25 prohibits any new wastewater discharges to the coastal marine area other than the Open Coast coastal management area (i.e. no discharges to outstanding areas or estuaries). |
| 47 – Fonterra | 498 | Support | Accept |
| | | Retain Policy 26 of the Plan as notified. | Support noted. Policy 26 is retained as notified. |
| 48 – Taranaki District Health Board | 499 | Support | Accept |
| | | Retain Policy 26 of the Plan as notified. | Support noted. Policy 26 is retained as notified. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 58 – Te Atiawa | 500 | Support | Accept |
| | | Submitter supports Policy 26 and the wording “no further consent will be granted”. | Support noted. Policy 26 is retained as notified. |
| Policy 27 – Discharges of stormwater | | | |
| 40 – Te Rūnanga o Ngāti Mutunga | 501 | Amend | Accept in part |
| | | Submitter seeks amendment to Policy 27 of the Plan to include a new Clause (a)(vi) that reads: <i>Discharges of stormwater to the coastal marine area will be appropriately managed by:</i> <i>(a) adequate consideration of: [...]</i> <i><u>(vi) Location of discharge in relation to sensitive areas: [...]</u></i> | The Hearing Panel recommends amending Policy 27 by including a new clause that any discharge is of an acceptable quality having regard to the location of scheduled and other values sensitive to the effects of stormwater discharges. Other submitters have also submitted on this issue. Having regard to all the submissions, the Hearing Panel recommends that a new Clause (a)(iiiA) be included that reads as follows: <i>Discharges of stormwater to the coastal marine area will be appropriately managed by:</i> <i>(a) adequate consideration of: [...]</i> <i><u>(iiiA) the location of the discharge in relation to avoiding, remedying or mitigating any adverse environmental effects;</u></i> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 41 – Te Korowai o Ngāruahine Trust | 502 | Amend | Accept in part |
| | | Submitter seeks amendment to Policy 27 of the Plan to read: | The Hearing Panel recommends amending Policy 27(a)(iii) and including a new clause that any discharge is of an acceptable quality having regard to the location of |

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| | | <p><i>Discharges of stormwater to the coastal marine area will be appropriately managed by:</i></p> <p><i>(a) adequate consideration of:</i></p> <p><i>[...]</i></p> <p><i>(iii) the use of measures (which may include treatment) to prevent or minimise contamination of the receiving environment</i></p> <p>AND</p> <p>Refer to preventing discharges to any sensitive area of sites of significance.</p> | <p>scheduled values sensitive to the effects of stormwater discharges. These changes will provide the relief sought by the submitter and would read as follows:</p> <p><i>Discharges of stormwater to the coastal marine area will be appropriately managed by:</i></p> <p><i>(a) adequate consideration of: [...]</i></p> <p><i>(iii) the use of measures (including treatment) to prevent or minimise contamination of the receiving environment</i></p> <p><i><u>(iiiA) the location of the discharge in relation to avoiding, remedying or mitigating any adverse environmental effects;</u></i></p> |
| 43 – Royal Forest and Bird Protection Society | 503 | <p>Amend</p> <p>Submitter seeks amendment to Policy 27 of the Plan to include reference to matters set out in Policy 23(1) of the <i>New Zealand Coastal Policy Statement</i>.</p> | <p>Decline</p> <p>The Hearing Panel does not recommend granting the relief sought by the submitter on the basis that the issues raised are already appropriately covered in other policies. Policy 23(1) [Discharge of contaminants] of the <i>New Zealand Coastal Policy Statement</i> is appropriately covered by Policy 22 and 23 of the Plan. Policy 27 covers the requirements set out in Policy 23(4) of the <i>New Zealand Coastal Policy Statement</i>.</p> <p>As noted previously, all General Policies 1 - 21 and relevant Activity-specific Policies, including both Policies 23 and 27 of the Plan, must be read together. It is Hearing Panel' view that, in doing so, Plan policies collectively address the matters covered in Policy 23(1) of the <i>New Zealand Coastal Policy Statement</i>.</p> |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 504 | <p>Support</p> <p>Retain Policy 27 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 27 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |
| Further submissions – Transpower NZ Ltd (26), Port Taranaki Ltd (32) | | <p>Support</p> | |
| 47 – Fonterra | 505 | <p>Amend</p> <p>Submitter seeks amendment to Policy 27 Of the Plan to include a new Clause (d) that reads:</p> <p><i>Discharges of stormwater to the coastal marine area will be appropriately managed by:</i></p> <p><i>[...]</i></p> | <p>Accept</p> <p>The submitter generally supports Policy 27 but wishes to see reference to the implementation of the best practicable option for the treatment and discharge of stormwater into the coastal environment. The Hearing Panel recommends granting the relief sought by the submitter as it provides added certainty for Plan users as to how stormwater discharges will be managed.</p> <p>Policy 27(d) would read as follows:</p> |

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| | | <u><i>(d) the adoption of the best practicable option for the treatment and discharge of stormwater to the coastal marine area to minimise adverse effects.</i></u> | <u><i>(d) the adoption of the best practicable option for the treatment and discharge of stormwater to the coastal marine area to minimise adverse effects.</i></u> |
| 48 – Taranaki District Health Board | 506 | Support Retain Policy 27 as notified. | Accept Support noted. Policy 27 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 58 – Te Atiawa | 507 | Amend Submitter seeks amendment to Policy 27(a)(iii) and (v) of the Plan and include a new Clause (vi) to read: <i>Discharges of stormwater to the coastal marine area will be appropriately managed by:</i> <i>(a) adequate consideration of: [...]</i> <i>(iii) the use of measures (which may include including treatment) to prevent or minimize contamination of the receiving environment; [...]</i> AND <i>(v) integrated management of whole stormwater catchments and stormwater networks where appropriate.</i> AND <u><i>(vi) location of the discharge in relation to sensitive areas.</i></u> | Accept in part The submitter seeks to amend some of the wording within Policy 27 to provide more certainty for Plan users in regards to how stormwater discharge will be managed. The Hearing Panel agrees to amend Policy 27 by replacing the reference to “which may include” with “including treatment”. However, it is not considered appropriate to remove reference to “where appropriate” from the policy as it recognises that integrated management of whole stormwater catchments and stormwater networks might not always be practicable or appropriate. The Hearing Panel has noted the support from other submitters for the inclusion of a new clause that any discharge is having regard to the location of scheduled and other values sensitive to the effects of stormwater discharges. Other submitters have also submitted on this issue. Having regard to all the submissions, the Hearing Panel recommends that a new Clause (a)(iiiA) be included that reads as follows: <i>Discharges of stormwater to the coastal marine area will be appropriately managed by:</i> <i>(a) adequate consideration of: [...]</i> <i>(iii) the use of measures (including treatment) to prevent or minimise contamination of the receiving environment</i> <u><i>(iv) location of discharge in relation to avoiding, remedying or mitigating any adverse environmental effects;</i></u> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | <i>(a) adequate consideration of: [...]</i> <i>(iii) the use of measures (including treatment) to prevent or minimise contamination of the receiving environment</i> <u><i>(iv) location of discharge in relation to avoiding, remedying or mitigating any adverse environmental effects;</i></u> |
| 58 – Te Atiawa | 508 | Amend Submitter seeks amendment to Policy 27(b) of the Plan to read: <i>Discharges of stormwater to the coastal marine area will be appropriately managed by:</i> [...] | Decline The Hearing Panel notes that in some circumstances it is not always possible to avoid cross contamination of sewage and stormwater systems. |

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| | | (b) avoiding, where practicable, and otherwise remedying avoid cross contamination of sewage and stormwater systems; and [...] | |
| Policy 28 – Harmful aquatic organisms | | | |
| 9 – Karen Pratt | 509 | Amend The submitter outlines the risk of offloading ballast water in productive shallow waters and seeks amendment to Policy 28 of the Plan to address ballast water. | Decline Council recognises the risk of marine pests and diseases carried in ballast water tanks that can threaten the marine environments and seafood industries. However, the Hearing Panel does not believe it is necessary or appropriate for Council to amend Policy 28 when this matter is already separately regulated by the Ministry for Primary Industries under the <i>Import health standard – Ballast water from all countries</i> . Any Council role in such matters represents an inappropriate duplication of the Ministry for Primary Industries regulatory role. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| Further submissions – Nga Motu Marine Reserve Society Inc (44) | | Support | |
| 29 – Department of Conservation | 510 | Amend Submitter supports Policy 28 of the Plan but seek minor amendment to delete the words “and scraping” from Policy 28(a). The submitter does not believe that the inclusion of “scraping” is appropriate and prefers to refer to cleaning in a more general sense, while scraping is only one specific description of cleaning that may occur. | Accept The Hearing Panel agrees that broadening references in the Policy to refer to “cleaning” is appropriate and recommends granting the relief sought. |
| 33 – New Zealand Defence Force | 511 | Support Retain Policy 28 as notified. | Accept Support noted. Policy 28 is retained subject to minor amendments to remove reference to “scraping”. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 512 | Amend Submitter seeks amendment to Policy 28 of the Plan to include reference to an avoidance approach with the introduction of harmful aquatic organisms. | Decline The submitter states that they are not convinced that the “ <i>minimise</i> ” risk approach adopted for Policy 28 is in line with protections under Policies 11 [Indigenous biological diversity (biodiversity)] and 13 [Preservation of natural character] of the <i>New Zealand Coastal Policy Statement</i> . The submitter seeks that an avoidance approach be introduced. Avoiding the introduction of all harmful aquatic organisms is certainly desirable but the Hearing Panel does not believe that a strict avoidance approach is technically achievable through RMA controls. The Hearing Panel suggests avoiding the |

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| | | | introduction of harmful aquatic organisms are matters of border control and primarily dealt with by other regulatory agencies and under other statutes such as the <i>Biosecurity Act 1993</i> . The Hearing Panel recommends that the Policy retain its focus on minimising risks on the introduction or spread of harmful species. |
| Policy 29 – Impacts from offshore petroleum drilling and production | | | |
| 6 – Trans-Tasman Resources Ltd | 513 | <p>Amend</p> <p>Submitter seeks amendment to Policy 29 of the Plan by deleting the reference to petroleum and include all offshore drilling and production to read as follows:</p> <p><i>Policy 29: impacts from offshore petroleum drilling and production</i></p> <p><i>Activities associated with petroleum drilling and production in the coastal marine area will be managed to avoid, remedy or mitigate adverse environmental effects associated with accidental discharges by ensuring: [...]</i></p> | <p>Accept</p> <p>The submitter wishes to see Policy 29 expanded to include non-petroleum related drilling and production activities.</p> <p>The Hearing Panel agree that it would be useful to expand the scope of the Policy to cover all extractive industries, not just petroleum, particularly given recent interest in seabed mining in and adjacent to the Taranaki coastal marine area. The Hearing Panel recommend granting the relief sought by deleting reference to “petroleum” in the Policy.</p> |
| Further submissions – Taranaki Energy Watch (51) | | Oppose | |
| 25 – New Zealand Petroleum and Minerals | 514 | <p>Support</p> <p>Retain Policy 29 of the Plan as notified.</p> | <p>Accept</p> <p>Policy 29 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> <p>Of note, the submitter presented on this Policy further at the hearing and, in particular, the recommendations in the Section 42A report to expand Policy 29 to include non-petroleum related drilling and production activities. At the hearing, the submitter suggested that the Policy should only apply to offshore oil and gas activities. As noted in submission point 513, it is the Hearing Panel's view that there are advantages to the Policy covering all extractive industries, not just petroleum, particularly given recent interest in seabed mining in and adjacent to the Taranaki coastal marine area.</p> |
| Further submissions – Port Taranaki Ltd (32), Petroleum Exploration and Production Association of New Zealand (37) | | Support | |
| 40 – Te Rūnanga o Ngāti Mutunga | 515 | <p>Amend</p> <p>Submitter seeks amendment to Policy 29 of the Plan to read:</p> <p><i>Activities associated with petroleum drilling and production in the coastal marine area will be managed to avoid, remedy or mitigate adverse environmental effects associated with accidental any discharges by ensuring: [...]</i></p> | <p>Accept</p> <p>The submitter wishes to see Policy refer to “any” discharge rather than “accidental” discharge. The Hearing Panel agrees that the broader coverage provided by the relief request is desirable and recommends granting the relief sought.</p> |

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| Further submissions – Taranaki Energy Watch (51), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 41 – Te Korowai o Ngāruahine Trust | 516 | Amend Submitter seeks amendment to Policy 29 of the Plan to remove the word “accidental”. | Accept The submitter wishes to see Policy refer to “any” discharge rather than “accidental” discharge. The Hearing Panel agrees that the broader coverage requested by the submitter is desirable and recommends granting the relief sought. |
| Further submissions – Taranaki Energy Watch (51), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 517 | Amend Submitter supports in part but seeks amendment to Policy 29 of the Plan to clarify that this policy relates to existing lawful petroleum drilling and production only and does not include new activities. | Decline The Hearing Panel suggests that it is not necessary or appropriate to differentiate between existing and new oil and gas activities. The relief sought by the submitter is based upon the Government’s decision to restrict new permits to only onshore Taranaki and that there will be no new offshore oil and gas exploration permits. However, Government direction and policies regularly change over the life of any Plan. The Hearing Panel therefore considers the relief sought is an unnecessary level of detail that potentially may become dated and inaccurate should this Government or successive government’s change their position. It is more appropriate that the Policy focus on effects of the activity. Of note, the submitter presented on this Policy further in relation to recommendations from the Section 42A report to expand Policy 29 to include non-petroleum related drilling and production activities. In particular, the submitter was concerned that the amended Policy would be unclear as to what drilling and production activities are now being referred to. As noted in submission point 513 it is the Hearing Panel’s view that there are advantages to the Policy covering all extractive industries, not just petroleum, particularly given recent interest in seabed mining in and adjacent to the Taranaki coastal marine area. |
| 51 - Taranaki Energy Watch | 518 | Amend Submitter seeks amendment to Policy 29 of the Plan to incorporate a precautionary approach. | Decline |

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| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | The submitter is concerned that areas of the Plan relating to petroleum provisions do not reflect a precautionary approach as required by the <i>New Zealand Coastal Policy Statement</i> . |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | The Hearing Panel suggests that a precautionary approach is already adequately provided for via Policy 3 [Precautionary approach] of the Plan. Policy 3 is a General Policy that applies to all activities, including oil and gas industries, within the coastal environment and regardless of which coastal management area the activity may fall within. The Hearing Panel further notes that the potential risks associated with oil and gas exploration and production activities are well understood. For this reason, it is unnecessary to repeat the provisions of Policy 3 within Policy 29. In the main, oil and gas exploration and production activities in the coastal marine area are regulated as discretionary or non-complying activities. Therefore, through the consenting process the Council will consider any application on a case-by-case basis and apply relevant policies that include the adoption of a precautionary approach to ensure the appropriate management of all adverse environmental effects. |
| 58 – Te Atiawa | 519 | Amend | Accept |
| | | Submitter seeks amendment to Policy 29 of the Plan to read: <i>Activities associated with petroleum drilling and production in the coastal marine area will be managed to avoid, remedy or mitigate adverse environmental effects associated with accidental any discharges by ensuring: [...]</i> | The submitter wishes to see Policy refer to “any” discharge rather than “accidental” discharge. The Hearing Panel agrees that the broader coverage requested by the submitter is desirable and recommends granting the relief sought. |
| Further submissions – Taranaki Energy Watch (51) | | Support | |
| Policy 30 – Discharge of contaminants to air | | | |
| 9 – Karen Pratt | 520 | Other | No relief necessary |
| | | Submitter seeks that the Council review Policy 30 of the Plan to consider its adequacy for addressing heavy fuel emissions resulting from any potential iron sand mining that might occur in the territorial waters. | The submitter has not expressly sought amendments to Policy 30 but clearly has concerns around potential adverse effects arising from heavy fuel emissions resulting from any potential iron sand mining that might occur in the Exclusive Economic Zone that warrant a response. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | The Hearing Panel notes that in the development of the Policy 30 (and other policies), the Council has carefully considered the various types and levels of use and development in the coastal marine area. The Hearing Panel is satisfied that the Policy appropriately captures all discharges to air in the coastal marine area, including those |

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| | | | associated with potential sand mining, and provides an appropriate level of direction in the management of adverse effects. |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 521 | Support | Accept |
| | | Retain Policy 30 of the Plan as notified. | Support noted. Policy 30 is retained as notified. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 47 – Fonterra | 522 | Support | Accept |
| | | Retain Policy 30 of the Plan as notified. | Support noted. Policy 30 is retained as notified. |
| Policy 31 – Structures that support safe public access and use, or public or environmental benefit | | | |
| 12 – Chorus New Zealand Ltd | 523 | Support | Accept |
| | | Retain Policy 31 of the Plan as notified. | Support noted. |
| 13 – Spark New Zealand Trading Ltd | 524 | Support | Accept |
| | | Retain Policy 31 of the Plan as notified. | Support noted. |
| 14 – Vodafone New Zealand Ltd | 525 | Support | Accept |
| | | Retain Policy 31 of the Plan as notified. | Support noted. |
| 26 – Transpower NZ Ltd | 526 | Amend | Accept |
| | | <p>The submitter is concerned that the words “<i>will be allowed for</i>” infer resource consent approval and such wording would be interpreted as predetermining a resource consent process outcome.</p> <p>Submitter seeks amendment to Policy 31 of the Plan to read (or alternatively use the words “...to provide for”):</p> <p><i>Enable sStructures in appropriate locations will be allowed for, subject to the appropriate management of adverse effects, where the structure is to provide for [...]</i></p> | <p>The Hearing Panel notes that the reference to “<i>will be allowed for</i>” was not meant to infer predetermination of the consent process outcome. Therefore, to allay the submitter’s concerns and to avoid the potential risk for confusion, the Hearing Panel recommends granting the relief sought with a minor amendment in wording. The Hearing Panel recommends using the term “allow” instead of “enable” (as it is not the Council’s mandate to enable such activities).</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support | |

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| 43 – Royal Forest and Bird Protection Society | 527 | Support | Accept |
| | | Support in part Policy 31 of the Plan but seek consequential amendments to Policy 5 [Appropriate use and development] and other policies to give effect to Policies 11, 13 and 15 of the <i>New Zealand Coastal Policy Statement</i> to clarify appropriate locations. | Support noted. Refer to submission point 282 in relation to Hearing Panel' response to reliefs sought in relation to Policy 5. |
| 45 – Powerco | 528 | Support | Accept |
| | | Retain Policy 31 of the Plan as notified. | Support noted. Policy 31 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 529 | Support | Accept |
| | | Retain Policy 31 of the Plan as notified. | Support noted. Policy 31 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 59 – KiwiRail | 530 | Support | Accept |
| | | Retain Policy 31(d) of the Plan as notified. | Support noted. Policy 31 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| Policies 31 to 39 – Structures | | | |
| 41 – Te Korowai o Ngāruahine Trust | 531 | Amend | No relief necessary |
| | | Submitter seeks amendment to Policies 31 to 39 [Structures] of the Plan to recognise the <i>Takutai Moana Act 2011</i> and the extent to which structures prejudice Māori customary and protected rights along the coastline and to include references to Schedule 5B [Sites of significance]. | The Hearing Panel notes that Policy 32(d)(iv) already includes reference to structures being designed, located and managed so as to avoid, remedy or mitigate adverse effects on the environment and associated uses and values. Further policy direction is provided in Policies 15 [Historic heritage] and 16 [Relationship of tangata whenua] that direct how effects on sites of significance need to be managed. Both policies (plus any other relevant General Policies) must be read to together. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | The Hearing Panel therefore does not consider it necessary to repeat the provisions of another policy as it will not provide greater protection than is already given. Reference to Schedule 5B is also given in the appropriate policies. |
| 58 – Te Atiawa | 532 | Amend | No relief necessary |
| | | Submitter seeks amendment to Policies 31 to 39 [Structures] of the Plan to include reference to Schedule 5B (and recognition of the <i>Takutai Moana Act</i> | The Hearing Panel notes that Policy 32(d)(iv) already includes reference to structures being designed, located and managed so as to avoid, remedy or mitigate adverse |

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| | | 2011) to provide assurance that structures are not placed within the sites of significance. | effects on the environment and associated uses and values. Further policy direction is provided in Policies 15 [Historic heritage] and 16 [Relationship of tangata whenua] that direct how effects on sites of significance need to be managed. Both policies (plus any other relevant General Policies) must be read to together. The Hearing Panel therefore does not consider it necessary to repeat the provisions of another policy as it will not provide greater protection than is already given. Reference to Schedule 5B is also given in the appropriate policies. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| Policy 32 – Placement of structures | | | |
| 6 – Trans-Tasman Resources Ltd | 533 | Support | Accept |
| | | Submitter supports the recognition in Policy 32(e) of the Plan that in some circumstances it is not appropriate to make structures available for public or multiple use. | Support noted. Policy 32(e) is retained as notified. |
| 12 – Chorus New Zealand Ltd | 534 | Support | Accept |
| | | Retain Policy 32 of the Plan as notified. | Support noted. Policy 32 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 13 – Spark New Zealand Trading Ltd | 535 | Support | Accept |
| | | Retain Policy 32 of the Plan as notified. | Support noted. Policy 32 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 14 – Vodafone New Zealand Ltd | 536 | Support | Accept |
| | | Retain Policy 32 of the Plan as notified. | Support noted. Policy 32 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 26 – Transpower NZ Ltd | 537 | Amend | Grant in kind |
| | | Submitter seeks amendment to Policy 32(a) of the Plan to read: <i>Structures in the coastal marine area:</i> <i>(a) will generally be limited to those that have a functional need <u>or technical, operational and/or locational requirement</u> to be located in the coastal marine area</i> | The submitter wishes that the Policy clearly recognise the technical, operational and/or locational requirement for an activity to be located in the coastal marine area. The Hearing Panel recommends granting an alternative relief to that sought by the submitter by amending Policy 32(a) to reference ' <i>functional need</i> ' or ' <i>operational need</i> '. These terms, which are defined in the Plan and also in the <i>National Planning Standards</i> , include technical, operational and locational constraints. This amendment |

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| | | <i>and that do not cause duplication of a function for which existing structures or facilities are adequate; [...]</i> | will give effect to Policy 3 of the <i>New Zealand Coastal Policy Statement</i> which requires consideration of the constraints imposed by technical and operational requirements. The term functional need or operational has also been used elsewhere in Plan provisions. The amended Policy 32(a) would read as follows: <i>(a) must generally be limited to those that have a functional need <u>or operational need</u> to be located in the coastal marine area and that do not cause duplication of a function which existing structures or facilities are adequate [...].</i> |
| 37 – Petroleum Exploration and Production Association of NZ | 538 | Amend Submitter seeks amendment to Policy 32(f) of the Plan to read: <i>Structures in the coastal marine area:</i> [...] <i>(f) where appropriate, should be made of, or finished with, materials that are visually and aesthetically compatible with minimise effects on the character and visual amenity of the adjoining coast.</i> | Accept The submitter seeking a more directive approach with regards to Policy 32(f). The current wording is considered subjective and it is suggested that the proposed relief would provide clarity to the policy. The Hearing Panel agrees and recommends granting the relief sought. |
| Further submissions – Taranaki Energy Watch (51) | | Support in part | |
| 41 – Te Korowai o Ngāruahine Trust | 539 | Amend Submitter seeks amendment to Policy 32 of the Plan to include reference to Schedule 5B and ensure that structures are not placed within the sites of significance. | Decline The submitter would preclude the placement of any structure within sites of significance. Given that structures may occur at various scales, in various forms, and purposes (including beneficial), and that the placement of the structure within sites of significance will not necessarily have adverse effects on this site (recognising that some structures may also be a site of significance, e.g. tauranga waka, or facilitate Māori customary uses e.g. mahinga kai), Hearing Panel recommend no change. The Hearing Panel notes that Policy 32 must be read in conjunction with each other relevant policies, including all the General Policies. Reference to Schedule 5B is appropriately referenced within Policy 15 and would require any structure to avoid significant adverse effects, and avoid, remedy and mitigate any other adverse effects on the values associated with sites of significance to Māori identified in Schedules 5A and 5B. |
| Further submissions – Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

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| 43 – Royal Forest and Bird Protection Society | 540 | <p>Amend</p> <p>Submitter seeks amendment to Policy 32 of the Plan to clarify that this policy is subject to the protective policies giving effect to the <i>New Zealand Coastal Policy Statement</i></p> <p>AND</p> <p>Amend Policy 32(d) to read:</p> <p><i>Structures in the coastal marine area: [...]</i></p> <p><i>(d) will be designed, located and managed:</i></p> <p><u><i>A. to avoid adverse effects in accordance with policies 8, 9, 14 [list policies that give effect to Policies 11, 13 and 15 of the New Zealand Coastal Policy Statement]; and</i></u></p> <p><u><i>B. so as to avoid, remedy or mitigate:</i></u></p> <p><i>(i) any [...].</i></p> | <p>Decline</p> <p>Section 5.1 explains that the policies apply to all activities within the coastal environment, regardless of which coastal management area the activity may fall within. Thus, Policy 32 must be read in conjunction with each of the other relevant policies, including all the General Policies. Together these policies address the matters covered in the <i>New Zealand Coastal Policy Statement</i>.</p> <p>The Hearing Panel therefore recommends declining the relief sought on the basis that the issue raised by the submitter has already been covered within other provisions of the Plan.</p> |
| 45 – Powerco | 541 | <p>Support</p> <p>Retain Policy 32 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 32 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 542 | <p>Support</p> <p>Retain Policy 32 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 32 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |
| 47 – Fonterra | 543 | <p>Amend</p> <p>Submitter support Policy 32 recognising and providing for structures in the coastal marine area that have an operational requirement to be located in the coastal environment but seeks amendment so that Policy 32(a) is not limited to those activities that have a functional need only. Submitter seeks amendment to Policy 32(a) of the Plan to read:</p> <p><i>Structures in the coastal marine area:</i></p> <p><i>(a) will generally be limited to those that have a functional need <u>or operational requirement</u> to be located in the coastal marine area and that do not cause duplication of a function for which existing structures or facilities are adequate; [...]</i></p> | <p>Accept</p> <p>The Hearing Panel agrees with the submitter to amend the Policy to cover “operational needs” alongside “functional needs”. The amended Policy would provide for structures that are not required to be located within the coastal marine area, however, their operational requirements or constraints justify their presence there.</p> <p>In order to maintain consistency with terms adopted in the <i>National Planning Standards</i>, the Hearing Panel recommends that the term “operational need” be adopted rather than “operational requirement.”</p> <p>The amended Policy would read as follows:</p> <p><i>Structures in the coastal marine area:</i></p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Trans-Tasman Resources Ltd (6) | | Support | <i>(a) must generally be limited to those that have a functional need <u>or operational need</u> to be located in the coastal marine area and that do not cause duplication of a function for which existing structures or facilities are adequate; [...]</i> |
| 57 – Heritage New Zealand | 544 | <p>Amend</p> <p>The submitter identifies that the placement of structures has the potential to adversely affect historic heritage and wishes to include cross-reference to Policy 15 [Historic heritage] within Policy 32. Submitter seeks amendment to Policy 32 of the Plan to manage potential adverse effects of the placement of hard protection structures to historic heritage by adding a further point:</p> <p><i><u>(g) will manage adverse effects on historic heritage in accordance with Policy 15.</u></i></p> | <p>Decline</p> <p>The Hearing Panel notes that the preamble to Section 5.1 explains that the policies apply to all activities within the coastal environment, regardless of which coastal management area the activity may fall within. Thus, Policy 32 must be read in conjunction with each of the other relevant policies, including all the General Policies. Together these policies address the matters covered in the <i>New Zealand Coastal Policy Statement</i>.</p> <p>The Hearing Panel therefore recommends declining the relief sought as historic heritage matters are already adequately addressed under other provisions of the Plan.</p> |
| Policy 33 – Hard protection structures in coastal areas of outstanding value | | | |
| 43 – Royal Forest and Bird Protection Society | 545 | <p>Amend</p> <p>Submitter seeks amendment to Policy 33 to read:</p> <p><i>Hard protection structures located within the coastal management area – Outstanding Value (identified in Schedule 2) will not have an adverse effect on the values and characteristics, <u>including those</u> identified in Schedule 2, that contribute to an area having outstanding value, in accordance with Policy 8.</i></p> | <p>Decline</p> <p>The submitter does not believe that all of the values or characteristics contributing to the outstanding natural character of the identified areas are identified within Schedule 2. Therefore, the Policy is limited to only providing for those identified in Schedule 2 and not achieving the appropriate protection required by Policies 11, 13 and 15 of the <i>New Zealand Coastal Policy Statement</i>.</p> <p>The Hearing Panel agrees that there are broader considerations than just those values identified in Schedule 2, however, these considerations are separately provided for under other General Policies of the Plan that, in turn, give effect to Policies 11, 13 and 15 of the <i>New Zealand Coastal Policy Statement</i>. The wording of Policy 33 is consistent with Policy 8 [Areas of outstanding value] of the Plan in that the avoidance of adverse effects relates to specific scheduled values identified.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| NEW Policy 33A | | | |
| 43 – Royal Forest and Bird Protection Society | 546 | Amend Submitter seeks amendment to the Plan to include a similar policy to Policy 33 to address hard protection structures and adverse effect on sites and areas with significant values identified under Policy 14 of the Plan. | Decline The submitter seeks the addition of a new policy to manage the adverse effects of hard protection structures on significant indigenous biodiversity values identified in Policy 14 of the Plan. |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | The Hearing Panel recommends declining the relief sought. It is suggested that the protection of significant indigenous biodiversity from the adverse effects of hard protection structures are adequately addressed under other provisions of the Plan and do not require repeating. Section 5.1 explains that the policies apply to all activities within the coastal environment, regardless of the activity to be authorised and which coastal management area the activity may fall within. Policy 33 must therefore be read in conjunction with each of the other relevant policies, including all the General Policies. Together these policies address the matters covered in the <i>New Zealand Coastal Policy Statement</i> . |
| Policy 34 – Appropriateness of hard protection | | | |
| 47 – Fonterra | 547 | Amend Submitter seeks to expand Policy 34 to include regionally important “ <i>industry</i> ” alongside infrastructure in order to encompass the hard protection structures of industries within the region. Submitter seeks amendment to Policy 34 of the Plan to read: <i>Hard protection structures will be discouraged and the use of alternatives promoted, whilst recognising that hard protection structures may be the only practical means to protect existing nationally and regionally important industry and infrastructure. [...]</i> | Grant in kind The Council is seeking to manage the risk of hard protection works becoming more prevalent along the Taranaki coastline with associated risks that coastal natural character, amenity values and public access is degraded over time. Accordingly, Policy 34 seeks to generally discourage the use of hard protection structures in the coastal marine area. The submitter has highlighted an issue whereby the Policy reference to “ <i>regionally important infrastructure</i> ” is problematic in that it excludes some activities and arguably repeats consideration matters covered in Clause (e), which refer to the national and regional importance of existing infrastructure, use or value at threat. The Hearing Panel proposes an alternative relief whereby reference to regionally important infrastructure (and its limited scope) is deleted and instead the Policy will rely on Clause (c) which has a much broader application and would cover the hard protection structure that would encompass protecting the Whareroa discharge outfall. At the hearing, the submitter presented further on Policy 34 and provided two alternative amendment suggestions. The Hearing Panel considers that the |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | amendments suggested are not necessary and that Clause (a) – (g) sufficiently provide for the needs of the submitter (and others). |
| 57 – Heritage New Zealand | 548 | Amend Submitter seeks amendment to Policy 34 of the Plan to read: <i>(h) the management of adverse effects on historic heritage in accordance with Policy 15.</i> | Decline The submitter identifies that the placement of hard protection structures has the potential to adversely affect historic heritage and wishes to include cross-reference to Policy 15 [Historic heritage] within Policy 34. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | The Hearing Panel recommends declining the relief sought as such matters are already adequately addressed under other provisions of the Plan and does not require repeating or selective cross-referencing to particular General Policies. The Hearing Panel notes that the preamble to Section 5.1 explains that the policies apply to all activities within the coastal environment, regardless of which coastal management area the activity may fall within. Policy 33 must therefore be read in conjunction with each of the other relevant policies, including all the General Policies. Together these policies address the matters covered in the <i>New Zealand Coastal Policy Statement</i> . |
| 59 – KiwiRail | 549 | Support Retain Policy 34(c) of the Plan as notified. | Accept in part Support noted. Policy 34 is retained subject to minor amendments as requested by another submitter that does not change the policy intent. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| Policies 34 and 35 – Hard protection structures | | | |
| 43 – Royal Forest and Bird Protection Society | 550 | Amend Submitter seeks amendment to Policies 34 and 35 of the Plan (or add a new policy) to ensure that hard protection structures avoid adverse effects on indigenous biodiversity to be protected under Policy 14 of the Plan AND Seek amendment to Policy 35 of the Plan to ensure protection is also given under Policies 8 and 9 of the Plan. | Decline The Hearing Panel recommends declining the relief sought as such matters are already adequately addressed under other provisions of the Plan and do not require repeating. The Hearing Panel notes that the preamble to Section 5.1 explains that the policies apply to all activities within the coastal environment, regardless of which coastal management area the activity may fall within. Policy 33 must therefore be read in conjunction with each of the other relevant policies, including all the General Policies. Together these policies address the matters covered in the <i>New Zealand Coastal Policy Statement</i> . |
| Further submissions – Department of Conservation (29), Port Taranaki Ltd (32) | | Oppose | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| Policy 35 – Temporary hard protection structures | | | |
| 60 Te Kaahui o Rauru | 551 | Amend Submitter seeks amendment to Policy 35 of the Plan to include a definition of "permanent". | Accept The Hearing Panel recommends amending Policy 35(c) so that it no longer refers to "permanent". The revised Policy (c) would read as follows: <i>Temporary hard protection structures with a duration of less than five years may be allowed provided that: [...]</i> (c) <i>any</i> adverse effects on the environment <i>resulting</i> from the placement, use and removal of the structure, <i>will be less than minor and transitional</i> . |
| Policy 36 – Maintenance, repair, replacement and minor upgrading of existing structures | | | |
| 12 – Chorus New Zealand Ltd | 552 | Support Retain Policy 36 of the Plan as notified. | Accept Support noted. Policy 36 is retained subject to minor amendment as requested by another submitter that does not change the policy intent. |
| 13 – Spark New Zealand Trading Ltd | 553 | Support Retain Policy 36 of the Plan as notified. | Accept Support noted. Policy 36 is retained subject to minor amendment as requested by another submitter that does not change the policy intent. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 14 – Vodafone New Zealand Ltd | 554 | Support Retain Policy 36 of the Plan as notified. | Accept Support noted. Policy 36 is retained subject to minor amendment as requested by another submitter that does not change the policy intent. |
| 43 – Royal Forest and Bird Protection Society | 555 | Support Submitter seeks amendment to Policy 36 of the Plan to read: <i>Maintenance, repair, replacement and minor upgrading of existing lawful structures and reclamations will be allowed:</i> | Accept The Hearing Panel agrees with the submitter on the importance of ensuring that, in providing for the maintenance, and minor alteration or extension of existing lawful structures and reclamations in the coastal marine area, the scale of effects of those |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p><u>a). where it does not increase the scale or significance of the effects of the activity or structure; and</u></p> <p><u>b). in order to:</u></p> <p>(i) enable compliance [...]</p> | <p>activities are not increased. Accordingly, the Hearing Panel recommends amending Policy 36 to largely give effect to the relief sought by the submitter but with some minor amendments to those suggested to allow for the activity where the effects are less than minor (i.e. in relation to no increase in the scale or significance of the effects) <u>or</u> in order to provide for the circumstances set out in Policy 36 (a) of the Proposed Plan but subject to the appropriate avoidance, remediation or mitigation of adverse effects (that requires having regard to the General Policies and other relevant Activity-specific Policies).</p> <p>The Hearing Panel recommends amending Policy 36 to read:</p> <p><i>Maintenance, repair, replacement and minor upgrading of existing lawful structures and reclamations will be allowed:</i></p> <p><u>a). in order to:</u></p> <p>(i) enable compliance [...]</p> <p><u>(b) where it does not increase the scale or intensity of the adverse effects of the activity or structure; and</u></p> <p><u>subject to the appropriate avoidance, remediation or mitigation of adverse effects.</u></p> <p>The Hearing Panel further recommends that amendments consistent with amendments identified above, are incorporated into Policy 41 for consistency and clarity for Plan users.</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 45 – Powerco | 556 | <p>Support</p> <p>Retain Policy 36 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 36 is retained subject to minor amendment as requested by another submitter that does not change the policy intent.</p> |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 557 | <p>Support</p> <p>Retain Policy 36 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 36 is retained subject to minor amendment as requested by another submitter that does not change the policy intent.</p> |
| 47 – Fonterra | 558 | <p>Support</p> <p>Retain Policy 36 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 36 is retained subject to minor amendment as requested by another submitter that does not change the policy intent.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 59 – KiwiRail | 559 | Support | Accept |
| | | Retain Policy 36 of the Plan as notified. | Support noted. Policy 36 is retained subject to minor amendment as requested by another submitter that does not change the policy intent. |
| Policy 37 – Alterations or extensions of existing structures | | | |
| 12 – Chorus New Zealand Ltd | 560 | Support | Accept |
| | | Retain Policy 37 of the Plan as notified. | Support noted. Policy 37 is retained subject to minor amendment as requested by another submitter that does not change the policy intent. |
| 13 – Spark New Zealand Trading Ltd | 561 | Support | Accept |
| | | Retain Policy 37 of the Plan as notified. | Support noted. Policy 37 is retained subject to minor amendment as requested by another submitter that do not change the policy intent. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 14 – Vodafone New Zealand Ltd | 562 | Support | Accept |
| | | Retain Policy 37 of the Plan as notified. | Support noted. Policy 37 is retained subject to minor amendment as requested by another submitter that does not change the policy intent. |
| 43 – Royal Forest and Bird Protection Society | 563 | Amend | Accept in part |
| | | Submitter seeks amendment to Policy 37 of the Plan to read: <i>Major alteration or extension of existing lawful structures will be <u>considered allowed-in appropriate locations where the activity will avoid adverse effects consistent with protection required under policies 8, 9 and 14, and where the activity will not have significant adverse effects on other lawfully established structures or uses, and alteration or extension values and will: [...]</u></i> | There are two parts to the relief sought by the submitter. First, the submitter does not consider Policy 37 meets the requirements of Policy 11(a) [Indigenous biological diversity], 13(1)(a) [Preservation of natural character] or 14(a) [Restoration of natural character] of the <i>New Zealand Coastal Policy Statement</i> . The Hearing Panel disagrees and does not recommend granting relief to this part of the relief sought by the submitter. The Hearing Panel notes that Policy 37 must be read in conjunction with all the other relevant policies, including all the General Policies, which address amongst other things natural character and indigenous biodiversity. Together these policies address the matters sought by the submitter and are considered sufficient to achieve the requirements set out within the <i>New Zealand Coastal Policy Statement</i> . Second, the submitter seeks amendment to the policy to include “ <i>lawfully established structures</i> ”. The Hearing Panel agrees to this part of the relief sought noting it clarifies the policy intent. The amended Policy would read as follows: |

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| | | | <i>Major alteration or extension of existing lawful structures will be allowed in locations where the activity will not have significant adverse effects on other <u>lawfully established structures or</u> uses and values and will: [...]</i> |
| 45 – Powerco | 564 | Amend Submitter seeks amendment to Policy 37 of the Plan to read: <i>Major aAlteration or extension of existing lawful structures, <u>including major alterations or extensions</u>, will be allowed in locations where the activity will not have significant adverse effects on other uses and values and will [...]</i> | Decline The submitter wishes to extend the scope of the policy to cover all alterations or extensions of structures in the coastal marine area, not just major alterations or extensions. The Hearing Panel recommends declining the relief sought. |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Support | The Hearing Panel considers that the current wording is appropriate as it provides for two types of alterations or extension. These being minor alterations and extensions that are managed through Policy 36 and generally allowed for as a permitted activity. Other alteration or extension activities are addressed under Policy 37 will generally require a consent. The Hearing Panel prefers to keep this distinction simple for Plan users as notified. |
| Further submissions – Fonterra (47) | | Support in part | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 565 | Amend Submitter seeks amendment to Policy 37 of the Plan to read: <i>Major aAlteration or extension of existing lawful structures, <u>including major alterations or extensions</u>, will be allowed in locations where the activity will not have significant adverse effects on other uses and values and will [...]</i> | Decline The submitter wishes to extend the scope of the policy to cover all alterations or extensions of structures in the coastal marine area, not just major alterations or extensions. The Hearing Panel recommends declining the relief sought. The Hearing Panel considers that the current wording is appropriate as it provides for two types of alterations or extension. These being minor alterations and extensions that are managed through Policy 36 as a Permitted activity. Other alteration or extension activities are addressed under Policy 37 will generally require a consent. The Hearing Panel prefers to keep this distinction simple for Plan users as notified. |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Support | |
| Policy 38 – Removal of coastal structures | | | |
| 12 – Chorus New Zealand Ltd | 566 | Support Retain Policy 38 of the Plan as notified. | Accept in part Support noted. Policy 38 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 13 – Spark New Zealand Trading Limited | 567 | Support | Accept in part |
| | | Retain Policy 38 of the Plan as notified. | Support noted. Policy 38 is retained subject to minor amendment as requested by other submitters that do not change the policy intent. |
| 14 – Vodafone New Zealand Ltd | 568 | Support | Accept in part |
| | | Retain Policy 38 of the Plan as notified. | Support noted. Policy 38 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 25 – New Zealand Petroleum and Minerals | 569 | Amend | Accept in part |
| | | <p>Submitter seeks amendment to Policy 38 of the Plan to recognise additional considerations and to read as follows:</p> <p><i>Structures will be removed from the coastal marine area at the expiry of their authorisation or at the end of their useful life, unless one or more of the following applies:</i></p> <p>[...]</p> <p><i><u>(d) the removal of the structure poses unreasonable costs or is technically unfeasible; or</u></i></p> <p><i><u>(e) the removal of the structure poses unreasonable risk on human health and safety.</u></i></p> | <p>The submitter is concerned that part of the Policy is limiting and does not allow for other matters such as unreasonable costs or health and safety concerns to be considered alongside environmental effects as exceptions to requiring the removal of structures in the coastal marine area. The Policy does not explicitly provide for the use of industry best practice tools to determine the best practicable environmental outcome.</p> <p>The Hearing Panel notes that the removal of new structures are generally considered at the time of the application of a consent and with the consent being granted once the technical, financial and safety aspects have been considered. However, some older structures may have received consents before this became standard practice. It is therefore considered appropriate to ensure that the Council is not trying to require structures to be removed where it would be technically unfeasible and/or there would be a risk to human health and safety.</p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Support in part | The relief sought by the submitter has three parts. The Hearing Panel agrees with the submitter to amend the Policy so that technical considerations and public health risks are reasonable considerations where Council might not require the structure to be removed. However, following pre-hearing discussions with the Department of Conservation, the Hearing Panel does not consider that the imposition of unreasonable cost is an acceptable reason for not removing a structure and expect these considerations to be addressed when the consent to place or erect the structure is sought. |
| Further submissions – Department of Conservation (29), Te Rūnanga o Ngāti Mutunga (40) | | Oppose | |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Support | At the hearing, the submitter presented further on this issue and sought the inclusion of a new clause (f) to the effect that removal of all or part of a structure is not required if the retention of all or part of the structure has either beneficial or minimal adverse effects on marine ecology and coastal processes. However, it is the view of the Hearing Panel that the matters set out in Policy 38 already provides for this and the |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | new clause is not necessary. For example, retention of a structure below the seabed maybe entirely appropriate and has been provided for under Cause (a) as the disturbance to the seafloor in removing that structure is likely to cause greater adverse effects on the environment than leaving it in place. |
| 32 – Port Taranaki | 570 | <p>Amend</p> <p>Submitter seeks amendment to Policy 38 of the Plan to provide an exception to this policy for new port structures intended to be permanent.</p> | <p>Accept</p> <p>The Hearing Panel recommends granting the relief sought by the submitter. The Hearing Panel recognises that some (but not all) Port structures may be designed and built to be permanent. In such situations it is appropriate that there is no obligation to remove these “<i>permanent structures</i>”. The Hearing Panel recommends amending Policy 38 to include a new Clause (c) (plus other consequential amendments) to allow considerations for material to be left <i>in situ</i> or elsewhere in the coastal marine area where the structure, or part of the structure, is intended to be permanent, e.g. new Port structures.</p> <p>Policy 38 would read as follows:</p> <p><i>Policy 38 removal of coastal structures</i></p> <p><i>Decommissioning and removal of any new structure must be considered as part of the initial design and installation and removal will generally be required.</i></p> <p><i><u>When assessing the appropriateness of allowing a structure, a part of a structure, or material associated with a structure to be left in situ or elsewhere in the coastal marine area, at least one of the following must apply: [...]</u></i></p> <p><i><u>(c) the structure, or part of the structure, is permanent or has a reuse value that is considered appropriate in accordance with Policy 5; [...]</u></i></p> |
| 37 – Petroleum Exploration and Production Association of NZ | 571 | <p>Amend</p> <p>Submitter seeks amendment to Policy 38 of the Plan to read:</p> <p>Structures will be removed from the coastal marine area at the expiry of their authorisation or at the end of their useful life, unless Applications to abandon material in situ or elsewhere in the coastal marine area can be made if one or more of the following applies [...]</p> | <p>Grant in kind</p> <p>The submitter has issue with Policy 38 in that the original wording is arguably ambiguous and could mean that the Council imposes a requirement to leave the structure if an item on the list is triggered. The submitter recommends some word changes to clarify the Policy's intent.</p> <p>The Hearing Panel recommends granting an alternative relief to that sought by the submitter with minor word changes to align the wording with other provisions within the Plan.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Oppose | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | <p>The revised Policy would read as follows:</p> <p><i>Decommissioning and removal of any new structure must be considered as part of the initial design and installation and removal will generally be required.</i></p> <p><i>When assessing the appropriateness of allowing a structure, a part of a structure, or material associated with a structure to be left in situ or elsewhere in the coastal marine area, at least one of the following must apply: [...]</i></p> |
| 37 – Petroleum Exploration and Production Association of NZ | 572 | <p>Amend</p> <p>Submitter seeks amendment to Policy 38 to include the following considerations (from the International Maritime Organisation's 1989 guidelines):</p> <ol style="list-style-type: none"> 1 any potential effect on the safety of surface or subsurface navigation, or of other uses of the sea; 2 the rate of deterioration of the material and its present and possible future effect on the marine environment; 3 the potential effect on the marine environment, including living resources; 4 the risk that the material will shift from its position at some future time; 5 the costs, technical feasibility, and risks of injury to personnel associated with removal of the installation or structure, and 6 the determination of a new use or other reasonable justification for allowing the installation or structure or parts thereof to remain on the sea-bed | <p>Accept in part</p> <p>The submitter wishes additional factors to be considered when applying to leave materials <i>in situ</i>. The submitter suggests this would be in line with the direction of the Central Government's proposed policy for structures in the Exclusive Economic Zone and also with the International Maritime Organisation's 1989 guidelines and include consideration of costs, technical feasibility and health and safety risks.</p> <p>The Hearing Panel agrees with the submitter to amend the Policy to expand consideration matters for where Council might not require the structure to be removed to include technical considerations and public health risks. However, following pre-hearing discussions with the Department of Conservation, the Hearing Panel does not consider that unreasonable cost is an acceptable reason for not removing a structure and expect such considerations to be addressed when the consent to place or erect the structure is sought.</p> <p>The Hearing Panel recommends the following amendments to the Policy as follows:</p> <p><i>Decommissioning and removal of any new structure must be considered as part of the initial design and installation and removal will generally be required.</i></p> <p><i>When assessing the appropriateness if allowing a structure, a part of a structure, or material associated with a structure to be left in situ or elsewhere in the coastal marine area, at least one of the following must apply:</i></p> <ol style="list-style-type: none"> a) removal of the structure would cause greater adverse effects on the environment than leaving it in place; b) the structure is an integral part of an historic heritage site or landscape; c) the structure, or part of the structure, is permanent or has reuse value that is considered appropriate in accordance with Policy 5; d) the removal of the structure is technically unfeasible; or e) the removal of the structure poses unreasonable risk on human health and safety. |
| Further submissions – Te Atiawa (58) | | Oppose | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 37 – Petroleum Exploration and Production Association of NZ | 573 | Amend | Decline |
| | | Clarify policy expectations for planning for decommissioning and removal by allowing for a description of general principles and options for decommissioning and removal of new structures. | <p>The submitter seeks that the Policy be clarified to allow for a description of general principles and options for decommissioning and removal of new structures to provide clarity to users that a detailed decommissioning plan is not required at the time of applications for new structures.</p> <p>The Hearing Panel suggests that the Policy provides adequate direction and guidance on the Council's expectations that, as part of the consenting process, applicants need to consider and address Council's general expectation that structures in the coastal marine area will be decommissioned and removed after they have served their stated purpose.</p> <p>The submitter has not identified what principles and options they consider appropriate to be included in Plan provisions. However, it is the Hearing Panel's view that the detail describing general principles and options for decommissioning the removal of new structures in the coastal marine area is not necessary to be included in the Policy itself and are matters of detail that are more appropriately addressed through the consenting process.</p> |
| 41 – Te Korowai o Ngāruahine Trust | 574 | Support | Accept |
| | | Submitter supports presumption in Policy 38 of the Plan that coastal structures will be removed. | Support noted. Policy 38 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| Further submissions – Te Atiawa (58) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 575 | Support | Accept |
| | | Retain Policy 38 of the Plan as notified. | Support noted. Policy 38 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 45 – Powerco | 576 | Support | Accept |
| | | Retain Policy 38 of the Plan as notified. | Support noted. Policy 38 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| Further submissions – Fonterra (47) | | Support | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 577 | Support | Accept |
| | | Retain Policy 38 of the Plan as notified. | Support noted. Policy 38 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 58 – Te Atiawa | 578 | <p>Amend</p> <p>Submitter seeks amendment to Policy 38 of the Plan to read: <i>Decommissioning and removal of any new structure will must be planned for as part of the initial design and installation.</i></p> <p><i>Structures will must be removed from the coastal marine area at the expiry of their authorisations or at the end of their useful lives, unless one or more of the following applies:</i></p> | <p>Accept</p> <p>The use of terms with similar meanings such as “<i>must</i>”, “<i>will</i>” and “<i>shall</i>” has been alternatively adopted throughout many second generation planning documents, including national policy statements and regional plans.</p> <p>A number of submitters have identified they prefer the term “<i>must</i>”, instead of “<i>will</i>” in relevant policies. Some have argued that the use of the term “<i>must</i>” is more legally robust. The Hearing Panel has no objection to making the change noting that the policy intent of this Policy is that the activity needs to comply with the provision.</p> |
| Policy 39 – Occupation | | | |
| 6 – Trans-Tasman Resources Ltd | 579 | <p>Support</p> <p>Retain Policy 39 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 39 is retained as notified.</p> |
| 43 – Royal Forest and Bird Protection Society | 580 | <p>Support</p> <p>Retain Policy 39 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 39 is retained as notified.</p> |
| 45 - Powerco | 581 | <p>Support</p> <p>Retain Policy 39 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 39 is retained as notified.</p> |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 582 | <p>Support</p> <p>Retain Policy 39 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 39 is retained as notified.</p> |
| Policy 40 – Disturbance, deposition and extraction in marine protected areas | | | |
| 41 – Te Korowai o Ngāruahine Trust | 583 | <p>Amend</p> <p>Submitter seeks amendment to Policy 40 of the Plan so that it includes marine areas that sometime in the future may also be designated for legal protection.</p> | <p>Accept</p> <p>The submitter wishes to expand the protections of Policy 40 to provide for changes that may occur over the life of the Plan, in particular, any future area designated for legal protection.</p> <p>The Hearing Panel recommends granting the relief sought by amending Policy 40 to read:</p> <p><i>Disturbance of, or deposition on, the foreshore or seabed or the extraction of natural material will not occur in areas managed or held under other Acts for statutory protection (including Parininihi Marine Reserve, Ngā Motu/Sugar Loaf Islands Marine</i></p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | <p>Support</p> | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <i>Protected Area and Tapuai Marine Reserve identified in Schedule 1) apart from that associated with: [...]</i> |
| 43 – Royal Forest and Bird Protection Society | 584 | Support Retain Policy 40 of the Plan as notified. | Accept Support noted. Policy 40 is retained subject to minor amendments as requested by another submitter that does not change the policy intent. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| Policy 41 – Provision for disturbance, deposition or extraction activities that provide public or environmental benefit | | | |
| 26 – Transpower NZ Ltd | 585 | Amend Submitter seeks amendment to Policy 41(g) of the Plan to read: <i>Disturbance, deposition or extraction that is necessary to protect, or maintain or develop the safe and efficient operation of nationally and regionally important infrastructure or provide for public or environmental benefit will be allowed for enabled, subject to appropriate management of adverse effects, including: [...]</i> <i>(g) operating, maintaining, repairing, or upgrading, or development of lawful structures or infrastructure; [...]</i> | Grant in kind The submitter wishes Policy 41 to provide for the consideration of new infrastructure (development) within the Policy, which would give effect to Policy 1 and 2 of the National Policy Statement for Electricity Transmission. The Hearing Panel recommends amending Policy 41 in a manner that gives effect to the relief sought by the submitter while aligning with language adopted elsewhere in the Plan. The revised Policy would read as follows: <i>Allow disturbance, deposition or extraction that is necessary to provide for public or environmental benefit, <u>including protecting or maintaining the safe and efficient operation of regionally important infrastructure</u>, subject to appropriate management of adverse effects, including: [...]</i> <i>(g) operating, maintaining, <u>altering or extending</u> lawful structures or infrastructure; [...]</i> |
| 29 – Department of Conservation | 586 | Support Retain Policy 41 of the Plan as notified. | Accept Support noted. Policy 41 is retained subject to minor amendments as requested by another submitter that does not change the policy intent. |
| 59 - KiwiRail | 587 | Support Retain Policy 41 of the Plan as notified. | Accept Support noted. Policy 41 is retained subject to minor amendments as requested by another submitter that does not change the policy intent. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 43 – Royal Forest and Bird Protection Society | 588 | Amend | <p>No relief necessary</p> <p>The submitter is concerned that Policy 41, as currently worded, implies a potential for trading off adverse effects on some environmental values to enhance others and where the activity is for public benefit. The submitter considers “<i>appropriate management</i>” uncertain and is concerned that this Policy is in conflict with Policy 14 [Indigenous biological diversity].</p> <p>The Hearing Panel notes that the policy direction to enable disturbance, deposition or extraction activities that provide public or environmental benefit is subject to the appropriate management of adverse effects. This requires the activity to be managed in a manner consistent with the directions set out in the General Policies 1 to 21.</p> <p>Policy 41 must be read in conjunction with other of the relevant policies, including all the General Policies. Together these policies address the matters sought by the submitter, including those relating to the protection of significant indigenous biodiversity.</p> <p>In relation to amendments to the Policy to clarify that natural values include indigenous biodiversity, the Hearing Panel considers no relief is necessary. However, the Panel recommends minor amendments to Policy 41 to address relief sought by the submitter in submission point 555.</p> |
| | | Submitter seeks amendment to Policy 41 of the Plan to clarify that natural values includes significant indigenous biodiversity consistent with Policy 14. | |
| 45 – Powerco | 589 | Support | <p>Accept</p> <p>Support noted. Policy 41 is retained subject to minor amendments as requested by another submitters that does not change the policy intent.</p> |
| | | Retain Policy 41 of the Plan as notified. | |
| Policy 42 – Disturbance of the foreshore and seabed | | | |
| 12 – Chorus New Zealand Ltd | 590 | Support | <p>Accept</p> <p>Support noted. Policy 42 is retained as notified.</p> |
| | | Retain Policy 42 of the Plan as notified. | |
| 13 – Spark New Zealand Trading Ltd | 591 | Support | <p>Accept</p> <p>Support noted. Policy 42 is retained as notified.</p> |
| | | Retain Policy 42 of the Plan as notified. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 14 – Vodafone New Zealand Ltd | 592 | Support | Accept |
| | | Retain Policy 42 of the Plan as notified. | Support noted. Policy 42 is retained as notified. |
| 37 – Petroleum Exploration and Production Association of NZ | 593 | Support | Accept |
| | | Retain Policy 42 of the Plan as notified. | Support noted. Policy 42 is retained as notified. |
| 41 – Te Korowai o Ngāruahine Trust | 594 | Other | No relief necessary |
| | | Submitter seeks confirmation that Policy 42 of the Plan does not relate to commercial activity. | <p>The submitter is not seeking a change to the Plan but presumes that the Policy does not apply to large-scale commercial activities (and their appropriateness) in the coastal marine area.</p> <p>The Hearing Panel notes that the Plan must necessarily address commercial and non-commercial activities. Accordingly, Policy 42 could be applied to commercial activities.</p> <p>It is the view of the Hearing Panel that Policy 42 does not need to differentiate activities according to whether or not they are a commercial activity but rather focus on the range of environmental effects that the activity might result in. This is considered appropriate and a better management practice than merely regulating the activities for commercial ventures. Notwithstanding the above, the Hearing Panel notes that large scale commercial activities that cause disturbance of the foreshore and seabed will generally be of a scale or type that trigger certain rules and consenting requirements. However, even small commercial activities and non-commercial activities can be of a size, type or in a location that need to be managed in a manner that has regard to the sensitivity of the site specific values present plus the other matters set out in Policy 42.</p> |
| 43 – Royal Forest and Bird Protection Society | 595 | Amend | Decline |
| | | Submitter seeks amendment to Policy 42 of the Plan to ensure activities avoid adverse effects as required by Policies 11, 13 and 15 of the <i>New Zealand Coastal Policy Statement</i> . | <p>The Hearing Panel suggests that the submitter's concerns have already been provided for within the Plan and recommend declining the relief sought.</p> <p>As stated in the preamble of Section 5.1, Policy 42 must be read in conjunction with each of the other relevant policies, including all the General Policies and Policies 11, 13 and 15. Together these policies address the matters sought by the submitter, including those relating to the protection of significant indigenous biodiversity It is not</p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Neutral | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | necessary to refer to indigenous biodiversity throughout the Policies when a standalone Policy provides the required protection already. |
| 55 – Kiwis Against Seabed Mining | 596 | Amend Submitter seeks amendment to Policy 42 of the Plan, as the interpretation of “disturbance” does not relate to commercial activity. | Decline The Hearing Panel recommends declining the relief sought by the submitter as Plan provisions must necessarily address all activities in the coastal marine area, irrespective of whether they are commercial or not. It is not the intent of the Plan to preclude appropriate commercial use and development. It is the the view of the Hearing Panel that Policy 42 should focus on environmental effects rather than presumptions on the appropriateness of activities based on whether they are commercial or not. The Hearing Panel notes that commercial activities that cause disturbance of the foreshore and seabed will generally be of a scale or type that trigger certain rules and consenting requirements. However, even small commercial activities and non-commercial activities can be of a size, type or in a location that need to be managed in a manner that has regard to the sensitivity of the site specific values present plus the other matters set out in Policy 42. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| 56 – Greenpeace | 597 | Amend Submitter seeks amendment to Policy 42 of the Plan as the interpretation of “disturbance” does not relate to commercial activity. | Decline The submitter is seeking amendment to Policy 42 to exclude large-scale commercial activities (and their appropriateness) in the coastal marine area. The Hearing Panel recommends declining the relief sought by the submitter as Plan provisions must necessarily address all activities in the coastal marine area, irrespective of whether they are commercial or not. It is not the intent of the Plan to preclude appropriate commercial use and development. It is the also the view of the Hearing Panel that Policy 42 should focus on effects rather than presumptions on the appropriateness of activities based on whether they are commercial or not. The Hearing Panel notes that commercial activities that cause disturbance of the foreshore and seabed will generally be of a scale or type that trigger certain rules and consenting requirements. However, the Hearing Panel also notes that even small commercial activities and non-commercial activities can be of a size, type or in a location that need to be managed in a manner that has regard to the sensitivity of the site specific values present plus the other matters set out in Policy 42. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| 57 – Heritage New Zealand | 598 | Amend Submitter seeks amendment to Policy 42 of the Plan to read: | No relief necessary |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p><i>Activities that cause disturbance of the foreshore or seabed will:</i> [...]</p> <p><i>(c) avoid, remedy or mitigate other adverse effects – <u>including adverse effects on historic heritage (refer to Policy 15)</u>; and [...]</i></p> | <p>The Hearing Panel recognises the concern of the submitter but suggests that their concerns have already been provided for within the Plan.</p> <p>As stated in the preamble of Section 5.1, Policy 42 must be read in conjunction with each of the other relevant policies, including all the General Policies and Policy 15. Together these policies address the matters sought by the submitter, including those relating to the protection of historic heritage. It is not necessary to refer to historic heritage throughout the policies when a stand-alone Policy provides the required protection already.</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 58 – Te Atiawa | 599 | <p>Other</p> <p>Submitter seeks confirmation that the disturbance referred to in Policy 42 of the Plan is covered by Policies 40, 41, 43 and 44 and does not relate to commercial activity.</p> | <p>No relief necessary</p> <p>The submitter seeks confirmation that disturbance referred to in Policy 42 is covered by Policies 40, 41, 43 and 44. The Hearing Panel notes that which policies apply will depend upon the activity (e.g. if the activity is not occurring in the Port then Policy 43 does not apply). However, all policies must be read together. All General Policies 1 to 21 plus any relevant Activity-specific Policies will be considered together.</p> <p>In relation to the Policy excluding commercial activities, the Hearing Panel notes that neither the policies, nor the rules, differentiate activities according to whether or not they are a commercial activity. Instead, Plan provisions focus on the range of effects that the activity will result in. This is considered appropriate and a better management practice than merely regulating the activities for commercial ventures.</p> <p>Notwithstanding the above, the Hearing Panel notes that commercial activities that cause disturbance of the foreshore and seabed will generally be of a scale or type that trigger certain rules and consenting requirements. However, even small commercial activities and non-commercial activities can be of a size, type or in a location that need to be managed in a manner that has regard to the sensitivity of the site specific values present plus the other matters set out in Policy 42. It is, therefore, preferable not to limit any policies or rules to commercial activities only and a broader approach captures all activities.</p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| Policy 43 – Port dredging | | | |
| 6 – Trans-Tasman Resources Ltd | 600 | <p>Amend</p> <p>The submitter wishes to expand the policy to refer to dredging which may also be required at other ports or for other significant infrastructure within the region.</p> | <p>Decline</p> <p>The Hearing Panel considers the requested amendments to be largely a continuation of Policy 41 [Provision for disturbance, deposition or extraction activities that provide</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p>Submitter seeks amendments to Policy 43 of the Plan to refer to other nationally or regionally significant infrastructure and read as follows:</p> <p><i>Policy 43: Port-dredging</i></p> <p><i>Maintenance and capital dredging activities for <u>ports or nationally or regionally significant infrastructure Port Taranaki</u>, including spoil disposal, will be managed in order that:</i></p> <p><i>(a) uncontaminated sand is deposited in inshore areas in a manner that mitigates the effects of Port Taranaki facilities on natural littoral sediment processes; [...]</i></p> | <p>public or environmental benefit] that deliberately focuses on providing for dredging that provides for the safe and efficient operation of Port Taranaki. The Hearing Panel has considered expanding upon the scope of the Policy to provide for maintenance and capital dredging activities for other regionally significant infrastructure. However, the Hearing Panel recommends retaining the Policy in its current form, noting that the Port is the only location carrying out moderate-scale activities in the Taranaki CMA with any frequency and other policies are applicable if need be.</p> <p>The Hearing Panel further notes that there are other mechanisms available under the RMA, such as emergency works, should urgent works be required in relation to maintaining the safe and efficient operation of other regionally important infrastructure.</p> |
| Further submissions – Department of Conservation (29), Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 601 | <p>Amend</p> <p>Submitter seeks amendments to Policy 43(b) of the Plan to read</p> <p><i>Maintenance and capital dredging activities for ports or nationally or regionally significant infrastructure Port Taranaki, including spoil disposal, will be managed in order that:</i></p> <p><i>(b) fine particle sediment (silt) and any contaminated sediment is deposited in appropriate offshore spoil disposal locationsareas; [...];</i></p> | <p>Accept</p> <p>The submitter considers the wording of Policy 43(d) to be uncertain. The Hearing Panel agrees to the relief sought noting that the requested amendment provides greater clarity and is consistent with wording used in Policy 5, and elsewhere, within the Plan.</p> |
| 57 – Heritage New Zealand | 602 | <p>Amend</p> <p>Submitter seeks amendments to Policy 43 of the Plan by adding a new clause (e) to read:</p> <p><i>Maintenance and capital dredging activities for Port Taranaki, including spoil disposal, will be managed in order that:</i></p> <p><i>[...]</i></p> <p><i><u>(e) adverse effects on historic heritage are managed in accordance with Policy 15.</u></i></p> | <p>No relief necessary</p> <p>The Hearing Panel recognises the concerns of the submitter but suggests that their concerns have already been provided for within the Plan.</p> <p>As stated in the preamble of Section 5.1, Policy 42 must be read in conjunction with each of the other relevant policies, including all the General Policies and Policy 15. Together these policies address the matters sought by the submitter, including those relating to the protection of historic heritage. It is not necessary to refer to historic heritage throughout the policies when a stand-alone policy provides the required protection already.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Policy 44 – Extraction or deposition of material | | | |
| 6 – Trans-Tasman Resources Ltd | 603 | Support | Accept General support for Policy 44 noted. Issues raised regarding Clause (f) are discussed in the following submission point. |
| | | Submitter supports Policy 44 (with the exception of Clause (f)) of the Plan as providing appropriate policy support and guidance for extraction and deposition activities in the coastal marine area. | |
| Further submissions – Department of Conservation (29), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 6 – Trans-Tasman Resources Ltd | 604 | Amend | Decline The submitter considers Clause (f) to be too subjective and provides no guidance as to when it may be applicable and appropriate to impose size and sorting requirements on the deposited material. Further, the submitter believes that there may be a range of circumstances when such requirements may not be appropriate. The Hearing Panel notes that Policy 44(f) includes a qualifier that, where applicable and appropriate, the deposition of material from any extractions from the foreshore or seabed must be of a similar size, sorting and parent material as the receiving sediments. As a general requirement, this is considered reasonable and appropriate. However, through the consenting process there is an opportunity to consider on a case-by-case basis any circumstances where such requirements may not be applicable or appropriate and set conditions relating to sizing and sorting requirements (after also referring to other policies that may be relevant). |
| | | Submitter seeks amendments to Policy 44 of the Plan to delete Clause (f): <i>Extraction of sand, shingle, shell and other natural material from the foreshore or seabed, or deposition of material on the foreshore or seabed, not provided for by Policies 39, 40, and 42 should: [...]</i> <i>(f) where applicable and appropriate, ensure that the deposited material is of a similar size, sorting and parent material as the receiving sediments”.</i> | |
| 9 – Karen Pratt | 605 | Amend | Accept in part The submitter wishes to ‘strengthen’ Policy 44 by including a new clause to acknowledge biodiversity ‘hot-spots’ that are moderate to high relief reefs known by the local community of divers and recreational fishermen. Conversely, Submitter (6) argued at the hearing against reference to “close proximity” and “moderate to high relief offshore reefs” on the basis that the terms were uncertain (and instead only refer to those reefs identified as outstanding in Schedule 2 of the Plan). The Hearing Panel agrees that there is merit in amending the Policy to generally require that the extraction or deposition of material on the seafloor (not otherwise |
| | | Submitter seeks amendments to Policy 44 of the Plan to include additional considerations and read as follows: <i>Extraction of sand, shingle, shell and other natural material from the foreshore or seabed, or deposition of material on the foreshore or seabed, not provided for by Policies 39, 40, and 42 should: [...]</i> <i>(c) generally not occur in close proximity to moderate to high relief offshore reefs;</i> <i>(d) have regard to unique geological features that drive benthic primary production in the South Taranaki Bight [...]</i> | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | <p>provided for by Policies 40, 41 and 43) not to occur in close proximity to moderate or high relief offshore reefs. The Hearing Panel further notes that there are potentially many such reefs in the Taranaki coastal marine area other than those few identified in Schedule 2 that also merit protection. Issues raised by submitter (6) relating to the lack of certainty are able to be adequately addressed through the consenting process.</p> <p>The Hearing Panel recommends amending Policy 44 to include a new Clause (c) that reads as follows:</p> <p><i>Extraction of sand, shingle, shell and other natural material from the foreshore or seabed, or deposition of material on the foreshore or seabed, not provided for by Policies 39, 40, and 42 should:</i></p> <p>[..]</p> <p><i>(ba) not occur close to moderate or high relief offshore reefs;</i></p> <p>In regards to the requested Clause (d), “<i>unique geological features that drive benthic primary habitat</i>” is already implicitly addressed in (a) and there is no advantage to confining the consideration of such matters to the South Taranaki Bight. The Hearing Panel declines the request as Clause (a) as currently worded provides a wider protection.</p> |
| Further submissions –Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Nga Motu Marine Reserve Society Inc (44). Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 41 – Te Korowai o Ngāruahine Trust | 606 | <p>Amend</p> <p>Submitter seeks amendments to Policy 44 of the Plan to exclude areas identified in Schedules 2, 4A and 4B, 5A and 5B and 6 plus areas subject to a crown application or settlement under the <i>Takutai Moana Act 2011</i>.</p> | <p>Decline</p> <p>The Hearing Panel notes that the relief sought would exclude any extraction or deposition of natural material from the foreshore and seabed from most if not all of the Taranaki coastal marine area regardless of the size of the activity and regardless of whether there are any environmental effects. For example, the whole coastal marine area is currently subject to a Crown application or settlement under the <i>Takutai Moana Act 2011</i>.</p> <p>The Hearing Panel recognises that there are areas where the extraction or disposition of material on the foreshore or seabed would clearly be inappropriate having regard to the values and sensitivity of the receiving environment. Further, policy direction is provided in the General Policies relating to the protection, maintenance and/or enhancement of particular values and uses plus the rules themselves may include standards, terms and conditions that would exclude the activity from areas identified in Schedules 2, 4A, 4B, 5A, 5B and 6.</p> <p>All Plan provisions need to be read together and in their entirety. They include the General Policies, relevant Activity-specific Policies, and the rules (which address the type, scale and location of the activity). Some extraction and deposition activities are</p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | <p>The Hearing Panel recognises that there are areas where the extraction or disposition of material on the foreshore or seabed would clearly be inappropriate having regard to the values and sensitivity of the receiving environment. Further, policy direction is provided in the General Policies relating to the protection, maintenance and/or enhancement of particular values and uses plus the rules themselves may include standards, terms and conditions that would exclude the activity from areas identified in Schedules 2, 4A, 4B, 5A, 5B and 6.</p> <p>All Plan provisions need to be read together and in their entirety. They include the General Policies, relevant Activity-specific Policies, and the rules (which address the type, scale and location of the activity). Some extraction and deposition activities are</p> |
| Further submissions –Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | very minor with less than minor adverse effects that can be generally allowed as a permitted activity. Others are more appropriately considered through the consenting process where there is an opportunity to consider the application on a case-by-case basis and impose conditions on where, how and when an activity can be undertaken and what actions need to be taken to avoid, remedy or mitigate any adverse effects. |
| 43 – Royal Forest and Bird Protection Society | 607 | <p>Amend</p> <p>Submitter seeks amendments to Policy 44 of the Plan to read: <i>Extraction of sand, shingle, shell and other natural material from the foreshore or seabed, or deposition of material on the foreshore or seabed, not provided for by Policies 39, 40, and 42 <u>will should</u>: [...];</i></p> | <p>Accept</p> <p>The Hearing Panel recommends granting the relief sought by the submitter, however, recommend using “<i>must</i>” instead of “<i>will</i>” to maintain consistency with relief sought by other submitters.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 57 – Heritage New Zealand | 608 | <p>Amend</p> <p>Submitter seeks amendments to Policy 44 of the Plan by adding a further point to read: <i>Extraction of sand, shingle, shell and other natural material from the foreshore or seabed, or deposition of material on the foreshore or seabed, not provided for by Policies 39, 40 and 42 should:</i> [...] <i><u>(h) manage adverse effects on historic heritage in accordance with Policy 15.</u></i></p> | <p>No relief necessary</p> <p>The Hearing Panel recognises the concerns of the submitter but suggest that their concerns have already been provided for within the Plan. As stated in the preamble of Section 5.1, Policy 42 must be read in conjunction with each of the other relevant policies, including all the General Policies and Policy 15. Together these policies address the matters sought by the submitter, including those relating to the protection of historic heritage. It is not necessary to refer to historic heritage throughout the policies when a stand-alone Policy provides the required protection already.</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 58 – Te Atiawa | 609 | <p>Amend</p> <p>Submitter seeks amendment to Policy 44 of the Plan to exclude areas and resources identified in Schedules 2, 4A, 4B, 5A, 5B and 6 areas subject to a Crown application or settlement under the <i>Takutai Moana Act 2011</i>.</p> | <p>Decline</p> <p>The Hearing Panel notes that the relief sought would exclude any extraction or deposition of natural material from the foreshore and seabed from most if not all of the Taranaki coastal marine area regardless of the size of the activity and regardless of whether there are any environmental effects. For example, the whole coastal marine area is currently subject to a Crown application or settlement under the <i>Takutai Moana Act 2011</i>. The Hearing Panel notes that there are areas where the extraction or disposition of material on the foreshore or seabed would clearly be inappropriate having regard to</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>the values and sensitivity of the receiving environment. Further, policy direction is provided in the General Policies relating to the protection, maintenance and/or enhancement of particular values and uses plus the rules themselves may include standards, terms and conditions that would exclude the activity from areas identified in Schedules 2, 4A, 4B, 5A, 5B and 6.</p> <p>All Plan provisions need to be read in their entirety. They include the General Policies, relevant Activity-specific Policies, and the rules (which address the type, scale and location of the activity). Some extraction and deposition activities are very minor with less than minor adverse effects that can be generally allowed as a permitted activity. Other are more appropriately considered through the consenting process where there is an opportunity to consider the application on a case-by-case basis and impose conditions on where, how and when an activity can be undertaken and what actions need to be taken to avoid, remedy or mitigate any adverse effects.</p> |
| Policy 45 – Appropriateness of reclamation or drainage | | | |
| 26 – Transpower NZ Ltd | 610 | <p>Amend</p> <p>Submitter supports Policy 45(d) of the Plan but seeks amendment to Policy to read:</p> <p><i>Enable r</i>Reclamation or drainage of land in the coastal marine area <i>will not be allowed unless</i> where:</p> <p>[...]</p> <p><i>(d) the activity provides significant public benefit with particular regard to the extent to which the reclamation or drainage and intended purpose would provide for the efficient operation of nationally and regionally important infrastructure including, but not limited to, ports, airports, coastal roads, pipelines, electricity transmission, railways, marinas and electricity generation.</i></p> | <p>Grant in kind</p> <p>The Hearing Panel notes the support for Policy 45(d) that recognises nationally and regionally important infrastructure. However, the submitter is concerned that the term “not be allowed” infers the decline of a resource consent and could be interpreted as predetermining the outcome of a resource consent process.</p> <p>The suggested wording provides an alternative that frames the policy more positively however arguably reverses the presumption whereby it pre-determines that the activity should be allowed. The Hearing Panel recommends an alternative relief involving slightly different wording that will achieve the same outcome. It will ensure that Policy 45 cannot be read separate to other policies of the Plan.</p> <p><i>Consider</i> reclamation or drainage of land in the coastal marine area <i>where:</i> [...]</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 43 – Royal Forest and Bird Protection Society | 611 | Amend | Accept in part |
| | | Submitter seeks amendment to Policy 45(a) and (b) of the Plan to refer to “functional need” so that this can be guided by Policy 5 in the Plan. | The Hearing Panel recommends granting part of the relief sought by the submitter by amending Policy 45(b) to refer to “functional need”. With regards to also including the term in Policy 45(a), the Hearing Panel recommends declining that part of the relief sought given that all the policy clauses apply and it is not considered necessary to again refer to functional need in Clause (a). The amendment would read as follows: <i>(b) <u>there is a functional need or operational need for the activity to be located</u> in or adjacent to the coastal marine area</i> |
| 43 – Royal Forest and Bird Protection Society | 612 | Amend | Grant in kind |
| | | The submitter considers Policy 45 to be uncertain in relation to determining “appropriateness”. It is the submitter’s view that the <i>New Zealand Coastal Policy Statement</i> requires plans to provide direction in inappropriate locations/places. Submitter seeks amendment to Policy 45 of the Plan by including a new clause that states that the activity will be in an appropriate location. | At the hearing of submissions, the submitter identified an alternative relief that would address the concerns raised. The Hearing Panel considers the proposed relief to be appropriate as it clarifies the intent of the Policy to provide a number of considerations that need to be weighed against other policies of the Plan. The Hearing Panel notes that Policy 45 needs to be read in conjunction with all of the general policies and other relevant activity policies. The Hearing Panel recommend amending Policy 45 to read: <i><u>Consider</u> reclamation or drainage of land in the coastal marine area <u>only in circumstances</u> where: [...]</i> |
| 43 – Royal Forest and Bird Protection Society | 613 | Amend | Decline |
| | | Submitter seeks amendment to the Plan (Policy 5) to clarify that the activity in Policy 45 is subject to the protective policies in giving effect to the <i>New Zealand Coastal Policy Statement</i> . | As stated in the preamble of Section 5.1, Policy 42 must be read in conjunction with each of the other relevant policies, including all the General Policies. Together these Policies provide for and give effect to the <i>New Zealand Coastal Policy Statement</i> . Therefore, it is not necessary or appropriate to reference other Policies within the Plan or Policies within the <i>New Zealand Coastal Policy Statement</i> . |
| 59 – KiwiRail | 614 | Support | Accept |
| | | Retain Policy 45 of the Plan as notified. | Support noted. Policy 45 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Policy 46 – Design of reclamation | | | |
| 43 – Royal Forest and Bird Protection Society | 615 | <p>Amend</p> <p>Submitter seeks amendment to Policy 46 of the Plan to provide for protection required by Policies 11, 13 and 14 of the <i>New Zealand Coastal Policy Statement</i></p> <p>OR</p> <p>Alternatively retain Policy 46 as worded and amend Policies 5 and 45 as per the relief sought by the submitter in relation to those policies.</p> | <p>Accept in part</p> <p>The Hearing Panel suggests that the submitter's concerns have already been provided for within the Plan.</p> <p>As stated in the preamble of Section 5.1, Policy 46 must be read in conjunction with each of the other relevant policies, including all the General Policies, which address the natural character and indigenous biodiversity policies of the <i>New Zealand Coastal Policy Statement</i> referred to by the submitter. It is not necessary to continuously refer to indigenous biodiversity or natural character value throughout the Policies when General Policies already provide for the required protection.</p> <p>Notwithstanding the above, refer to submission points 281 and 607 for recommendations relating to granting in part reliefs sought by the submitter in relation to Policies 5 and 45 of the Plan.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Oppose/Support in part | |
| 57 – Heritage New Zealand | 616 | <p>Amend</p> <p>Submitter seeks amendment to Policy 46 of the Plan by adding a new Clause (d) to read:</p> <p><i>Subject to Policy 45, the design and form of any reclamation of land in the coastal marine area will:</i></p> <p>[...]</p> <p><i><u>(d) manage adverse effects on historic heritage in accordance with Policy 15.</u></i></p> | <p>No relief necessary</p> <p>The Hearing Panel acknowledges the concerns of the submitter but suggest that their concerns have already been provided for within the Plan.</p> <p>As stated in the preamble of Section 5.1, Policy 42 must be read in conjunction with each of the other relevant policies, including all the General Policies and Policy 15. Together these policies address the matters sought by the submitter, including those relating to the protection of historic heritage. The Hearing Panel suggests that it is not necessary to refer to historic heritage throughout the policies when a stand-alone Policy provides the required protection already.</p> |
| Policy 47 – Taking and use of coastal water | | | |
| 6 – Trans-Tasman Resources Ltd | 617 | <p>Support</p> <p>Submitter supports recognition in Policy 47 of the Plan that it is appropriate to take and use coastal water provided there are no adverse environmental effects.</p> | <p>Accept</p> <p>Support noted. Policy 47 is retained subject to minor amendments as requested by other submitters that do not change the policy intent.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 33 - New Zealand Defence Force | 618 | Amend | Accept |
| | | Submitter seeks amendment to Policy 47 of the Plan to ensure a connection between the policy and rule framework and to allow the taking and use of coastal water at a rate and volume where the taking results in an acceptable level of environmental effect. | Submitter is concerned that Policy 47, as drafted, requires all adverse effects relating to the taking of coastal waters to be avoided. The submitter considers such a requirement impractical and in conflict with Rule 65 of the Plan. The Hearing Panel agrees and recommends granting the relief sought by the submitter by amending Policy 47 (plus minor inconsequential changes to align policy language with reliefs granted elsewhere) to read: <i>Allow the taking and use of coastal water and any taking of heat or energy from coastal water <u>subject to it being taken in a quantity or at a rate and in a manner that avoids, remedies or mitigates</u> adverse environmental effects..</i> |
| 43 – Royal Forest and Bird Protection Society | 619 | Support | Accept |
| | | Retain Policy 47 of the Plan as notified. | Support noted. Policy 47 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| Policy 48 – Damming or diversion of coastal water | | | |
| 43 – Royal Forest and Bird Protection Society | 620 | Amend | Decline |
| | | The submitter does not believe that the use of “should” provides certainty and wishes to use “will” as a stronger directive. Submitter seeks amendment to Policy 48 of the Plan to read: <i>Damming or diversion of coastal water <u>will should</u> not cause adverse environmental effects.</i> | The Hearing Panel notes that Policy 48, as currently worded, states that the general course of action is that any damming or diversion of coastal waters do not cause adverse environmental effects. However, the Policy also recognises that, in some circumstances, some adverse effects might be acceptable, especially if such effects are minor or transitory. The amendment sought by the submitter would preclude such considerations and would be unnecessarily excessive. |
| Policy 49 – Noise and vibration | | | |
| 9 – Karen Pratt | 621 | Amend | No relief necessary |
| | | Submitter seeks amendment to Policy 49 of the Plan to adopt the same precautionary principles applied by the Environmental Protection Authority by adopting similar wording to Condition 10 for the Trans-Tasman Resources consent for ironsand mining and which states that there be “...no adverse effects | The Hearing Panel recognises the concerns of the submitter in regards to the protection of blue whales, mammals in the threat classification, or on the IUC red list. The Hearing Panel notes that Policy 44 [Extraction or deposition of material] would require the consideration of such matters and, consistent with the <i>New Zealand</i> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <i>at a population level' on blue whales, mammals in the threat classification, or on the IUC red list".</i> | <i>Coastal Policy Statement</i> , would require such activities to avoid adverse effects at a population level on blue whales and any other mammals in the threat classification, or on the IUC red list. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | The Hearing Panel further notes that Policy 14 (plus the other General Policies) would also be considered in conjunction with Policy 49, which is specific to noise and vibration activities in the coastal marine area. Therefore, it is not necessary to amend Policy 49 as the concerns raised are already adequately addressed within other areas of the Plan. |
| Further submissions – Nga Motu Marine Reserve Society Inc (44), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 33 - New Zealand Defence Force | 622 | Support Retain Policy 49 of the Plan as notified. | Accept Support noted. Policy 49 is retained subject to minor amendments as requested by another submitter that does not change the policy intent. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 623 | Amend Submitter seeks amendment to Policy 49 of the Plan to read: <i>Noise and vibration from activities undertaken in the coastal marine area, including underwater activities, will be managed to minimise adverse environmental effects.</i> <i><u>(a) avoid adverse effects on marine mammals and fish species consistent with policies 8, 9 and 14; and</u></i> <i><u>(b) be managed to avoid, remedy or mitigate other minimise adverse environmental effects.</u></i> | Accept in part There are two parts to the relief sought by the submitter, First, the submitter seeks explicit references to the avoidance of adverse effects on marine mammals and fish species that is consistent with Policies 8, 9 and 14. The Hearing Panel recommends declining this part of the relief sought given that this matter has already been addressed elsewhere in the Plan. The Hearing Panel notes that Policy 14 [Significant indigenous biodiversity] (plus the other General Policies) would be considered in conjunction with Policy 49, which is specific to noise and vibration activities in the coastal marine area. Therefore, it is not necessary to amend Policy 49 as the sought relief has already been addressed within other areas of the Plan. Second, the submitter seeks amendment to Policy 49 to refer to avoiding, remedying or mitigating adverse environmental effects (rather than the current focus on just minimising adverse effects). The Hearing Panel agrees and recommends granting this part of the relief sought. The amended Policy would read as follows: <i>Noise and vibration from activities undertaken in the coastal marine area, including underwater activities, will be managed to <u>avoid, remedy or mitigate</u> adverse environmental effects.</i> |
| Further submissions – Trans Tasman Resources Ltd (6) | | Oppose | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 48 – Taranaki District Health Board | 624 | Support | Accept |
| | | Retain Policy 49 of the Plan as notified | Support noted. Policy 49 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 60 - Te Kaahui o Rauru | 625 | Amend | Accept |
| | | Submitter seeks amendment to Policy 49 of the Plan to focus on avoiding and remedying adverse environmental effects before mitigating and emphasize the protection of biodiversity from adverse environmental effects. | The submitter notes that section 8.6.3 [General standards – Air] of the Plan does not contain noise and vibration limits to manage effects on biodiversity values and seek amendments to the Plan that focuses on avoiding such effects. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | The Hearing Panel recommends granting the relief sought by the submitter by amending Policy 49 to refer to managing noise and vibration from activities in the coastal marine area in a manner that avoids, remedies or mitigates adverse environmental effects (rather than the current focus on just minimising adverse effects). This would strength alignment between this Policy and other policies, particularly Policy 14 [Indigenous biodiversity] where there may be a requirement to avoid such effects. |
| New Policy – National Grid | | | |
| 26 – Transpower NZ Ltd | 626 | Amend | Accept in part |
| | | As an alternative to reliefs sought by the submitter in relation to Policies 8, 14, and 19, amend Plan to include new policy specific to the National Grid that reads as follows: <i><u>(a) Managing activities, to the extent reasonably practicable, to avoid adverse effects, including reverse sensitivity effects, on the National Grid; and</u></i> <i><u>(b) Manage the adverse effects of new National Grid infrastructure by all of the following:</u></i> <i><u>(i) recognising there may be some areas in the coastal environment where avoidance of adverse effects is required to protect the identified special values of those areas.</u></i> <i><u>(ii) seeking to avoid adverse effects on the values of the following:</u></i> <i><u>a. areas of significant indigenous biodiversity</u></i> <i><u>b. areas of outstanding value</u></i> <i><u>c. places or areas containing historic heritage of regional or national significance</u></i> | The submitter would like to see the Plan amended to include an additional policy specific to the National Grid in order to provide for the requirements of the <i>National Policy Statement for Electricity Transmission 2008</i> (NPSET). In particular, the submitter would like to see Policies 2,3,4,8 and 10 of the NPSET given effect to within the new policy. The Hearing Panel recommends accepting in part the reliefs requested by the submitter. The Hearing Panel recommends that a new policy, Policy 6A [Management of adverse effects of the National Grid], be included in the Plan that specifically addresses the management of adverse effects of the National Grid, particularly where there may be conflicting values and priorities between use and development and the protection of significant coastal values. The new Policy 6A will seek to reconcile national requirements in the NPSET that the Council recognise and provide for the National Grid against other national requirements set out in the <i>New Zealand Coastal</i> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p><u><i>d. significant surf breaks</i></u></p> <p><u><i>(iii) where it is not reasonably practicable to avoid adverse effects on the value of the areas listed in d)ii) above because of the functional, operational, technical or locational needs of the National Grid, remedy or mitigate adverse effects on those values to the extent reasonably practicable;</i></u></p> <p><u><i>(iv) where reasonably practicable, avoiding, remedying or mitigating other adverse effects;</i></u></p> <p><u><i>(v) consider offsetting for residual adverse effects on indigenous biological diversity.</i></u></p> | <p><i>Policy Statement</i> relating to natural character, indigenous biodiversity and surf breaks.</p> <p>While most of the suggested wording is recommended to be adopted by the Hearing Panel, some amendments are considered appropriate based on the view that many of the NPSET requirements are already separately recognised and/or addressed in other Plan policies such as Policy 5 [Appropriate use and development], Policy 6 [Benefits of regionally important infrastructure], Policy 31 [Structures that support safe public access and use, or public or environmental benefit], Policy 36 [Maintenance minor alteration or minor extension of existing structures] and Policy 37 [Major alteration or extension of existing structures].</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | <p>The new Policy 6A would read as follows:</p> <p><u><i>Policy 6A: Management of adverse effects of the National Grid</i></u></p> <p><u><i>Where the National Grid has a functional need or operational need to locate in the coastal environment, manage the adverse effects arising from their activities by:</i></u></p> <p><u><i>(a) recognising there may be some areas in the coastal environment where avoidance of adverse effects is required to protect the identified special values of those areas;</i></u></p> <p><u><i>(b) seeking to avoid adverse effects on:</i></u></p> <p><u><i>(i) areas of outstanding value;</i></u></p> <p><u><i>(ii) significant indigenous biodiversity;</i></u></p> <p><u><i>(iii) historic heritage as identified in schedules 5A and 5B; and</i></u></p> <p><u><i>(iv) nationally or regionally significant surf breaks as identified in Schedule 7A and B;</i></u></p> <p><u><i>(c) where it is not practicable to avoid adverse effects on the values of the areas listed in (b) above because of the functional needs or operational needs of the National Grid, remedy or mitigate adverse effects on those values; and</i></u></p> <p><u><i>(d) avoiding, remedying or mitigating other adverse effects.</i></u></p> |

4.5 Methods

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Methods 1 to 7 – General | | | |
| 2 – Federated Farmers | 627 | Support | Accept Support noted. The methods are retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| Further submissions – Port Taranaki Ltd (32) | | Retain Implementation Methods 1 - 7 of the Plan as notified. | |
| Method 1 – Advice and information | | | |
| 41 – Te Korowai o Ngāruahine Trust | 628 | Amend | Accept The Hearing Panel recommends granting the relief sought by the submitter by including a new Clause (ab) that reads as follows: <i>1. Provide advice and information, including guidelines to coastal users, consent holders and the public: [...]</i> <i><u>(ab) to promote awareness of the natural, cultural, historic, and amenity attributes and values of the coastal environment, including the cultural significance and importance of the coastal and marine environments to Māori and iwi/hapū. [...]</u></i> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Submitter seeks amendment to Implementation Method 1 of the Plan to include the provision of advice and information about the cultural significance and importance of the coastal and marine environment to Māori and iwi/hapū. | |
| 43 – Royal Forest and Bird Protection Society | 629 | Amend | Accept The Hearing Panel recommends granting the relief sought by the submitter by amending Implementation Method 1(g) to read: <i>(g) on responsibilities and processes under other legislation, for example, Fisheries Act 1996, Biosecurity Act 1993, Reserves Act 1977, Heritage New Zealand Pouhere Taonga Act 2014, <u>the Marine Mammal Protection Act 1978, Wildlife Act 1953 and Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.</u></i> |
| Trans-Tasman Resources Ltd (6) | | Submitter seeks amendment to Implementation Method 1(g) of the Plan to include reference to the <i>Marine Mammal Protection Act 1978, Wildlife Act 1953 and Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.</i> | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose in part | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Methods 2 and 3 – Economic instruments and works and services | | | |
| 41 – Te Korowai o Ngāruahine Trust | 630 | <p>Amend</p> <p>The submitter believes that the instruments, works and services referred to in Methods 2 and 3 should be used where they enhance and protect coastal values.</p> <p>The submitter seeks to amend Implementation Methods 2 and 3 of the Plan to delete the word <i>consider</i>.</p> | <p>Decline</p> <p>The Hearing Panel notes that the use of economic instruments, and/or the Council undertaking works and services, may not necessarily be appropriate over the life of the Plan. Such methods need to be considered on a case-by-case basis recognising that the use of economic instruments and/or undertaking works and services will not be appropriate in all circumstances.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Support | |
| 49 – Cam Twigley | 631 | <p>Amend</p> <p>Submitter seeks amendment to Implementation Methods 2 and 3 of the Plan so that commentary on economic instruments and works and services also references the significant surfing area (and not just surf breaks).</p> | <p>Accept</p> <p>The Hearing Panel agrees to the relief sought by the submitter and recommend amending Implementation Methods 2 and 3 of the Plan so that commentary on economic instruments and works and services refer to the Significant Surfing Area (and not just surf breaks).</p> |
| Method 4 – State of the environment monitoring | | | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 632 | <p>Amend</p> <p>Submitter seeks amendment to Implementation Method 4 of the Plan to explicitly include cultural state of the environment monitoring within Taranaki Regional Council's state of the environment monitoring programme.</p> | <p>Grant in kind</p> <p>The Hearing Panel notes that the level of detail sought by the submitter is not considered necessary or appropriate for this part of the Plan. However, the Hearing Panel notes that Section 10.1 does include additional detail relating to monitoring the Plan's efficiency and effectiveness and suggest that Section 10.1 is the more appropriate place to refer to incorporating mātauranga Māori into the Council's state of the environment monitoring.</p> <p>The Hearing Panel recommends an alternative relief by amending Section 10.1 of the Plan to investigate, develop and implement, where appropriate, monitoring methods for the incorporation of mātauranga Māori state of the environment monitoring within the Council's state of the environment monitoring programme.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| NEW Method – Spatial planning | | | |
| 55 – Kiwis Against Seabed Mining | 633 | Amend | Accept |
| | | <p>Submitter seeks amendment to the Plan to include a new implementation method for the Taranaki Regional Council to use spatial planning to</p> <ul style="list-style-type: none"> establish planning considerations which involves neighbouring rural nature, landscape, cultural history values and development-related interests identify conflicting activities that would impact on mana whenua issues, areas of interest and cultural significance and incorporation of buffer zones include values-based framework that identifies, organises, and describes key Māori values as a basis for guiding and determining natural and physical resource management and can be used to set limits and standards connected to Māori values. | <p>The submitter seeks the inclusion of marine spatial planning, as an implementation method, to inform decision making.</p> <p>The Hearing Panel recommends granting the relief sought by including a new Implementation Method 5A that reads as follows:</p> <p><i><u>5A. Develop and implement spatial planning to achieve integrated management of the coastal environment, including the identification of sites and places with significant values, and, where appropriate, make this publicly available.</u></i></p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 56 – Greenpeace | 634 | Amend | Accept |
| | | <p>Submitter seeks amendment to the Plan to include a new Implementation Method for the Council to use spatial planning to achieve integrated management of the marine environment that is collaborative and inclusive.</p> | <p>The submitter seeks the inclusion of marine spatial planning, as an implementation method, to inform decision making.</p> <p>The Hearing Panel recommends granting the relief sought by including a new Implementation Method 5A that reads as follows:</p> <p><i><u>5A. Develop and implement spatial planning to achieve integrated management of the coastal environment, including the identification of sites and places with significant values, and, where appropriate, make this publicly available.</u></i></p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 635 | Amend | Accept |
| | | <p>Submitter seeks amendment to the Plan to include a new Implementation Method for the Council to use spatial planning to</p> <ul style="list-style-type: none"> establish planning considerations which involves neighbouring rural nature, landscape, cultural history values and development-related interests | <p>The submitter seeks the inclusion of marine spatial planning, as an implementation method, to inform decision making.</p> <p>The Hearing Panel recommends granting the relief sought by including a new Implementation Method 5A that reads as follows:</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <ul style="list-style-type: none"> identify conflicting activities that would impact on mana whenua issues, areas of interest and cultural significance and incorporation of buffer zones include values-based framework that identifies, organises, and describes key Māori values as a basis for guiding and determining natural and physical resource management and can be used to set limits and standards connected to Māori values. | <p><i>5A. Develop and implement spatial planning to achieve integrated management of the coastal environment, including the identification of sites and places with significant values, and, where appropriate, make this publicly available.</i></p> |
| Method 6 – Use and development of resources | | | |
| 35 – Radio New Zealand Ltd | 636 | <p>Support</p> <p>Retain as notified.</p> | <p>Accept</p> <p>Support noted. Method 6 is retained as notified.</p> |
| Method 8 – Coastal management framework | | | |
| 43 – Royal Forest and Bird Protection Society | 637 | <p>Amend</p> <p>Submitter seeks amendment to Implementation Method 8 of the Plan to read: <i>Implement Plan objectives, policies and methods of implementation that recognise different coastal processes, values, and uses, and which allow, regulate or prohibit activities in:</i></p> <p><i>1. the following coastal management areas:</i></p> <p>a) Outstanding Value b) Estuaries Unmodified c) Estuaries Modified d) Open Coast e) Port; <u>and</u></p> <p><i>2. areas identified as having:</i></p> <p><u>a) significant indigenous biodiversity values under Policy 14</u> <u>b) areas with natural character values under Policy XX</u> <u>c) areas with natural features and landscapes under Policy XX;</u> <u>Consistent with policies in section 5.1.</u></p> | <p>Grant in kind</p> <p>The relief sought seeks to expand Implementation Method 8 to reference locations, sites and places (at a finer spatial scale to coastal management areas) with significant coastal values.</p> <p>The Hearing Panel recommends Implementation Method 8, which focuses on coastal management areas, be retained as is but propose an alternative relief whereby a new Method 8A is included that recognises significant sites and places at the finer spatial scale. The new method would read as follows:</p> <p><u>8A. Implement Plan objectives, policies and methods of implementation that allow, regulate or prohibit activities in locations, areas or places with significant values in a manner that avoids, remedies or mitigates adverse effects on:</u></p> <p><u>a) infrastructure of regional importance;</u> <u>b) natural character and natural features and landscapes;</u> <u>c) indigenous biodiversity;</u> <u>d) historic heritage, including sites of significance to Māori; and</u> <u>e) amenity values, including surf breaks.</u></p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Port Taranaki Ltd (32) | | Oppose | |
| Method 12 – Implement Plan to recognise use and development | | | |
| 35 – Radio New Zealand Ltd | 638 | Support Retain Implementation Method 12 as notified. | Accept Support noted. Policy 12 is retained as notified. |
| 43 – Royal Forest and Bird Protection Society | 639 | Amend Submitter supports in part Implementation Method 12 of the Plan but is opposed to the use of the term “ <i>appropriate use and development</i> ”. The submitter seeks amendments to the Implementation Method to reflect reliefs sought by the submitter to Policy 5 of the Plan whereby appropriateness is determined on the basis of avoiding inappropriate locations. | No relief necessary The Hearing Panel does not believe any changes to Implementation Method 12 are necessary. The submitter has not specified what changes they are seeking to the Implementation Method. However, providing for use and development is consistent with the Section 5 sustainable management purpose of the RMA. The Hearing Panel notes that not all use and development in the coastal environment will be appropriate. In determining what is appropriate use and development the reader need to refer to the policies, which includes consideration of location plus other matters. |
| Further submissions – Transpower NZ Ltd (26), Radio New Zealand (35) | | Oppose | |
| 50 – Te Kāhui o Taranaki Trust | 640 | Amend Submitter seeks amendment to Implementation Method 12 of the Plan to read: <i>Implement Plan objectives, policies and methods of implementation that recognise and provide for appropriate use and development in the coastal environment where Māori cultural values are not adversely impacted on.</i> | Decline The Hearing Panel does not believe any changes to Implementation Method 12 are necessary or appropriate. The methods section of the Plan is broad reaching and identifies non regulatory methods for achieving all the Plan objectives, including those relating to Māori cultural values. What is appropriate and where certain activities will be allowed will be determined having regard to the relevant policies and rules within the Plan (not the methods). It is important to note that these policies address broader values and uses than just Māori values or historic heritage. The Hearing Panel does not consider it necessary or appropriate for Plan provisions to focus on one set of values, or unnecessarily restate all the values. |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| Methods 13 to 20 Natural heritage | | | |
| 2 – Federated Farmers | 641 | Support Retain Implementation Methods 13 to 20 of the Plan as notified. | Accept |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Port Taranaki Ltd (32) | | Support | Support noted. Implementation Methods 13 to 20 are retained subject to minor and inconsequential amendments requested by other submitters. |
| 29 – Department of Conservation | 642 | <p>Amend</p> <p>The submitter is concerned by the number of blue penguins killed or injured by domestic dogs off leashes along Taranaki beaches and wishes to see bylaws to protect indigenous species encouraged through the Methods section. Submitter seeks amendment to Section 6.4 [Natural heritage] of the Plan to include a new Implementation Method to read:</p> <p><i><u>Encourage district councils to enforce dog control bylaws to preserve indigenous biodiversity by reducing the risk of dogs killing or injuring native birds, marine mammals and other indigenous species.</u></i></p> | <p>Accept in part</p> <p>The Hearing Panel recognises the threat posed by dogs to penguins and other indigenous species. However, the Hearing Panel suggests there are disadvantages to confining advocacy to single issues. Instead, the Hearing Panel recommends amending Implementation Method 14 to broaden its scope to advocacy for the purposes of protecting significant indigenous biodiversity, which includes territorial authorities, and could be for the purpose of encouraging the enforcement of dog control bylaws and to reduce the risk of dogs killing or injuring native birds, marine mammals and other indigenous species. Of note, advocacy would not be confined to that issue and could include other agencies, including the submitter, on other biodiversity related issues.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| Method 15 – Integrated management | | | |
| 56 – Greenpeace | 643 | <p>Amend</p> <p>Submitter seeks amendment to Implementation Method 15 of the Plan to extend its scope to address not only marine protected areas but also integrated management of fisheries resources, marine eco-systems and other natural resources and to ensure that there is an integrated management of any activities that occur across jurisdictional boundaries and/or are managed by multiple regimes.</p> | <p>No relief necessary</p> <p>The submitter wishes to see integrated management extended beyond the scope of Implementation Method 15.</p> <p>The Hearing Panel notes that actions or methods promoting integrated management are not confined to this particular method. It is evident in the development of this Plan, in the setting of objectives and general policies, in the scheduling and identification of outstanding natural character, outstanding natural features and landscapes, biodiversity, and historic heritage.</p> <p>The Hearing Panel further notes that many of the methods of implementation may contribute to integrated management even if not explicitly stated. For example, the Council has significant extension and advocacy programmes involving active and passive protection of biodiversity on land, including coastal herbfields, wetlands and dunes. Similarly, the Council works with a wide variety of agencies and land occupiers under a range of statutes in order to achieve the requirements of the Coastal Plan and to improve our databases.</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | The Hearing Panel does not believe that it is necessary to amend Implementation Method 15 to achieve the submitter's request as these matters are fully addressed in the relevant sections of the Plan as discussed. The Hearing Panel also notes that the achievement of integrated management is also dependent upon other agencies and Council may be limited in what it can influence yet alone achieve under other jurisdictions. |
| Method 16 – Natural heritage | | | |
| 9 – Karen Pratt | 644 | <p>Amend</p> <p>The submitter considers the term “<i>coastal site</i>” to be ambiguous and prefers to use the term “<i>coastal marine areas</i>” as this indicates an offshore component. Submitter seeks amendment to Implementation Method 16 of the Plan to read:</p> <p><i>Maintain and update GIS databases of all known coastal sites coastal marine areas with regionally significant values that identify their values, including the presence of any threatened or regionally distinctive species and sites of high cultural, spiritual and historical significance.</i></p> | <p>Decline</p> <p>Other submitters are encouraging the adoption of better spatial planning and Implementation Method 16 contributes to that deliverable.</p> <p>For the purposes of effective integrated management, the Hearing Panel suggests that it is appropriate for the Implementation Methods to apply to the wider coastal environment, not just the coastal marine area. Referring to the coastal marine area would limit the scope of the method to only areas within the coastal marine area, removing a considerable amount of onshore area that the Coastal Plan includes. The Hearing Panel does not believe that this is the intention of the submitter and reassures the submitter that “coastal sites” does include offshore reefs and sites within the coastal marine area in addition to the landward part of the coastal environment.</p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | <p>Oppose</p> | <p>The Council gathers considerable information across the broad suite of its activities (not just those that relate to this Plan or the RMA) and regularly maintains and updates relevant information on its GIS databases. These include its biodiversity and biosecurity programmes under the <i>Local Government Act</i> and the <i>Biosecurity Act</i> but may also include useful information from the Council's other regional plans and/or from other environmental agencies.</p> |
| Method 19 – Natural heritage | | | |
| 60 - Te Kaahui o Rauru | 645 | <p>Amend</p> <p>Submitter seeks amendment to Implementation Method 19 to include mana whenua alongside landowners.</p> | <p>Accept</p> <p>The Hearing Panel recommends including mana whenua alongside landowners. The amended Implementation Method 19 would read as follows:</p> <p><i>19. Promote active restoration of sand dunes and coastal herb fields, wetlands and forests through working with landowners and tangata whenua and providing advice and funding for planting, weed and pest control and other related matters.</i></p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Methods 21 to 31 – Historic heritage | | | |
| 28 – Grant Knuckey | 646 | Amend Submitter seeks amendment to Implementation Methods 21 - 31 of the Plan to require reports mandated by mana whenua and including cultural dimensions applying matauranga Māori. | Accept in part The Council is currently investigating the incorporation of matauranga Māori principles into its monitoring strategies. Although these changes are taking place, the Hearing Panel does not consider it necessary or appropriate to amend the Plan to require reporting prior to the outcomes of that process. The Hearing Panel notes that such reporting requirements and protocols are an operational matter best addressed outside the Plan. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 28 – Grant Knuckey | 647 | Amend Submitter seeks amendment to Implementation Methods 21 - 31 of the Plan to require for all applications for resource consent policy; or plan changes; or variations are to be reported on by cultural adviser(s) mandated by tangata whenua of Taranaki with costs to be borne by proponents. | Decline The Hearing Panel recommends declining the relief sought noting that such matters are operational detail that is not appropriate to be included in the Plan. Notwithstanding the above, the Hearing Panel notes Implementation Method 30 which states that the Council will work with iwi authorities to develop memoranda of understanding that establish and maintain an effective working relationship. In particular, Mana Whakahono a Rohe agreements between the Council and iwi represent an opportunity to set out agreements on Council/iwi relationships, including any requirements for resource consent applications, policy; or plan changes; or variations to be reported on by cultural advisers. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 28 – Grant Knuckey | 648 | Amend Submitter seeks amendment to Implementation Methods 21 – 31 of the Plan to require memoranda of understanding with mana whenua. | No relief necessary The Hearing Panel notes Implementation Method 30 already provides for the relief sought by the submitter. Method 30 states that the Council will work with iwi authorities to develop memoranda of understanding that establish and maintain an effective working relationship. |
| 28 – Grant Knuckey | 649 | Amend Submitter seeks amendment to Implementation Methods 21 - 31 of the Plan to require marine spatial planning - incorporating matauranga Māori in collaboration with mana whenua. | Accept in part The submitter seeks the inclusion of marine spatial planning, as an implementation method, to require marine spatial planning that incorporates matauranga Māori in collaboration with manawhenua inform decision making. The submitter has not provided specific details as to what this relief looks like or how matauranga Māori is incorporated into a spatial framework. The Hearing Panel notes that the Council already gathers considerable information, including spatial information, across the broad suite of its activities (not just those that relate |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>to this Plan or the RMA) and regularly maintains and updates relevant information on its GIS databases. The Council is further investigating the incorporation of matauranga Māori principles into its monitoring strategies with opportunities of incorporating some or all of that information into spatial planning.</p> <p>The Hearing Panel recommends granting the relief sought in part by including a new Implementation Method 5A that reads as follows:</p> <p><i><u>5A. Develop and implement spatial planning to achieve integrated management of the coastal environment, including the identification of sites and places with significant values, and, where appropriate, make this publicly available.</u></i></p> |
| 39 – Maniapoto Māori Trust Board | 650 | <p>Other</p> <p>Submitter encourages Council to uphold the principles of the Treaty of Wāitangi and to actively look at Māori representation on its standing committees.</p> | <p>No relief necessary</p> <p>The submitter's comments are noted.</p> <p>The Hearing Panel directs the submitter to Implementation Method 31 which provides for tangata whenua to be represented on the Council's Policy and Planning Committee, the Consents and Regulatory Committee and other committees arising out of Treaty of Waitangi settlements. In addition, Objective 10 [Treaty of Waitangi] and Policy 16 [Relationship of tangata whenua] also ensure that the Treaty of Waitangi is part of the Plan's policy framework.</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 41 – Te Korowai o Ngāruahine Trust | 651 | <p>Support</p> <p>Submitter support Implementation Methods 21 to 31 of the Plan as a useful basis to support implementation of the Plan in line with tangata whenua values.</p> | <p>Accept</p> <p>Support noted. Implementation Methods 21 – 31 are retained subject to minor and inconsequential amendments requested by other submitters to Implementation Methods 24, 25 and 27.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Support | |
| 57 – Heritage New Zealand | 652 | <p>Amend</p> <p>Submitter seeks amendment to Section 6.5 of the Plan by adding a new Method within the section to read:</p> <p><i><u>Regularly review and update Schedule 7 [Historic Heritage] to reflect the latest information; for example, new entries on the New Zealand heritage list/Rārangī Kōrero and new sites of significance identified by iwi and/or hapū.</u></i></p> | <p>No relief necessary</p> <p>The Hearing Panel does not believe the relief sought by the submitter is appropriate or necessary.</p> <p>Methods of implementation are optional content matters under Section 67 of the RMA. The Plan methods are deliberately high level to broadly capture the suite of coastal uses and values addressed by the Plan. The Hearing Panel does not believe it is necessary for Implementation Methods to provide the specificity sought by the submitter.</p> <p>The Hearing Panel suggests that Implementation Method 16 already sets out that the Council will maintain and update GIS databases of all known coastal sites with</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41) Te Atiawa | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | | regionally significant values, including historic significance. Section 10.2 [Review of the Plan] further states that a review of the relevant parts or provisions of the Plan may be carried out if a new issue arises, or if regional monitoring or research programmes show that a review would otherwise be appropriate. |
| 57 – Heritage New Zealand | 653 | Amend | No relief necessary |
| | | Submitter seeks amendment to Section 6.5 of the Plan by adding a new Method within the section to read: <i>Consider opportunities for collaboration with stakeholders on the protection and conservation of historic heritage.</i> | The Hearing Panel directs the submitter to Implementation Method 22, which already addresses supporting and, where appropriate, being involved in surveys, research and investigations involving historic heritage. |
| Method 24 – Identification of wāhi tapu and other taonga | | | |
| 42 – Ngati Rahiri Hapū | 654 | Amend | Accept |
| | | Submitter seeks amendment to Implementation Method 24 of the Plan to include the definition “waahi taonga” noting the submitter will provide the Taranaki Regional Council with GIS data of sites that they are willing to share. | The submitter notes that it has GIS data on sites of significance in its rohe. Through the pre-hearing process the submitter has worked with the Council to identify sites of significance in their rohe, which have subsequently been included in the Plan and associated planning maps (where this is appropriate). The Hearing Panel further agrees to amend Implementation Method 24 (and other consequential amendments) to include “waahi taonga” within the Method. The amended method would read as follows: <i>24. Support and assist iwi as appropriate, to identify sites and places of special cultural and traditional value associated with the coastal environment, including the identification of wāhi tapu, wāhi taonga and other taonga through the development of electronic wāhi tapu inventories, registers or ‘silent files’.</i> |
| Method 25 – Iwi involvement or partnership | | | |
| 41 – Te Korowai o Ngāruahine Trust | 655 | Amend | Accept |
| | | Submitter suggests Implementation Method 25 of the Plan refers to two distinct forms of implementation and involvement and seeks that it be amended to separate those activities relating to databases and information (which is already addressed in Method 24). | The Hearing Panel agrees to the relief sought by the submitter. The Hearing Panel recommends amending Implementation Methods 24 and 25 to read: <i>24. Support and assist iwi to develop iwi and Council databases and records that identify sites and places of special cultural and traditional value associated with the coastal environment, including the identification of wāhi tapu, wāhi taonga and</i> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>other taonga through the development of electronic wāhi tapu inventories, registers or 'silent files'.</p> <p>25. Consider iwī involvement or partnerships in Taranaki Regional Council resource investigations and projects associated with the coastal environment.</p> |
| 42 – Ngati Rahiri Hapū | 656 | <p>Amend</p> <p>Submitter seeks amendment to Implementation Method 25 of the Plan by deleting and replacing the word “consider” (in relation to Iwi involvement or partnerships in Council resource investigations and projects) with a stronger word to show a stronger commitment from the Council.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter noting that involvement or partnerships with other parties (not just iwi) on Council investigations and projects necessarily need to be considered on a case-by-case basis.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41) Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| Method 27 – Promote public awareness of wāhi tapu and other taonga | | | |
| 42 – Ngati Rahiri Hapū | 657 | <p>Amend</p> <p>Submitter seeks amendment to Implementation Method 27 of the Plan to also refer to “waahi taonga”.</p> | <p>Accept</p> <p>The Hearing Panel recommends granting the relief sought by the submitter. It is recommended the Implementation Method 27 be amended to read:</p> <p>27. Provide advice and information to generally promote awareness of wāhi tapu, wāhi taonga and other taonga and the importance and values of such sites and values.</p> |
| Method 29 – Historic heritage | | | |
| 57 – Heritage New Zealand | 658 | <p>Amend</p> <p>Submitter seeks amendment to Implementation Method 29 of the Plan due to the potential issues with silent files and the accessibility of the public. The submitter suggests to consider using indicative markers on planning maps and consultation with iwi and/or hapū instead.</p> | <p>No relief necessary</p> <p>The Hearing Panel notes the concerns of the submitter are around a sensitive area of information to iwi/hapū. However, this level of detail is not considered appropriate to specify in Plan methods. Such matters are currently being worked through in this Plan review process.</p> <p>Operational details to address potential issues with silent files and the use of indicative markers might be a matter to be addressed in Mana Whakahono a Rohe agreements. Although it is noted that in the engagement with iwi and hapū to date</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

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| | | | there is general agreement that polygons are the more appropriate planning tool which has been implemented as a result of such consultations with iwi/hapū. The methodology and appropriateness of using indicative markers to identify culturally sensitive sites of significance will be determined only in consultation with the affected tangata whenua. |
| Method 31 – Historic heritage | | | |
| 57 – Heritage New Zealand | 659 | Amend Submitter seeks amendment to Implementation Method 31 of the Plan to include how the Council will provide guidance on how tangata whenua representatives will be chosen. | Decline The Hearing Panel does not recommend granting the relief sought by the submitter. The Hearing Panel considers this level of detail inappropriate for Plan methods noting that such matters have already been addressed with the agreements of the iwi authorities. |
| Method 32 – Resource consents | | | |
| 50 – Te Kāhui o Taranaki Trust | 660 | Amend Submitter seeks amendment to Implementation Method 32 of the Plan to read: <i>As appropriate, require new or renewed resource consents for the use or development of the coastal marine area to include a condition addressing public access <u>where Māori cultural values are not adversely impacted on.</u></i> | No relief necessary The Hearing Panel recognises the submitter's concerns regarding Māori cultural values and public access. The Hearing Panel would like to reassure the submitter that such issues are already addressed in the Policies section. The Hearing Panel further notes that the qualifier for including consent conditions addressing public access is it must be "appropriate". Policy 17 (c) sets out directions where public access might not be appropriate and it includes, amongst other things, where restrictions necessary to protect historic heritage and sites and activities of cultural value to Māori. As the requested relief is already contained within the relevant policies and will be implemented on such instances where public access and cultural values coincide, the Hearing Panel does not consider it appropriate or necessary to repeat the provisions already provided for. |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Support | |
| Method 34 – Public use and enjoyment | | | |
| 2 – Federated Farmers | 661 | Support Retain Implementation Method 34 of the Plan as notified. | Accept |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Port Taranaki Ltd (32) | | Support | Support noted. Implementation Method 34 is retained subject to minor and inconsequential amendments requested by another submitter. |
| 5 – Point Board Riders | 662 | Support | Accept |
| | | Submitter supports Implementation Method 34 of the Plan establishing a working group of stakeholders for the designated Significant Surfing Area and suggest the concept could be expanded to other parts of the coastline if the model is successful. | Support and comments noted. |
| 15 – Surfbreak Protection Society | 663 | Support | Accept |
| | | Submitter supports Implementation Method 34 of the Plan establishing a working group of stakeholders for the designated Significant Surfing Area and seeks key surfing groups be involved. | Support and comments noted. |
| 50 – Te Kāhui o Taranaki Trust | 664 | Amend | Grant in kind |
| | | <p>The submitter comments that Implementation Method 34 is premature and contend that the Council has not gone through appropriate consultation on the surf breaks designations.</p> <p>Submitter seeks amendment to the Plan by deleting Implementation Method 34 of the Plan relating to the establishment of a working group to look at protecting and enhancing recreational values.</p> | <p>The Hearing Panel notes that through the Coastal Plan review there has already been considerable consultation and engagement on the issue of surf break protection.</p> <p>An initial list of regionally significant surf breaks was adopted in the current <i>Regional Policy Statement for Taranaki</i>, which was adopted in 2010. However, through the Coastal Plan review additional investigations and engagement occurred. This included the commissioning of reports on Regional significance criteria for the assessment of surfbreaks and Taranaki surf breaks of national significance, consultation and seeking of feedback on draft Plan policies, further consultation on a draft Plan and, more recently, public notification for the Proposed Plan. As part of the review, an innovative 'wave survey' was also carried out that allowed the community to tell Council which surf breaks had specific values and why.</p> <p>In relation to Implementation Method 34, the Hearing Panel notes there is wide spread support for the establishment of a working group to look at not only protecting and enhancing recreational values in the Significant Surfing Area but also to address wider issues associated with public access, tourism promotion, the management of over-crowding, freedom camping, district council bylaws and the protection of other values in the area. This is an example of reliefs sought by other submitters, on other issues, where greater collaboration and integrated</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>management is sought to address issues that are much broader than those covered by this Plan.</p> <p>Iwi and hapū are seen as integral to this concept working. If the submitter sees no merit in establishing and participating in a working group that includes relevant agencies, landowners, iwi, hapū and interest groups to protect and enhance the recreational values of the Significant Surfing Area as described in Schedule 7B, then the Council will not proceed. Accordingly, the Hearing Panel recommends amending Implementation Method 34 to <u>investigate</u> the establishment of a working group.</p> |
| Method 35 – Public Access | | | |
| 42 – Ngati Rahiri Hapū | 665 | <p>Amend</p> <p>Submitter suggests that the reference to the <i>Queen Elizabeth the Second National Trust Act 1977</i> is in conflict with the intent of Implementation Method 35 to promote public access along the coast as the Queen Elizabeth II covenants generally exclude public access. Submitter seeks amendment to Implementation Method 35 of the Plan to delete reference to “<i>Queen Elizabeth the Second National Trust Act 1977</i>”.</p> | <p>Accept</p> <p>The Hearing Panel agrees to the submitters request to remove the reference to “<i>Queen Elizabeth the Second National Trust Act 1977</i>”. The revised method would read as follows:</p> <p>35. Promote the enhancement of public access to and along the coast through agreements or covenants with landowners under the <i>Walking Access Act 2008</i>, the <i>Reserves Act 1977</i>, or through the voluntary creation of esplanade strips under the RMA.</p> |
| Method 43 – Implement Plan | | | |
| 50 – Te Kāhui o Taranaki Trust | 666 | <p>Amend</p> <p>Submitter seeks amendment to Implementation Method 43 of the Plan to read: <i>Promote industrial, domestic, and agricultural discharge and treatment systems, siting, design, installation, operation and maintenance procedures to avoid or mitigate adverse effects on coastal water or air quality <u>where Māori cultural values are not adversely impacted on.</u></i></p> | <p>No relief necessary</p> <p>The Hearing Panel recognises that the submitter wishes to protect their cultural values from adverse effects associated with discharge systems. However, the Hearing Panel notes that the rationale for avoiding or mitigating adverse effects on coastal water or air quality includes wider resource management considerations and is not confined to Māori cultural values. It is not appropriate to limit or restrict Implementation Method 43 in such a manner. The Hearing Panel refers the submitter to the relevant policies, including General Policies, to see the level of protections provided for under such matters.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Method 47 – Notify Medical Officer of Health | | | |
| 48 – Taranaki District Health Board | 667 | Amend Submitter seeks amendment to Implementation Method 47 of the Plan to read: <i>Notify the Medical Officer of Health for Taranaki and the relevant territorial authority if water quality shows that coastal water is unfit for contact recreation or gathering of shellfish for human consumption. <u>The Taranaki Regional Council will also conduct an investigation to determine the cause of the poor water quality if it is practicable.</u></i> | Accept The submitter wishes to include a method component that emphasises the investigation into the cause of the poor water quality if it is practicable to do so. The Hearing Panel agrees and recommends amending Implementation Method 47 as sought. |
| Method 48 – Advocate or encourage | | | |
| 9 – Karen Pratt | 668 | Amend The submitter is concerned about the potential adverse environmental effects of ballast water and seeks amendment to Implementation Method 48 of the Plan to reference Maritime New Zealand Marine Protection Rules and Craft Risk Management Standard and suggest looking at the wording in conditions of consent included in the recent granting to mine ironsand off New Zealand. | No relief necessary The Hearing Panel suggests that the relief sought by the submitter is a matter to be considered when applying the rules although care needs to be taken to ensure the matters being considered relate to the Council's jurisdictional responsibilities under the RMA and do not derogate from the Ministry for Primary Industries border control responsibilities, which includes ballast water. The Hearing Panel notes that Implementation Method 48 is a non-regulatory method to achieve Plan objectives (in this case advocacy and encouragement). |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| 29 – Department of Conservation | 669 | Support Retain Method 48 of the Plan as notified. | Accept Support noted. Implementation Method 48 is retained as notified. |
| Method 50 – Regional marine oil responses | | | |
| 7 – Waikato Regional Council | 670 | Support Submitter supports Implementation Method 50 of the Plan relating to marine oil spill responses. | Accept Support noted. Implementation Method 50 is retained as notified. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Method 51 – Noise standards | | | |
| 43 – Royal Forest and Bird Protection Society | 671 | <p>Amend</p> <p>Submitter seeks amendment to Implementation Method 51 of the Plan to delete reference to New Zealand Standards and replace with:</p> <p><i>[...] <u>considerations of the latest information of the effects of noise of marine species and habitats. The use of the most recent professionally supported noise modelling for the marine environment. Taking a precautionary approach where limited information is available.</u></i></p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter noting that the <i>New Zealand Standards NZS 6802:2008 Acoustics - Environmental noise and NZS 6803: 1999 Acoustics – Construction Noise</i> have been adopted and underpin the limits set in Section 8.6.3 [General standards – Noise] of the Plan.</p> |
| Further submissions – Trans-Tasman Resources Ltd (6), Port Taranaki Ltd (32) | | Oppose | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 48 – Taranaki District Health Board | 672 | <p>Amend</p> <p>Submitter seeks amendment to Implementation Method 51 of the Plan to read:</p> <p><i>Consideration of the general standards in this Plan, and of New Zealand Standards NZS 6802:2008 Acoustics - Environmental noise and NZS 6803: 1999 Acoustics – Construction Noise when:</i></p> <p><i>(a) considering applications for coastal permits; or</i></p> <p><i>(b) determining whether noise <u>is unreasonable levels are excessive</u> for the purpose of enforcement action under Part 12 of the RMA.</i></p> <p><i><u>Note “excessive noise” is subject to special provisions of the RMA under sections 326-328 of the Act. Council enforcement Hearing Panel may exercise powers to investigate complaints that noise is excessive and take appropriate actions under s.327 of the Act.</u></i></p> | <p>Accept in part</p> <p>The Hearing Panel recommends amending Implementation Method 51 in part to read:</p> <p><i>Consideration of the general standards in this Plan, and of New Zealand Standards NZS 6802:2008 Acoustics - Environmental noise and NZS 6803: 1999 Acoustics – Construction Noise when:</i></p> <p><i>(a) considering applications for coastal permits; or</i></p> <p><i>(b) determining whether noise levels are <u>in breach</u> for the purpose of enforcement action under Part 16 of the RMA.</i></p> <p>Hearing Panel suggest the explanatory note would be more appropriately placed in Section 8.6.3 of the Plan.</p> |
| NEW Method Natural hazard management | | | |
| 7 – Waikato Regional Council | 673 | <p>Amend</p> <p>Submitter seeks that Council consider incorporating an adaptive pathways planning approach to natural hazards as a new Implementation Method.</p> | <p>Decline</p> <p>No precise details of amendments sought to the Plan have been provided and seems to be an unnecessary level of detail given that the Coastal Plan would be</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | only one of the elements necessary to deliver adaptive pathways planning approach to natural hazards with other agencies (such as territorial authorities) having the key role. |

4.6 Rules

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| General – Plan | | | |
| 43 – Royal Forest and Bird Protection Society | 674 | Amend Submitter seeks amendment to rules to change “ <i>effects on ecological values</i> ” to “ <i>effects on indigenous biodiversity</i> ” in matters for control. | Accept The term “ <i>ecological values</i> ” means relating to or concerned with the relation to organisms to one another and their physical surroundings. As such it has a broad application and potentially captures other matters of control identified in relevant rules such as water quality but is potentially unclear as to what other constituent parts of the environment are also captured in the term. For the purposes of certainty and clarity, the Hearing Panel recommends changing reference to “ <i>effects on ecological values</i> ” to “ <i>effects on indigenous biodiversity</i> ” plus other consequential changes (addressing natural character) within the rules section to better align with Plan policies addressing natural form and functioning and indigenous biodiversity. This relief will better align language between the rules and language already adopted in the objectives and policies of the Plan. |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 675 | Amend Submitter seeks amendment to permitted activity rules of the Plan by replacing references to avoiding adverse effects on Policy 11 of the <i>New Zealand Coastal Policy Statement</i> matters with permitted activities that limit the activity type, scale and location to the extent that the activity will not have an adverse effect which is inconsistent with achieving Policy 11 of the <i>New Zealand Coastal Policy Statement</i> . | Decline At the hearing, the submitter highlighted concerns over subjective rule standards, term and conditions. It was their view that standards, terms and conditions for permitted (or controlled) activities should only be provided where it is known that the potential effects will be not more than minor and in these instances the conditions should be clear. The Hearing Panel agrees but notes that, as far as is practicable, this has been done. It is the Hearing Panel's view that all rules give effect to Policy 11 [Indigenous biological diversity (biodiversity)] of the <i>New Zealand Coastal Policy Statement</i> . Permitted activity rules are already proposed that are believed to be of a scale, type and location that any adverse effects on biodiversity will be less than minor and is consistent with community expectations set out in the Plan policies – particularly Policies 14, 14A and 14B the Plan, which, in turn give effect to Policy 11 of the <i>New Zealand Coastal Policy Statement</i> . Notwithstanding any permitted activity classification, undertaking such activities is still subject to compliance with the standards, terms and |
| Further submissions – Powerco (45) | | Oppose in part | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>conditions of the rule, which will ensure that such activities are carried out in a manner that will avoid, remedy or mitigate effects on significant indigenous biological diversity. There may be isolated circumstances where a permitted activity could occur at a time or place that might have potential adverse effects on significant indigenous biodiversity. In such cases, the activity is not 'allowed' as there is a standard, term and condition that requires adverse effects to be avoided.</p> <p>This is part of a precautionary approach that may require a higher level of protection than otherwise provided for under Policy 14). Also as part of the precautionary approach, Rules 18, 20, 21 and 22 include notification clauses whereby the activity must notify the Council prior to commencing the activity so that there is an opportunity if necessary to confirm that the type, scale and location of the permitted activity should indeed be able to comply with the relevant standards, terms and conditions.</p> <p>Further to this, the Hearing Panel notes that, in response to other reliefs sought by the submitter and others, the Panel has recommended additional standards, terms and conditions to be included in permitted and controlled activity rules that address other wider biodiversity considerations, for example, protection of taonga species and aquatic life</p> |
| 43 – Royal Forest and Bird Protection Society | 676 | <p>Amend</p> <p>Submitter seeks amendment to rules of the Plan to avoid adverse effect on natural character as required by Policies 13 and 15 of the <i>New Zealand Coastal Policy Statement</i>.</p> | <p>No relief necessary</p> <p>No precise details of amendments sought to the Plan have been provided. However, it is the Hearing Panel's view that all rules give effect to Policies 13 [Preservation of natural character] and 15 [Natural features and natural landscapes] of the <i>New Zealand Coastal Policy Statement</i>.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | <p>Permitted activity rules are believed to be of a scale, type and location that any adverse effects on natural character and natural features and landscapes will be less than minor and is consistent with community expectations set out in the Plan policies – particularly Policies 8 to 13 of the Plan, which, in turn give effect to Policies 13 and 15 of the <i>New Zealand Coastal Policy</i></p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Powerco (45) | | Oppose in part | <p><i>Statement.</i> Any permitted activity is subject to compliance with the standards, terms and conditions of the rule, which will ensure permitted activities are carried out in a manner that will avoid, remedy or mitigate effects on natural character and natural features and landscapes.</p> <p>Where activities are of a scale, type and location that any adverse effects on natural character and natural features and landscapes will likely to be more than minor a resource consent is required. Through the consenting process, all General Policies are considered, including Policies 8 to 13, when determining whether the activity will be allowed and, in the event that it is consented, what conditions will be imposed to avoid, remedy or mitigate effects on natural character and natural features and landscapes. The Hearing Panel further notes that controlled and restricted discretionary rules generally include, as a matter of control/discretion, effects on natural character, features and landscape values.</p> |
| 55 – Kiwis Against Seabed Mining | 677 | <p>Amend</p> <p>Submitter seeks amendment to the Plan to include rules prohibiting and restricting fishing activities and protect coastal values as identified through spatial planning.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter noting that jurisdictional responsibilities for marine fishing lies with the Ministry for Primary Industries under the <i>Fisheries Act</i>. Regional councils are therefore not responsible for fishing activities <i>per se</i> within the coastal marine area.</p> <p>Notwithstanding the above, the Hearing Panel recognises that activities in the coastal marine area may result in the disturbance or destruction of marine habitat. However, such activities are already addressed via Plan rules. Any other prohibitions or restrictions targeting fishing activities are considered inappropriate.</p> |
| 56 – Greenpeace | 678 | <p>Amend</p> <p>Submitter seeks amendment to the Plan (rules) to ensure that fishing activities are managed so as to avoid, remedy or mitigate adverse effects to environmental bottom lines and policies of the <i>New Zealand Coastal Policy Statement</i> and/or values identified in the <i>Regional Policy Statement</i> and <i>Coastal Plan</i>.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. noting that jurisdictional responsibilities for marine fishing lies with the Ministry for Primary Industries under the <i>Fisheries Act</i>. Regional councils are therefore not responsible for fishing activities <i>per se</i> within the coastal marine area.</p> <p>Notwithstanding the above, the Hearing Panel recognises that activities in the coastal marine area may result in the disturbance or destruction of marine habitat. However, such activities are already addressed via Plan rules. Any other prohibitions or restrictions targeting fishing activities are considered inappropriate.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | <p>Notwithstanding the above, the Hearing Panel recognises that activities in the coastal marine area may result in the disturbance or destruction of marine habitat. However, such activities are already addressed via Plan rules. Any other prohibitions or restrictions targeting fishing activities are considered inappropriate.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 61 – Te Rūnanga o Ngāti Ruanui Trust | 679 | Amend | No relief necessary |
| | | Submitter seeks amendment to the Rules of the Plan to clearly articulate tangata whenua participation. | No precise details of amendments to the Plan have been provided and the Hearing Panel is unclear as to what amendments to rules would be appropriate to clearly articulate tangata whenua participation (presumably in relation to RMA matters). The Hearing Panel does not believe operational details relating to the implementation of the Plan are appropriate to be included within a Plan yet alone in the rules section. The Hearing Panel does not recommend making any changes to the rules section of the Plan in response to the relief sought. However, the Hearing Panel notes consequential amendments have been made to relevant Plan objectives, policies and methods articulating tangata whenua values and relationships. Further opportunities to address operational detail exists outside the Plan. In particular, the Hearing Panel notes that, through Mana Whakahono a Rohe agreements, such matters can be addressed and further detail provided. The Council will be seeking to work with tangata whenua in order to address these issues in the appropriate setting and format through Mana Whakahono a Rohe agreements. |
| Further submissions - Te Korowai o Ngāruahine Trust (41) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 680 | Other | No relief necessary |
| | | Submitter seeks that more details are provided with respect to the nature and scope of the word “ <i>minor</i> ” to avoid confusion. | The word “ <i>minor</i> ” has been used in several contexts. The most common instance is in relation to describing the effects of an activity. In general, the magnitude of the effects of an activity are determined on a case-by-case basis as it is not appropriate to make a blanket statement that covers so many variables, environmental locations and sensitive environments. For example, what is considered a minor effect in one location may produce a significant effect in another due to the nature of that specific location and the associated values and uses. The criteria for determining “ <i>minor adverse effects</i> ” is whether the activity will cause an adverse effect and the level of that effect and the time it would take for that effect to be remedied (either naturally or through remedial processes). Generally, minor effects are small and transitory such that they do not require avoiding, remedying or mitigating in order to maintain the values of that location, whether those be biological, environmental, historic, cultural, visual, etc. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 61 – Te Rūnanga o Ngāti Ruanui Trust | 681 | Amend | No relief necessary |
| | | Submitter seeks amendment to the Rules section of the Plan that monitoring programmes referred to within the Rules section of the Plan include cultural or mauri indicators/values. | The Hearing Panel does not believe the rules section is the appropriate place to introduce or detail cultural monitoring requirements. The submitter has not stated which rules need to be amended or the precise amendments sought. However, the Hearing Panel notes that for discretionary and non-complying activities, cultural monitoring programmes that include cultural or māuri indicators/values may be considered on a case-by-case basis as part of the consenting process. Similarly, controlled activity rules already include, as matters of control, monitoring considerations. Monitoring is a broad term that is used in the Plan to include all aspects of monitoring including cultural monitoring and there is no advantage in confining monitoring to particular forms. Again, through the consenting process, there is the opportunity to consider and include cultural or mauri indicators/values on a case-by-case basis as part of any compliance programme. |
| Further submissions - Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 682 | Amend | No relief necessary |
| | | Submitter seeks amendment to the Rules section of the Plan to reference adverse effects on Schedules 1, 2, 4C, 5B and Appendix 2 of the Plan. | The Hearing Panel notes that the appropriate references to Plan schedules have already been included within the rules section and no further additions are required. The Hearing Panel further notes that the submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary and non-complying activities. The inclusion of such matters in the rule is not considered appropriate with conditions being developed on a case-by-case basis through the consenting process having regard to the relevant policies, which in turn contain the necessary reference to the schedules sought by the submitter. |
| Rule 1 – Stormwater discharge | | | |
| 29 – Department of Conservation | 683 | Amend | Decline |
| | | Submitter seeks amendment to Rule 1 of the Plan to exclude its application to coastal management areas, Outstanding Value and Estuaries Unmodified. | The submitter believes that the permitted classification of stormwater discharge into Outstanding Value coastal management areas and Estuaries Unmodified is inappropriate. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>Stormwater is defined within the Plan (in accordance with the <i>National Planning Standards</i>) and means "...runoff that has been channelled, diverted, intensified or accelerated by human modification of a land surface or runoff from the surface of any structure, as a result of precipitation and includes any contaminants contained within."</p> <p>The Hearing Panel does not recommend granting the relief sought by the submitter.</p> <p>The Hearing Panel does not consider it appropriate to require consents from all premises to simply authorise the discharge of rainfall runoff from their land. Coastal monitoring over the life of the current Coastal Plan has identified no issues with stormwater contributing to more than minor adverse effects to coastal water quality. Therefore, to now require all properties (urban, rural, industrial and trade premises) because they are adjacent to Outstanding Value and Estuaries Unmodified coastal management areas to get a resource consent, regardless of having less than minor adverse effects, imposes significant added compliance cost without any net environmental gain.</p> <p>The Hearing Panel notes that any permitted activity to discharge stormwater into the coastal marine area is still subject to compliance with the standards, terms and conditions of the rule, which will ensure permitted activities are carried out in a manner that will avoid, remedy or mitigate effects on coastal water quality and associated values and uses.</p> |
| 40 – Te Rūnanga o Ngāti Mutunga | 684 | <p>Amend</p> <p>Submitter seeks amendment to Rule 1 of the Plan by deleting Activity Description (b)(i) in Rule 1 of the Plan to read:</p> <p><i>Stormwater discharge into water or onto land in the coastal marine area that either:</i></p> <p><i>(a) does not convey stormwater from any industrial or trade premises, or</i></p> <p><i>(b) conveys stormwater from industrial or trade premises that:</i></p> <p>(i) cover a total area of 2 ha or less; and</p> <p>(ii) do not use or store hazardous substances.</p> | <p>Decline</p> <p>The submitter believes that any stormwater discharge from an industrial or trade premises should be monitored for its possible adverse effects on the environment irrespective of the size of the trade or industrial premises.</p> <p>Stormwater is defined within the Plan (in accordance with the <i>National Planning Standards</i>) and means "...runoff that has been channelled, diverted, intensified or accelerated by human modification of a land surface or runoff from the surface of any structure, as a result of precipitation and includes any contaminants contained within."</p> <p>The relief sought by the submitter will significantly increase compliance costs on a range of businesses by including a requirement to obtain a consent to discharge stormwater. The RMA definition of 'industrial or trade premises' includes a large variety of premises such as surf lifesaving clubs, dairies etc. Stormwater discharges to the coastal marine area from these premises</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>(recognising that they cannot use or store hazardous substances) are expected to have less than minor adverse environmental effects.</p> <p>In terms of managing adverse effects and not imposing unnecessary (and disproportionate costs) on resource users, it is considered inappropriate to require consents from all industrial or trade premises to simply authorise the discharge of rainfall runoff from their land. The Hearing Panel recommends retaining the activity description (b)(i) of Rule 1 as notified.</p> |
| 40 – Te Rūnanga o Ngāti Mutunga | 685 | <p>Amend</p> <p>The submitter is not convinced that, even with the conditions listed, there is not a possibility of contamination of the water in these areas where stormwater discharges are allowed as a permitted activity.</p> <p>Submitter seeks amendment to amend Rule 1 of the Plan to make stormwater discharges a discretionary activity in Outstanding Value, Estuaries Unmodified and Estuaries Modified coastal management areas.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter.</p> <p>Stormwater is defined within the Plan (in accordance with the <i>National Planning Standards</i>) and means “...runoff that has been channelled, diverted, intensified or accelerated by human modification of a land surface or runoff from the surface of any structure, as a result of precipitation and includes any contaminants contained within.”</p> <p>The Hearing Panel notes there are significant urban areas that would be affected by the relief sought by the submitter such as New Plymouth, Waitara, Urenui and Patea. Coastal monitoring over the life of the current Coastal Plan has identified no issues with stormwater contributing to more than minor adverse effects to coastal water quality. Therefore, to now require all properties (urban, rural, industrial and trade premises) to get a resource consent regardless of having less than minor adverse effects is not considered appropriate and would unnecessarily restrict activities without any net environmental impacts.</p> |
| 40 – Te Rūnanga o Ngāti Mutunga | 686 | <p>Amend</p> <p>Submitter seeks amendment to Condition (i) of Rule1 of the Plan to read: (i) the discharge does not render marine organisms unsuitable for human consumption within recognised mātaītai reefs/resources; [...]</p> | <p>Accept</p> <p>The submitter identifies that there are difficulties in mapping all of the mātaītai areas within the Ngāti Mutunga rohe and requests that the condition be expanded to include all marine organisms.</p> <p>The Hearing Panel recommends granting the relief sought by the submitter by amending condition (i) to read: <i>(i) the activity does not render marine organisms unsuitable for human consumption.</i></p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 40 – Te Rūnanga o Ngāti Mutunga | 687 | <p>Amend</p> <p>Submitter seeks amendment to Condition (k) of Rule1 of the Plan to read: <i>(k) the discharge does not cause the natural temperature to be changed by more than three degrees from normal seasonal water temperature fluctuations, after reasonable mixing <u>or any changes that cause it to exceed 25 degrees Celsius.</u></i></p> | <p>Decline</p> <p>The submitter supports setting an upper temperature limit to the increase any discharge can have on water temperature due to the detrimental effect it can have on life.</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. A review of coastal water temperatures at coastal recreational monitoring sites between 2015 to 2018 shows that temperatures may naturally reach 25 degrees celsius. Including a threshold of 25 degrees celsius when such temperatures can be 'naturally' exceeded would unnecessarily restrict stormwater discharges at certain times of the year for no net environmental benefit.</p> <p>The Hearing Panel suggests that the Condition (k) already adequately addresses the effects of temperature through the requirement that the discharge does not cause the natural temperature to be changed by more than three degrees from normal seasonal water temperature fluctuations.</p> |
| 41 – Te Korowai o Ngāruahine Trust | 688 | <p>Amend</p> <p>Submitter supports Rule 1 and specifically the inclusion of Condition (e) in Rule 1 of the Plan addressing historic heritage, but seeks further dialogue on how adverse effects will be considered in practice. The submitter is uncertain if the Council is best placed to determine if Condition (e) is met.</p> <p>If an agreement cannot be reached, submitter seeks amendment to Rule 1 to make stormwater discharges a discretionary activity (rather than Permitted activity).</p> | <p>Decline</p> <p>The issue is one of managing adverse effects from normal incidental discharges of stormwater. In most cases, allowing stormwater discharges associated with residential premises, production land, parks and reserves, and smaller benign industrial and trade premises adjacent to the coastal marine area can be permitted as they will generally be of a scale, type and location that any adverse effects on historic heritage values (and other values) are less than minor. However, in isolated circumstances this might not be the case – hence the need for Condition (e) addressing no adverse effects on scheduled historic heritage values that would apply if an activity was having unexpected/unintended impacts.</p> <p>In terms of who is best placed to make that determination as to the significance of any effects, the Council has the regulatory responsibilities to monitor and enforce its regional plans. However, Hearing Panel note that in making that determination it will be informed by the advice and guidance by others, including tangata whenua where the values associated with sites of significance are potentially being impacted upon. Some of this guidance would be set out in the Plan, through its policies or scheduled of sites of</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | significance, while on other occasions it might be informed by further individual engagement with iwi or hapū. With regards to changing the Activity classification from Permitted to Discretionary, the Hearing Panel recommends declining the relief sought. |
| 42 – Ngati Rahiri Hapū | 689 | <p>Amend</p> <p>Submitter expresses concern for conflicting activities between Activity Description (a) and (b) of Rule 1 of the Plan and seeks amendment to Activity Description (b) to read:</p> <p><i>Stormwater discharge into water or onto land in the coastal marine area that either:</i></p> <p><i>(a) does not convey stormwater from any industrial or trade premises, or</i></p> <p><i>(b) conveys stormwater from industrial or trade premises that:</i></p> <p>(i) cover a total area of 2 ha or less; and</p> <p>(ii) do not use or store hazardous substances [...]</p> | <p>Decline</p> <p>Stormwater is defined within the Plan (in accordance with the <i>National Planning Standards</i>) and means “...runoff that has been channelled, diverted, intensified or accelerated by human modification of a land surface or runoff from the surface of any structure, as a result of precipitation and includes any contaminants contained within.”</p> <p>The Hearing Panel recommends declining the relief sought by the submitter in that granting the relief would significantly increase compliance costs (for no net environmental gain) on a range of businesses by including a requirement for small industrial and trade premises (less than 2 ha) to obtain a consent to discharge stormwater. The definition of industrial or trade premises includes a large variety of premises such as surf lifesaving clubs, dairies etc. Stormwater discharges to the coastal marine area from these premises (recognising that they cannot use or store hazardous substances) are expected, based on previous coastal monitoring, to have less than minor adverse effects.</p> |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 690 | <p>Support</p> <p>Retain Rule 1 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Rule 1 is retained subject to minor amendments as requested by other submitters that do not change the rule's scope.</p> |
| 48 – Taranaki District Health Board | 691 | <p>Support</p> <p>Retain Rule 1 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Rule 1 is retained subject to minor amendments as requested by other submitters that do not change the rule's scope.</p> |
| 53 - Taranaki Regional Council | 692 | <p>Amend</p> <p>Submitter seeks amendment to the activity classification of Rule 1 of the Plan to include a schedule of hazardous substances, the type and quantity of which would warrant regulating through the resource consent process. Refer to threshold values that trigger controls under <i>Hazardous Substances and New Organisms Act 1996</i>.</p> | <p>Accept</p> <p>The definition of hazardous substances is very broad and includes many normal day-to-day items and products such as detergents, household cleaners etc. As a result, Rule 1 is likely to unnecessarily capture all industrial or trade premises regardless of quantities and risk to the environment.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support in part | <p>The Hearing Panel recommends granting the relief sought by the submitter to include a schedule of hazardous substances limits (setting out for the reader's information hazardous property threshold criteria under the <i>Hazardous Substances and New Organisms Act</i>) and amending Rule 1 to read:</p> <p><i>Stormwater discharge into water or onto land in the coastal marine area that either:</i></p> <p>(a) does not convey stormwater from any industrial or trade premises, or</p> <p>(b) conveys stormwater from industrial or trade premises that:</p> <p>(i) cover a total area of 2 ha or less; and</p> <p>(ii) do not use or store hazardous substances <i>in quantities or of a type that exceed any of the hazardous property threshold criteria identified in Schedule 8AA.</i></p> <p>As well as the inclusion of an additional Schedule identifying the hazardous substances and quantities which are identified in Schedule 8AA [Hazardous substance thresholds].</p> |
| 58 – Te Atiawa | 693 | <p>Amend</p> <p>Submitter suggests that storm water discharged from an industrial or trade premises should be assessed in terms of discharge constituents, volume and frequency, and the associated environmental impacts. They contend that land size should not be a consideration when assessing discharges of this nature.</p> <p>Amend Rule 1 by deleting activity description (b)(i) cover a total area of 2 ha or less;</p> | <p>Decline</p> <p>Stormwater is defined in the Plan and means "...runoff that has been channelled, diverted, intensified or accelerated by human modification of the land surface or runoff from the external surface of any structure as a result of precipitation (rainfall) and includes entrained contaminants and sediment (including that generated during construction or earthworks)."</p> <p>The Hearing Panel recommends declining the relief sought by the submitter in that granting the relief would significantly increase compliance costs (for no net environmental gain) on a range of businesses by including a requirement for small industrial and trade premises (less than 2 ha) to obtain a consent to discharge stormwater. The RMA definition of industrial or trade premises includes a large variety of premises such as surf lifesaving clubs, dairies etc. Stormwater discharges to the coastal marine area from these premises (recognising that they cannot use or store hazardous substances) are expected to have less than minor adverse effects.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 58 – Te Atiawa | 694 | Amend | Accept |
| | | Submitter seeks amendment to Condition (i) of Rule 1 of the Plan to read: <i>(i) the discharge does not render marine organisms unsuitable for human consumption <u>within recognised mātaimai reefs/resources.</u></i> | The submitter notes that full extent of mātaimai reefs/resources have not been mapped and therefore requests that Rule 1 be applied to all marine organisms. The Hearing Panel recommends granting the relief sought by the submitter. |
| 58 – Te Atiawa | 695 | Amend | Decline |
| | | Submitter seeks amendment to Rule 1 of the Plan by amending the activity classification to a discretionary activity (rather than a permitted activity) in order to provide iwi the opportunity to be involved in the decision making process to ensure conditions of consent are monitored. | The Hearing Panel recommends declining the relief sought by the submitter. To change the activity classification to discretionary activity would require all industrial or trade premises to require a resource consent. This would capture (and impose unnecessary consenting and compliance costs) on all surf lifesaving clubs, dairies and small trade premises that generally have no or less than minor adverse effects. The Hearing Panel further notes the number of premises likely to face these increased costs given the significant urban areas adjacent to the coast including New Plymouth, Waitara, Oakura, Urenui and Patea. The Hearing Panel notes that coastal monitoring over the life of the current Coastal Plan has identified no issues with stormwater contributing to more than minor adverse effects to coastal water quality. Therefore, to now require all properties (urban, rural, industrial and trade premises) to get a resource consent regardless of having less than minor adverse effects is not considered appropriate. The Hearing Panel considers the current activity classification is sufficient and should be retained as currently notified. |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 696 | Amend | Accept in part |
| | | Submitter seeks amendment to Rule 1 of the Plan by making several amendments to the standards, terms and conditions to read: [...] <i>(d) the discharge does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant species and ecosystems] <u>and taonga species protected under Taranaki iwi Deed of Settlement including those identified in Schedule 4C [Taonga species and habitat].</u></i> | The submitter has made multiple requests to amend the conditions of Rule 1. Each of these requests are addressed point by point in the following: <ul style="list-style-type: none"> The Hearing Panel agrees to include reference to taonga species as requested but suggest that a new condition be included to read: <i><u>(ee) the discharge does not have a significant adverse effect on the values associated with taonga species as identified in Schedule 4C [Taonga species].</u></i> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p><i>(e) the discharge does not have an adverse effect on the values associated with <u>cultural and historic heritage identified in Schedule 5 [Cultural and Historic heritage];</u></i></p> <p><i>(f) the discharge does not have adverse effect on Schedules 1 and 2</i></p> <p><i>(g) the activity does not have any adverse effects on any site identified in 5B [Sites of significance to Māori and associated values] and Appendix 2;</i></p> | <ul style="list-style-type: none"> The Hearing Panel does not consider the inclusion of “cultural” necessary or useful within Condition (e). The definition of historic heritage includes cultural considerations and captures sites of significance. The Hearing Panel is uncertain as to what else needs to be captured or could be captured by including “cultural”. With regards to other cultural aspects these are better addressed separately, e.g. Condition (ee) covers taonga species. Hearing Panel recommend retaining Condition (e) as currently notified within the Proposed Plan. The Hearing Panel does not believe that the inclusion of Schedules 1 and 2 adds any value to the rule. The Rule covers small standard stormwater discharge activities and any effects must be localised, minor and transitional. Certainty not at a scale that they would have an impact on an entire coastal management area or have an impact on the significant values and attributes of areas with outstanding natural character or natural features and landscapes. The Hearing Panel recommends declining the inclusion of proposed Condition (f). By definition, historic heritage includes sites of significance to Māori, therefore, the Hearing Panel does not consider it appropriate to create a standalone condition since it is already provided for within Condition (e). The Hearing Panel recommends declining the request for a new proposed Condition (g). |
| Rules 1 to 17 – Discharges | | | |
| 52 – Emily Bailey | 697 | <p>Amend</p> <p>Submitter seeks amendments to Rules 1 to 17 of the Plan that reference point source contaminant discharges, to make discharging into the coastal environment a prohibited activity.</p> | <p>Decline</p> <p>Stormwater is defined within the Plan (in accordance with the <i>National Planning Standards</i>) and means “...runoff that has been channelled, diverted, intensified or accelerated by human modification of a land surface or runoff from the surface of any structure, as a result of precipitation and includes any contaminants contained within.”</p> <p>Rules 1 to 17 capture many different activities most of which involve point source discharges. It is appropriate that a coastal management regime be in</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>place to manage adverse effects based upon the size and the significance of those adverse effects rather than banning all discharge activities outright. This is why the Plan includes a number of different rules relating to point source contaminant discharges as each rule regulates a different kind of discharge or location type. Some discharges have minor risks that do not warrant requiring people going through the consents process. Other point source discharges to the coastal marine area may also be provided for subject to going through the consenting process to ensure risks are fully assessed and specific conditions imposed to avoid, remedy or mitigate any adverse effects. Prohibiting such activities outright is not considered appropriate and is likely to be inconsistent with both the RMA and the <i>New Zealand Coastal Policy Statement</i>.</p> |
| NEW Rule 1A – Stormwater discharges | | | |
| 29 – Department of Conservation | 698 | <p>Amend</p> <p>Submitter seeks amendment to the Plan to include a new rule, which makes stormwater discharge in the Outstanding Value and Estuaries Unmodified coastal management areas a controlled activity. The submitter seeks that the matters of control should be to the same effect as the conditions of Rule 1.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. Stormwater is defined within the Plan and means “...<i>runoff that has been channelled, diverted, intensified or accelerated by human modification of the land surface or runoff from the external surface of any structure as a result of precipitation (rainfall) and includes entrained contaminants and sediment (including that generated during construction or earthworks).</i>”</p> <p>The Hearing Panel does not believe it would be appropriate to require consents from all premises to authorise the discharge of rainfall runoff from their land. The requested relief would capture a large number of premises and businesses such as camping grounds, dairies and small trading premises (and impose unnecessary consenting and compliance costs) immediately adjacent to Outstanding Value and Estuaries Unmodified coastal management areas.</p> <p>Coastal monitoring over the life of the current Coastal Plan has identified no issues with stormwater contributing to more than minor adverse effects in these areas to coastal water quality. Therefore, to now require all properties (urban, rural, industrial and trade premises) immediately adjacent to Outstanding Value and Estuaries Unmodified coastal management areas to get a resource consent, regardless of having less than minor adverse effects, is not considered appropriate.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | The Hearing Panel notes that any permitted activity is still subject to compliance with the standards, terms and conditions of the rule, which will ensure permitted activities are carried out in a manner that will avoid, remedy or mitigate effects on coastal water quality and associated values and uses. |
| Rule 2 – Stormwater discharges | | | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 699 | Support Retain Rule 2 of the Plan as notified. | Accept Support noted. Rule 2 is retained as notified, subject to minor inconsequential amendments that do not change the Rule's scope. |
| Further submissions – Port Taranaki Ltd (32) | Support | | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | Oppose | | |
| 47 – Fonterra | 700 | Support Retain Rule 2 of the Plan as notified. | Accept Support noted. Rule 2 is retained as notified, subject to minor inconsequential amendments that do not change the Rule's scope. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | Oppose | | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 701 | Amend Submitter seeks amendment to Rule 2 (discretionary activity) of the Plan to include standards, terms and conditions to read: <i><u>(a) discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</u></i> <i><u>(b) discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></i> <i><u>(c) discharge is consistent with iwi management plan.</u></i> AND Include the following notification note: <i><u>Resource consent applications under this Rule will be notified to tangata whenua.</u></i> | Decline The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary and non-complying activities. The Hearing Panel recommends declining the relief sought by the submitter noting that it is not standard planning practice for discretionary or non-complying rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies. The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 22 and 27 being given effect to. In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately |
| Further submissions - Trans-Tasman Resources (6) | Oppose | | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | included in the Council's standard operating procedures and/or any Mana Whakahono a Rohe agreements. The Hearing Panel highlights the risks that including unnecessary operational detail in the Plan might make the Plan overly verbose plus are likely to be subject to change over the life of the Plan. In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion". The Hearing Panel notes recommendations to delete such notification requirements from the Plan and notes that the relevant notification requirements are set out in sections 95A to 95G of the RMA. |
| Rule 3 – Stormwater discharges | | | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 702 | Support Retain Rule 3 of the Plan as notified. | Accept Support noted. Rule 3 is retained as notified, subject to minor inconsequential amendments that do not change the Rule's scope. |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 703 | Amend Submitter seeks amendment to Rule 3 (non-complying activity) to include standards, terms and conditions to read: <i>(a) discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</i> <i>(b) discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</i> <i>(c) discharge is consistent with iwi management plan.</i> AND Include the following notification note: <i>Resource consent applications under this Rule will be notified to tangata whenua.</i> | Decline The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary and non-complying activities. The Hearing Panel recommends declining the relief sought noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a non-complying activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies. The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 22 and 27 being given effect to. In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly |
| Further submissions – Trans-Tasman Resources (6) | | Oppose | |

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| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | <p>changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to “matters of control/discretion”. The Hearing Panel notes recommendations to delete such notification requirements from the Plan and notes that the relevant notification requirements are set out in sections 95A to 95G of the RMA.</p> <p>The Hearing Panel further notes that, in addition to the requirements of the RMA, notification to iwi can also be addressed through Mana Whakahono a Rohe agreements without the need to be included in the Plan rules.</p> |
| Rule 4 – Petroleum dispersal use in the Port | | | |
| 21 – Climate Justice Taranaki | 704 | <p>Amend</p> <p>Submitter opposes the use of petroleum dispersant in any of the coastal management areas and certainly not as a permitted activity. Notes that two dispersants approved for use by Maritime NZ – Corexit 9500 and Corexit 952 – are extremely toxic to humans and the environment and seek that:</p> <ul style="list-style-type: none"> the use of the above-mentioned and other toxic petroleum dispersants be Prohibited in all coastal management areas; and the use of non-toxic dispersants be Discretionary (require a resource consent). | <p>Grant in kind</p> <p>Petroleum dispersants are used in the event of an oil spill in order to aid oil spill response. They are very much a tool for avoiding, remedying or mitigating adverse effects in the event that capital dredging in Port Taranaki results in a natural marine oil seepage event. The rule covers an emergency situation not planned or foreseen as part of their consented activities.</p> <p>The Council recognise that the use of petroleum dispersants can, in some cases, lead to adverse environmental effects. Accordingly, their use in an emergency event would only be used where other alternatives (including inaction) would have worst environmental consequences. The Hearing Panel notes that Gamalin is generally the preferred dispersant as it is less toxic and has been approved by Maritime NZ for most crude oil treatment. Corexit 9500 and Corexit 952 would only be used in very limited situations where other alternatives are unsuitable.</p> <p>Notwithstanding the above, the submitter and others have highlighted a broader issue of duplicating regulatory controls addressed by Maritime New Zealand under other legislation. The Hearing Panel therefore recommends that Rule 4 be deleted.</p> |
| 40 – Te Rūnanga o Ngāti Mutunga | 705 | <p>Amend</p> <p>Submitter opposes permitting the use of petroleum dispersants in the Port and seeks amendment to Rule 4 of the Plan that such activities be a discretionary activity.</p> | <p>Grant in kind</p> <p>Petroleum dispersants are used in the event of an oil spill in order to aid oil spill response. They are very much a tool for avoiding, remedying or mitigating adverse effects in the event that capital dredging in Port Taranaki</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>results in a natural marine oil seepage event. The rule covers an emergency situation not planned or foreseen as part of their consented activities.</p> <p>The Council recognise that the use of petroleum dispersants can, in some cases, lead to adverse effects. Accordingly, dispersants are only used in an emergency event where other alternatives (including inaction) would have worst environmental consequences.</p> <p>Notwithstanding the above, the submitter and others have highlighted a broader issue of duplicating regulatory controls addressed by Maritime New Zealand under other legislation. The Hearing Panel therefore recommends that Rule 4 be deleted.</p> |
| 41 – Te Korowai o Ngāruahine Trust | 706 | Amend | No relief necessary |
| | | Submitter supports Rule 4 as a permitted activity, however, seeks the inclusion of a new condition that would require the notification of appropriate iwi authorities as soon as practicable after an event. | The Hearing Panel notes that, in response to other submitters' requests, it is recommended that the Council delete Rule 4 as it is addressed under other legislation. |
| 42 – Ngati Rahiri Hapū | 707 | Amend | Decline |
| | | Submitter noted concerns that rules relating to the use of petroleum dispersants is confined to the Port coastal management area and suggest that the rule apply to all coastal management areas (specifically those of outstanding value). Submitter seeks amendment to Rule 4 to include all coastal management areas. | <p>The submitter's comments are noted.</p> <p>Rule 4 addresses a quite discreet activity associated with capital dredging in Port Taranaki that results in a natural marine oil seepage event. Oil seepage associated with maritime accidents are separately addressed under maritime legislation. The Hearing Panel suggests that the use of dispersants in an emergency event in other coastal management areas is less likely and in which case can be adequately under maritime legislation (or the emergency provisions of the RMA).</p> <p>Notwithstanding the above, other submitters have highlighted a broader issue of duplicating regulatory controls addressed under other legislation. The Hearing Panel therefore recommends that Rule 4 be deleted.</p> |
| 54 – Maritime New Zealand | 708 | Amend | Accept |
| | | Submitter seeks amendment to the Plan by deleting Rule 4, OR Alternatively, amend Rule 4 by replacing the term "petroleum dispersant" with "oil spill control agent" to clarify the difference between a dispersant to be used on | The submitter and others have highlighted a broader issue of duplicating regulatory controls addressed under other legislation. The submitter notes that under Part 132 of the <i>Marine Protection Rules</i> the definition of "oil spill" |

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| | | petroleum products (spilt in the marine environment) and petroleum based dispersants. | reads " <i>an actual or probable release, discharge or escape of oil</i> " and encompasses natural oil seeps resulting from dredging activities. |
| Further submissions – Port Taranaki Ltd (32) | | Oppose/Support in part | <p>Part 132.20 of the <i>Marine Protection Rules</i> also identifies who may discharge an Oil spill Control Agent (OSCA) for which petroleum dispersants are one type in the event of an oil spill. Of note, the discharge must be authorized under a marine oil spill contingency plan on by an on-scene commander.</p> <p>Port Taranaki (submitter 32) have outline concerns (further submission and at the hearing of submissions) for the deletion of Rule 4, in particular how this might affect dredging operations at the Port for which the Port holds a consent. Of note, one of the consent conditions requires the Port to provide the Council with a contingency plan outlining measures to be taken in the event of an unforeseen spill or discharge of oil. The Port are concerned that the removal of the rule would inhibit the Port from undertaking the procedures for oil spill response should a spill occur and are concerned that they would subsequently be required to obtain a resource consent or disperse using emergency works under the RMA.</p> <p>Of note, the <i>Port Oil Spill Contingency Plan</i> focuses on containment and recovery and no petroleum dispersants are listed under the spill response equipment as available should a spill occur. Therefore, Rule 4 is potentially misleading as it would appear to allow their use when (for the Port) this would not be appropriate under Part 132.20 of the <i>Marine Protection Rules</i>.</p> <p>In addition, should a spill warrant the use of a petroleum dispersant (under a tier II spill) the <i>Marine Protection Rules</i> would superced the rules in the Coastal Plan to ensure that necessary oil response procedures are fulfilled.</p> <p>The Hearing Panel therefore considers that Rule 4 is unnecessary and does not provide any value to Plan users and that the necessary provisions are addressed through other means. The Hearing Panel recommends that Rule 4 be deleted.</p> |
| 55 – Kiwis Against Seabed Mining | 709 | <p>Support</p> <p>Submitter supports Rule 4 of the Plan as a permitted activity.</p> | <p>Decline</p> <p>Support noted. However, in response to requests by other submitters, the Hearing Panel recommends deleting Rule 4 to avoid duplicating regulatory controls addressed under other legeslation.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 56 – Greenpeace | 710 | Support | Decline |
| | | Submitter supports Rule 4 of the Plan as a permitted activity. | Support noted. However, in response to requests by other submitters, the Hearing Panel recommends deleting Rule 4 to avoid duplicating regulatory controls addressed under other legislation. |
| 58 – Te Atiawa | 711 | Amend | No relief necessary |
| | | Submitter seeks amendment to Rule 4 of the Plan by adding a new condition (d) to read: <i>(d) iwi are notified as soon as practicable after the event.</i> | The Hearing Panel notes that in response to requests by other submitters, it is recommended that Rule 4 be deleted to avoid duplicating regulatory controls addressed under other legislation. |
| Rule 5 – Untreated human sewage | | | |
| 5 – Point Board Riders | 712 | Support | Accept |
| | | Retain Rule 5 of the Plan prohibiting untreated human sewage into the coastal marine area. | Support noted. Rule 5 is retained as notified. |
| 21 – Climate Justice Taranaki | 713 | Support | Accept |
| | | Retain Rule 5 of the Plan as notified. | Support noted. Rule 5 is retained as notified. |
| 29 – Department of Conservation | 714 | Support | Accept |
| | | Retain Rule 5 of the Plan as notified. | Support noted. Rule 5 is retained as notified. |
| 40 – Te Rūnanga o Ngāti Mutunga | 715 | Support | Accept |
| | | Retain Rule 5 of the Plan as notified. | Support noted. Rule 5 is retained as notified. |
| 48 – Taranaki District Health Board | 716 | Support | Accept |
| | | Retain Rule 5 of the Plan as notified. | Support noted. Rule 5 is retained as notified. |
| 58 – Te Atiawa | 717 | Support | Accept |
| | | Retain Rule 5 of the Plan as notified. | Support noted. Rule 5 is retained as notified. |
| Rule 6 – Wastewater treatment plant discharges | | | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 8 – Silver Fern Farms | 718 | Support | Accept |
| | | Retain Rule 6 of the Plan to provide for existing discharges of contaminants to coastal waters. | Support noted. Rule 6 is retained as notified. |
| Further submissions – Federated Farmers (2) | | Support | |
| 21 – Climate Justice Taranaki | 719 | Amend | Decline |
| | | The submitter opposes allowing an existing wastewater discharge that contains human sewage to discharge to the coastal management area after its consent expires and seeks that once existing consents expire, that the activity be Prohibited in all coastal management areas. | <p>The Hearing Panel recommends declining the relief sought.</p> <p>The relief sought would immediately preclude existing lawful discharges of municipal waste discharges to the coastal marine area in the absence of any other practicable options. To divert the quantities of waste onto land or other receiving environments is likely to be impracticable plus result in worse environmental outcomes due to the quantities involved and the lack of suitable locations to ensure the waste can be properly and safely assimilated to avoid, minimise or mitigate adverse environmental effects.</p> <p>The Hearing Panel notes Taranaki only has three municipal wastewater discharges. The resource consents for these marine outfalls include conditions that the consent holder must adhere to. These conditions are designed to minimise adverse effects by including limits on the discharge (pertaining to quality and quantity) and managing impacts on the receiving environment. Consent holders must regularly reassess whether the current system remains to be the best practicable option, in light of technological advances and changing circumstances. Community involvement in the monitoring and management of these discharges, through involvement plans and stakeholder meetings, is also required in the resource consents.</p> <p>The Hearing Panel suggests that some provision must be made in the rules to provide for the discharge of wastewater that contains treated human sewage. Most New Zealand cities discharge water directly or indirectly into the coastal marine area. However, this rule is a discretionary activity, which means a resource consent may be granted or declined subject to the Plan's policies. A discharge consent application is subject to meeting the directions and guidance set out in General Policies 1 to 21 and Activity-specific Policies 22, 24 and 26. With these policies any discharge of treated wastewater must be of an acceptable quality and can only be considered when more appropriate alternatives have been considered. This rule is in line with the requirements</p> |
| Further submissions – Royal Forest and Bird Protection Society (43) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>of the <i>New Zealand Coastal Policy Statement</i> Policy 23 [Discharge of contaminants] (2) and (3) and meets the requirements of the RMA.</p> <p>It is the Hearing Panel's view that providing the option to consider discharges of treated wastewater into the coastal marine area is necessary in order to provide for the requirements of the general public. The Hearing Panel is satisfied that through the resource consents process, adverse environmental effects can be appropriately avoided, remedied or mitigated. Policy 26 in particular is highlighted whereby it is Council's expectation that the best practicable option be adopted to improve the quality of the discharge and reduce the quantity of the discharge over time.</p> |
| 23 – New Plymouth District Council | 720 | Support | Accept |
| | | Retain Rule 6 of the Plan as a discretionary activity to support the continuation of wastewater discharges at the Waiwhakaiho. | Support noted. Policy 6 is retained as notified. |
| 38 – Nigel Cliffe | 721 | Other | No relief necessary |
| | | Submitter notes opposition (in relation to the toilet at Paora Road) to discharges of fluids or solids to the ocean. The submitter does not wish the toilet to discharge any fluids or solids either directly or indirectly by way of ground water. The submitter wishes to have the location of the toilet reassessed. | <p>Submitter's comments are noted and have been passed on to the Inspectorate section of the Council for further investigation.</p> <p>The Hearing Panel have been advised by Council officers that the toilet at Paora Road has previously been investigated for compliance and that samples indicated the toilet is compliant with relevant regional rules. The Council will conduct further monitoring to ensure that there are no unconsented discharges.</p> |
| 40 – Te Rūnanga o Ngāti Mutunga | 722 | Amend | Decline |
| | | <p>Submitter does not support the disposal of treated or untreated human sewage to any water body due to the effect this will have on the mouri and wairua of the receiving water body. The submitter would prefer to see alternative disposal to land of the wastewater from the New Plymouth District Council's Treatment station at Waiwhakaiho before the end of the current consent in 2041.</p> <p>Submitter seeks amendment to Rule 6 of the Plan to make all discharges of treated wastewater to the coastal marine area a prohibited activity (rather than a discretionary activity).</p> | <p>The Hearing Panel recommends declining the relief sought whereby the continuation of existing consented activities to discharge treated human sewage is prohibited.</p> <p>The relief sought would immediately preclude existing lawful discharges of municipal wastewater discharges to the coastal marine area in the absence of any other practicable options. To divert the quantities of waste onto land or other receiving environments is likely to be impracticable plus result in worst environmental outcomes due to the quantities involved and the lack of suitable locations to ensure the waste can be properly and safely assimilated to avoid, minimise or mitigate adverse environmental effects.</p> |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>The Hearing Panel notes Taranaki only has three municipal wastewater discharges. Their discharges are located a significant distance offshore. The resource consents for these marine outfalls include conditions that the consent holder must adhere to. These conditions are designed to minimise adverse effects by including limits on the discharge (pertaining to quality and quantity) and managing impacts on the receiving environment. Consent holders must regularly reassess whether the current system remains to be the best practicable option, in light of technological advances and changing circumstances. Community involvement in the monitoring and management of these discharges, through involvement plans and stakeholder meetings, is also required in the resource consents.</p> <p>The Hearing Panel suggest that some provision must be made in the rules to provide for the discharge of wastewater that contains treated human sewage. Most New Zealand cities discharge water directly or indirectly into the coastal marine area. However, this rule is a discretionary activity, which means a resource consent may be granted or declined subject to the Plan's policies. A discharge consent application is subject meeting the directions and guidance set out in General Policies 1 to 21 and Activity-specific Policies 22, 24 and 26. With these policies the discharge must be of an acceptable quality and can only be considered when more appropriate alternatives have been considered. This rule is in line with the requirements of the <i>New Zealand Coastal Policy Statement</i> Policy 23 [Discharge of contaminants] (2) and (3) and meets the requirements of the RMA.</p> <p>It is Hearing Panel's view that providing the option to consider discharges of treated wastewater into the coastal marine area is necessary in order to provide for the requirements of the general public. The Hearing Panel is satisfied that through the resource consents process, adverse environmental effects can be appropriately avoided, remedied or mitigated. Policy 26 in particular is highlighted whereby it is Council's expectation that the best practicable option be adopted to improve the quality of the discharge and reduce the quantity of the discharge over time.</p> |
| 47 – Fonterra | 723 | <p>Support</p> <p>Retain Rule 6 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Policy 6 is retained as notified.</p> |

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| 58 – Te Atiawa | 724 | <p>Amend</p> <p>Submitter seeks amendment to Rule 6 of the Plan to make all discharges of treated wastewater to the coastal marine area a prohibited activity (rather than a discretionary activity).</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought.</p> |
| Further submissions – Climate Justice Taranaki Inc (21) | Support | <p>The relief sought would immediately preclude existing lawful discharges of municipal wastewater discharges to the coastal marine area in the absence of any other practicable options. To divert the quantities of waste onto land or other receiving environments is likely to be impracticable plus potentially result in worst environmental outcomes due to the quantities involved and the lack of suitable locations to ensure the waste can be properly and safely assimilated to avoid, minimise or mitigate adverse environmental effects.</p> <p>The Hearing Panel notes Taranaki only has three municipal wastewater discharges. Their discharges are located a significant distance offshore. The resource consents for these marine outfalls include conditions that the consent holder must adhere to. These conditions are designed to minimise adverse effects by including limits on the discharge (pertaining to quality and quantity) and manage impacts on the receiving environment. Consent holders must regularly reassess whether the current system remains to be the best practicable option, in light of technological advances and changing circumstances. Community involvement in the monitoring and management of these discharges, through involvement plans and stakeholder meetings, is also required in the resource consents.</p> <p>The Hearing Panel suggests that some provision must be made in the rules to provide for the discharge of wastewater that contains treated human sewage. Most New Zealand cities discharge water directly or indirectly into the coastal marine area. However, this rule is a discretionary activity, which means a resource consent may be granted or declined subject to the Plan's policies. A discharge consent application is subject meeting the directions and guidance set out in General Policies 1 to 21 and Activity-specific Policies 22, 24 and 26. With these policies, the discharge must be of an acceptable quality and must consider the best alternatives. This rule is in line with the requirements of the <i>New Zealand Coastal Policy Statement</i> Policy 23 [Discharge of contaminants] (2) and (3) and meets the requirements of the RMA.</p> | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>It is Hearing Panel's view that providing the option to consider discharges of treated wastewater into the coastal marine area is necessary in order to provide for the requirements of the general public. The Hearing Panel is satisfied that through the resource consents process, adverse environmental effects can be appropriately avoided, remedied or mitigated. Policy 26 in particular is highlighted whereby it is Council's expectation that the best practicable option be adopted to improve the quality of the discharge and reduce the quantity of the discharge over time.</p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 725 | <p>Amend</p> <p>Submitter seeks amendment to Rule 6 (discretionary activity) of the Plan to include standards, terms and conditions to read:</p> <p><i><u>(a) discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</u></i></p> <p><i><u>(b) discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></i></p> <p><i><u>(c) discharge is consistent with iwi management plan.</u></i></p> <p>AND</p> <p>Include the following notification note:</p> <p><i><u>Resource consent applications under this Rule will be notified to tangata whenua.</u></i></p> | <p>Grant in kind</p> <p>The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary and non-complying activities.</p> <p>The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> <p>Notwithstanding the above, the Hearing Panel notes that all matters identified by the submitter would generally be considered through any consenting process with Policies 1 to 21, 22 24 and 26 being given effect to.</p> <p>In relation to notification requirements proposed by the submitter, the Hearing Panel further notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and/or any Mana Whakahono a Rohe agreements.</p> <p>In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. Hearing Panel note that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amend the headings throughout the rules section to refer only to "matters of control/discretion" and to delete any reference to notification requirements in the Plan (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA).</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | <p>Support</p> | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>The Hearing Panel further notes that, in addition to the requirements of the RMA, notification to iwi can also be addressed through Mana Whakahono a Rohe agreements without the need to be included in the Plan rules.</p> <p>At the hearing of submissions, submitter (41) further presented on Rule 6 and considers that if Rule 6 is to remain then clearer wording should be used to ensure that only lawfully established discharges be authorised by this rule. The Hearing Panel consider this relief is consistent with the intent of the rule and adds clarity for plan users. The Hearing Panel recommends amending the gateway to refer to “existing <i>lawfully established</i> wastewater discharges”.</p> <p>For consistency, the Hearing Panel also recommend similar wording be incorporated into Policy 24 which addresses existing discharges of wastewater containing human sewage.</p> |
| Rule 7 – Wastewater treatment plant discharges | | | |
| 21 – Climate Justice Taranaki | 726 | <p>Amend</p> <p>Submitter opposes allowing new wastewater discharge that contains human sewage to discharge to the coastal management area and request that the activity be a prohibited activity in all coastal management areas.</p> | <p>Accept</p> <p>The Hearing Panel recommends accepting the relief requested by the submitter. The Hearing Panel notes that previous recommendations to prohibit <u>new</u> discharges of treated human sewage to the CMA would not affect currently consented discharges of treated human sewage but would limit the region to utilizing the three existing discharges at the New Plymouth, Hawera and Pātea outfalls into the future or finding land-based solutions.</p> <p>The Hearing Panel suggests prohibiting new discharges of treated wastewater containing human sewage to the CMA is in line with Policy 11 [Coastal water quality] of the Plan, which directs that coastal water quality be maintained where it is good. The change is broadly supported by other submitters including tangata whenua.</p> <p>The amendment sought would be reflected by deleting Rule 7 and including the Open Coast in coastal management areas addressed under Rule 8.</p> |
| Further submissions - Royal Forest and Bird Protection Society (43) | | <p>Support</p> | |
| 40 – Te Rūnanga o Ngāti Mutunga | 727 | <p>Amend</p> <p>Submitter seeks amendment to Rule 7 of the Plan to make all new discharges of treated wastewater to the coastal marine area a prohibited activity (rather than a discretionary activity).</p> | <p>Accept</p> <p>The Hearing Panel recommends accepting the relief requested by the submitter.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Climate Justice Taranaki Inc (21) | | Support | <p>The Hearing Panel notes that the recommendation to prohibit <u>new</u> discharges of treated human sewage to the coastal marine area would not affect currently consented discharges of treated human sewage but would limit the region to utilizing the three existing discharges at the New Plymouth, Hawera and Pātea outfalls into the future or finding land-based solutions.</p> <p>The Hearing Panel suggests prohibiting new discharges of treated wastewater containing human sewage to the coastal marine area is in line with Policy 11 [Coastal water quality] of the Plan, which directs that coastal water quality be maintained where it is good. The change is broadly supported by other submitters including tangata whenua.</p> <p>The amendment sought would be reflected by deleting Rule 7 and including the Open Coast in coastal management areas addressed under Rule 8.</p> |
| 41 – Te Korowai o Ngāruahine Trust | 728 | <p>Amend</p> <p>Submitter seeks amendment to the Plan by deleting Rule 7 that makes new wastewater discharges to the coastal marine area a discretionary activity.</p> | <p>Accept</p> <p>The Hearing Panel recommends accepting the relief requested by the submitter.</p> <p>The Hearing Panel notes that the recommendation to prohibit <u>new</u> discharges of treated human sewage to the coastal marine area would not affect currently consented discharges of treated human sewage but would limit the region to utilizing the three existing discharges at the New Plymouth, Hawera and Pātea outfalls into the future, or finding land-based solutions.</p> <p>The Hearing Panel suggests prohibiting new discharges of treated wastewater containing human sewage to the coastal marine area is in line with Policy 11 [Coastal water quality] of the Plan, which directs that coastal water quality be maintained where it is good. The change is broadly supported by other submitters, including tangata whenua.</p> <p>The amendment sought would be reflected by deleting Rule 7 and including the Open Coast in coastal management areas addressed under Rule 8.</p> |
| 58 – Te Atiawa | 729 | <p>Amend</p> <p>Submitter seeks amendment to Rule 7 of the Plan to make new discharges of treated wastewater to the coastal marine area a prohibited activity (rather than a discretionary activity).</p> | <p>Accept</p> <p>The Hearing Panel recommends accepting the relief requested by the submitter.</p> <p>The Hearing Panel notes that the recommendation to prohibit <u>new</u> discharges of treated human sewage to the coastal marine area would not affect currently consented discharges of treated human sewage but would limit the region to</p> |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>utilizing the three existing discharges at the New Plymouth, Hawera and Patea outfalls into the future, or finding land-based solutions.</p> <p>The Hearing Panel suggests prohibiting new discharges of treated wastewater containing human sewage to the coastal marine area is in line with Policy 11 [Coastal water quality] of the Plan, which directs that coastal water quality be maintained where it is good. The change is broadly supported by other submitters including tangata whenua.</p> <p>The amendment sought would be reflected by deleting Rule 7 and including the open coast in coastal management areas addressed under Rule 8.</p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 730 | <p>Amend</p> <p>Submitter seeks amendment to Rule 7 (discretionary activity) of the Plan to include standards, terms and conditions to read:</p> <p><i><u>(a) discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</u></i></p> <p><i><u>(b) discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></i></p> <p><i><u>(c) discharge is consistent with iwi management plan.</u></i></p> <p>AND</p> <p>Include the following notification note:</p> <p><i><u>Resource consent applications under this Rule will be notified to tangata whenua.</u></i></p> | <p>No relief necessary</p> <p>The Hearing Panel notes that, in response to other submitters' requests, the Panel recommends deleting Rule 7, which relates to authorising new discharges of treated human sewage to the Open Coast.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| Rule 8 – Wastewater treatment plant discharges | | | |
| 5 – Point Board Riders | 731 | <p>Support</p> <p>Retain Rule 8 of the Plan prohibiting new wastewater discharges in the designated coastal management areas.</p> | <p>Accept</p> <p>Support noted. Rule 8 is retained subject to the addition of the Open Coast coastal management area as requested by other submitters.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 21 – Climate Justice Taranaki | 732 | Support | Accept |
| | | Retain Rule 8 of the Plan prohibiting new wastewater discharges in the designated coastal management areas (but seek that the activity be prohibited in the other coastal management areas as well). | Support noted. Rule 8 is retained subject to the addition of the Open Coast coastal management area as requested by other submitters. |
| Further submissions - Royal Forest and Bird Protection Society (43) | | Support | |
| 40 – Te Rūnanga o Ngāti Mutunga | 733 | Support | Accept |
| | | Retain Rule 8 of the Plan prohibiting new wastewater discharges in the designated coastal management areas. | Support noted. Rule 8 is retained subject to the addition of the Open Coast coastal management area as requested by other submitters. |
| 41 – Te Korowai o Ngāruahine Trust | 734 | Amend | Accept |
| | | Submitter seeks amendment to Rule 8 of the Plan to include any new wastewater discharge to the Open Coast thereby making all such discharges in the coastal marine area a prohibited activity. | The Hearing Panel recommends accepting the relief requested by the submitter. The Hearing Panel notes that the recommendation to prohibit <u>new</u> discharges of treated human sewage to the coastal marine area would not affect currently consented discharges of treated human sewage but would limit the region to utilizing the three existing discharges at the New Plymouth, Hawera and Pātea outfalls into the future, or finding land-based solutions. The Hearing Panel suggests prohibiting new discharges of treated wastewater containing human sewage to the coastal marine area is in line with Policy 11 [Coastal water quality] of the Plan, which directs that coastal water quality be maintained where it is good. The change is broadly supported by other submitters, including tangata whenua. The amendment sought would be reflected by deleting Rule 7 and including the Open Coast in coastal management areas addressed under Rule 8. |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support | |
| 58 – Te Atiawa | 735 | Support | Accept |
| | | Retain Rule 8 prohibiting new wastewater discharges in the designated coastal management areas. | Support noted. Rule 8 is retained subject to the addition of the open coast coastal management area as requested by other submitters. |

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| Rule 9 – Sampling and biofouling in the Port | | | |
| 16 – Ministry for Primary Industries | 736 | <p>Amend</p> <p>Submitter seeks amendment to Rule 9 in order to refine how the Australian/New Zealand Anti-Fouling and In Water Cleaning Guidelines (2013) are translated into the Rules. In particular, to the description of fouling and the activity description.</p> <p>Amend permitted activity rule for in-water cleaning of biofouling to read:</p> <p>Activity: <u><i>In-water cleaning of biofouling from the part of a ship, moveable object or navigation aid that is normally below the water surface, resulting in the discharge of a contaminant into water in the coastal marine area and any associated:</i></u> <u><i>(a) deposition on the foreshore or seabed.</i></u></p> <p><u><i>Note: If the activity does not meet the standards, terms and conditions in this Rule refer to Rule 13.</i></u></p> <p>Standards, terms and conditions:</p> <p><u><i>(a) the anti—foul coating on the ship, moveable structure or navigational aid shall not have exceeded its planned service life as specified by the manufacturer, and the cleaning method shall be undertaken in accordance with the coating manufacturer's recommendations;</i></u></p> <p><u><i>(b) microfouling may be cleaned without capture;</i></u></p> <p><u><i>(c) goose barnacles may be cleaned without capture;</i></u></p> <p><u><i>(d) macrofouling (other than goose barnacles) coverage on the ship, moveable structure or navigational aid shall be less than or equal to 2 on the Level of Fouling rank (Floerl et al (2005));</i></u></p> <p><u><i>(e) all biological material greater than 50 microns in diameter dislodged during cleaning (other than goose barnacles) shall be captured and disposed of at an approved landfill; and</i></u></p> <p><u><i>(f) if any person undertaking or responsible for the cleaning, suspects that harmful or unusual aquatic species (including species designated as unwanted organisms or pest species under the Biosecurity Act 1993) are present on the ship, structure or navigational aid, that person shall take the following steps:</i></u></p> <p><u><i>i. any cleaning activities commenced shall cease immediately, and</i></u></p> | <p>Accept</p> <p>The intention of Rule 9 is to provide for additional hull cleaning activities that are currently prohibited under the current Plan. Hull cleaning currently excludes ships that are greater than 25 metres in length and any ships that have been outside the exclusive economic zone since their last hull cleaning. Many second-generation coastal plans have provisions that allow the cleaning of these hulls provided the appropriate standards, terms and conditions are met.</p> <p>It is Hearing Panel's view that the requested amendments provide additional information that strengthens Rule 9 and aligns with industry requirements and procedures. The Hearing Panel further notes that capture of macrofoul will be an important condition to ensure that the Port and surrounding areas (of note, the nearby area of outstanding value) are safeguarded against any possible invasive marine species introduction.</p> <p>The Hearing Panel recommends granting the relief requested subject to minor inconsequential word changes to align the reading of rules with the remainder of the Plan. The amended rule would read as follows:</p> <p>Activity <u><i>Discharge of contaminants from the cleaning of biofouling from the part of a ship, moveable object or navigation aid that is normally below the water surface into water in the coastal marine area and any associated:</i></u> <u><i>(deposition on the foreshore or seabed.</i></u></p> <p><u><i>Note (1) If the activity does not meet the standards, terms and conditions in this Rule refer to Rule 13.</i></u></p> <p><u><i>Note (2) For the purposes of this rule, further guidance is provided in the Anti—fouling and In-water Cleaning Guidelines (June 2013).</i></u></p> <p><u><i>Note (3) International vessels arriving into New Zealand waters have additional obligations under the Craft Risk Management Standard: Biofouling on Vessels Arriving to New Zealand (May 2014).</i></u></p> <p>Standards, terms and conditions:</p> |

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| | | <p><u>ii. the Taranaki District Council and the Ministry for Primary Industries shall be notified without unreasonable delay; and</u></p> <p><u>iii. the cleaning may not recommence until notified by the Council to do so, or in the event a designated unwanted organisms or pest species is found, notified to do so by the Ministry for Primary Industries.</u></p> <p><u>Notes</u></p> <p><u>1. For the purposes of the above, further guidance is provided in the Anti—fouling and In-water Cleaning Guidelines (June 2013).</u></p> <p><u>2. International vessels arriving into New Zealand waters have additional obligations under the Craft Risk Management Standard: Biofouling on Vessels Arriving to New Zealand (May 2014).</u></p> <p><u>Footnotes</u></p> <p><u>Defined in Floerl et al (2005) A Risk-based Predictive Tool to Prevent Accidental introductions of Nonindigenous Marine Species as: Light Fouling - 1—5% of visible surface covered by very patchy macrofouling. Remaining area often covered in microfouling.</u></p> | <p><u>(a) the anti—foul coating on the ship, moveable object or navigation aid shall not have exceeded its planned service life as specified by the manufacturer, and the cleaning method shall be undertaken in accordance with the coating manufacturer's recommendations;</u></p> <p><u>(c) the activity does not involve any species designated as unwanted organisms or pest species under the Biosecurity Act 1993;⁴</u></p> <p><u>(d) macrofouling (other than goose barnacles) coverage on the ship, moveable structure or navigational aid is less than or equal to 2 on the Level of Fouling rank (Floerl et al (2005));⁵ and</u></p> <p><u>(e) all biological material that cannot pass through a 50 micron sieve that is dislodged during cleaning (other than goose barnacles) is captured and disposed of at an approved landfill (microfouling and goose barnacles may be cleaned without capture).</u></p> <p>⁴ <u>If any person undertaking or responsible for the cleaning suspects that harmful or unusual aquatic species are present, that person should cease the activity immediately and notify the Ministry for Primary Industries without unreasonable delay. Cleaning should not recommence until notified by the Ministry for Primary Industries.</u></p> <p>⁵ <u>Defined in Floerl et al (2005) A Risk-based Predictive Tool to Prevent Accidental introductions of Nonindigenous Marine Species as: Light Fouling - 1—5% of visible surface covered by very patchy macrofouling. Remaining area often covered in microfouling.</u></p> |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | |
| 33 – New Zealand Defence Force | 737 | <p>Amend</p> <p>Submitter highlights that cleaning of biofoul is an important measure in controlling undesirable foreign organisms contaminating local waters and seeks amendment to Rule 9 of the Plan to provide for biofouling activities in the Open Coast and Estuaries Modified Coastal Management Areas as a discretionary activity (rather than a non-complying activity).</p> | <p>Decline</p> <p>The Hearing Panel recognises the importance of regular hull cleaning in preventing the spread of invasive biota. However, it is important that the cleaning of biofoul is undertaken in a manner and location where the potential adverse effects of contamination can be addressed in an appropriate and timely manner. This can only be achieved if cleaning practices are undertaken in the appropriate location which minimises the risk of contamination to other locations. The Port is the chosen location for these activities to be undertaken as it is already a largely modified environment, it has high traffic flow so is an ideal place to undertake the activity, plus, it is also the only location within the region that is routinely monitored for invasive marine species.</p> <p>To perform cleaning in locations other than the Port introduces additional and unacceptable risks to those locations and the benefits of providing for the activity do not outweigh the potential risks. The Hearing Panel recommends</p> |
| Further submission – Royal Forest and Bird Protection Society (43) | | Oppose | |

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| | | | adopting a precautionary approach to minimise the risks of contamination by foreign and invasive organisms to local waters outside the Port by declining the relief sought. |
| 33 – New Zealand Defence Force | 738 | <p>Amend</p> <p>Submitter generally supports Rule 9 but seeks to amend the standards, terms and conditions of Rule 9(c) to read:</p> <p><i>(c) the Ministry for Primary industries, or subsequent replacement Ministry, is advised <u>immediately without unreasonable delay</u> if a suspected invasion or non-indigenous aquatic species is encountered.</i></p> | <p>Grant in kind</p> <p>The Hearing Panel agrees that immediate contact may not be reasonable and recommend granting the relief in kind (as well as other amendments sought by other submitters) by including guidance in a footnote to the rule. The submitter has highlighted a standard, term and condition that is legally uncertain with reference to 'suspects' which is addressed by amending the condition and inserting guidance in a footnote to read as follows:</p> <p><i><u>(c) The activity does not involve any species designated as unwanted organisms or pest species under the Biosecurity Act 1993;</u>⁴</i></p> <p><i><u>⁴ If any person undertaking or responsible for the cleaning suspects that harmful or unusual aquatic species are present, that person should cease the activity immediately and notify the Ministry for Primary Industries without unreasonable delay. Cleaning should not recommence until notified by the Ministry for Primary Industries.</u></i></p> |
| 40 – Te Rūnanga o Ngāti Mutunga | 739 | <p>Amend</p> <p>Submitter seeks amendment to the permitted activity rule for in-water cleaning of biofouling in the Port and make such activities a controlled activity.</p> | <p>Decline</p> <p>The regular cleaning of biofoul is a desirable activity and should be encouraged to be undertaken in a timely fashion and provided for in appropriate locations, i.e. the Port. Regular biofouling reduces the risk of foreign organisms contaminating New Zealand waters and are best undertaken in places where the activity can be monitored, controlled and the appropriate actions can be taken immediately if necessary. In this instance, the Port is the only appropriate location and, as such, it is a non-complying activity elsewhere.</p> <p>The Hearing Panel would like to point out that the risks associated with sampling and cleaning of biofouling have been assessed by the Ministry for Primary Industries who have legislative biosecurity responsibilities, including those relating to border control and the enforcement of import health standards. The rule is consistent with their advice and good practice.</p> <p>Changing the permitted activity classification to Controlled may become a potential deterrent to people following best practice and could ultimately discourage people from cleaning and/or slow down the cleaning process. This, in turn, increases the risk to the environment by allowing biofoul</p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| Further submissions – New Zealand Defence Force (33) | | Oppose | |

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| | | | communities time to grow or proliferate before they are removed from the vessel. |
| 58 – Te Atiawa | 740 | <p>Amend</p> <p>Submitter opposes permitting in-water cleaning of biofouling in the Port as, in their view, there is no way of monitoring the activity and they are not convinced that the conditions stated will be adhered to.</p> <p>Submitter seeks amendment to Rule 9 of the Plan to make biofouling in the Port a controlled activity (rather than a permitted activity) and that the Council exercise control over such matters to ensure these matters are met by users of the Plan.</p> | <p>Decline</p> <p>The regular cleaning of biofoul is a desirable activity and should be encouraged to be undertaken in a timely fashion and provided for in appropriate locations, i.e. the Port. Regular biofouling reduces the risk of 'dirty' boats and other crafts unintentionally bringing foreign harmful organisms (as hitch-hikers) into the region where they can then establish in our territorial waters. Bio-fouling is best undertaken in places where the activity can be monitored, controlled and the appropriate actions can be taken without delay if necessary. In this instance, the Port is considered the only appropriate location for this activity and, as such, it is a non-complying activity elsewhere.</p> <p>The Hearing Panel would like to point out that the risks associated with sampling and cleaning of biofouling have been assessed by the Ministry for Primary Industries who have legislative biosecurity responsibilities, including those relating to border control and the enforcement of import health standards. The rule is consistent with their advice and good practice.</p> <p>Changing the permitted activity classification to Controlled may become a potential deterrent to people following best practice and could ultimately discourage people from cleaning and/or slow down the cleaning process. This, in turn, increases the risk to the environment by allowing biofoul communities time to grow or proliferate before they are removed from the vessel.</p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| Further submissions – New Zealand Defence Force (33) | | Oppose | |
| Rule 10 – Sampling and biofouling | | | |
| 9 – Karen Pratt | 741 | <p>Amend</p> <p>Submitter seeks amendment to Rule 10 to cover operations such as the recently granted consent for ironsand mining in the EEZ, i.e. artificial structures.</p> | <p>No relief necessary</p> <p>No precise details of amendments sought to Rule 10 have been provided. The Hearing Panel notes that Rule 10 applies to all biofouling activities in the relevant coastal management areas and no further change is considered necessary.</p> |
| Further submissions – Trans-Tasman Resources (6) | | Oppose | |

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| 16 – Ministry for Primary Industries | 742 | Amend | Accept in part |
| | | <p>Submitter seeks amendment to Rule 10 of the Plan by removing the word “scraping” from the activity classification, and to include the term “in-water” to describe where the cleaning is taking place and the words “involving” be replaced with “resulting in”, to read:</p> <p><i>In water cleaning Sampling, scraping and/or cleaning of biofouling from the part of a ship, moveable object or navigation aid that is normally below the water surface resulting in involving a discharge of a contaminantsubstance into water in the coastal marine area and any associated:</i></p> <p><i>(a) deposition on the foreshore or seabed.</i></p> | <p>Hearing Panel agrees that scraping is only one method of cleaning of biofouling and that a more general approach is necessary to keep the activity description broad.</p> <p>The Hearing Panel notes that in the Taranaki scenario, the Port wharves and breakwaters are within the coastal marine area and there may be need to remove objects to be cleaned (for example, navigation aids and buoys) from the water to be cleaned on the wharves. The inclusion of “in-water cleaning” would preclude this kind of activity from occurring even through this method offers greater possibility of capture and removal of material.</p> <p>The Hearing Panel further notes that the activity should focus on the discharge rather than the cleaning itself as this is the activity to be managed and recommend restructuring the activity classification of Rule 10 to read as follows:</p> <p><i>Discharge of contaminants from the cleaning of biofouling from the part of a ship, moveable object or navigation aid that is normally below the water surface, into water in the coastal marine area and any associated:</i></p> <p><i>(a) deposition on the foreshore or seabed.</i></p> |
| Further submissions – Trans-Tasman Resources (6) | | Support | |
| 21 – Climate Justice Taranaki | 743 | Support | Accept |
| | | Retain Rule 10 of the Plan so that any discharges from biofoul cleaning into all coastal management areas, excluding the Port, be a non-complying activity. | Support noted. |
| Further submissions – Royal Forest and Bird Protection Society (43) | | Support | |
| 29 – Department of Conservation | 744 | Amend | Accept |
| | | <p>Scraping is one type of cleaning that that is used when cleaning biofoul from a ship hull, in addition, it is a method that should not be used with many types of antifoul coatings used on vessels. Sampling is another activity, and should not be included alongside the cleaning of biofoul. Submitter seeks amendment to Rule 10 of the Plan to delete the words “Sampling, scraping and/or” from the activity description.</p> | <p>The Hearing Panel recommends amending the activity classification of Rule 10 with minor changes to accommodate the requests of other submitters to read:</p> <p><i>Discharge of contaminants from the cleaning of biofouling from the part of a ship, moveable object or navigation aid that is normally below the water surface, into water in the coastal marine area and any associated:</i></p> |

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| | | | <i>(a) deposition on the foreshore or seabed.</i> |
| 33 - New Zealand Defence Force | 745 | <p>Amend</p> <p>Submitter seeks amendment to Rule 10 of the Plan to provide for biofouling activities in the Outstanding Value and Estuaries Unmodified Coastal Management Areas as a discretionary activity (rather than a non-complying activity).</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. The request would introduce a high level of risk that the Hearing Panel considers unreasonable and unnecessary. An appropriate place for this activity to occur has been provided for in Port Taranaki. Through Rule 10 a resource consent may be granted as a non-complying activity but subject to the activity proving that effects are minor and not in conflict with the objectives and policies of the Plan.</p> |
| 41 – Te Korowai o Ngāruahine Trust | 746 | <p>Amend</p> <p>Submitter seeks amendment to Rule 10 of the Plan to make any sampling, scraping and/or cleaning of biofouling in coastal management areas, other than the Port, a prohibited activity (rather than non-complying activity).</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. Recent case law has confirmed that non-complying activities are subject to a high gateway test where the Council (under section 104D RMA) would need to be satisfied that the adverse effects of the activity will be minor or the activity will not be contrary to the objectives and policies of the Plan. The presumption is that effects must be so minor that it is not likely to matter. However, its classification does allow some activities to at least be considered on a case-by-case basis to see if exceptions apply and could be provided for. prohibited activity status would unnecessarily preclude the consideration of any exceptional circumstances.</p> |
| Further submissions – Trans-Tasman Resources (6), New Zealand Defence Force (33) | | Oppose | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 747 | <p>Amend</p> <p>Submitter seeks amendment to Rule 10 (non-complying activity) of the Plan to include standards, terms and conditions to read:</p> <p><i><u>(a) discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</u></i></p> <p><i><u>(b) discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></i></p> <p><i><u>(c) discharge is consistent with iwi management plan.</u></i></p> <p>AND</p> <p>Include the following notification note:</p> <p><i><u>Resource consent applications under this Rule will be notified to tangata whenua.</u></i></p> | <p>Decline</p> <p>The submitter has sought the inclusion of standards, terms and conditions for Rules in the Plan relating to discretionary and non-complying activities. The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a non-complying activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies. Notwithstanding the above, the Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 22 and 28 being given effect to.</p> |

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| Further submissions – Trans-Tasman Resources (6) | | Oppose | <p>In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and/or any Mana Whakahono a Rohe agreements.</p> <p>In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and to delete references to notification requirements from the Plan, which are set out in sections 95A to 95G of the RMA.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| Rule 11 – Abrasive blasting discharges | | | |
| 26 – Transpower NZ Ltd | 748 | Amend | Accept |
| | | <p>Submitter supports Rule 11 of the Plan but notes that the <i>National Environmental Standards for Electricity Transmission</i> only applies to existing structures and since there are no existing National Grid structures in the coastal marine area (as identified in the Proposed Coastal Plan for Taranaki) and therefore subject to the Plan, the reference is not required. Further, the <i>National Environmental Standards for Electricity Transmission</i> is not applicable when erecting or placing new structures.</p> <p>Submitter seeks amendment to Rule 11 to delete reference to <i>National Environmental Standards for Electricity Transmission Activities</i>:</p> <p>[...]excluding activities regulated by the Resource Management (National Environmental Standards for Electricity Transmission Activities Regulations 2009 (Appendix 6)).</p> | <p>The reference to the <i>National Environmental Standards for Electricity Transmission</i> is redundant and does not add further value to the Plan. The Hearing Panel recommends granting the relief sought by the submitter by removing the reference.</p> |
| 32 – Port Taranaki | 749 | Amend | Decline |
| | | <p>Submitter suggests that within the Port coastal management area the effects of abrasive blasting discharges are well known and understood. Therefore, submitter seeks amendment to Rule 11 of the Plan to make the activity a controlled activity in</p> | <p>The Hearing Panel recommends declining the relief sought by the submitter. Abrasive blasting is capable of having significant adverse environmental effects. Given the amount of industrial and trade premises in the vicinity of the Port, the storage and transfer of dangerous and hazardous cargos and other</p> |

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| | | the Port coastal management area and draft an appropriate set of matters over which control shall be restricted to. | materials, it is appropriate that such matters be considered on a case-by-case basis as a discretionary activity to ensure adverse effects are appropriately avoided, remedied or mitigated. |
| 41 – Te Korowai o Ngāruahine Trust | 750 | <p>Amend</p> <p>Submitter seeks amendment to Rule 11 of the Plan to make abrasive blasting discharges in the coastal marine area a non-complying activity (rather than discretionary activity).</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. Recent case law has confirmed that non-complying activities is a high gateway test where Council (under section 104D of the RMA) would need to be satisfied that the adverse effects of the activity will be minor or the activity will not be contrary to the objectives and policies of the Plan. The presumption is that effects must be so minor that it is not likely to matter.</p> <p>However, it is the Hearing Panel's view that abrasive blasting is an often necessary and routine activity for the maintenance, repair or alterations to existing structures, including wharves, mooring and berthing structures, and bridges. As such, it needs to be provided for.</p> <p>The Hearing Panel recommends retaining the Rule's discretionary activity status to consider abrasive blasting activities on a case-by-case basis to, and if approved, ensure there are conditions addressing the avoidance, remedying or mitigating of adverse effects. prohibited activity status would preclude these considerations.</p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 751 | <p>Amend</p> <p>Submitter seeks amendment to Rule 11 (discretionary activity) of the Plan to include standards, terms and conditions to read:</p> <p><i><u>(a) discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</u></i></p> <p><i><u>(b) discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></i></p> <p><i><u>(c) discharge is consistent with iwi management plan.</u></i></p> <p>AND</p> <p>Include the following notification note:</p> <p><i><u>Resource consent applications under this Rule will be notified to tangata whenua.</u></i></p> | <p>Decline</p> <p>The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary and non-complying activities.</p> <p>The Hearing Panel recommends declining the relief sought noting that it is not standard planning practice for discretionary or non-complying activity rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> <p>The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 22, 30, 39, 40 and 41 being given effect to.</p> <p>In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o | | Support | |

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| Ngāruahine Trust (41), Te Atiawa (58) | | | <p>changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and to delete references to notification requirements from the Plan (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA).</p> <p>The Hearing Panel further notes that, in addition to the requirements of the RMA, notification to iwi can also be addressed through Mana Whakahono a Rohe agreements without the need to be included in the Plan rules.</p> |
| Rule 12 – Seismic surveying and bathymetric testing | | | |
| 6 – Trans-Tasman Resources Ltd | 752 | <p>Support</p> <p>Retain Rule 12 of the Plan noting surveys and tests are important and useful for establishing or monitoring key aspects of the coastal environment and that the effects are minor and transitory.</p> | <p>Decline</p> <p>Support noted. However, the Hearing Panel notes that Rule 12 is recommended to be split into two rules, a permitted activity for bathymetric testing and an additional rule (Rule 12A) for seismic surveying as a controlled activity.</p> <p>Adverse effects of bathymetric testing are less than minor and can be appropriately managed through the permitted activity. However, adverse effects of seismic testing (particularly in relation to indigenous biodiversity) may be more uncertain. The controlled activity classification is therefore recommended so that the Council can ensure that adverse effects on indigenous biodiversity are appropriately considered and addressed through a consenting process.</p> <p>At the hearing, the submitter presented further on Rule 12 noting that the rule had been broken into two rules addressing bathymetric testing and seismic surveying separately. The submitter requested that standards, terms and conditions addressing taonga species be deleted and that reference to Schedule 4 only refer to those species that are 'threatened', 'at risk', or 'regionally distinctive', as well as the ecosystems which are rare or uncommon. The Hearing Panel notes that standards, terms and conditions relating to taonga species have been included as it is considered necessary to recognise and provide protection for those species that hold significant value to local iwi. These species were identified through the iwi deeds of settlement</p> |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Support | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |

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| | | | and are considered necessary to give effect to Objectives 4, 8, 9, 10, 11 and 12 and Policies 14B, 15, 16 and 18 of the Plan. |
| 21 – Climate Justice Taranaki | 753 | <p>Amend</p> <p>Submitter opposes further petroleum prospecting and exploration and seek that the Plan be amended to make all seismic surveying for petroleum in any coastal management area a prohibited activity.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief.</p> <p>The Hearing Panel notes that seismic surveying and bathymetric testing provide useful and important insights into crustal activities that occur within the Taranaki region and are not limited to industrial uses within the petroleum industry. Not only are these insights useful but they are also necessary as they provide information relating to the tectonic situation of the region, including faults, flexure and crustal thickening relating to the overarching tectonic regime of the Zealandia continent. Such information is necessary for hazard mitigation and preparation including earthquake, tsunami and volcanic activity as well as providing insights into the past events that occurred in geologic time.</p> <p>The Hearing Panel recognises that a number of submitters are concerned by the potential effects of seismic surveying, primarily in relation to disturbance of marine organisms not addressed by the Department of Conservation's <i>Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations 2013</i> (the 'code of conduct'). To this end, the Hearing Panel suggests a higher level of regulatory control and recommend that seismic surveying be made a controlled activity in all coastal management areas (rather than to prohibit it entirely as requested by the submitter).</p> <p>A Controlled activity rule, with additional standards, terms and conditions, will allow the Council to ensure that adverse effects to significant indigenous biodiversity are addressed appropriately, while still ensuring that those seeking to undertake the activity are appropriately provided for.</p> |
| Further submissions – Trans-Tasman Resources (6), Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| 29 – Department of Conservation | 754 | <p>Support</p> <p>Retain Rule 12 of the Plan as notified but reconsider rule should a potential whale sanctuary in the Taranaki coastal environment eventuate.</p> | <p>Accept in part</p> <p>Support noted.</p> <p>However, the Hearing Panel notes that Rule 12 is recommended to be split into two rules, a permitted activity for bathymetric testing and an additional rule (Rule 12A) for seismic surveying as a controlled activity.</p> |
| Further submissions – Climate Justice Taranaki Inc (21) | | Oppose | |

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| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | The controlled activity classification for seismic testing is recommended so that the Council can ensure that adverse effects on significant indigenous biodiversity are appropriately considered and addressed through a consenting process. At the hearing, the submitter presented in support of this change. |
| 37 – Petroleum Exploration and Production Association of NZ | 755 | Support Retain Rule 12 of the Plan as notified. | Decline/Grant in kind Support noted. However, the Hearing Panel notes that Rule 12 is recommended to be split into two rules, a permitted activity for bathymetric testing and an additional rule (Rule 12A) for seismic surveying as a controlled activity. |
| Further submissions – Climate Justice Taranaki Inc (21), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | The controlled activity classification for seismic testing is recommended so that the Council can ensure that adverse effects on significant indigenous biodiversity are appropriately considered and addressed through a consenting process. |
| Further submissions – Port Taranaki Ltd (32) | | Support | In relation to retaining Rule 12 of the Plan as notified, the Hearing Panel therefore recommends declining that part of the relief. However, at the hearing, the submitter subsequently recommended amending Rule 12A (should the Council choose to adopt the Section 42A Report recommendations relating to seismic testing). In particular, the submitter recommended amending the 'gateway' to Rule 12A to refer to the placement of associated monitoring equipment which was provided for in the original wording of Rule 12. The Hearing Panel agrees and recommends that Rule 12A provide for the placement of associated monitoring equipment. In addition, the submitter requested that the standards terms and conditions of Rule 12A be replaced with a requirement that the activity not occur within 1,000 m of mean high water springs. The Hearing Panel recommends declining this relief as it does not address environmental effects outside the 1,000 m restricted area and considers that indigenous biodiversity may potentially be impacted upon if this approach is adopted. It is further suggested that this approach derogates from the precautionary approach as required by Policy 3 of the Plan. Further to this, in relation to Rule 12 as amended [Bathymetric testing] and Rule 12A [Seismic surveying], the submitter requested that subjective conditions relating to significant indigenous biodiversity and taonga species be deleted. The Hearing Panel recommends declining the relief sought noting that as part of a precautionary approach these conditions are considered |

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| | | | <p>appropriate and give effect to Policy 11 [Indigenous biological diversity (biodiversity)] of the <i>New Zealand Coastal Policy Statement</i> and other policies of the Plan. The Hearing Panel notes that for certainty, and to assist Plan users, species and habitats identified as significant indigenous biodiversity and taonga species of concern have been included in Schedules 4A, 4B and 4C. The Hearing Panel notes that it is not uncommon for plans to include values based assessments for permitted and controlled activities and that similar conditions are included in the current <i>Coastal Plan for Taranaki</i> and have been successfully implemented and enforced over the life of the Plan.</p> |
| 40 – Te Rūnanga o Ngāti Mutunga | 756 | <p>Amend</p> <p>Submitter seeks amendment to Rule 12 of the Plan to make seismic surveying or bathymetric testing activity a discretionary activity (rather than a permitted activity). The submitter is concerned about the impacts of seismic surveying on one of their taonga species the korora (little blue penguin).</p> | <p>Accept in part</p> <p>Impacts of seismic testing on marine mammals are managed through the Department of Conservation's <i>Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations 2013</i> (the 'code of conduct'). However, the code only addresses the effects on marine mammals and seabirds (specifically effects on seabirds from on-board lights), the code does not address any effects that may occur to penguins or other 'non mammal' marine fauna.</p> |
| Further submissions – Trans-Tasman Resources (6), Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | <p>The South Taranaki Bight is an important foraging area for blue penguins of the Marlborough Sounds breeding colony listed in Schedule 4A as "at risk (declining)". Effects from seismic surveying have been shown to significantly affect penguin foraging patterns, which in turn, may adversely affect reproductive output and result in displacement. Any threats to the population would be considered significant.</p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | <p>The Hearing Panel does not consider that the permitted activity classification provides the necessary certainty for the Council to ensure adverse effects impacting on marine taxa (not covered by Department of Conservation's code of conduct) are being appropriately managed.</p> <p>The Hearing Panel therefore recommends removing seismic surveying from Rule 12 and creating a new rule (Rule 12A) to make seismic surveying a controlled activity in all coastal management areas. The recommended rule contains additional standards, terms and conditions that address effects on species identified in Schedule 4A, taonga species identified in Schedule 4C as well as requiring the activity to comply with the Department of Conservation's <i>Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations 2013</i>.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 40 – Te Rūnanga o Ngāti Mutunga | 757 | Amend Submitter seeks amendment to Rule 12 of the Plan to amend Condition (a) to delete reference to: <i>any subsequent applicable Code of Conduct</i> . | Accept The Hearing Panel recommends granting the relief sought by the submitter, noting that this amendment is addressed under Rule 12A. |
| Further submissions – Trans-Tasman Resources (6) | Neutral | | |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | Support | | |
| 41 – Te Korowai o Ngāruahine Trust | 758 | Amend Submitter seeks amendment to Rule 12 of the Plan to require a higher level of regulatory control for seismic surveying or bathymetric testing activity (currently a permitted activity). | Accept in part Submitter opposes seismic surveying or bathymetric testing activities on the basis that the Department of Conservation's <i>Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations 2013</i> (the 'code of conduct') is flawed and that, in their view, research evidence clearly cites the harm that is caused to marine mammals, larvae development and zooplankton. The submitter suggests that the marine mammal guidelines do not assess the total effects on the marine environment and do not mitigate the risks to the marine environment. The submitter suggests that the rule's reliance on the guidelines as the basis to afford permitted activity status neglects the impact on fish, larvae and invertebrates and Māori customary and commercial fishing rights. The Hearing Panel recognises that a number of submitters are concerned by the potential effects of seismic surveying and bathymetric testing, primarily in relation to disturbance of marine organisms. While the effects of seismic and bathymetric testing are generally minor and transitory. The Hearing Panel also recognise that there are vulnerable species susceptible to the impacts of seismic surveying that are not addressed in the Department of Conservation's code of conduct. The Hearing Panel therefore recommends amending Rule 12 to require a higher level of regulatory control for seismic surveying but not for bathymetric testing. Bathymetric testing is the more benign of the two activities with adverse effects always likely to be less than minor. However, adverse effects of seismic testing (particularly in relation to indigenous biodiversity) maybe more uncertain. The controlled activity classification is therefore recommended so |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | Oppose | | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | Support | | |

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| | | | that the Council can ensure that adverse effects on indigenous biodiversity are appropriately considered and addressed through a consenting process. |
| 41 – Te Korowai o Ngāruahine Trust | 759 | <p>Amend</p> <p>Submitter seeks amendment to Rule 12 to include a condition that ensures no adverse effects on the cultural interests of sites specified in Schedule 5B.</p> | <p>Grant in kind</p> <p>The Hearing Panel are unaware of any adverse effects likely to result on the sites of significance. Impacts on aquatic life tends to be temporal with fish being able to avoid the area of disturbance and returning once the activity ceases or moves on.</p> <p>Notwithstanding the above, the Hearing Panel notes that, in response to other submitters' requests, seismic surveying is recommended to become a controlled activity under new Rule 12A.</p> <p>It is the view of the Hearing Panel that sites of significance identified in Schedule 5B are unlikely to be affected, however, it is noted that standard, term and condition (c) provides protection for taonga species which includes taonga species identified in significant mahinga kai areas indicated within the planning layers.</p> <p>The Hearing Panel considers that the protection of taonga species within the standards, terms and conditions provides a high level of protection for such areas.</p> |
| 42 – Ngati Rahiri Hapū | 760 | <p>Amend</p> <p>Submitter questions how an event such as a rahui could be considered when Rule 12 makes no mention of iwi/hapū involvement.</p> <p>Submitter seeks amendment to Rule 12 to make seismic surveying or bathymetric testing activity a controlled activity (rather than a permitted activity) and to include iwi/hapū in the consideration process.</p> | <p>Accept in part</p> <p>The Hearing Panel notes that seismic surveying is recommended to become a Controlled activity under new Rule 12A to address effects on indigenous biodiversity as requested by other submitters.</p> <p>Then Hearing Panel notes that a rahui is not provided for or governed by the RMA (or any other legislation) and is therefore not enforceable through the Plan, however, there may be opportunity to explore these issues further through Mana Whakahono a Rohe agreements in conjunction with the consenting process and the development of more formal relations.</p> |
| Further submissions – Trans-Tasman Resources (6), Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |

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| 43 – Royal Forest and Bird Protection Society | 761 | <p>Amend</p> <p>Submitter seeks amendment to Rule 12 of the Plan to make seismic surveying and bathymetric testing:</p> <ul style="list-style-type: none"> • a discretionary activity in the Open Coast and Port • a non-complying activity in the Outstanding Value, Estuaries Unmodified and Estuaries Modified coastal management areas (rather than a permitted activity). | <p>Accept in part</p> <p>The submitter believes that seismic testing has adverse effect including significant adverse effects on marine mammals and fish species. In addition, it is their view that a permitted activity classification would not enable the Council to give effect to the <i>New Zealand Coastal Policy Statement</i>. Further, the 2013 standards are inadequate and have been under review since 2015 and cannot be relied on to ensure the Council gives effect to the <i>New Zealand Coastal Policy Statement</i>. The submitter suggests that the Council will need to consider expert advice on the generation of noise and vibration on marine species. It is noted that the submitter presented on this further at the hearing of submissions and amended their original position to seek restricted discretionary and non-complying activity classifications.</p> <p>The Hearing Panel recognises that a number of submitters are concerned by the potential effects of seismic surveying, primarily in relation to disturbance of marine organisms not identified in the Department of Conservation's <i>Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations 2013</i> (the 'code of conduct'). To this end the Hearing Panel considers it is necessary to increase the activity classification for seismic surveying to a controlled activity in all coastal management areas (rather than restricted discretionary, or discretionary and non-complying as requested by the submitter).</p> <p>A controlled activity pathway, with additional standards, terms and conditions, will allow the Council to ensure that adverse effects to indigenous biodiversity are addressed appropriately, while still ensuring that those seeking to undertake the activity are appropriately provided for.</p> <p>The recommended amendments, including additional standards, terms and conditions, as well as matters of control, are included in new Rule 12A.</p> |
| Further submissions – Trans-Tasman Resources (6), Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support in part | |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 44 – Nga Motu Marine Reserve Society Inc | 762 | <p>Amend</p> <p>The submitter believes there is insufficient information published about the affected species in Taranaki waters, and discussion about the effects.</p> <p>Submitter seeks amendment to Rule 12 of the Plan to require a higher level of regulatory control and prohibit seismic surveying or bathymetric testing activity (currently a permitted activity).</p> | <p>Accept in part</p> <p>The Hearing Panel recommends granting in part the relief sought.</p> <p>The Hearing Panel notes that seismic surveying and bathymetric testing provide useful and important insights into crustal activities that occur within the Taranaki region and are not limited to industrial uses within the petroleum industry. Not only are these insights useful but they are also necessary as</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Climate Justice Taranaki Inc (21), Te Korowai o Ngāruahine Trust (41), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | they provide information relating to the tectonic situation of the region, including faults, flexure and crustal thickening relating to the overarching tectonic regime of the Zealandia continent. Such information is necessary for hazard mitigation and preparation including earthquake, tsunami and volcanic activity as well as providing insights into the past events that occurred in geologic time. |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | Notwithstanding the above, the Hearing Panel recognises that a number of submitters are concerned by the potential effects of seismic surveying, primarily in relation to disturbance of marine organisms not identified in the Department of Conservation's <i>Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations 2013</i> (the 'code of conduct'). To this end, the Hearing Panel agrees that a higher level of regulatory control is required and considers it is necessary to increase the activity classification for seismic surveying to Controlled in all coastal management areas (rather than to prohibit it entirely as requested by the submitter). A controlled activity pathway, with additional standards, terms and conditions, will allow the Council to ensure that adverse effects to indigenous biodiversity are addressed appropriately, while still ensuring that those seeking to undertake the activity are appropriately provided for. |
| 51 - Taranaki Energy Watch | 763 | Amend Submitter seeks amendment to Rule 12 of the Plan to incorporate a precautionary approach. | Accept The submitter has not given precise details as to the amendments sought. However, the Hearing Panel believes that the submitter is concerned with potential adverse effects on marine taxa not addressed through the Department of Conservation's <i>Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations 2013</i> (the 'code of conduct'). The Hearing Panel recommends amending Rule 12 to make seismic surveying a controlled activity under Rule 12A to ensure that any adverse effects can be considered through the consenting process. This also reflects a precautionary approach. |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| 52 – Emily Bailey | 764 | Amend Submitter seeks amendment to Rule 12 of the Plan so that seismic surveying is a prohibited activity within the coastal environment. | Decline The Hearing Panel recommends declining the relief requested. |

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| Further submissions – Trans-Tasman Resources, Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | <p>The Hearing Panel notes that seismic surveying and bathymetric testing provide useful and important insights into crustal activities that occur within the Taranaki region and are not limited to industrial uses within the petroleum industry. Not only are these insights useful but they are also necessary as they provide information relating to the tectonic situation of the region, including faults, flexure and crustal thickening relating to the overarching tectonic regime of the Zealandia continent. Such information is necessary for hazard mitigation and preparation including earthquake, tsunami and volcanic activity as well as providing insights into the past events that occurred in geologic time.</p> <p>The Hearing Panel recognises that a number of submitters are concerned by the potential effects of seismic surveying, primarily in relation to disturbance of marine organisms not identified in the Department of Conservation's <i>Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations 2013</i> (the 'code of conduct'). To this end, the Hearing Panel agrees that a higher level of regulatory control is required and considers it is necessary to increase the activity classification for seismic surveying to controlled activity in all coastal management areas (rather than to prohibit it entirely as requested by the submitter).</p> <p>A controlled activity pathway, with additional standards, terms and conditions, will allow the Council to ensure that adverse effects to indigenous biodiversity are addressed appropriately, while still ensuring that those seeking to undertake the activity are appropriately provided for.</p> |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support | |
| 56 – Greenpeace | 765 | <p>Amend</p> <p>Submitter opposes Rule 12 of the Plan in which the activity classification for testing and bathymetric testing is a permitted activity.</p> | <p>Accept</p> <p>The Hearing Panel recognises that a number of submitters are concerned by the potential effects of seismic surveying, primarily in relation to disturbance of marine organisms not identified in the Department of Conservation's <i>Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations 2013</i> (the 'code of conduct'). To this end, the Hearing Panel agrees that a higher level of regulatory control is required and considers it is necessary to increase the activity classification for seismic surveying to controlled activity in all coastal management areas.</p> <p>A Controlled activity pathway, with additional standards, terms and conditions, will allow the Council to ensure that adverse effects to indigenous biodiversity</p> |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support in part | |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

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| | | | are addressed appropriately, while still ensuring that those seeking to undertake the activity are appropriately provided for. |
| 57 – Kiwis Against Seabed Mining | 766 | Amend Submitter opposes Rule 12 of the Plan in which the activity classification for testing and bathymetric testing is a permitted activity. | Accept The Hearing Panel recognises that a number of submitters are concerned by the potential effects of seismic surveying, primarily in relation to disturbance of marine organisms not identified in the Department of Conservation's <i>Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations 2013</i> (the 'code of conduct'). To this end, the Hearing Panel agrees that a higher level of regulatory control is required and considers it is necessary to increase the activity classification for seismic surveying to Controlled in all coastal management areas. A controlled activity pathway, with additional standards, terms and conditions, will allow the Council to ensure that adverse effects to indigenous biodiversity are addressed appropriately, while still ensuring that those seeking to undertake the activity are appropriately provided for. |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support in part | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 58 – Te Atiawa | 767 | Amend Submitter is concerned that noise and vibration associated with seismic surveying and bathymetric testing may result in adverse impacts on taonga species such as kororā (little blue penguin) and tohorā (whales). Submitter seeks amendment to Rule 12 by changing the activity classification to discretionary activity (currently a permitted activity) to provide iwi the opportunity to be involved in the decision making process and ensure conditions of consent are monitored. AND Add a further condition to ensure no adverse effects on cultural values associated with sites identified in Schedules 5A and 5B. | Accept in part Impacts of marine mammals are managed through the Department of Conservation's <i>Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations 2013</i> (the 'code of conduct'). However, the code only addresses the effects on marine mammals and seabirds (specifically effects on seabirds from on board lights), the code does not address any effects that may occur to penguins or other 'non mammal' marine fauna. The South Taranaki Bight is an important foraging area for blue penguins that nest along the Taranaki coastline as well as for the Marlborough Sounds blue penguin breeding colony. Blue penguins are listed in Schedule 4A as "at risk (declining)" and any threats to the population considered significant. Effects from seismic surveying have been shown to significantly affect penguin foraging patterns which may adversely affect reproductive output and result in displacement. The Hearing Panel does not consider that the permitted activity classification allows the Council to monitor and effectively address potential adverse effects on marine taxa not covered by Department of Conservation's code of conduct. |
| Further submissions – Trans-Tasman Resources (6), Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support in part | |

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| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | <p>Therefore, the Hearing Panel recommends a higher level of regulatory control that makes seismic surveying a controlled activity in all coastal management areas.</p> <p>A controlled activity pathway, with additional standards, terms and conditions, will allow the Council to ensure that adverse effects to indigenous biodiversity and 'taonga species are addressed appropriately, while still ensuring that those seeking to undertake the activity are appropriately provided for.</p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 768 | <p>Amend</p> <p>Submitter seeks amendment to Rule 12 of the Plan to make seismic surveying or bathymetric testing activity a discretionary activity (rather than a permitted activity) and include standards, terms and conditions to read:</p> <p><i>(a) survey complies with 2013 Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations or any subsequent applicable Code of Conduct; discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</i></p> <p><i>(b) Taranaki Regional Council is informed of the activity at least five working days before commencement by entering details of the activity at www.trc.govt.nz/informcouncil discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan;</i></p> <p><i>with regards to bathymetric testing:</i></p> <p><i>(c) activity does not have an adverse effect on marine mammals; discharge is consistent with iwi management plan.</i></p> <p>AND</p> <p>Include the following notification note:</p> <p><i>Resource consent applications under this Rule will be notified to tangata whenua.</i></p> | <p>Accept in part</p> <p>The Hearing Panel notes that seismic surveying and bathymetric testing provide useful and important insights into crustal activities that occur within the Taranaki region and are not limited to industrial uses within the petroleum industry. Not only are these insights useful but they are also necessary as they provide information relating to the tectonic situation of the region, including faults, flexure and crustal thickening relating to the overarching tectonic regime of the Zealandia continent. Such information is necessary for hazard mitigation and preparation including earthquake, tsunami and volcanic activity as well as providing insights into the past events that occurred in geologic time.</p> <p>The Hearing Panel recognises that a number of submitters are concerned by the potential effects of seismic surveying, primarily in relation to disturbance of marine organisms not identified in the Department of Conservation's <i>Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations 2013</i> (the 'code of conduct'). To this end, the Hearing Panel agrees that a higher level of regulatory control is required and considers it is necessary to increase the activity classification for seismic surveying to Controlled in all coastal management areas (rather than to prohibit it entirely as requested by the submitter).</p> <p>A controlled activity pathway, with additional standards, terms and conditions, will allow the Council to ensure that adverse effects to indigenous biodiversity are addressed appropriately, while still ensuring that those seeking to undertake the activity are appropriately provided for.</p> <p>The Hearing Panel notes that the standards, terms and conditions suggested by the submitter are not considered appropriate due to being unenforceable and not consistent across the region. However, the recommended standards, terms and conditions identified in Rule 12A may go some way to addressing</p> |
| Further submissions – Trans-Tasman Resources (6), Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | <p>A controlled activity pathway, with additional standards, terms and conditions, will allow the Council to ensure that adverse effects to indigenous biodiversity are addressed appropriately, while still ensuring that those seeking to undertake the activity are appropriately provided for.</p> <p>The Hearing Panel notes that the standards, terms and conditions suggested by the submitter are not considered appropriate due to being unenforceable and not consistent across the region. However, the recommended standards, terms and conditions identified in Rule 12A may go some way to addressing</p> |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support in part | |

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| | | | the submitters concerns with additional considerations given to significant species and ecosystems identified in Schedule 4A and taonga species identified in Schedule 4C. |
| Rule 13 – Other discharges | | | |
| 8 – Silver Fern Farms | 769 | Support Retain Rule 13 of the Plan as a 'catch-all' to provide for discharges to coastal waters not otherwise covered by other rules. | Accept Support noted. Rule 13 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| Further submissions – Federated Farmers (2) | | Support | |
| Further submissions – Climate Justice Taranaki Inc (21) | | Oppose | |
| 26 – Transpower NZ Ltd | 770 | Amend Submitter supports Rule 13 of the Plan but explains that the <i>National Environmental Standards for Electricity Transmission</i> activities only applies to existing National Grid structures and since there are no existing National Grid structures in the coastal marine area (as identified in the Proposed Coastal Plan for Taranaki) and therefore subject to the Plan, the reference is not required. Further, the <i>National Environmental Standards for Electricity Transmission</i> is not applicable when erecting or placing new structures so is redundant to mention within the Plan. Submitter seeks ament to Rule 13 to delete reference to <i>National Environmental Standards for Electricity Transmission Activities</i> : <i>[...]or the Resource Management (National Environmental Standards for Electricity Transmission Activities Regulations 2009 (Appendix 6))</i> . | Accept The reference to the <i>National Environmental Standards for Electricity Transmission</i> is redundant and does not add further value to the Plan. The Hearing Panel recommends granting the relief sought by the submitter. |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 771 | Amend Retain Rule 13 of the Plan subject to amendment and the addition of a note as follows: <i><u>A discharge into a district council managed stormwater system is a discharge to land outside the coastal marine area and an assessment for consent requirement should be made under the Freshwater Plan not this rule.</u></i> | Accept The Hearing Panel agrees to the requested amendment as it provides useful guidance for Plan users. |

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| Further submissions – Climate Justice Taranaki Inc (21) | | Oppose | |
| Further submissions – Transpower NZ Ltd (26) | | Support | |
| 47 – Fonterra | 772 | Support | Accept |
| | | Retain Rule 13 of the Plan as notified. | Support noted. Rule 13 is retained subject to minor amendments as requested by other submitters that do not change the rule's scope. |
| Further submissions – Climate Justice Taranaki Inc (21) | | Oppose | |
| Rules 13 and 14 – Other discharges | | | |
| 6 – Trans-Tasman Resources Ltd | 773 | Support | Accept |
| | | Retain Rules 13 and 14 of the Plan as these rules appropriately recognise and provide for other discharge activities to be assessed as either discretionary in open coast or non-complying in the more sensitive outstanding value areas and are consistent with the activity status given to 'other' activities (Rules 33, 34, 42 and 43). | Support noted. Rules 13 and 14 are retained subject to minor amendments as requested by other submitters that do not change the rule's scope. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 21 – Climate Justice Taranaki | 774 | Amend | Decline |
| | | Submitter opposes Rules 13 and 14 of the Plan. | No precise details of amendments sought to the Plan have been provided and the submitter is seeking clarification/examples of the types of contaminants that would fall under these 'catch-all' rules. The submitter questions whether Rules 13 and 14 are designed to capture contaminant discharge from industrial facilities such as Fonterra and Methanex plants. |
| Further submissions – Trans-Tasman Resources (6) | | Oppose | |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | The Hearing Panel notes that the intent of Rules 13 and 14 is to provide a consenting pathway for discharge activities that do not come within or comply with other rules in the Plan. It acknowledges that plans will rarely be able to predict all foreseeable and unforeseeable activities that might occur over the |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>life of the Plan and allows unforeseen activity types to be considered as part of a consenting regime. It is not feasible to identify contaminant types but would potentially cover discharges from larger industrial premises (so long as they do not trigger other rules, e.g. wastewater rules).</p> <p>Of note, together Rules 13 and 14 provide a much higher level of protection than otherwise provided by the RMA, where, in the absence of a rule, a resource consent is required (as a discretionary activity). Discharges to Outstanding Value, Estuaries Unmodified and Estuaries Modified coastal management areas are a non-complying activity pursuant to Rule 14.</p> |
| 21 – Climate Justice Taranaki | 775 | <p>Amend</p> <p>Submitter questions compliance and enforcement responses and seeks that if such 'catch-all' rules are to remain, then Rule 13 of the Plan for the relevant discharge activities should be Publicly Notified.</p> | <p>No relief necessary</p> <p>The Hearing Panel does not consider it appropriate to include this level of operational detail in the Plan but notes that in accordance with its standard operating procedures, such discharge activities are already publicly notified. The Hearing Panel notes that the Council is consistently identified in the National Monitoring System, and elsewhere, as having very strong and best practice compliance and enforcement responses.</p> |
| 33 – New Zealand Defence Force | 776 | <p>Amend</p> <p>Submitter seeks amendment to Rules 13 and 14 of the Plan by inserting a new rule permitting minor discharges (similar to Rule 53 regarding minor disturbance and removal), which would provide for the operation of the portable water units;</p> <p>OR</p> <p>inserting a new rule specifically permitting discharges from the operation of portable water treatment units, such as:</p> <p><i><u>the discharge of contaminants or water to the coastal marine area from portable water treatment units for the purpose of temporary military training activities is a permitted activity.</u></i></p> | <p>Grant in kind</p> <p>The submitter notes that New Zealand Defence Force training within the coastal environment can involve the use of portable water treatment units and it is important that personnel are fully trained in the use of these units. Minor discharges to the coastal marine area associated with these types of activities should have little effect on coastal water quality. For example, tidal wave action in the coastal marine area will rapidly disperse the discharges and will generally result in no noticeable difference in water quality within a few metres of the discharge point.</p> <p>The Hearing Panel believes there is merit in these and other similar type discharge activities being provided for as a permitted activity rule. Other discharges of this nature could include cooling water use on vessels or discharges from waterblasting activities (note that abrasive blasting is separately addressed in Rule 11).</p> <p>The Hearing Panel recommends granting the relief sought in kind by including a new rule, Rule 1A, that allows, as a permitted activity, the temporary discharge of water (and minor incidental contaminants, e.g. salt associated with concentrated seawater from a desalination process) into the coastal</p> |

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| | | | <p>marine area. This would be the equivalent of a rule in the current Freshwater Plan and is consistent with approaches adopted by other regional councils.</p> <p><u>Activity description</u></p> <p><u>Temporary discharge of water and minor contaminants on the foreshore, seabed or into waters of the coastal marine area and any associated disturbance of the foreshore or seabed.</u></p> <p><u>Standards, terms and conditions</u></p> <p><u>(a) The activity does not cause any scouring or erosion beyond the point of discharge;</u></p> <p><u>(b) after reasonable mixing the activity does not cause:</u></p> <p><u>(i) any conspicuous oil or grease films, scums or foams, or floatable or suspended materials;</u></p> <p><u>(ii) any conspicuous change of colour or visual clarity;</u></p> <p><u>(iii) any emission of objectionable odour;</u></p> <p><u>(iv) any significant change to salinity;</u></p> <p><u>(v) any change in the temperature of the receiving environment by more than 3° C; or</u></p> <p><u>(iv) any significant change to the turbidity;</u></p> <p><u>(c) the activity does not have an adverse effect on significant indigenous biodiversity, including those identified in Schedule 4 [Significant indigenous biodiversity];</u></p> <p><u>(d) the activity does not have a significant adverse effect on the values associated with taonga species identified in Schedule 4C [Taonga species];</u></p> <p><u>(e) the activity does not have a significant adverse effect on aquatic life; and</u></p> <p><u>(f) the activity does not exceed 31 days or part days during any 12 month period.</u></p> |
| 44 – Nga Motu Marine Reserve Society Inc | 777 | <p>Amend</p> <p>Submitter seeks amendment to Rules 13 and 14 to require a higher level of regulatory control and prohibit seismic surveying or bathymetric testing activity (currently a discretionary activity in the Open Coast and Port and a non-complying activity in the other coastal management areas).</p> | <p>Decline</p> <p>Refer to submission point 760 in relation to the Hearing Panel's response on prohibiting seismic surveying or bathymetric testing activities.</p> |

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| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | <p>In relation to amending Rules 13 and 14 to provide a higher level of regulatory control, the Hearing Panel notes that the rules are already very restrictive.</p> <p>The Hearing Panel notes that the intent of Rules 13 and 14 is to provide a consenting pathway for discharge activities that do not come within or comply with other rules in the Plan. It acknowledges that regional plans will rarely be able to predict all foreseeable and unforeseeable activities that might occur over the life of the Plan and allows unforeseen activity types to be considered as part of a consenting regime. It is not feasible to identify contaminant types but would potentially cover discharges from industrial premises (so long as they do not trigger other rules, e.g. wastewater rules).</p> <p>Of note, together Rules 13 and 14 provide a much higher level of protection than otherwise provided by the RMA, where, in the absence of a rule, a resource consent is required (as a discretionary activity). Under the Plan, discharges to Outstanding Value, Estuaries Unmodified and Estuaries Modified coastal management areas are a non-complying activity pursuant to Rule 14.</p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 778 | <p>Amend</p> <p>Submitter seeks amendment to Rules 13 (discretionary activity) and 14 (non-complying activity) of the Plan to include standards, terms and conditions to read:</p> <p><i><u>(a) discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</u></i></p> <p><i><u>(b) discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></i></p> <p><i><u>(c) discharge is consistent with iwi management plan.</u></i></p> <p>AND</p> <p>Include the following notification note:</p> <p><i><u>Resource consent applications under this Rule will be notified to tangata whenua.</u></i></p> | <p>Decline</p> <p>The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary and non-complying activities.</p> <p>The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a discretionary and non-complying activities are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> <p>The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 22, 30, 39, 40 and 41 being given effect to.</p> |
| Further submissions – Trans-Tasman Resources (6) | | Oppose | <p>In relation to notification requirements proposed by the submitter, Hearing Panel note that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and/or any Mana Whakahono a Rohe agreements.</p> <p>In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which</p> |
| Further submissions – Climate Justice Taranaki Inc (21), Te Rūnanga o Ngāti Mutunga (40), Te | | Support | |

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| Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | | in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting reference to notification requirements in the Rule (noting that relevant notification requirements are set out in sections 95A to 95G of the RMA). |
| Rule 14 – Other discharges | | | |
| 26 – Transpower NZ Ltd | 779 | <p>Amend</p> <p>Submitter supports Rule 14 of the Plan but explains that the <i>National Environmental Standards for Electricity Transmission</i> activities only applies to existing National Grid structures and since there are no existing National Grid structures in the coastal marine area (as identified in the Proposed Coastal Plan for Taranaki) and therefore subject to the Plan, the reference is not required. Further, the <i>National Environmental Standards for Electricity Transmission</i> is not applicable when erecting or placing new structures so is redundant to mention within the Plan. Submitter seeks amend to Rule 14 to delete reference to <i>National Environmental Standards for Electricity Transmission Activities</i>:</p> <p>[...] or the Resource Management (National Environmental Standards for Electricity Transmission Activities Regulations 2009 (Appendix 6))</p> | <p>Accept</p> <p>The reference to the <i>National Environmental Standards for Electricity Transmission</i> is redundant and does not add further value to the Plan. The Hearing Panel recommends granting the relief sought by the submitter.</p> |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 780 | <p>Amend</p> <p>Retain Rule 14 of the Plan subject to the addition of a note to read:</p> <p><u><i>A discharge into a district council managed stormwater system is a discharge to land outside the coastal marine area and an assessment for consent requirement should be made under the Freshwater Plan not this rule.</i></u></p> | <p>Accept</p> <p>The Hearing Panel recommends granting the relief sought by the submitter as it provides useful direction for Plan users.</p> |
| Further submissions – Transpower NZ Ltd (26) | | Support | |

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| Rule 15 – Storage or transfer of cargo materials within the Port air zone | | | |
| 32 – Port Taranaki | 781 | <p>Amend</p> <p>Submitter seeks amendment to Rule 15 of the Plan to:</p> <ul style="list-style-type: none"> • read: <i>Storage and transfer of cargo materials within the Port Air Zone involving discharge of contaminants to air and water.</i> • amend the standard/terms/conditions to refer to discharges to water as per G2.11 of the operative Plan. <p>OR</p> <p>Provide an exception for contaminant discharges from storage and transfer of animal feed cargo to water from storage and transfer to/from ships to wharves (such a rule could be placed before Rule 13).</p> | <p>Accept</p> <p>The submitter recognises that Rule 15 provides for the discharge to air of contaminants from the storage and transfer of cargo within the Port Air Zone as a permitted activity and includes dust discharges to air from products such as animal feed that is transferred from ships via ship cranes to the wharves. The operative Coastal Plan provides for the discharge of this product in the same circumstances to air and water via the General Rule G2.11(a). This rule has not been translated across to the Proposed Coastal Plan. It is considered that the effect on the environment from the discharge of contaminants from the storage and transfer of animal feed cargo to air and water in the Port Air Zone is minimal and is essentially fish food.</p> <p>The Hearing Panel recommends granting the relief sought by amending the Activity Description of Rule 15 to read as follows:</p> <p><i><u>Discharge of contaminants to air and water during the storage or transfer of cargo materials within the Port Air Zone that does not come within or comply with Rule 15.</u></i></p> <p>The Hearing Panel further recommends consequential amendments to broaden the scope of the rule to include water discharges and to include additional conditions specific to water discharges. These include conditions on effects on aquatic life, and water quality after reasonable mixing.</p> |
| Rule 16 – Storage or transfer of cargo materials within the Port air zone | | | |
| 32 – Port Taranaki | 782 | <p>Amend</p> <p>Submitter seeks amendment to Rule 16 of the Plan to:</p> <ul style="list-style-type: none"> • read: <i>Storage and transfer of cargo materials within the Port Air Zone involving discharge of contaminants to air and water that does not come within or comply with Rule 15.</i> • amend the standard/terms/conditions to refer to discharges to water as per G2.11 of the operative Plan. <p>OR</p> | <p>Accept</p> <p>For the same reasons outlined in the submitter's requested relief for Rule 15, the submitter is seeking an equivalent change in Rule 16.</p> <p>The Hearing Panel recommends granting the relief sought by amending the Activity Description of Rule 15 to read as follows:</p> <p><i><u>Discharge of contaminants to air and water during the storage or transfer of cargo materials within the Port Air Zone that does not come within or comply with Rule 15.</u></i></p> |

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| | | Provide an exception for contaminant discharges from storage and transfer of animal feed cargo to water from storage and transfer to/from ships to wharves (such a rule could be placed before Rule 13). | |
| Rule 17 – Other discharges to air | | | |
| 37 – Petroleum Exploration and Production Association of NZ | 783 | Amend | Decline |
| | | <p>Support treating flaring as a discretionary activity but seek that it be amended or a new rule be included that allows miscellaneous air emissions that have less than minor effects as a permitted activity.</p> <p>Submitter highlights such a rule provided in the Greater Wellington Regional Coastal Plan that reads as follows:</p> <p><i>“The venting of draignage systems, not including the venting of trade wastes or sewage conveyance systems, is a permitted activity provided that the discharge complies with the conditions specified below.</i></p> <p><i>Conditions</i></p> <p><i>(1) The discharge shall not result in odour, gas, vapour or aerosols which are noxious, dangerous, offensive or objectionable to other users of the coastal marine area or adjoining land users as a result of its frequency, intensity or duration.”</i></p> <p>In addition, the submitter points out that the definition of “industrial trade premises” is vague and could include many things. One interpretation could even stretch as far as to include vessels, as they are typically “used for industrial trade purposes”.</p> | <p>The Hearing Panel recommends declining the relief sought by the submitter.</p> <p>The Hearing Panel suggests these activities would be canvassed and addressed as part of the consenting process for other discharges into the coastal marine area.</p> <p>The Hearing Panel are not aware of any currently existing activities that would be affected by this rule.</p> <p>The Hearing Panel also notes that discharges from vessles are already addressed under the <i>Resource Management (Marine Pollution Regulations) 1998</i> and should not be addressed under this rule.</p> |
| Further submissions – Climate Justice Taranaki Inc (21), Taranaki Energy Watch (51) | | Oppose | |
| 47 – Fonterra | 784 | Support | Accept |
| | | Retain Rule 17 of the Plan as notified. | Support noted. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |

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| 61 – Te Rūnanga o Ngāti Ruanui Trust | 785 | <p>Amend</p> <p>Submitter seeks amendment to Rule 17 of the Plan to include standards, terms and conditions to read:</p> <p><i>(a) discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment</i></p> <p><i>(b) discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</i></p> <p><i>(c) discharge is consistent with iwi management plan.</i></p> <p>AND</p> <p>Include the following notification note:</p> <p><i>Resource consent applications under this Rule will be notified to tangata whenua.</i></p> | <p>Decline</p> <p>The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary and non-complying activities.</p> <p>The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> <p>The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21 and 20, 29 and 30 being given effect to.</p> <p>In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and/or any Mana Whakahono a Rohe agreements.</p> <p>In relation to notification requirements, the submitter (and others) have highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting reference to notification requirements in the Rule (noting that relevant notification requirements are set out in sections 95A to 95G of the RMA).</p> |
| Further submissions – Climate Justice Taranaki Inc (21), Te Korowai o Ngāruahine Trust (41) | | <p>Support</p> | |
| Rule 18 – Outfall structure placement | | | |
| 21 – Climate Justice Taranaki | 786 | <p>Amend</p> <p>Submitter opposes permitting the placement of outfall structures in the coastal marine area and seek that such activities be prohibited or non-complying activities in coastal management areas: Outstanding Value and Estuaries Unmodified, and Discretionary in the other areas.</p> | <p>Decline</p> <p>The submitter contends that without a resource consent it is impossible to know whether the standards, terms and conditions are met.</p> <p>The Hearing Panel notes that this rule is specific to managing the effects of a structure rather than the effects of a discharge. The placement of such</p> |

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| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | <p>structures generally has less than minor effects and (as for any permitted activity) is still subject to compliance with standards, terms and conditions. The discharge of stormwater and wastewater is addressed by other rules.</p> <p>In relation to the management of small outfall structures, the Hearing Panel notes that the rule includes a notification requirement so that the Council can monitor the activity if need be.</p> <p>Notwithstanding the above, the Council operates a process where any member of the public is able to notify the Council of a suspected breach of compliance. Elevating the activity classification and requiring a resource consent would not be cost or time efficient and the Hearing Panel does not believe the risks of the activity are sufficient to warrant this.</p> |
| 29 – Department of Conservation | 787 | <p>Amend</p> <p>Submitter seeks amendment to Rule 18 of the Plan to exclude its application to Outstanding Value and Estuaries Unmodified coastal management areas.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought as being unnecessarily restrictive.</p> |
| Further submissions – Climate Justice Taranaki Inc (21), Royal Forest and Bird Protection Society (43), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | <p>The Hearing Panel notes that this rule is specific to managing the effects of a structure rather than the effects of a discharge. The placement of such structures generally has less than minor effects and (as for any permitted activity) is still subject to compliance with standards, terms and conditions. The discharge of stormwater and wastewater is addressed by other rules.</p> |
| 32 – Port Taranaki | 788 | <p>Amend</p> <p>Submitter seeks amendment to Rule 18(a) of the Plan to read: <i>(a) structure has a maximum internal diameter of 450300mm and extends a maximum of 0.5m seaward of the line of mean high water springs; [...]</i></p> | <p>Accept</p> <p>The submitter considers the maximum outfall diameter threshold is unreasonably low and seeks amendment to Rule 18(a). The submitter noted, in pre-hearing engagement that the current Plan allowed an internal diameter of 600mm.</p> <p>The Hearing Panel agrees with the views of the submitter and suggest that the environmental effects of the placement of small (i.e. less than 300mm diameter) outfall structures can be adequately addressed through the standards, terms and conditions of the permitted activity rule. The Hearing Panel notes that the discharge itself will be addressed under different rules. The Hearing Panel therefore recommends amending Rule 18 as requested by the submitter.</p> |
| | 789 | Amend | Decline |

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| 40 – Te Rūnanga o Ngāti Mutunga | | <p>Submitter has concerns regarding the complexity of this permitted activity and feel that this activity may be better managed as a discretionary or controlled activity to ensure that the associated conditions are fully understood and can be monitored by the Council. With regards to contacting the Council before the commencement of the activity, the submitter is unsure what the process would be should the activity be found to be non-compliant with the conditions. The submitter feels that this issue would be better managed and monitored through the consent process which provides for longer timelines and means that hapū/iwi can be involved in the decision making process and subsequent monitoring if appropriate.</p> <p>Submitter opposes allowing the placement of outfall structures in the coastal marine area as a permitted activity and seek that such activities be a discretionary activity.</p> | <p>The Hearing Panel notes that Rule 18 is specific to managing the effects of a structure rather than the effects of a discharge. The discharge of stormwater and wastewater is addressed by other rules.</p> <p>In relation to the management of small outfall structures, the Hearing Panel notes that the rule includes a notification requirement so that the Council can monitor the activity if need be. Notwithstanding the above, the Council operates a process where any member of the public is able to notify the Council of a suspected breach of compliance. Elevating the activity classification will not be cost or time efficient and the Hearing Panel does not believe the risks are sufficient to warrant this.</p> <p>The Hearing Panel does not consider it appropriate to require a consent to place small outfall structure. This activity is considered fairly standard and routine with any adverse effects generally being temporary and minor. The Council has not encountered significant issues with the placement as governed by the current Plan and therefore the Panel does not consider it appropriate or necessary to require all outfall structures to be a discretionary activity.</p> |
| Further submissions – Climate Justice Taranaki Inc (21), Te Korowai o Ngāruahine Trust (41), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 41 – Te Korowai o Ngāruahine Trust | 790 | <p>Amend</p> <p>Submitter supports the inclusion of Condition (e) in Rule 18 of the Plan addressing historic heritage but seek further dialogue on how adverse effects will be considered in practice. If agreement cannot be reached amend Rule 18 to make this rule a discretionary activity (rather than permitted activity).</p> | <p>No relief necessary</p> <p>The Hearing Panel notes that Rule 18 is specific to managing the effects associated with the placement of a structure rather than the effects of a discharge. The discharge of stormwater and wastewater is addressed by other rules.</p> <p>The submitter further presented on this</p> |
| Further submissions – Climate Justice Taranaki Inc (21), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 42 – Ngati Rahiri Hapū | 791 | <p>Amend</p> <p>Submitter does not accept that structures may be placed over kaimoana reefs as a permitted activity without iwi/hapū consideration notwithstanding the standards, terms and conditions that are in place.</p> <p>Submitter seeks amendment to Rule 18 of the Plan to make outfall structure placement a discretionary activity or at least a controlled activity (rather than a permitted activity)</p> <p>AND</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought noting that concerns relating to potential impacts are already addressed in the standards, terms and conditions. In particular, Condition (e) would restrict the activity from occurring in areas identified as significant under Schedule 5A and B including nearshore reefs identified as having kai moana values.</p> |

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| | | that there be iwi/hapū consultation in all cases. | |
| Further submissions – Climate Justice Taranaki Inc (21), Te Korowai o Ngāruahine Trust (41), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | <p>The Hearing Panel further notes that this rule is specific to managing the effects of a structure rather than the effects of a discharge. Discharges of stormwater and wastewater are separately addressed by other rules.</p> <p>In relation to the management of small outfall structures, the Hearing Panel notes that this activity is considered fairly standard and routine with any adverse effects generally being temporary and less than minor. The standards, terms and conditions require that the Council be notified of the instalment of the structure which would subsequently be notified to iwi authorities. This notification process allows the Council to be aware of the exact location of such structures and to follow up, if necessary, with any concerns or issues that may arise.</p> |
| 43 – Royal Forest and Bird Protection Society | 792 | <p>Amend</p> <p>Submitter is concerned that the conditions of Rule 18 do not manage cumulative effects. Of particular concern are areas of Outstanding Value where structures can have adverse effects on natural character and natural features and landscapes.</p> <p>Submitter seeks amendment to Rule 18 of the Plan to:</p> <ul style="list-style-type: none"> • identify sites/areas of significant indigenous biodiversity and include a condition that the structure is not within those areas • amend Condition (c) by adding: activity, and no more than 1m width of surface area is distributed • add a <i>Note: this rule does not authorise a discharge from the outfall structure.</i> | <p>Accept in Part</p> <p>The Hearing Panel acknowledges the submitter's concerns relating to cumulative effects. It is the experience of the Council that the majority of any effects that occur as a result of placement of small outfall structures are transitory and less than minor. Such activities are considered routine and result in minimal disturbance. To date, the Council has not experienced any issues arising from the cumulative effects of placing an outfall structure.</p> <p>The Hearing Panel believes that the submitter's request to identify sites/areas of significant indigenous biodiversity is unnecessary and infers that the placement of outfall structures and the presence of significant indigenous biodiversity are mutually exclusive. The Hearing Panel does not agree with this view. Notwithstanding that, the Hearing Panel notes that Condition (f) provides a high level of protection to significant indigenous biodiversity as already identified in Schedule 4. If this is an issue of mapping (which has been raised by the submitter previously), the submitter is referred to Hearing Panel's previous comments on the difficulties and limitations of mapping habitats of significant indigenous biodiversity in the coastal marine area.</p> <p>The Hearing Panel further notes that the <u>placement</u> of small outfall structures is a fairly routine activity that has not, in the experience of the Council, resulted in noticeable adverse effects on the high natural character associated with Outstanding Value and Estuaries Unmodified coastal management areas.</p> <p>The Hearing Panel does not consider the requested addition to Condition (c) necessary.</p> |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support | |

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| | | | The Hearing Panel agrees to include the requested note as it provides useful guidance for Plan users with minor amendment to read: <i>Note: this rule does not authorise a discharge from the outfall structure. The discharge rules are Rules 1A to 3 and 5 to 8.</i> |
| 58 – Te Atiawa | 793 | Amend Submitter seeks amendment to Rule 18 of the Plan by including in the standards, terms and conditions a clause that refers to Schedules 5A and 5B AND amend the activity classification to a controlled activity (rather than a permitted activity). | Accept in part The submitter supports the inclusion of Schedule 5A and 5B of the Plan, however, is uncertain as to how the Council will ensure that these requirements are being met. The placement of small outfall structures is a fairly routine activity that has not, in the experience of the Council, resulted in noticeable adverse effects. The Hearing Panel is therefore confident that the permitted activity classification is reasonable for this activity. The Council requires notification prior to the commencement of the activity and will maintain a record of all outfall structures placed, this allows for routine check-ups. The Council has additional measures in place to deal with any non-compliance issues that may arise and operates a public notification system that allows any member of public to notify the Council of non-compliance. If non-compliance is recognised the Council will take swift and appropriate enforcement action and the activity will require a consent to continue operation where all non-compliance issues will be dealt with accordingly. Notwithstanding the above, the Hearing Panel notes that Rule 18 only covers the placement of a small outfall structure, not the discharge. Any discharge will be governed by the appropriate rule depending on the content of the discharge, and likely invoke the consenting process as a result. The Hearing Panel recommends amending reference to Schedule 5 to be Schedules 5A and 5B as requested by the submitter. |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 794 | Amend Submitter seeks amendment to Rule 18 of the Plan to include new and amended standard, term and condition to read: [...] <i>(e) the discharge is not placed placement of the structure does not have an adverse effect on the values associated with within cultural and historic heritage identified in Schedule 5 [Cultural and Historic heritage];</i> | Accept in part The Hearing Panel notes that Rule 18 is specific to managing the effects associated with the placement of a structure rather than the effects of a discharge. The discharge of stormwater and wastewater is addressed by other rules. In relation to the management of small outfall structures, the Hearing Panel is concerned that the effect of the new and amended conditions would make the |

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| | | <p><u>(f) the structure is not placed at any site identified in Schedule 5B [Sites of significance to Māori and associated values] and Appendix 2:</u></p> <p><u>(g) structure does not have adverse effect on Schedules 1 and 2</u></p> <p><u>(h) placement of the structure does not have an adverse effect the structure is not placed at any site with any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant species and ecosystems]; taonga species protected under Taranaki iwi Deed of Settlement including those identified in Schedule 4C [Taonga species and habitat] [...]</u></p> | <p>rule unnecessarily restrictive and by default redundant in that they preclude the placement of these small outfall structures in any part of the Taranaki coastal marine area.</p> <p>The Hearing Panel does not consider it appropriate to require a consent to place a small outfall structure. This activity is considered fairly standard and routine with any adverse effects generally being temporary and having less than minor effects. Specific comments on the new and amended proposed conditions are as follows:</p> |
| Further submissions – Climate Justice Taranaki Inc (21), Te Korowai o Ngāruahine Trust (41) | | Support | <ul style="list-style-type: none"> • The Hearing Panel notes that this Rule does not deal with the discharge of the structure, only the placement. Discharge impacts would be more appropriately addressed through the appropriate discharge rule. The Hearing Panel recommends amending the Rule to include a guidance note to clarify that rule relationship between the placement of outfall structures and discharges. • The submitter proposes to include a new Condition (f), however, the reference to sites of significance to Māori located in Schedule 5B has already been included within Condition (e) and it is not necessary to repeat. • Schedules 1 and 2 capture the whole coastal marine area plus landward parts of the coastal environment identified as having outstanding natural character or being an outstanding natural feature or landscape. The condition effectively precludes the placement of small outfall structures in any part of the coastal marine area thereby making the rule redundant. • In regards to requested Condition (h), the Hearing Panel does not believe that it is necessary to prohibit the location of outfall structures due to the presence of threatened or at risk, or regionally distinctive species. As long as any negative effects towards these species are managed then there is no reason why the structure should not be placed. It is the opinion of the Hearing Panel that, if well regulated and managed, the two can co-exist without any adverse effects to either. Notwithstanding that, the Hearing Panel recommends amending Condition (f) to expand its scope to include reference to scheduled taonga species. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| NEW Rule 18A – Outfall structure placement | | | |
| 29 – Department of Conservation | 795 | <p>Amend</p> <p>Submitter seeks amendment to the Plan to include a new controlled activity rule that specifically addresses outfall structure placement in Outstanding Value and Estuaries Unmodified coastal management areas. The submitter further seeks that Conditions (a), (b), (c), and (d) of Rule 18 should also be conditions for this new rule and that the matters of control should, at a minimum, address any effects on natural character, significant species, historic heritage, and any mitigation of effects on these values.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought. Refer to submission point 785.</p> |
| Rule 19 – Mooring structure placement in the Port | | | |
| 43 – Royal Forest and Bird Protection Society | 796 | <p>Amend</p> <p>Submitter seeks amendment to the Activity Description of Rule 19 of the Plan to delete the activity provisions for associate disturbance, deposition and discharge.</p> | <p>Decline</p> <p>The disturbance, deposition and discharge activities referred to in the Activity Description of Rule 19 are incidental to the activity of placing mooring structures in the Port. The Hearing Panel recognises that a small amount of disturbance and deposition is likely to be an inevitable consequence of any work on the foreshore and seabed but the effects will be less than minor and transitory. The Rule therefore seeks to bundle associated activities given that the effects are considered minor, temporary and low risk to the environment.</p> |
| 43 – Royal Forest and Bird Protection Society | 797 | <p>Amend</p> <p>Submitter seeks amendment to Rule 19 of the Plan to make mooring structure placement in the Port (and not requiring excavation of the seafloor or seabed) a controlled activity (rather than a permitted activity).</p> | <p>Decline</p> <p>The submitter does not believe that the effects with difference scale of mooring structures and cumulative effects are adequately managed through a permitted activity rule. The submitter wishes this activity to be a controlled activity so that the Council can assess whether the conditions are met.</p> <p>As previously noted, the Port is a highly modified area and mooring structures are considered common place for such a location. The Hearing Panel believes that placement of mooring structures in a port is fairly standard and routine and will produce less than minor effects if there are any effects at all. Requiring such activities to get a resource consent is both unnecessary and restrictive noting that the Port is regionally important infrastructure. Possible effects on indigenous biodiversity and historic heritage values in the vicinity are acknowledged and addressed in Conditions (c) and (d). If the activity</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | cannot appropriately comply with those conditions, a resource consent would be required. |
| 43 – Royal Forest and Bird Protection Society | 798 | Amend | No relief necessary |
| | | The Port is adjacent to an outstanding landscape and character area, therefore, the submitter seeks amendment to Rule 19 of the Plan to add a condition that the mooring structure does not have an effect on Outstanding Value areas. | The Hearing Panel note that the Port is already a highly modified environment that is located adjacent to an area of Outstanding Value. Both areas co-exist and the placement of any additional mooring structures will not impact on the natural character of the Sugar Loaf Islands as the activity will be confined to the Port coastal management area within the breakwaters. |
| 43 – Royal Forest and Bird Protection Society | 799 | Amend | No relief necessary |
| | | Submitter seeks amendment to Rule 19 of the Plan to add a condition that the mooring structure must not have adverse effects on the values of scheduled sites and areas in the coastal marine area with significant indigenous biodiversity values. | The Hearing Panel notes that this relief is already provided for under Condition (f), which states that the placement of the mooring structure must not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4 [Significant species and ecosystems]. |
| 58 – Te Atiawa | 800 | Support | Accept |
| | | Retain Rule 19 of the Plan as notified. | Support noted. Rule 19 is retained subject to minor amendments as requested by other submitters that do not change the rule's scope. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| NEW Rule 19A – Mooring structure placement in the Port | | | |
| 43 – Royal Forest and Bird Protection Society | 801 | Amend | Accept in part |
| | | Submitter seeks amendment to the Plan to include a new rule for mooring structure placement in the Port that cannot comply with Rule 19 as a Restricted Discretionary (or discretionary activity) and include a matter of discretion to consider the effects on indigenous biodiversity values. | The Hearing Panel refers the submitter to Rules 23 and 33 which are the catch-all rule for mooring structures not meeting the activity description or all the standards, terms and conditions. Rule 23 is a controlled activity rule for the Port and the Hearing Panel notes that control is reserved over ecological values as directed in Condition (f). Rule 33 is a discretionary activity for any structure erection or placement that does not come within or comply with previous relevant rules. |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | The Hearing Panel recognises that the term “ecological effects” is meant to cover the protection of indigenous biodiversity. The Hearing Panel |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | recommends replacing the term "ecological values" with "indigenous biodiversity" to clarify that intent. |
| Rule 20 – Mooring structure placement | | | |
| 6 – Trans-Tasman Resources Ltd | 802 | Support | Accept |
| | | Retain Rule 20 as this rule recognises that some monitoring and sampling activities will be requiring mooring structures, and appropriately provides for them as a permitted activity. | Support noted. Rule 20 is retained subject to minor amendments as requested by other submitters that do not change the rule's scope. |
| 29 – Department of Conservation | 803 | Support | Accept |
| | | The Department of Conservation often uses monitoring moorings in the coastal environment during its operations and supports the permitted classification of mooring structure placement for monitoring or sampling equipment. Retain Rule 20 as notified. | Support noted. Rule 20 is retained subject to minor amendments as requested by other submitters that do not change the rule's scope. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 40 – Te Rūnanga o Ngāti Mutunga | 804 | Amend | Decline |
| | | Submitter is opposed to permitting the mooring structures in the coastal marine area for monitoring and sampling purposes and seek that such activities be a discretionary activity. | The submitter has concerns regarding the complexity of this permitted activity rule and feel that this activity may be better managed as a discretionary activity or controlled activity to ensure that the associated conditions are fully understood and can be monitored by the Council. With regards to contacting the Council before the commencement of the activity, the submitter is unsure what the process would be should the activity be found to be non-compliant with the conditions. The submitter feels that this issue would be better managed and monitored through the consent process which provides for longer timelines and means that hapū/iwi can be involved in the decision making process and subsequent monitoring if appropriate. |
| Further submissions – Trans-Tasman Resources (6) | | Oppose | The Hearing Panel notes that the placement of mooring structures is fairly routine and uncomplicated producing less than minor, if any, adverse effects. Due to the straight forward nature of the activity and the low impact that it has, the Hearing Panel does not believe that this activity requires further monitoring or the need to impose unnecessary restrictions and costs on people to obtain a resource consent. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>Notwithstanding the above, the Hearing Panel are aware that iwi/hapū will be interested to know when such activities are being undertaken and note that the Council has an arrangement with iwi authorities who have requested to be informed of this activity as cited in the activity description.</p> <p>The Hearing Panel notes that if an activity is to be commenced in a location that is not considered appropriate after having regard to the standards, terms and conditions listed, the Council will advise those undertaking the activity that a resource consent is required under Rules 33 (discretionary) or 34 (non-complying) depending on the coastal management area. If any issues of non-compliance arise the Council will take swift and appropriate enforcement action.</p> |
| 41 – Te Korowai o Ngāruahine Trust | 805 | <p>Amend</p> <p>Submitter supports the inclusion of Condition (b) addressing historic heritage but seek further dialogue on how adverse effects will be considered in practice. If agreement cannot be reached, submitter seeks amendment to Rule 20 of the Plan to make this rule a discretionary activity (rather than permitted activity).</p> | <p>No relief necessary</p> <p>The Hearing Panel notes that the purpose of Rule 20 is to allow the use of moorings in the coastal marine area for monitoring or sampling purposes. Effects are generally less than minor. However, standards, terms and conditions do apply to ensure that in the event that an activity must avoid, remedy or mitigate potential adverse effects on historic heritage or indigenous biodiversity values.</p> <p>The Hearing Panel notes that if an activity is to be commenced in a location that is not considered appropriate, the Council will advise those undertaking the activity that a resource consent is required under Rules 33 (Discretionary) or 34 (non-complying) depending on the coastal management area.</p> |
| 42 – Ngati Rahiri Hapū | 806 | <p>Amend</p> <p>Submitter cannot accept that structures may be placed on or over kaimoana reefs as a permitted activity without iwi/hapū consideration notwithstanding the standards, terms and conditions that are in place.</p> <p>Submitter seeks amendment to Rule 20 of the Plan to make mooring structure placement a Discretionary or at least a controlled activity (rather than a permitted activity)</p> <p>AND</p> <p>that there be iwi/hapū consultation in all cases.</p> | <p>Decline</p> <p>The submitter is seeking a high level of protection for their reefs. At the hearing, the submitter presented further on this issue. While generally acknowledging that the Plan policies and the standards, terms and conditions of rules may provide for this high level of protection, nevertheless it is the submitter's view that the placement of mooring structure on or over their kaimoana reefs must be regulated as a discretionary or at least a controlled activity (rather than a permitted activity).</p> <p>In relation to the management of the activity itself, the Hearing Panel notes that the placement of small mooring structures associated with monitoring and sampling equipment (and which does not involve any mechanical excavation) is a fairly standard and routine activity with any adverse effects generally</p> |
| Further submissions – Trans-Tasman Resources (6) | | Oppose | |

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| | | | <p>being temporary and less than minor. For example, the mooring structure and the monitoring or sampling equipment must not occupy an area exceeding 5 m² of the coastal marine area.</p> <p>The Hearing Panel acknowledges the concerns of the submitter and notes that Conditions (a), (b) and (c) would generally restrict the activity from occurring in areas identified as significant under Schedule 4 [Significant indigenous biodiversity], Schedule 4C [Taonga species] and Schedule 5A and B [Historic heritage]. Nearshore reefs are identified in Policy 14(b) as sites of significant indigenous biodiversity. Nearshore reefs may also be a site of significance to Māori in relation to historic heritage. Of note, virtually the entire coastal length of the submitter's rohe is identified in the Plan and associated coastal maps as having kaimoana values.</p> <p>As part of a precautionary approach, the standards, terms and conditions require that the Council be notified of the instalment of any mooring structure. This notification process allows the Council to be aware of the exact location of such structures and to follow up, if necessary, with any concerns or issues that may arise. The Hearing Panel notes that the Council has further agreed that upon notification it will notify the relevant iwi authority of the activity occurring in their rohe.</p> <p>The Hearing Panel further notes that if an activity cannot comply with all the standards, terms and conditions listed, the Council will advise those undertaking the activity that a resource consent is required under Rules 33 (discretionary) or 34 (non-complying) depending on the coastal management area.</p> |
| 43 – Royal Forest and Bird Protection Society | 807 | <p>Amend</p> <p>Submitter seeks amendment of the heading for Rule 20 of the Plan by adding the word “<i>monitoring</i>”.</p> | <p>Decline</p> <p>The Hearing Panel sees no need to include a specific heading for Rule 20. The Plan headings deliberately bundles main activities at a high level to capture a suite of rules.</p> |
| 43 – Royal Forest and Bird Protection Society | 808 | <p>Amend</p> <p>Submitter supports the permitted rule for monitoring and sampling purposes where they are not fixed to the seabed, provided there are no adverse effects on biodiversity values or outstanding character and landscape values. However, the provisions for associated disturbance, deposition and discharge are uncertain and</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. The Hearing Panel does not consider it necessary to remove the reference to associated disturbance, deposition or discharge as covered by activity descriptions (b), (c) and (d).</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p>could result in adverse effects that are not addressed by the permitted standards, terms and conditions.</p> <p>Submitter seeks amendment to Rule 20 of the Plan by deleting the Activity provisions for associate disturbance, deposition and discharge.</p> | <p>The Hearing Panel notes that the disturbance, deposition and discharges referred to in the Activity Description of Rule 20 are those incidental to the placement of mooring structures.</p> <p>The Rule recognises that, during the installment of mooring monitoring structures, there may be minor and transitory disturbances as a result. The impacts are generally very minor with the associated effects being similar in kind and magnitude to that associated with a vessel dropping anchor. The Rule therefore seeks to bundle associated activities given they are low risk and likely to produce no or, at the most, less than minor effects (i.e. the receiving environment can generally handle the activity with effects being naturally and promptly remedied without the need for further intervention).</p> |
| 43 – Royal Forest and Bird Protection Society | 809 | <p>Amend</p> <p>Submitter seeks amendment of Rule 20 of the Plan by adding to the Activity Description as follows:</p> <p><i>The placement or removal of a mooring structure placement for monitoring [...]</i></p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. Rule 20 specifically relates to the placement of the structure. Removal of structures is separately addressed under Rules 44, 45 and 46.</p> <p>The Hearing Panel notes the reference to “removal” within Condition (a) of Rule 20 relates to the information requirements to be supplied by the person(s) undertaking the activity. While this is additional information that does not fall within the scope of the Rule gateway, nevertheless it has been included for the reader for certainty and clarity purposes as the information would be required under Rule 44 anyway and ensures Council has all the necessary information for an activity that is generally a short term activity.</p> |
| 43 – Royal Forest and Bird Protection Society | 810 | <p>Amend</p> <p>Submitter seeks amendment to the standards, terms and conditions to ensure the activity will not occur where it would have adverse effects on values and characteristics to be protected under Policies 8 [Outstanding value], 9 [Natural character] and 14 [Significant indigenous biodiversity] of the Plan.</p> | <p>Decline</p> <p>The Hearing Panel notes that in the development of Plan provisions, consideration has been had to the type and scale of the activity and the associated effects. The Hearing Panel is satisfied that mooring monitoring structures are unlikely to have more than minor adverse effects on outstanding natural character, features and landscapes, natural character and significant indigenous biodiversity values in the coastal environment. Certainly not at a landscape scale (i.e. the mooring structure and the monitoring or sampling equipment must not occupy an area exceeding 5 m² of the coastal marine area). Notwithstanding that, Council recognises that in specific localities unforeseen impacts on significant indigenous biodiversity may occur. Accordingly Condition (c) in Rule 20 applies to protect any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | type including those identified in Schedule 4 [Significant species and ecosystems] from unforeseeable impacts. |
| 58 – Te Atiawa | 811 | <p>Amend</p> <p>Submitter supports the inclusion of Schedule 5 and 4A. However, they are uncertain as to how the Council will ensure that these requirements are being met. The submitter requests dialogue to explain how this will be achieved or request that the activity classification is elevated to a controlled activity.</p> <p>Submitter seeks amendment to Rule 20 of the Plan by including a condition that refers to Schedules 5A and 5B</p> <p>OR</p> <p>amend the activity classification to a controlled activity (rather than a permitted activity).</p> | <p>Accept in part</p> <p>The Hearing Panel recommends amending Rule 20 to reference “<i>Schedules 5A and B</i>” as requested by the submitter.</p> <p>The placement of mooring monitoring structures is a small scale activity (i.e. the mooring structure and the monitoring or sampling equipment must not occupy an area exceeding 5 m² of the coastal marine area), that has not, in the past experience of the Council, resulted in noticeable adverse effects. Due to the straight forward nature of the activity, and the low impacts that it has, the Hearing Panel does not believe that this activity requires further monitoring or the need to impose unnecessary restrictions and costs on people to obtain a resource consent. The Hearing Panel is confident that the permitted activity classification is reasonable for this activity.</p> <p>Notwithstanding the above, the Hearing Panel is aware that iwi/hapū may be interested to know when such activities are being undertaken and notes that the Council has an arrangement with iwi authorities who have requested to be informed of this activity as cited in the Activity Description.</p> <p>The Hearing Panel notes that if an activity is to be commenced in a location that is not considered appropriate after having regard to the standards, terms and conditions listed, the Council will advise those undertaking the activity that a resource consent is required under Rules 33 (discretionary) or 34 (non-complying) depending on the coastal management area. If any issues of non-compliance arise the Council will take swift and appropriate enforcement action.</p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 812 | <p>Amend</p> <p>Submitter seeks amendment to Rule 20 of the Plan to include new and amended standards, terms and conditions to read:</p> <p><i>(b) the placement of the structure placement of the mooring structure does not have an adverse effect on the values associated with <u>cultural and historic heritage identified in Schedule 5 [Cultural and Historic heritage];</u></i></p> <p><i>(c) the placement of the structure and discharge does not have adverse effect on Schedules 1 and 2;</i></p> | <p>Accept in part</p> <p>The Hearing Panel notes that this rule is specific to the management of small mooring monitoring structures (i.e. the mooring structure and the monitoring or sampling equipment must not occupy an area exceeding 5 m² of the coastal marine area).</p> <p>The Hearing Panel is concerned that the effect of the new and amended conditions would make the rule unnecessarily restrictive and have perverse outcomes. The relief seeks to exclude the activity from sites of significance</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p><u>(d) the activity does not occur at any site identified in Schedule 5B [Sites of significance to Māori and associated values] and Appendix 2:</u></p> <p><u>(e) the placement of the structure and discharge does not adversely affect the suitability of the receiving water for customary use and bathing after reasonable mixing:</u></p> <p><u>(f) placement of the mooring structure and the discharge does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant species and ecosystems]; taonga species protected under Taranaki iwi Deed of Settlement including those identified in Schedule 4C [Taonga species and habitat]</u></p> <p><u>(g) the mooring structure and the monitoring or sampling equipment does not occupy an area exceeding 5m² of the coastal marine area [...]</u></p> | <p>regardless of whether it has any impacts on those values and despite the potential for the activity to contribute to the protection and management of sites of significance (e.g. mahinga kai and pukawa values) or taonga species (presence/absence/abundance).</p> <p>Specific comments on the new and amended proposed conditions are as follows:</p> <ul style="list-style-type: none"> The Hearing Panel refer the submitter to previous comments made on expanding the scope of historic heritage. Schedules 1 and 2 capture the whole coastal marine area plus landward parts of the coastal environment identified as having outstanding natural character or being an outstanding natural feature or landscape. The proposed Condition (c) is too wide ranging, unnecessarily restrictive, and uncertain for Plan users. Note that the discharges associated with this Rule are only those associated directly with the placement of the structure and there is no need to paraphrase the gateway in the individual conditions. The submitter proposes to include a new standard (f), however, the reference to sites of significance to Māori located in Schedule 5B has already been included within Condition (b). It is not necessary to repeat this Condition using different wording. In regards to requested Condition (e), the Hearing Panel does not believe that it is necessary. Again it is noted that these activities are very small scale (<5 m² and the only possible impact on water quality is related to the potential for a little sediment disturbance similar in scale to using an anchor and which would not be noticeable in natural prevailing conditions). In regards to requested Condition (e), the Hearing Panel further recommends expanding its scope to include reference to scheduled taonga species. |
| Further submissions – Trans-Tasman Resources (6) | | Oppose | |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Rule 21 – Navigation aid erection and placement | | | |
| 29 – Department of Conservation | 813 | <p>Amend</p> <p>Submitter believes that the erection of maritime navigation aids should not be a permitted activity for any member of the public. Instead the activity should be permitted for only the Taranaki Regional Council or its agents, Maritime Mew Zealand or its agents, or Port Taranaki provided that these agencies agree to this responsibility.</p> <p>Submitter seeks amendment to Rule 21 of the Plan to include a new condition before condition (a) to read:</p> <p><i>The activity is undertaken by:</i></p> <p><i>(i) Taranaki Regional Council or its agents; or</i></p> <p><i>(ii) Port Taranaki; or</i></p> <p><i>(iii) Maritime New Zealand or its agents.</i></p> | <p>Accept</p> <p>The Hearing Panel agrees and recommends granting the relief sought by the submitter.</p> |
| Further submissions – Trans-Tasman Resources (6) | | Oppose | |
| Further submissions –Port Taranaki Ltd (32) | | Support | |
| 41 – Te Korowai o Ngāruahine Trust | 814 | <p>Amend</p> <p>Submitter supports the inclusion of Condition (e) addressing historic heritage but seek further dialogue on how adverse effects will be considered in practice. If agreement cannot be reached, submitter seeks amendment to Rule 21 of the Plan to make this rule a discretionary activity (rather than permitted activity).</p> | <p>No relief necessary</p> <p>The Hearing Panel notes that the purpose of Rule 21 is allow for the placement of maritime navigation aids. Such activities provide a critical navigation safety role and no or very minor adverse effects are likely to arise from this activity. However, in the event of any unforeseen adverse effects, conditions do apply to avoid, remedy or mitigate any adverse effects on historic heritage or indigenous biodiversity values. If the placement of navigation aids cannot comply with all the permitted activity conditions then a resource consent would be required.</p> <p>The Hearing Panel notes that if an activity is to be commenced in a location that is not considered appropriate after having regard to the standards, terms and conditions listed, the Council will advise those undertaking the activity that a resource consent is required under Rules 33 (discretionary) or 34 (non-complying) depending on the coastal management area.</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 42 – Ngati Rahiri Hapū | 815 | <p>Amend</p> <p>Submitter seeks amendment to Rule 21 of the Plan to make navigation aid erection or placement a Discretionary or at least a controlled activity (rather than a permitted activity)</p> <p>AND</p> <p>that there be iwi/hapū consultation in all cases.</p> | <p>Accept in part</p> <p>The Hearing Panel considers the placement of navigation aids in the coastal marine area a rather straight forward activity, which contributes to maritime safety, and for which there are no or less than minor adverse effects. The most likely adverse effect is the temporary disturbance of the seabed from the placement of a small anchor. However, any effects would be transitory and very localised to the area directly in contact with the structure, and not noticeable in natural prevailing marine conditions.</p> <p>The Hearing Panel does not consider it necessary to elevate the activity status of this Rule to require a resource consent to be obtained due to the negligible risks involved and the protections already in place through the standards, terms and conditions. The Hearing Panel also directs the submitter to Condition (e) which requires the placement of the mooring structure to not have adverse effects on the values associated with historic heritage identified in Schedule 5 [Historic heritage], which would include kaimoana reefs.</p> <p>Due to the permitted activity status it is not appropriate to require the resource user to consult. However, the Hearing Panel would like to draw the submitters attention to note (1) in the Rule that explains that iwi authorities that have requested to be informed of this activity will be advised by the Council.</p> |
| Further submissions – Trans-Tasman Resources (6) | | Oppose in part | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 816 | <p>Amend</p> <p>Submitter seeks amendment to Rule 21 of the Plan by deleting “Outstanding Value” from the coastal management areas covered by the rule.</p> | <p>Decline</p> <p>Submitter opposes the permitted rule for the erection or placement of navigation structures in Outstanding Value areas. In addition, the submitter contends that the potential adverse effects on birds from lighting associated with navigational aids do not appear to be considered within the rule.</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. It is suggested that the erection and placement of navigational aids should be generally provided for in all coastal management areas. This recognises that all the coastal management areas may require navigational aids to ensure the safe and efficient navigation of vessels in those waters.</p> <p>Navigational aids are essential items of infrastructure that reduce the risks of ships grounding and vessel related oil spills that may result. It is a critical safety issue for vessel personnel as well as for the environment and it is imperative that the Plan allow and encourage the safe and appropriate use of such aids.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | The Hearing Panel suggests that adverse effects associated with the placement of maritime navigation aids, if any, are likely to be minor, including potential effects of lighting on birds. Notwithstanding that, the Hearing Panel notes that the activity is subject to compliance with the standards, terms and conditions, including Condition (f) that requires that there be no adverse effects on significant indigenous biodiversity. If the Council consider that the proposed activity is unable to meet all of the standards, terms and conditions, the Council will advise those undertaking the activity that a resource consent will be required under Rules 33 (discretionary) and 34 (non-complying) depending on the coastal management area. |
| 43 – Royal Forest and Bird Protection Society | 817 | Amend | No relief necessary |
| | | Submitter seeks amendment to the Activity description of Rule 21 of the Plan to ensure there is no disturbance of the foreshore or seabed. | The Hearing Panel notes that Rule 21 does not permit excavation of disturbance of the foreshore or seabed, only minor disturbances that occur as a result of unobtrusive activities during the placement of the structure. |
| 43 – Royal Forest and Bird Protection Society | 818 | Amend | Decline |
| | | Submitter seeks amendment to Rule 21 by deleting the Activity provisions for associate disturbance, deposition and discharge in the Rule. | The submitter suggests that the provisions for associated disturbance, deposition and discharge are uncertain and could result in adverse effects which are not addressed by the permitted standards, terms and conditions of the rule. The Hearing Panel notes that the disturbance, deposition and discharges referred to in the activity description of Rule 21 are considered minor, transitory and inconsequential (i.e. the receiving environment will be relatively unaffected by the activity with effects being naturally and promptly remedied without the need for further intervention). The Council recognises that, during the installment of navigation aids, there may be minor and transitory disturbances as a result. The impacts are generally very minor with the associated effects being similar in kind and magnitude to that associated with a vessel dropping anchor. The rule therefore seeks to bundle associated activities given they are low risk and likely to produce no or, at the most, less than minor effects. |
| Further submissions – Trans-Tasman Resources (6) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 819 | Amend | Decline |
| | | Submitter seeks amendment to Condition (e) of Rule 21 of the Plan to read: | The Hearing Panel recommends declining the relief sought by the submitter. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <i>[...] erection or placement of the navigation aid does not have an adverse effect on the values associated with is not within 10m of any historic heritage identified in Schedule 5 [Historic heritage] or 50m of an Outstanding Value area [...]</i> | <p>The Hearing Panel notes that historic heritage has a broad RMA definition and is not confined to archaeological sites. For historic heritage associated with sites of significance to Māori, there may be many instances where the erection or placement of navigation aids on the 'site' will have no adverse effects.</p> <p>The Hearing Panel further suggests that the erection and placement of navigational aids should be permitted in all coastal management areas, including those of Outstanding Value, especially considering the high recreational use of some of these areas and the importance of providing for the safe and efficient navigation of vessels in those waters.</p> |
| 43 – Royal Forest and Bird Protection Society | 820 | Amend | No relief necessary |
| | | Submitter seeks amendment to Rule 21 of the Plan to note that where Condition (e) of is not complied with, a new Rule 33 will apply. | <p>The Hearing Panel suggests no relief is necessary.</p> <p>The Hearing Panel notes that where Condition (e) (or any other Condition) of Rule 21 cannot be complied with, Rules 33 [discretionary activity] and 34 [non-complying activity] apply, which requires the activity to be authorised through a resource consent. This guidance has already been indicated in Note (2) of the activity description.</p> |
| 43 – Royal Forest and Bird Protection Society | 821 | Amend | No relief necessary |
| | | Submitter seeks amendment to the standards, terms and conditions of Rule 21 to ensure the activity will not occur where it would have adverse effects on values and characteristics to be protected under Policies 8 [Outstanding value], 9 [Natural character] and 14 [Significant indigenous biodiversity] of the Plan. | <p>The Hearing Panel notes that in the development of Plan provisions, consideration has been had to the type and scale of the activity and the associated effects and the Panel is satisfied that maritime navigation aid structures are unlikely to have adverse effects on outstanding natural character, features and landscapes, natural character and significant indigenous biodiversity values in the coastal environment. Certainly not at a landscape scale. However, the Hearing Panel recognises that in specific localities unforeseen impacts on significant indigenous biodiversity may occur. Accordingly Condition (f) in Rule 21 applies to protect any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4 [Significant species and ecosystems] from unforeseeable impacts.</p> |
| 58 – Te Atiawa | 822 | Amend | Accept |
| | | Submitter seeks amendment to Rule 21 by including a standard, term or condition that refers to Schedules 5A and 5B | <p>The Hearing Panel notes that Condition (e) already refers to "historic heritage" identified in Schedule 5. However, in aligning with granting similar requests</p> |

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| | | OR amending the activity classification to a controlled activity (rather than a permitted activity). | sought by the submitter, the Hearing Panel recommends amending references to "Schedule 5" to refer to "Schedules 5A and 5B". The activity described is a fairly routine activity that has not, in the past experience of the Council, resulted in significant adverse effects. The Hearing Panel therefore suggests that the permitted activity classification is reasonable and appropriate for this activity. Of note, the Rule requires notification prior to the commencement of the activity and Council will maintain a record of all navigation aids placed, this allows for routine monitoring. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 823 | <p>Amend</p> <p>Submitter seeks amendment to Rule 21 of the Plan to include new and amended standards, terms and conditions to read:</p> <p>[...]</p> <p><i>(e) erection or placement of the navigation aid does not have an adverse effect on the values associated with <u>cultural and historic heritage identified in Schedule 5 [Cultural and Historic heritage]</u>;</i></p> <p><i><u>(f) erection or placement of the navigation aid does not have any adverse effect on any site identified in Schedule 5B [Sites of significance to Māori and associated values] and Appendix 2;</u></i></p> <p><i><u>(g) the placement of the navigation aid does not adversely affect the suitability of the receiving water for customary use and bathing after reasonable mixing;</u></i></p> <p><i><u>(h) erection or placement of the structure navigation aid does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant species and ecosystems]; <u>taonga species protected under Taranaki iwi Deed of Settlement including those identified in Schedule 4C [Taonga species and habitat]</u></u></i></p> <p>[...]</p> | <p>Accept in part</p> <p>The Hearing Panel notes that Rule 21 is specific to the placement of maritime navigation aids. Navigational aids are essential items of infrastructure that reduce the risks of ships grounding and vessel related oil spills that may result. It is a safety issue for vessel personnel as well as for the environment and it is imperative that the Plan allow and encourage the safe and appropriate use of such aids.</p> <p>The Hearing Panel is concerned that the effect of the new and amended conditions would make the rule unnecessarily restrictive and may have perverse outcomes. Specific comments on the new and amended proposed conditions are as follows:</p> <ul style="list-style-type: none"> The Hearing Panel refers the submitter to previous comments made on expanding the scope of historic heritage. The submitter proposes to include a new standard, term and condition (f), however, the reference to sites of significance to Māori located in Schedule 5B has already been included within Condition (b). It is not necessary to repeat this Condition using different wording. In regards to requested Condition (g), the Hearing Panel does not believe that relief is necessary. Again it is noted that these activities are very small scale and the water quality impacts are limited to the potential for a little sediment disturbance similar in scale to using an anchor (the effects of which would not be noticeable in natural prevailing conditions) |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |

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| | | | <ul style="list-style-type: none"> In regards to requested Condition (h), the Hearing Panel recommends the inclusion of an Condition (ea) that specifically addresses scheduled taonga species. |
| Rule 22 – Network utility structure erection or placement | | | |
| 12 – Chorus New Zealand Limited | 824 | <p>Amend</p> <p>Submitter supports the intent of Rule 22 of the Plan. However, the submitter notes that, in some instances, telecommunication cables are buried (through either a mole plough, directional drilling, trenching, jet burying, a chain trench or separate combinations of those), there are other instances where cables are simply laid on the seafloor, and left to natural processes to bury them with shallow depth. The environmental effect of a cable laid on the seafloor is generally of a lesser degree than the aforementioned burying techniques, however, laying a cable on the seafloor is not provided for under Rule 22.</p> <p>Submitter seeks amendment of Activity Description (d) in Rule 22 of the Plan to read:</p> <p><i>(d) a communication or electricity cable that is either buried, laid on the seabed or foreshore, or attached to a bridge, access structure or pole; [...]</i></p> | <p>Grant in kind</p> <p>The Hearing Panel agrees with the submitter that the environmental impacts of laying electricity cable on the seafloor are generally minor and should have less of an impact than the burial of cables (subject to meeting appropriate standards, terms and conditions). Cables laid on the seafloor may self bury through wave action and the movement of sediment naturally without the use of burial machinery that would locally disturb the seafloor. The laying of cables is expected to have no or a less than minor effect on marine fauna and flora.</p> <p>The Hearing Panel therefore recommends granting the relief in kind by amending Rule 22 to read as follows:</p> <p><i><u>Placement or erection of a network utility structure where the structure is:</u></i> [...] <i>(d) a communication or electricity cable <u>or line</u>; or [...]</i></p> |
| 13 – Spark New Zealand Trading Limited | 825 | <p>Amend</p> <p>Submitter supports the intent of Rule 22 of the Plan. However, the submitter notes that, in some instances, telecommunication cables are buried (through either a mole plough, directional drilling, trenching, jet burying, a chain trench or separate combinations of those), there are other instances where cables are simply laid on the seafloor, and left to natural processes to bury them with shallow depth. The environmental effect of a cable laid on the seafloor is generally of a lesser degree than the aforementioned burying techniques, however, laying a cable on the seafloor is not provided for under Rule 22.</p> <p>Submitter seeks amendment of Activity Description (d) in Rule 22 of the Plan to read:</p> <p><i>(d) a communication or electricity cable that is either buried, laid on the seabed or foreshore, or attached to a bridge, access structure or pole; [...]</i></p> | <p>Grant in kind</p> <p>The Hearing Panel agrees with the submitter that the environmental impacts of laying electricity cable on the seafloor are generally minor and should have less of an impact than the burial of cables (subject to meeting appropriate standards, terms and conditions). Cables laid on the seafloor may self bury through wave action and the movement of sediment naturally without the use of burial machinery that would locally disturb the seafloor. The laying of cables is expected to have no or a less than minor effect on marine fauna and flora.</p> <p>The Hearing Panel therefore recommends granting the relief in kind by amending Rule 22 to read as follows:</p> <p><i><u>Placement or erection of a network utility structure where the structure is:</u></i> [...] <i>(d) a communication or electricity cable <u>or line</u>; or [...]</i></p> |

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| 14 – Vodafone New Zealand Limited | 826 | <p>Amend</p> <p>Submitter supports the intent of Rule 22 of the Plan. However, the submitter notes that, in some instances, telecommunication cables are buried (through either a mole plough, directional drilling, trenching, jet burying, a chain trench or separate combinations of those), there are other instances where cables are simply laid on the seafloor, and left to natural processes to bury them with shallow depth. The environmental effect of a cable laid on the seafloor is generally of a lesser degree than the aforementioned burying techniques, however, laying a cable on the seafloor is not provided for under Rule 22.</p> <p>Submitter seeks amendment of Activity Description (d) in Rule 22 of the Plan to read:</p> <p><i>(d) a communication or electricity cable that is either buried, laid on the seabed or foreshore, or attached to a bridge, access structure or pole; [...]</i></p> | <p>Grant in kind</p> <p>The Hearing Panel agrees with the submitter that the environmental impacts of laying electricity cable on the seafloor are generally minor and should have less of an impact than the burial of cables subject to meeting appropriate standards, terms and conditions). Cables are generally laid when burial is not a sufficient method for their placement (e.g. onto rocky or sandy sediment). Cables laid on the seafloor may self bury through wave action and the movement of sediment naturally without the use of burial machinery that would locally disturb the seafloor. The laying of cables is expected to have no or a less than minor effect on marine fauna and flora and no affect on coastal water quality.</p> <p>The Hearing Panel therefore recommends granting the relief in kind by amending Rule 22 to read as follows:</p> <p><i>Placement or erection of a network utility structure where the structure is: [...]</i></p> <p><i>(d) a communication or electricity cable or line; or [...]</i></p> |
| 15 – Surfbreak Protection Society | 827 | <p>Other</p> <p>Submitter seeks that there be no impacts to surf breaks and that key surfing groups and representative groups be part of any limited notification for discharge or disturbance consent applications with the potential to impact on surf breaks or coastal water.</p> | <p>No relief necessary</p> <p>Submitter's comments are noted and have been previously addressed in submission point 443 relating to surfing policies. Policy 19 would be considered as part of any resource consent application under this Rule.</p> <p>The Hearing Panel notes that matters relating to affected and interested party status and limited notification are addressed separately in accordance with the Council's consenting standard operating procedures.</p> |
| 26 – Transpower NZ Ltd | 828 | <p>Other</p> <p>Submitter supports Rule 22 of the Plan but seek clarification whether Activity Description (d) refers to the cable only and is not the actual support.</p> | <p>No relief necessary</p> <p>Support noted. The Hearing Panel notes that Condition (d) refers to the cable and constituent parts.</p> |
| Further submissions – Powerco (45) | | Support | |
| 29 – Department of Conservation | 829 | <p>Amend</p> <p>Submitter seeks amendment to Rule 22 of the Plan to remove a "pipeline that is buried" and "a communication or electricity cable that is buried" from the controlled</p> | <p>Accept in part</p> <p>The submitter suggests the burial of pipes and cables may have significantly different levels and types of effects compared with attaching a pipe to a</p> |

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| | | activity description AND insert a new Restricted Discretionary rule (see NEW Rule 22A below). | bridge. At the hearing of submissions the submitter also raised concerns that the standards, terms and conditions that protect sensitive marine benthic habitats. |
| Further submissions – Powerco (45) | | Oppose in part | <p>The Hearing Panel agrees with that assessment but are confident that subject to the standards, terms and conditions of this controlled activity rule, any adverse environmental effects are reasonably foreseeable and can be appropriately avoided, remedied or mitigated via conditions on a resource consent. Further, the Council has retained a large number of matters of discretion which allow the Council to identify appropriate avoidance, remediation and/or mitigation measures to address adverse environmental effects on a case by case basis.</p> <p>At the hearing of submissions, the submitter spoke further on Rule 22 in opposition to the inclusion of outstanding value in the gateway. The Hearing Panel agrees with the submitter and recommend a new Restricted Discretionary Rule for Outstanding Value coastal management areas and for the placement or erection of network utility structures in other coastal management areas but were unable to comply with all the standards, terms and conditions of Rule 22. This approach is consistent with other Rules that address network utility structures in Outstanding Value areas (Rules 37 and 37A).</p> <p>Activities that do not come within (e.g. Outstanding Value coastal management areas) or comply with the standards, terms and conditions of Rule 22 are more appropriately managed through new Rule 22A (Restricted Discretionary).</p> <p>In relation to protection of sensitive marine benthic habitats, the Hearing Panel recommends amendments to Condition (c) to ensure that Schedule 4B (which includes identified sensitive marine benthic habitats) is also included in the considerations. The amended condition would read as follows:</p> <p><i><u>(c) the activity does not have an adverse effect on significant indigenous biodiversity, including those identified in Schedule 4 [Significant indigenous biodiversity];</u></i></p> <p>The Hearing Panel further recommends that this amendment is carried across all of the rules which include a condition addressing the protection for significant indigenous biodiversity.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 40 – Te Rūnanga o Ngāti Mutunga | 830 | Amend | Decline |
| | | Submitter seeks amendment to Rule 22 of the Plan to make the erection or placement of network utility structures in the coastal marine area a discretionary activity (rather than a controlled activity) so that Ngati Mutunga and others can be involved in the decision making/resource consent process and also in monitoring of this activity if necessary. | The Hearing Panel notes that this rule seeks to provide for the placement of important network utilities that might traverse the coastal marine area pursuant to Policy 6 of the Plan and subject to the appropriate management of adverse effects. Through the consenting process, relevant environmental effects on historic heritage, indigenous biodiversity and use and enjoyment of the coast will be appropriately managed. Other adverse effects within the coastal marine area, e.g. water quality are likely to be less than minor and temporary. Some certainty for these uses is considered appropriate, which would not be the case if the activity was made a discretionary activity (with the ability to decline a resource consent application). The Council has not encountered significant issues with the placement of utility structures in the coastal marine area under the current Plan and therefore the Hearing Panel does not consider it appropriate or necessary to require the placement of network utility structures to be made more restrictive by making it a discretionary activity. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 41 – Te Korowai o Ngāruahine Trust | 831 | Amend | Accept |
| | | Submitter seeks amendment to Condition (b) of Rule 22 of the Plan to read: <i>(b) erection or placement of the structure does not have an adverse effect on the values associated with historic heritage identified in Schedule 5A and B Historic heritage; [...]</i> | The Hearing Panel agrees to refer to “Schedule 5” as “Schedule 5A and 5B” as requested by the submitter. The Hearing Panel recommends other consequential amendments throughout the Plan to maintain consistent language. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 42 – Ngati Rahiri Hapū | 832 | Amend | Accept in part |
| | | Submitter supports the activity classification as controlled but seek amendment of Rule 22 to protect reef systems AND that there be iwi/hapū consultation in all cases. | The Hearing Panel notes the concerns of the submitter and recommend amending relevant standards, terms and conditions to clarify that the activity cannot have any adverse effects on significant indigenous biodiversity, which includes reefs. The Hearing Panel notes that Conditions (b), (c) and (ca) would generally restrict the activity from occurring in areas identified as significant under Schedule 4 [Significant indigenous biodiversity], Schedule 4C [Taonga species] and Schedule 5A and B [Historic heritage]. |

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| | | | <p>Nearshore reefs are identified in Policy 14(b) as sites of significant indigenous biodiversity. Nearshore reefs may also be a site of significance to Māori in relation to historic heritage. Of note, virtually the entirely coastal length of the submitter's rohe is identified in the Plan and associated coastal maps as having kai moana values. Through the consenting process, conditions will be imposed to manage adverse effects, including the protection of the reef systems.</p> <p>The Hearing Panel further notes that, as part of this coastal plan review process, and in relation to 'sites of significance' to Māori (many of which relate to inshore reefs), Council has already agreed, subject to conditions, to recognise iwi as an affected party for all resource consent applications. There will be further opportunity to set consultation requirements and expectations as part of the development of any Mana Whakahono a Rohe agreements.</p> |
| 43 – Royal Forest and Bird Protection Society | 833 | <p>Amend</p> <p>Submitter seeks amendment to Rule 22 of the Plan by changing the rule classification to make the erection or placement of network utility structures in the coastal marine area a restricted discretionary activity (rather than a controlled activity).</p> | <p>Decline</p> <p>The Hearing Panel notes that Rule 22 seeks to provide for the placement of important network utilities that might transsect the coastal marine area pursuant to Policy 6 of the Plan and subject to the appropriate management of adverse effects. Through the consenting process, relevant environmental effects on historic heritage, indigenous biodiversity and use and enjoyment of the coast will be appropriately considered and managed having reference to the General Policies of the Plan plus relevant Activity-specific Policies. Other adverse effects within the coastal marine area, e.g. water quality are likely to be less than minor and temporary. Some certainty for these uses is considered appropriate, which would not be the case if the activity was made a discretionary activity (with the ability to decline a resource consent application).</p> |
| Further submissions – Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Oppose in part | <p>The Council has not encountered significant issues with the placement of utility structures in the coastal marine area under the current Plan and therefore do not consider it appropriate or necessary to require the placement of network utility structures to be made a restricted discretionary activity.</p> <p>Notwithstanding the above, the Hearing Panel considers that an additional Restricted Discretionary rule should be included to address the placement or erection of network utility structures in Outstanding Value coastal management areas or where the activity does not meet the standards, terms</p> |

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| | | | or conditions of Rule 22. The Hearing Panel notes that this approach is consistent with other areas of the Plan (Rules 37 and 37A). |
| 43 – Royal Forest and Bird Protection Society | 834 | Amend Submitter seeks the inclusion of a standard, term and condition in Rule 22 of the Plan that requires a 100m set back from Outstanding Value coastal management areas. | No relief necessary No precise details of the rationale for the relief sought has been provided, or indeed what the proposed setback distance would achieve. The Hearing Panel recommends declining the relief sought by the submitter noting that most of the activities covered by this rule require the structure to be buried or are of small scale. Of note, in the event that this activity is of a type or scale that it could have an impact on Outstanding Values, the Rule reserves control over the location of the work. Of note activities occurring within the Outstanding Value coastal management areas will be addressed separately through an additional Restricted Discretionary rule. |
| Further submissions – Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Oppose in part | |
| 43 – Royal Forest and Bird Protection Society | 835 | Amend Submitter seeks the inclusion of the following matters of discretion for the amended Rule 22 of the Plan: <u>(x) effect on indigenous biological diversity</u> <u>(y) effects on natural character and natural features and landscape</u> <u>(z) effects on any areas of Outstanding Value.</u> | Accept in part The Hearing Panel agrees in part to the relief sought by the submitter by amending the following matters of discretion in Rule 22 (plus consequential changes to equivalent rules elsewhere in the Plan) to read: <u>(f) effects on natural character, features and landscapes values</u> <u>(fa) effects on indigenous biodiversity values</u> The Hearing Panel recommends that this amendment also be included in additional Rules, where appropriate, to maintain consistency. The Hearing Panel notes the amendments to term “ecological” better aligns with the wording adopted in the General Policies, which refers to “natural character, features and landscapes” and “indigenous biodiversity”. The Hearing Panel did not believe it necessary to specify in the matters of discretion areas of outstanding values as this is a subset of natural character, features and landscapes (and therefore already provided for). |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| Further submissions – Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Oppose in part | |
| 45 – Powerco | 836 | Support Retain Rule 22 of the Plan as notified. | Accept Support noted. |
| Further submissions – Port Taranaki Ltd (32) | | Support | At the hearing, the submitter presented further on the rule noting that there are inconsistencies with some of the rules referring to cables and lines. The |

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| Further submissions– Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | Hearing Panel recommends for the purposes of certainty and clarity that the Council review and amend plan provisions to consistently refer to “cables and lines” where that is the policy intent. It is the Hearing Panel’s view that this is an inconsequential amendment. |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 837 | <p>Amend</p> <p>Submitter seeks amendment to the Activity Description of Rule 14 of the Plan to read:</p> <p><i>Network utility structure erection or placement where the structure is:</i></p> <p><i>(a) A pipeline that is buried or attached to a bridge, <u>wharf</u> or access structure [...]</i></p> | <p>Accept</p> <p>The submitter notes that oil companies have existing pipelines in the coastal marine area and seek clarity that Rule 22 includes wharfs. This will ensure there is an appropriate pathway for new pipelines that may be required in the coastal marine area.</p> <p>The Hearing Panel notes that the definition of “structure” as defined by the RMA means any “...facility made by people and which is fixed to land”. This would include wharfs.</p> <p>For the purposes of certainty and clarity, the Hearing Panel recommends expanding the activity description of Rule 22 of the Plan to explicitly identify wharfs.</p> <p>In addition, the Hearing Panel notes that if an activity cannot comply with the standards, terms and conditions of Rule 22 or is within an area of Outstanding Value it will be addressed under new Restricted Discretionary Rule 22A.</p> |
| Further submissions – Transpower NZ Ltd (26) | | Oppose | <p>Decline</p> <p>The Hearing Panel notes that Rule 22 seeks to provide for the placement of important network utilities that might transect the coastal marine area pursuant to Policy 6 of the Plan and subject to the appropriate management of adverse effects.</p> <p>Rule 22 requires such activities to obtain a resource consent. However, some certainty for these uses is considered appropriate, which would not be the case if the activity were made a discretionary activity (with the ability to decline a resource consent application).</p> <p>Through the consenting process, relevant environmental effects on historic heritage, indigenous biodiversity and use and enjoyment of the coast will be appropriately managed. Other adverse effects within the coastal marine area, e.g. water quality are likely to be less than minor and temporary. The Council has not encountered significant issues with the placement of utility structures in the coastal marine area under the current Plan and therefore the Hearing</p> |
| 58 – Te Atiawa | 838 | <p>Amend</p> <p>Submitter seeks amendment to Rule 22 of the Plan to change the activity classification to discretionary activity (rather than a controlled activity).</p> | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

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| | | | <p>Panel does not consider it appropriate or necessary to require the placement of network utility structures to be made a discretionary activity.</p> <p>Notwithstanding the above, the Hearing Panel note that if an activity cannot comply with the standards, terms and conditions of Rule 22 or is within an area of Outstanding Value it will be addressed under new Restricted Discretionary Rule 22A.</p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 839 | <p>Amend</p> <p>Submitter seeks amendment to Rule 22 of the Plan to include new and amended standards, terms and conditions to read:</p> <p><i>(a) no erosion or scour results from erection or placement of the structure;</i></p> <p><i>(b) erection or placement of the structure does not have an adverse effect on the values associated with <u>cultural and</u> historic heritage identified in Schedule 5 [<u>Cultural and</u> Historic heritage];</i></p> <p><i>(c) erection or placement of the structure does not have adverse effect on <u>Schedules 1 and 2</u></i></p> <p><i>(d) the activity does not have any adverse effect on any site identified in 5B [<u>Sites of significance to Māori and associated values</u>] and <u>Appendix 2</u>;</i></p> <p><i>(e) does not adversely affect the suitability of the receiving water for customary use</i></p> <p><i>(f) erection or placement of the structure does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [<u>Significant species and ecosystems</u>]; <u>and taonga species protected under Taranaki iwi Deed of Settlement including those identified in Schedule 4C [<u>Taonga species and habitat</u>]</u> and</i></p> <p><i>(g) structure does not adversely affect access to or use of the area surrounding the structure.</i></p> | <p>Accept in part</p> <p>The Hearing Panel notes that Rule 22 seeks to provide for the placement of important network utilities that might transect the coastal marine area pursuant to Policy 6 of the Plan and subject to the appropriate management of adverse effects. Through the consenting process, relevant environmental effects on historic heritage, indigenous biodiversity and use and enjoyment of the coast will be appropriately managed. Other adverse effects within the coastal marine area, e.g. water quality are likely to be less than minor and temporary.</p> <p>The submitter seeks to introduce a number of new and amended standards, terms and conditions to the Rule. Specific comments on the new and amended proposed conditions are as follows:</p> <ul style="list-style-type: none"> Decline the relief sought in relation to Condition (b). The Hearing Panel refers the submitter to previous comments made on expanding the scope of historic heritage. Decline the relief sought in relation to Condition (c). Schedules 1 and 2 capture the whole coastal marine area plus landward parts of the coastal environment identified as having outstanding natural character or being an outstanding natural feature or landscape. The proposed Condition (c) is too wide ranging, unnecessarily restrictive, and uncertain for Plan users. Relief sought in relation to Condition (d) is unnecessary. The submitter proposes to include a new standard (d), however, the reference to sites of significance to Māori located in Schedule 5B has already been included within Condition (b) of the Plan. It is not necessary to repeat this Condition using different wording. Relief sought in relation to Condition (e) is unnecessary. Again such matters are largely already addressed in Condition (b) of the |

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| | | | <p>Plan, which protects customary sites of significance. However, it is noted that any impacts on receiving water quality will be temporary and unlikely to be noticeable in natural prevailing conditions).</p> <ul style="list-style-type: none"> Grant the relief in kind in relation to Condition (f). The Hearing Panel recommends expanding the scope of Rule conditions to include reference to scheduled taonga species (new standard, term and condition (ca)). |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 840 | <p>Amend</p> <p>Submitter seeks amendment the control and notification column of Rule 22 of the Plan to read:</p> <p>(a) location, method, timing and notification of works;</p> <p>(b) design, construction, maintenance and decommissioning of structure;</p> <p>(c) effects on other authorised structures or activities;</p> <p>(d) sediment movement and erosion;</p> <p><u>(e) effects on matters/values identified for protection by mana whenua in the cultural impact assessment;</u></p> <p>(f) effects on water quality <u>and mauri values;</u></p> <p>(g) effects on ecological values;</p> <p>(h) effects on historic, cultural and amenity values;</p> <p>(i) effects on surf breaks;</p> <p>(j) effects of occupation on public access;</p> <p>(k) effects on navigation;</p> <p>(l) effects of noise and light;</p> <p><u>(m) consistent with iwi management plan;</u></p> <p>(n) monitoring <u>(including tangata whenua indicators referred to in the tangata whenua monitoring plan)</u> and information requirements;</p> <p>(o) duration of consent; and</p> <p>(p) review of consent conditions.</p> <p><u>(q) effects on Cultural Zone (referred to in Spatial Plan)</u></p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. The suggested changes seem to be mixing jurisdictional, policy and operational matters and introducing a level of specificity and complexity that are not considered appropriate or necessary for a Plan. Most of the changes sought are a subset of matters that have already been provided for while the submitter has also introduced some new concepts such as a cultural zone and a spatial plan that do not fit within the Proposed Plan framework. There is also 'requirement' to be consistent with iwi management plans, while the submitter is silent on how other planning documents might also fit within this framework.</p> <p>The Hearing Panel notes that this activity is already subject to the General Policies 1 to 21 of which Policies 15 [Historic heritage] and 16 [Relationship of tangata whenua] are particularly relevant. The Hearing Panel further notes that there will be an opportunity to develop an agreed framework and operational detail for implementing the Plan as part of any Mana Whakahono a Rohe agreement with the submitter.</p> <p>In relation to notification requirements, the submitter (and others) have highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time, the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting reference to notification requirements from the</p> |

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| | | <i>Resource consent applications under this Rule will not be publicly notified but may be limited notified.</i> | Plan (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA). |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| NEW Rule 22A – Network utility structure erection or placement | | | |
| 29 – Department of Conservation | 841 | <p>Amend</p> <p>Submitter seeks amendment to Plan to include a new Restricted Discretionary rule that deals with network utility structure erection or placement where the structure is a pipeline that is buried, or a communication or electricity cable that is buried.</p> | <p>Accept in part</p> <p>The Hearing Panel notes that Rule 22 already seeks to provide for the placement of important network utilities that might transect the coastal marine area as a controlled activity. This is consistent with Policy 6 [Regionally important infrastructure] of the Plan but is still subject to the appropriate management of any adverse effects.</p> <p>Through the consenting process, relevant environmental effects on historic heritage, indigenous biodiversity and use and enjoyment of the coast will be appropriately managed. Other adverse effects within the coastal marine area, e.g. water quality are likely to be less than minor and temporary. Some certainty for allowing the placement of network utilities in the coastal marine area is considered appropriate, which would not be the case if the activity was made a restricted discretionary activity (with the ability to decline a resource consent application). Of note, as part of this Coastal Plan review, this Council has adopted a precautionary approach whereby, if uncertain that effects can be adequately identified and addressed as a permitted activity or controlled activity, it has determined that the effects will be considered as a full discretionary activity to ensure issues are fully and comprehensively canvassed.</p> <p>The Council has not encountered significant issues with the placement of utility structures in the coastal marine area under the current Plan and therefore the Hearing Panel does not consider it appropriate or necessary to require the placement of network utility structures to be made a restricted discretionary activity unless the activity is not covered by or cannot comply with the standards terms and conditions of the controlled activity rule.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | Notwithstanding the above, the Hearing Panel recommends an additional Restricted Discretionary rule to address placement or erection of network utility structures in Outstanding Value coastal management areas or where the activity does not meet the standards, terms or conditions of Rule 22. The Hearing Panel note that this approach is consistent with other areas of the Plan (Rules 37 and 37A). |
| 45 – Powerco | 842 | <p>Amend</p> <p>Submitter seeks new or amended rule to provide a permitted activity pathway for new network utility structures attached to existing road bridges in the coastal marine area.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought.</p> <p>The Hearing Panel notes that the majority of bridges that occur within the coastal marine area (and addressed through the Coastal Plan) are within estuaries and may be sensitive to activities of this nature. The Hearing Panel considers that the activity may be uncertain in terms of scale and effects and consider it appropriate to be addressed through the consenting process to ensure that any environmental effects are appropriately managed. The controlled pathway provided under Rule 22 offers the Plan user certainty of being able to undertake the necessary works provided the standards, terms and conditions are met.</p> |
| Rule 23 –Port launching, mooring or berthing | | | |
| 40 – Te Rūnanga o Ngāti Mutunga | 843 | <p>Amend</p> <p>Submitter seeks amendment to Rule 23 of the Plan to make the erection and placement of launching, mooring or berthing structures in the Port a discretionary activity (rather than a controlled activity).</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter.</p> <p>The Hearing Panel notes that Rule 23 seeks to provide for the erection and placement of launching, mooring or berthing structures in the Port as a controlled activity. This is consistent with Policy 6 [Regionally important infrastructure] of the Plan, but is still subject to the appropriate management of adverse effects.</p> <p>The Hearing Panel notes that the Port is already a highly modified environment that provides a national and regionally important function whereby the movement of goods is dependent upon the erection and placement of launching, mooring and berthing structures. This is subject to complying with the standards, terms and conditions addressing the avoidance, remedying or mitigating of adverse effects (of which those relating to historic heritage and indigenous biodiversity are particularly pertinent). The</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | Hearing Panel sees no net environmental benefit to reducing business certainty in the Port by making the activity a discretionary activity. |
| 43 – Royal Forest and Bird Protection Society | 844 | Amend | Decline |
| | | Submitter seeks amendment to Rule 23 of the Plan to make the erection and placement of launching, mooring or berthing structures in the Port a restricted discretionary activity (rather than a controlled activity). | The Hearing Panel recommends declining the relief sought by the submitter. The Hearing Panel notes that Rule 23 seeks to provide for the erection and placement of launching, mooring or berthing structures in the Port as a controlled activity. This is consistent with Policy 6 [Regionally important infrastructure] of the Plan, but is still subject to the appropriate management of adverse effects. |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | The Hearing Panel notes that the Port is already a highly modified environment that provides a national and regionally important function whereby the movement of goods is dependent upon the erection and placement of launching, mooring and berthing structures. This is subject to complying with the standards, terms and conditions addressing the avoidance, remedying or mitigating of adverse effects (of which those relating to historic heritage and indigenous biodiversity are particularly pertinent). The The Hearing Panel sees no net environmental benefit to reducing business certainty in the Port by making the activity a restricted discretionary activity. |
| 58 – Te Atiawa | 845 | Amend | Decline |
| | | Submitter seeks amendment to Rule 23 of the Plan to change the activity classification to discretionary activity (rather than a controlled activity). | The Hearing Panel recommends declining the relief sought by the submitter. The Hearing Panel notes that Rule 23 seeks to provide for the erection and placement of launching, mooring or berthing structures in the Port as a controlled activity. This is consistent with Policy 6 [Regionally important infrastructure] of the Plan, but is still subject to the appropriate management of adverse effects. The Hearing Panel notes that the Port is already a highly modified environment that provides a national and regionally important function whereby the movement of goods is dependent upon the erection and placement of launching, mooring and berthing structures. This is subject to complying with the standards, terms and conditions addressing the avoidance, remedying or mitigating of adverse effects (of which those relating to historic heritage and indigenous biodiversity are particularly pertinent). The Hearing Panel sees no net environmental benefit to reducing business certainty in the Port by making the activity a discretionary activity. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Rule 24 – Whitebait stands | | | |
| 21 – Climate Justice Taranaki | 846 | Support | Accept |
| | | Retain the prohibited activity status for whitebait stands in the coastal marine area. | Support noted. Rule 24 is retained subject to minor inconsequential amendments that do not change the rule's scope. |
| 29 – Department of Conservation | 847 | Support | Accept |
| | | Retain the prohibited activity status for whitebait stands in the coastal marine area. | Support noted. Rule 24 is retained subject to minor inconsequential amendments that do not change the rule's scope. |
| 40 – Te Rūnanga o Ngāti Mutunga | 848 | Support | Accept |
| | | Retain the prohibited activity status for whitebait stands in the coastal marine area. | Support noted. |
| 41 – Te Korowai o Ngāruahine Trust | 849 | Amend | Decline |
| | | Submitter seeks amendment to Rule 24 of the Plan to make whitebait stands in the coastal marine area a discretionary or non-complying activity (rather than a prohibited activity). | The Rule does not exclude run-of-the-river whitebaiting, which is a popular recreational activity at many river mouths across Taranaki. However, the Rule does prohibit the establishment of whitebait structures that may contribute to over harvesting and exploitation of inanga species. The Hearing Panel notes that this Rule is an existing rule in the current Plan. It is a unique regional position adopted by this Council with strong community support to better protect whitebait stocks in this region. This is considered appropriate given the ongoing decline in the abundance of whitebait species in the region due to over harvesting (other necessary interventions relating to the loss of fish habitat are addressed in the Freshwater and Soil Plan). |
| 43 – Royal Forest and Bird Protection Society | 850 | Support | Accept |
| | | Retain the prohibited activity status for whitebait stands in the coastal marine area. | Support noted. Rule 24 is retained as notified. |
| 58 – Te Atiawa | 851 | Support | Accept |
| | | Retain Rule 24 of the Plan as notified. | Support noted. Rule 24 is retained as notified. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Rule 25 – Hard protection structure erection or placement | | | |
| 32 – Port Taranaki | 852 | <p>Amend</p> <p>Submitter seeks amendment to Rule 25 of the Plan to provide for hard protection structures within the Port coastal management area as a controlled activity (rather than a discretionary activity).</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. The Hearing Panel notes that this Rule is an existing rule in the current Plan. Further, in accordance with the <i>New Zealand Coastal Policy Statement</i> and the policies of this Plan (particularly Policy 34), there is an expectation that hard protection structures will be discouraged and the use of alternatives promoted. This expectation is unlikely to be realised as a controlled activity.</p> |
| 43 – Royal Forest and Bird Protection Society | 853 | <p>Amend</p> <p>Submitter seeks amendment to Rule 25 of the Plan by clarifying the purposes to which erosion control applies.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. The Hearing Panel does not believe this level of specificity needs to be provided in the rule. Such matters are more appropriately addressed through the consenting process, whereby the type of activity, its scale, purpose and effects can be considered on a case-by-case basis noting hard protection structures are a discretionary activity.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Ahiawa (58) | | <p>Support</p> | <p>The Hearing Panel further notes that the General Policies 1 to 21, 22, 31, 32, 33, 34, 35, 39, 40, 41, 42, 44, 45, 46, and 49 provide broad and comprehensive guidance and direction on the erection and placements of hard protection structures.</p> |
| 43 – Royal Forest and Bird Protection Society | 854 | <p>Amend</p> <p>Submitter seeks amendment to Rule 25 of the Plan by deleting Outstanding Value, Estuaries Unmodified, Estuaries Modified coastal management areas from the rule (and provide a new non-complying activity rule for the erection or placement of hard protections structures in such areas).</p> | <p>Decline</p> <p>The Hearing Panel notes there are significant urban areas that would be affected by the relief sought by the submitter such as New Plymouth, Waitara, Urenui and Patea. Many coastal settlements rely on hard protection structures to protect them from natural hazard processes.</p> <p>The Hearing Panel notes that this rule is an existing rule in the current Plan. The Hearing Panel recognises that, in accordance with the <i>New Zealand Coastal Policy Statement</i> and the policies of this Plan (particularly Policy 34), there is an expectation that hard protection structures will be discouraged and the use of alternatives promoted. This expectation can be met as a discretionary activity.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 59 KiwiRail | 855 | Support Retain Rule 25 of the Plan as notified. | Accept Support noted. |
| Further submissions – Fonterra (47) | | Support | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 856 | Amend Submitter seeks amendment to Rule 25 of the Plan to include standards, terms and conditions to read: <i>(a) placement of structure and discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</i> <i>(b) discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</i> <i>(c) discharge is consistent with iwi management plan.</i> AND Include the following notification note: <i>Resource consent applications under this Rule will be notified to tangata whenua.</i> | Decline The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary and non-complying activities. The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies. The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 22, 31, 32, 33, 34, 35, 39, 40, 41, 42, 44, 45, 46, and 49 being given effect to. In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and/or any Mana Whakahono a Rohe agreements. In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting any references to notification requirements in the rules (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA). |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Rule 26 – Exploration or appraisal of well drilling in the Open Coast or Port | | | |
| 15 – Surfbreak Protection Society | 857 | Other Submitter seeks that there be no impacts to surf breaks and that key surfing groups and representative groups be part of any limited notification for discharge or disturbance consent applications with the potential to impact on surf breaks or coastal water. | No relief necessary Submitter's comments are noted and have been previously addressed in submission point 448 relating to surfing policies. Policy 19 would be considered as part of any resource consent application under this Rule. The Hearing Panel notes that matters relating to affected and interested party status and limited notification are addressed separately in accordance with the Council's consenting standard operating procedures. |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| 25 - New Zealand Petroleum and Minerals | 858 | Support Retain Rule 26 of the Plan as notified. | Accept Support noted. Rule 26 is retained subject to amendments made to offer relief to other submitters. |
| Further submissions – Trans-Tasman Resources (6), Port Taranaki Ltd (32), Petroleum Exploration and Production Association of New Zealand (37) | | Support | |
| Further submissions – Climate Justice Taranaki Inc (21) | | Oppose | |
| 37 – Petroleum Exploration and Production Association of NZ | 859 | Amend Submitter supports Rule 26 of the Plan but seeks amendment to the Activity Description (b) in Rule 26 to align with Rule 27 to read: <i>Exploration or appraisal well drilling by an offshore installation or drilling by a land based drilling rig, and placement of a well structure in, on, under or over the foreshore or seabed and any associated:</i> [...] <i>(b) temporary exclusive occupation of space in the common marine and coastal area [...]</i> | Accept The Hearing Panel recommends granting the relief sought by the submitter as it further clarifies for plan users the type of occupation of space that occurs under Rule 26 as an associated activity. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions21 – Climate Justice Taranaki Inc (21), Taranaki Energy Watch (51) | | Oppose | |
| 37 – Petroleum Exploration and Production Association of NZ | 860 | <p>Amend</p> <p>Submitter supports Rule 26 but seeks amendment to standard, term and condition (a) to read:</p> <p><i>(a) drilling is not undertaken within 2,000 m of any site where drilling has occurred in the previous five years <u>unless the Applicant can show to the satisfaction of Council that drilling within these parameters would avoid any potential cumulative effects</u> [...]</i></p> | <p>Grant in kind</p> <p>The Hearing Panel recommends granting in kind the relief sought by the submitter.</p> <p>The Hearing Panel notes that the reason for including a buffer distance is to address the cumulative effects of drilling fluids and cuttings being discharged and deposited on the seafloor surrounding the drilling site which may have an adverse effect on benthic communities. The Hearing Panel considers that if drilling cuttings and fluids are removed during the operation that there will be no cumulative effects. The Hearing Panel recommends amending Condition (a) to provide an option for this that read as follows (Hearing Panel note that additional amendments are also proposed in response to other submitters concerns relating to Condition (a)):</p> <p><i><u>(a) the activity does not involve the discharge or deposition of drilling fluids, muds or cuttings:</u></i></p> <p><i>(i) within 2,000 m of any <u>seabed location</u> where drilling has occurred in the previous five years; <u>or</u></i></p> <p><i><u>(ii) from multiple wells originating from a single well head; [...]</u></i></p> <p>The Hearing Panel considers that further direction with regards to the disposal of drilling fluids and cuttings is required and recommends a footnote to read as follows:</p> <p><i><u>Drilling fluids, muds and cuttings must be removed for authorised disposal.</u></i></p> <p>At the hearing, the submitter opposed standards, terms and conditions (d) and (da) relating to significant indigenous biodiversity and taonga species noting that compliance with these conditions would be subjective and therefore is uncertain. The Hearing Panel notes that as part of a precautionary approach these conditions have been considered appropriate and give effect to Policy 11 [Indigenous biological diversity (biodiversity)] of the <i>New Zealand Coastal Policy Statement</i> and other policies of the Plan. The Hearing Panel notes that for certainty, and to assist Plan users, species and habitats identified as significant indigenous biodiversity and taonga species of concern have been</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>included in Schedules 4A, 4B and 4C. The Hearing Panel notes that it is not uncommon for plans to include values based assessments for permitted and controlled activities and that similar conditions are included in the current <i>Coastal Plan for Taranaki</i> and have been successfully implemented and enforced over the life of the Plan.</p> <p>In addition, at the hearing, the submitter sought that an additional rule be included in the Plan to allow exploration and appraisal drilling to occur as a restricted discretionary activity should it not meet the standards, terms and conditions of Rule 26. The Hearing Panel recommends declining this relief and considers that an appropriate activity classification has already been provided as discretionary and non-complying activities under Rules 27 and 28 noting the values and sensitivities of the coastal management areas affected.</p> |
| 40 – Te Rūnanga o Ngāti Mutunga | 861 | <p>Amend</p> <p>Submitter seeks amendment to Rule 26 of the Plan to make exploration or appraisal of well drilling a discretionary activity (rather than controlled activity)</p> <p>AND</p> <p>Amend Conditions (c) and (e) to read:</p> <p>(c) <i>Drilling is not undertaken within <u>in the airspace above any site and to the centre of the earth below</u> any site identified in Schedule 5</i></p> <p>[...]</p> <p>(e) <i>Drilling is undertaken at least 2,000 m <u>6,000 m</u> from the line of mean high water springs [...]</i></p> | <p>Decline</p> <p>The Hearing Panel notes that the seabed drilling in the Open Coast and Port is a permitted activity under the current Plan but is proposed to be a controlled activity for which a resource consent is required. It is important to differentiate between hydrocarbon <u>exploration</u> activities and later <u>production</u> activities as they are totally different activities with totally different associated environmental effects, i.e. due to the increased scale of activities and therefore effects associated with the construction and operation of an offshore petroleum production installation.</p> <p>The drilling associated with seabed exploration is not considered to have more than minor adverse effects, subject to compliance with standards, terms and conditions set out in Rule 26. Through the consenting process, relevant environmental effects will be appropriately managed and, in part reflecting a precautionary approach, specific conditions apply whereby the activity must be 2,000 m or more from the line of the mean high water springs or from any Outstanding Value coastal management area, 1,000 m or more from any sensitive marine benthic habitats, including reef systems, and 2,000 m from any other drilling site.</p> <p>The development of the rules regime and proposed standards, terms and conditions were informed by the report <i>Offshore Petroleum Drilling Review</i> (August 2015). Some certainty for these uses is considered appropriate,</p> |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>which would not be the case if the activity was made a discretionary activity (with the ability to decline a resource consent application).</p> <p>In relation to the amendments to the conditions, those relating to (c) are considered unnecessary. The Hearing Panel also does not recommend extending the buffer distance from 2,000 m to 6,000 m from the line of the mean high water springs. The submitter has not provided any additional information as to why the additional buffer area is required. However, the Hearing Panel notes that Conditions (b), (c) and (d) include additional locational constraints that should address any areas of concern.</p> |
| 41 – Te Korowai o Ngāruahine Trust | 862 | <p>Amend</p> <p>Submitter seeks amendment to Rule 26 of the Plan to make exploration or appraisal of well drilling a discretionary activity (rather than controlled activity) AND</p> <p>Amend Condition (c) to read: <i>(c) Drilling is not drilling is not undertaken within any site identified in Schedule 5A and B Historic heritage; [...].</i></p> | <p>Accept in part</p> <p>The Hearing Panel notes that the seabed drilling in the Open Coast and Port is a permitted activity under the current Plan but is proposed to be a controlled activity for which a resource consent is required. It is important to differentiate between hydrocarbon <u>exploration</u> activities and later <u>production</u> activities as they are different activities with different associated environmental effects, i.e. due to the increased scale of activities and therefore effects associated with the construction and operation of an offshore petroleum production installation.</p> <p>The drilling associated with seabed exploration is not considered to have more than minor adverse effects, subject to compliance with standards, terms and conditions set out in Rule 26. Through the consenting process, relevant environmental effects will be appropriately managed and, in part reflecting a precautionary approach, specific conditions apply whereby the activity must be 2,000 m or more from the line of the mean high water springs or from any Outstanding Value coastal management area, 1,000 m or more from any sensitive marine benthic habitats, including reef systems, and 2,000 m from any other drilling site.</p> <p>The development of the rules regime and proposed standards, terms and conditions were informed by the report <i>Offshore Petroleum Drilling Review</i> (August 2015). Some certainty for these uses is considered appropriate, which would not be the case if the activity was made a discretionary activity (with the ability to decline a resource consent application).</p> <p>In relation to the amendment sought to Condition (c), the Hearing Panel recommends granting the relief sought.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>At the hearing, the submitter sought that consent applications for exploration to also assess the activity for the production phase. The Hearing Panel notes that the seabed drilling in the Open Coast and Port is a permitted activity under the current Plan but is proposed to be a controlled activity for which a resource consent is required. The Panel noted that it is important to differentiate between hydrocarbon exploration activities and later production activities as they are different activities with different associated environmental effects, i.e. due to the increased scale of activities and therefore effects associated with the construction and operation of an offshore petroleum production installation, and it would be unreasonable and inefficient to assess the effects of exploration and production during the exploration phase.</p> <p>The Hearing Panel considers that an assessment of effects of production during exploration phase is potentially unreasonable. First, there is no certainty that production will occur. Second, consenting an activity that might not occur until sometime in the future, may have a perverse outcome in that new information on environmental effects might arise in the interim but the activity has already been authorised.</p> |
| 42 – Ngati Rahiri Hapū | 863 | <p>Amend</p> <p>Submitter seeks amendment to the conditions of Rule 26(c) to read: <i>(c) drilling is undertaken within, <u>over, or under,</u> any site identified in Schedule 5 Historic heritage]; [...]</i> AND That there be iwi/hapū consultation in all cases.</p> | <p>No relief necessary</p> <p>The Hearing Panel recommends declining the relief sought noting that the relief would restrict the consideration of more environmentally acceptable options to avoid or mitigate impacts on historic heritage values such as directional drilling under sites of significance.</p> <p>The Hearing Panel notes that, as part of this Coastal Plan review process, and in relation to 'sites of significance' to Māori, Council has already agreed, subject to conditions, to recognise iwi as an affected party for all resource consent applications. There will be further opportunity to set consultation requirements and expectations as part of the development of Mana Whakahono a Rohe agreements.</p> |
| 43 – Royal Forest and Bird Protection Society | 864 | <p>Amend</p> <p>Submitter seeks amendment to Rule 26 of the Plan by amending the Activity classification to make exploration or appraisal of well drilling a restricted discretionary activity (rather than controlled activity).</p> | <p>Decline</p> <p>The Hearing Panel notes that the seabed drilling in the Open Coast and Port is a permitted activity under the current Plan but is proposed to be a controlled activity for which a resource consent is required. It is important to differentiate</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Department of Conservation (29), Te Korowai o Ngāruahine Trust (41) | | Support | <p>between hydrocarbon <u>exploration</u> activities and later <u>production</u> activities as they are different activities with very different associated environmental effects, i.e. due to the increased scale of activities and therefore effects associated with the construction and operation of an offshore petroleum production installation.</p> <p>The drilling associated with seabed exploration is not considered to have more than minor adverse effects, subject to compliance with standards, terms and conditions set out in Rule 26. Through the consenting process, relevant environmental effects will be appropriately managed and, in part reflecting a precautionary approach, specific conditions apply whereby the activity must be 2,000 m or more from the line of the mean high water springs or from any Outstanding Value coastal management area, 1,000 m or more from any sensitive marine benthic habitats, including reef systems, and 2,000 m from any other drilling site.</p> <p>The development of the rules regime and proposed standards, terms and conditions were informed by the report <i>Offshore Petroleum Drilling Review</i> (August 2015). Some certainty for drilling activities is considered appropriate, which would not be the case if the activity was made a restricted discretionary activity.</p> |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 865 | <p>Amend</p> <p>Submitter seeks amendment to Rule 26 of the Plan by adding matter of discretion to consider effects on indigenous biodiversity and natural character.</p> | <p>Accept</p> <p>The Hearing Panel recommends granting the relief sought by the submitter by amending the following matters of discretion in Rule 26 (plus consequential changes to equivalent rules elsewhere in the Plan) to read:</p> <p><i>(f) effects on <u>natural character, features and landscapes values</u></i> <i>(fa) effects on <u>indigenous biodiversity values</u></i></p> <p>Of note, the suggested amendments that include replacing the term “ecological” better aligns with the wording adopted in the General Policies and references to natural character, features and landscapes and indigenous biodiversity.</p> |
| Further submissions – Department of Conservation (29), Te Korowai o Ngāruahine Trust (41) | | Support | <p>Of note, the suggested amendments that include replacing the term “ecological” better aligns with the wording adopted in the General Policies and references to natural character, features and landscapes and indigenous biodiversity.</p> |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 866 | <p>Amend</p> <p>Submitter seeks amendment to Rule 26 of the Plan by identifying areas of significant biodiversity and excluding these from this rule.</p> | <p>No relief required</p> <p>The Hearing Panel suggests that the relief sought by the submitter has already been provided for.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Department of Conservation (29) | | Support | <p>The Hearing Panel notes that Rule 26 already excludes drilling areas from Outstanding Value, Estuary Unmodified and Estuary Modified coastal management areas. Furthermore Conditions (b) and (d) also apply that require the consideration of indigenous biodiversity matters. The Hearing Panel does not consider it appropriate or necessary to exclude drilling activities from other parts of the Open Coast or the Port regardless of whether the activity is having adverse effects or not.</p> <p>The effects associated with seabed exploration drilling will generally be less than minor, subject to compliance with standards, terms and conditions set out in Rule 26. Through the consenting process, relevant environmental effects will be appropriately managed and, in part reflecting a precautionary approach, specific conditions apply whereby any activity involving the incidental deposition of drilling cuttings and fluids must be 2,000 m or more from the line of the mean high water springs or from any Outstanding Value coastal management area, 1,000 m or more from any sensitive marine benthic habitats, including reef systems, and 2,000 m from any other drilling site where the activity will result in the deposition of drilling fluids and cuttings.</p> <p>The Hearing Panel believes it is important to differentiate between hydrocarbon <u>exploration</u> activities and later <u>production</u> activities as they are totally different activities with totally different associated environmental effects, i.e. due to the increased scale of activities and therefore effects associated with the construction and operation of an offshore petroleum production installation.</p> |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 867 | <p>Amend</p> <p>Submitter seeks amendment to Rule 26 of the Plan by adding a requirement to publicly notify under this rule.</p> | <p>Decline</p> <p>The Hearing Panel does not consider it appropriate to include this level of operational detail in the Plan but notes that in accordance with its standard operating procedures, activities that are identified as a controlled activity are generally not publicly notified.</p> |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| 51 - Taranaki Energy Watch | 868 | <p>Amend</p> <p>Submitter seeks amendment to Rule 26 of the Plan by amending the activity classification to make exploration or appraisal of well drilling so that it is a :</p> <ul style="list-style-type: none"> discretionary activity (rather than controlled activity) | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter (although noting that some matters are already addressed in the Plan).</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <ul style="list-style-type: none"> • non-complying activity in open coast, estuaries modified and port areas • prohibited activity in the coastal managements areas of outstanding value and estuaries unmodified | <p>The Hearing Panel believes that it is important to differentiate between hydrocarbon <u>exploration</u> activities and later <u>production</u> activities as they are totally different activities with totally different associated environmental effects, i.e. due to the increased scale of activities and therefore effects associated with the construction and operation of an offshore petroleum production installation.</p> |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | <p>The effects associated with seabed exploration drilling will generally be less than minor in the Open Coast or Port, subject to compliance with standards, terms and conditions set out in Rule 26. Through the consenting process, relevant environmental effects associated with the drilling will be appropriately managed and specific conditions applied to ensure any adverse effects are appropriately avoided, mitigated or remediated.</p> <p>Drilling activities in the Open Coast or Port that cannot comply with the standards, terms and conditions of Rule 26 are a discretionary activity (under Rule 27). It is also noted that drilling in Estuaries Modified is already addressed in the Plan as a non-complying activity (under Rule 28).</p> <p>The Hearing Panel emphasises that Rule 26 already excludes drilling areas from the Outstanding Value, Estuary Unmodified and Estuary Modified coastal management areas. Non-complying activities require a resource consent and Council cannot grant the consent unless the effects of the activity are minor and the activity is not contrary to the objectives and policies of the Plan. This represents a high level of protection.</p> |
| 51 - Taranaki Energy Watch | 869 | <p>Amend</p> <p>Submitter seeks amendment to Rule 26 of the Plan to identify how many exploration wells can be drilled by a company as part of "exploration and appraisal well drilling". In cases where more than one exploration well is drilled indicate how this will affect the buffer zone area.</p> | <p>Accept</p> <p>The submitter is concerned that multiple wells may be drilled as a controlled activity when advice to the Council from the Cawthron Institute regarding separation distances recommended larger distances than those identified in the Rule standards, terms and conditions.</p> |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | <p>The Hearing Panel recommends amendments to Rule 26 in response to the concerns of the submitter.</p> <p>Prior to the notification of the Proposed Plan, the Council sought advice from the Cawthron Institute on appropriate buffer distances for exploration and appraisal drilling activities. The advice received noted that effects on benthic communities are generally localised and associated with the deposition of drilling material at, or near the drilling site. A 1,000 m buffer distance was recommended by Cawthron for exploration drilling activities involving a single</p> |

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| | | | <p>well, however, a greater distance (possibly greater than 6,000 m) was advised for drilling campaigns where multiple wells were to be drilled.</p> <p>The Hearing Panel considers the current buffer Condition (a) to be appropriate for single well (exploration) drilling operations but considers that the rule should offer direction for multiple wells. The Hearing Panel notes that the environmental effects of concern associated with multiple wells relates to the cumulative effects of drilling cuttings and fluids being discharged and deposited on the seabed. The Hearing Panel considers that, under the controlled activity classification, drilling of this nature should not occur unless the drilling fluids and cuttings are removed during the drilling process prior to being discharged.</p> <p>At the hearing, the submitter also sought amendment to Condition (a) to clarify that the drilling activity does not involve the discharge or deposition of drilling muds. The Hearing Panel agrees and recommends amending Condition (a) to read as follows:</p> <p><i><u>(a) the activity does not involve the discharge or deposition of drilling fluids, muds or cuttings:</u></i></p> <p><i>(i) within 2,000 m of any <u>seabed location</u> where drilling has occurred in the previous five years; <u>or</u></i></p> <p><i><u>(ii) from multiple wells originating from a single well head: [...]</u></i></p> <p>The Hearing Panel also considers that further direction with regards to the disposal of drilling fluids and cuttings is required and recommends a footnote to read as follows:</p> <p><i><u>Drilling fluids, muds and cuttings must be removed for authorised disposal.</u></i></p> |
| 53 - Taranaki Regional Council | 870 | <p>Amend</p> <p>Submitter seeks amendment to Activity Description (b) of Rule 26 of the Plan to read:</p> <p>(b) <u>temporary exclusive</u> occupation of space in the common marine and coastal area; [...]</p> | <p>Accept</p> <p>The Hearing Panel recommends granting the relief sought by the submitter to clarify that occupation of space, associated with the drilling activity, in the common marine and coastal area is not permanent.</p> |
| 58 – Te Atiawa | 871 | <p>Amend</p> <p>Submitter seeks amendment to Rule 26 of the Plan to change the activity classification to discretionary activity (rather than controlled activity).</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | <p>The Hearing Panel notes that the seabed drilling in the Open Coast and Port is a permitted activity under the current Plan but is proposed to be a controlled activity for which a resource consent is required. It is important to differentiate between hydrocarbon exploration activities and later production activities as they are totally different activities with totally different associated environmental effects, i.e. due to the increased scale of activities and therefore effects associated with the construction and operation of an offshore petroleum production installation.</p> <p>The drilling associated with seabed exploration is not considered to have more than minor adverse effects, subject to compliance with standards, terms and conditions set out in Rule 26. Through the consenting process, relevant environmental effects will be appropriately managed and, in part reflecting a precautionary approach, specific conditions apply whereby the activity must be 2,000m or more from the line of the mean high water springs or from any Outstanding Value coastal management area, 1,000 m or more from any sensitive marine benthic habitats, including reef systems, and 2,000 m from any other drilling site.</p> <p>The development of the rules regime and proposed standards, terms and conditions were informed by the report <i>Offshore Petroleum Drilling Review</i> (August 2015). Some certainty for drilling activities is considered appropriate, which would not be the case if the activity was made a discretionary activity.</p> |
| Further submissions 55 – Kiwis Against Seabed Mining (55) | | Support | |
| 58 – Te Atiawa | 872 | <p>Amend</p> <p>Submitter seeks amendment to Rule 26 of the Plan to change the reference to Schedule 5 in the Conditions to Schedules 5A and 5B.</p> | <p>Accept</p> <p>The Hearing Panel recommends granting the relief sought by the submitter.</p> |
| 58 – Te Atiawa | 873 | <p>Amend</p> <p>Submitter seeks amendment to Conditions (c) and (e) of Rule 26 of the Plan to read as follows:</p> <p><i>(c) drilling is not undertaken <u>in the airspace above and in the ground below to the earth's core within any site identified</u> in Schedule 5 [Historic heritage]; and [...]</i></p> <p><i>(e) drilling is undertaken at least 2,000 m <u>6,000m</u> from the line of mean high water springs [...]</i></p> | <p>Decline</p> <p>The Hearing Panel notes that the seabed drilling in the Open Coast and Port is a permitted activity under the current Plan but is proposed to be a controlled activity for which a resource consent is required. It is important to differentiate between hydrocarbon <u>exploration</u> activities and later <u>production</u> activities as they are totally different activities with totally different associated environmental effects, i.e. due to the increased scale of activities and</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | <p>therefore effects associated with the construction and operation of an offshore petroleum production installation.</p> <p>The drilling associated with seabed exploration is not considered to have more than minor adverse effects, subject to compliance with standards, terms and conditions set out in Rule 26. Through the consenting process, relevant environmental effects will be appropriately managed and, in part reflecting a precautionary approach, specific conditions apply whereby the activity must be 2,000m or more from the line of the mean high water springs or from any Outstanding Value coastal management area, 1,000 m or more from any sensitive marine benthic habitats, including reef systems, and 2,000m from any other drilling site.</p> <p>The development of the rules regime and proposed standards, terms and conditions were informed by the report <i>Offshore Petroleum Drilling Review</i> (August 2015). Some certainty for these uses is considered appropriate, which would not be the case if the activity was made a discretionary activity (with the ability to decline a resource consent application).</p> <p>In relation to the amendments to the Conditions, those relating to (c) are considered unnecessary. The Hearing Panel also does not recommend extending the buffer distance from 2,000 m to 6,000 m from the line of the mean high water springs. The submitter has not provided any additional information as to why the additional buffer area is required. However, the Hearing Panel notes that Condition (b), (c) and (d) include additional locational constraints that should address any areas of concern.</p> |
| 60 – Te Kaahui o Rauru | 874 | Amend | Decline |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Submitter seeks amendment to the activity classification of Rule 26 of the Plan by removing the controlled activity classification. | <p>Oppose</p> <p>The Hearing Panel notes that the seabed drilling in the Open Coast and Port is a permitted activity under the current Plan but is proposed to be a controlled activity for which a resource consent is required. It is important to differentiate between hydrocarbon <u>exploration</u> activities and later <u>production</u> activities as they are totally different activities with totally different associated environmental effects, i.e. due to the increased scale of activities and therefore effects associated with the construction and operation of an offshore petroleum production installation.</p> <p>The drilling associated with seabed exploration is not considered to have more than minor adverse effects, subject to compliance with standards, terms and conditions set out in Rule 26. Through the consenting process, relevant</p> |

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| | | | <p>environmental effects will be appropriately managed and, in part reflecting a precautionary approach, specific conditions apply whereby the activity must be 2000 m or more from the line of the mean high water springs or from any Outstanding Value coastal management area, 1,000 m or more from any sensitive marine benthic habitats, including reef systems, and 2,000 m from any other drilling site.</p> <p>The development of the rules regime and proposed standards, terms and conditions were informed by the report <i>Offshore Petroleum Drilling Review</i> (August 2015). Some certainty for drilling activities is considered appropriate, which would not be the case if the activity was made a restricted discretionary, discretionary or non-complying activity.</p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 875 | <p>Amend</p> <p>Submitter seeks amendment to Rule 26 of the Plan by amending the activity classification to make exploration or appraisal of well drilling a discretionary activity (rather than controlled activity)</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter.</p> <p>The Hearing Panel notes that the seabed drilling in the Open Coast and Port is a permitted activity under the current Plan but is proposed to be a controlled activity for which a resource consent is required. It is important to differentiate between hydrocarbon <u>exploration</u> activities and later <u>production</u> activities as they are totally different activities with totally different associated environmental effects, i.e. due to the increased scale of activities and therefore effects associated with the construction and operation of an offshore petroleum production installation.</p> |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| Further submissions – Kiwis Against Seabed Mining (55) | | Support | <p>The drilling associated with seabed exploration is not considered to have more than minor adverse effects, subject to compliance with standards, terms and conditions set out in Rule 26. Through the consenting process, relevant environmental effects will be appropriately managed and, in part reflecting a precautionary approach, specific conditions apply whereby the activity must be 2,000 m or more from the line of the mean high water springs or from any Outstanding Value coastal management area, 1,000 m or more from any sensitive marine benthic habitats, including reef systems, and 2,000 m from any other drilling site.</p> <p>The development of the rules regime and proposed standards, terms and conditions were informed by the report <i>Offshore Petroleum Drilling Review</i> (August 2015). Some certainty for drilling activities is considered appropriate, which would not be the case if the activity was made a discretionary activity.</p> |

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| 61 – Te Rūnanga o Ngāti Ruanui Trust | 876 | <p>Amend</p> <p>Submitter seeks amendment to the standards, terms and conditions of Rule 26 of the Plan to read:</p> <p>(a) drilling is not undertaken within 2,000 m of any site where drilling has occurred in the previous five years; placement of structure and discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</p> <p>(b) drilling is not undertaken directly into or within 1000 m of any sensitive marine benthic habitat identified in Schedule 4B or reef system; discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan;</p> <p>(c) drilling is not undertaken within any site identified in Schedule 5 [Historic heritage]; discharge is consistent with iwi management plan.</p> <p>(d) drilling does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant species and ecosystems];</p> <p>(e) drilling is undertaken at least 2,000 m from the line of mean high water springs or at least 1,000 m from the boundary of coastal management area — Outstanding Value;</p> <p>(f) only water based or synthetic based drilling fluids and muds are used; and</p> <p>(g) activity complies with the general standards in Section 8.6 of this Plan.</p> | <p>Decline</p> <p>The submitter has sought the inclusion of new and amended standards, terms, conditions for Rule 26.</p> <p>The Hearing Panel recommend declining the relief noting that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 22, 28, 29, 30, 31, 32, 36, 37, 38, 39, 40, 41, 42, 44, 47 and 49 being given effect to. Of note the matters of control in the Rule make provision to address many of the matters sought by the submitter such as cultural heritage and monitoring.</p> <p>The Hearing Panel are further opposed to deleting those conditions addressing the type of drill muds and fluids used, general height, lighting and noise standards, and effects on natural character, indigenous biodiversity, historic heritage (including sites of significance to Māori) and amenity values, including cumulative effects of multiple drilling sites in a single locality. The development of the rules regime and proposed standards, terms and conditions were informed by the report <i>Offshore Petroleum Drilling Review</i> (August 2015).</p> <p>Through the consenting process, relevant environmental effects associated with drilling will be appropriately managed by compliance with standards, terms and conditions set out in Rule 26. A number of conditions that the submitter seeks to have deleted reflect a precautionary approach. Granting the relief would derogate from that approach, particularly those conditions requiring the activity to be 2,000 m or more from the line of the mean high water springs or from any Outstanding Value coastal management area, 1,000 m or more from any sensitive marine benthic habitats, including reef systems, and 2,000 m from any other drilling site.</p> |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| Further submissions – Te Atiawa (58) | | Support | |
| | 877 | Amend | Decline |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 61 – Te Rūnanga o Ngāti Ruanui Trust | | <p>Submitter seeks amendment to Rule 26 of the Plan by deleting matters included in the Control/Notification column of the Rule and including the following notification note:</p> <p><u><i>Resource consent applications under this Rule will be notified to tangata whenua.</i></u></p> | <p>In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to “matters of control/discretion” and deleting any references to consenting notification requirements from the rules (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA).</p> <p>The Hearing Panel further notes that, in addition to the requirements of the RMA, notification to iwi can also be addressed through Mana Whakahono a Rohe agreements without the need to be included in the Plan rules.</p> |

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| NEW Rule 26A – Disturbance of seabed by mining | | | |
| 6 – Trans-Tasman Resources Ltd | 878 | <p>Amend</p> <p>Submitter seeks amendment to the Plan by including a new Rule 26A to explicitly address disturbance of the seabed by drilling, which would read as follows:</p> <p><u><i>26A Disturbance of seabed by drilling</i></u></p> <p><u><i>Classification: Permitted activity</i></u></p> <p><u><i>Coastal management areas: Estuaries Unmodified, Estuaries Modified, Open Coast, Port</i></u></p> <p><u><i>Standards, terms and conditions</i></u></p> <p><u><i>(a) Drilling is confined to mud, silt, sand, gravel and other fine sediments;</i></u></p> <p><u><i>(b) drilling does not occur within the Schedule 2 locations or within 200m of the Schedule 2 locations;</i></u></p> <p><u><i>(c) spacing between drilling locations (other than a re-drill or twinning of a hole) is not less than 0.5 km;</i></u></p> <p><u><i>(d) recurrent drilling (other than a re-drill or twinning of a hole) at the same location does not occur more frequently than once every two months;</i></u></p> <p><u><i>(e) the volume of material removed from a drilling location does not exceed 0.3 m³;</i></u></p> <p><u><i>(f) the area of seabed disturbed at a drilling location does not exceed 3 m²;</i></u></p> <p><u><i>(g) drilling does not have an adverse effect on the values associated with historic heritage identified in Schedule 5 [Historic heritage];</i></u></p> <p><u><i>(h) drilling does not have an adverse effect on any threatened or at risk (declining) species, or any rare and uncommon ecosystem type, including those identified in Schedule 4 [Significant indigenous biodiversity] or any reef system; and</i></u></p> <p><u><i>(i) Taranaki Regional Council is informed of the scale, location and timing of the activity at least five working days before work commences by entering details of the of the activity at www.trc.govt.nz/informcouncil.</i></u></p> | <p>Grant in kind</p> <p>The submitter presented additional evidence on the requested Rule 26A at the hearing of submissions. The submitter clarified that the intent of the rule was to provide a pathway for drilling for the taking of core samples for scientific purposes and considers that this activity is minor and routine.</p> <p>The Hearing Panel notes that Rule 52 already addresses minor disturbances of the seafloor for the activity of benthic grab samples. The Hearing Panel considers that the activity described is similar in scale and impact to Rule 52 and recommends amending Rule 52 to broaden the 'gateway' to provide for small-scale drilling for scientific purposes as a permitted activity.</p> <p>The Hearing Panel notes that the drilling activity must comply with all the standards, terms and conditions, which, amongst other things, set specific limits to ensure that the effects will be less than minor. If the activity is unable to comply with the standards, terms and conditions, a resource consent is required. The Hearing Panel recommends the inclusion of a revised controlled activity rule and a new restricted discretionary rule (depending upon coastal management area affected) to allow for drilling in circumstances where the activity cannot meet the permitted activity standards, terms and conditions .</p> <p>The Hearing Panel refers the submitter to Rules 52, 52A and 52B and note that Rule 52A has also been crafted to address geotechnical bore hole drilling amongst others.</p> |

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| Further submissions – Climate Justice Taranaki Inc (21), Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Royal Forest and Bird Protection Society (43), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose in part | |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Neutral | |
| Rules 26, 27 and 28 – Exploration or appraisal of well drilling in the Open Coast or Port | | | |
| 21 – Climate Justice Taranaki | 879 | <p>Amend</p> <p>Submitter seeks that drilling of any petroleum exploration or appraisal well and associated activities in the coastal marine area be a prohibited activity</p> <p>OR</p> <p>If this is not acceptable to Council, seek that the drilling of any petroleum exploration or appraisal well and associated activities in the Open Coast and Port be a discretionary activity (rather than controlled activity) and that consent applications be Publicly Notified (whether the activity is deemed Discretionary or Controlled)</p> <p>OR</p> <p>If Rule 26 retains its controlled activity status, seek that the setback distance of 1,000m from sensitive marine benthic habitat (Schedule 4B), reef system or boundary of Outstanding Value coastal management areas be increased to at least 6,000 m.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter.</p> <p>The Hearing Panel notes that the seabed drilling in the Open Coast and Port is a permitted activity under the current Plan but is proposed to be a controlled activity for which a resource consent is required. It is important to differentiate between hydrocarbon <u>exploration</u> activities and later <u>production</u> activities as they are totally different activities with totally different associated environmental effects, i.e. due to the increased scale of activities and therefore effects associated with the construction and operation of an offshore petroleum production installation.</p> <p>The drilling associated with seabed exploration should not result in more than minor adverse effects, subject to compliance with standards, terms and conditions set out in Rule 26. It is therefore considered inappropriate to make this activity a discretionary activity yet alone a prohibited activity.</p> <p>The submitter states that if the controlled activity status is retained, then they seek extended set back distances (from 1,000 m to 6,000 m) to be made from sensitive marine benthic habitat, reef systems or the boundary of Outstanding Value coastal management areas. No information has been provided to demonstrate why the proposed buffer distances are more appropriate</p> |
| Further submissions – Port Taranaki Ltd (32), Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |

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| | | | compared to those adopted in the Rule and which were based on Cawthron recommendations set out in their advice entitled <i>Petroleum Drilling Activities: Buffer Distances From Outstanding Areas and Substrate Types Requiring Protection</i> . |
| Rules 26 to 30 – Exploration or appraisal well drilling | | | |
| 51 - Taranaki Energy Watch | 880 | <p>Amend</p> <p>Submitter supports the bundling of consents in Rules 26 to 30 of the Plan and that activities that include an onshore and offshore component should be bundled together, however, opposes the use of bundling to make all petroleum activities a controlled activity in the coastal marine area.</p> | <p>Decline</p> <p>The Hearing Panel note the submitter's support in relation to bundling the onshore and offshore components of drilling.</p> <p>In relation to the submitter's opposition to bundling all petroleum activities as a controlled activity in the coastal marine area, the Hearing Panel notes that the rules differentiate between hydrocarbon <u>exploration</u> activities and later <u>production</u> activities. Accordingly not "all" petroleum related activities have been bundled in this Rule. Separate rules apply recognising the different phases of hydrocarbon exploration and production activities and associated environmental effects, i.e. due to the increased scale of activities and therefore effects associated with the construction and operation of an offshore petroleum production installation.</p> <p>In relation to drilling activities, the 'bundled' activities identified in the Activity Description are incidental activities that would typically occur in association with any drilling activity. Their effects are considered and addressed as part of the standards, terms and conditions set out in the Rule.</p> |
| Further submissions – Port Taranaki Ltd (32), Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| 51 - Taranaki Energy Watch | 881 | <p>Amend</p> <p>Submitter seeks amendment to Rules 26-30 of the Plan by:</p> <ul style="list-style-type: none"> • incorporating a precautionary approach in the rules • having regard to the <i>Marine Oil Spill Contingency Plan (MOSCP, 2012)</i>, in particular <i>Appendix 4. Sensitive Site Coastal Info</i> when considering the rules notification and activity status • applying an assessment criteria to discretionary oil and gas activities within the coastal marine area that includes consideration of low probability but significant adverse effects events and buffer zones as appropriate planning tools | <p>Decline</p> <p>The Hearing Panel suggests that Rules 26 to 30 of the Plan do incorporate a precautionary approach, whereby for drilling in the Open Coast or Port (for which the activity and adverse effects are relatively low, subject to compliance with standards, terms and conditions) conditions have been applied that includes buffer distances based on Cawthron advice requiring the activity to be 2,000 m or more from the line of the mean high water springs or from any Outstanding Value coastal management area, 1,000 m or more from any sensitive marine benthic habitats, including reef systems, and 2,000 m from any other drilling site.</p> |

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| | | <ul style="list-style-type: none"> add a requirement to publically notify under these rules. | |
| Further submissions – Climate Justice Taranaki Inc (21), Te Korowai o Ngāruahine Trust (41) | | Support | |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| Further submissions – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Oppose/Oppose in part | <p>Rules 27 to 30 relate to drilling activities not being able to comply with Rule 26 and/or later production activities (which involve an increased scale of activities and therefore effects associated with the construction and operation of an offshore petroleum production installation). These Rules require any drilling or later production activities to be considered as a discretionary activity or a non-complying activity depending upon coastal management area affected. Through the consenting process, relevant environmental effects will be appropriately considered and Policies 1 to 21, 22, 28, 29, 30, 31, 32, 36, 37, 38, 39, 40, 41, 42, 44, 47 and 49, including Policy 3 relating to the adoption of a precautionary approach.</p> <p>The development of the rules regime and proposed standards, terms and conditions were informed by the report <i>Offshore Petroleum Drilling Review</i> (August 2015). It included consideration of the <i>Marine Oil Spill Contingency Plan (2012)</i> when considering the rules notification and activity status. However, through the consenting process this and other relevant strategies, plans and reports will be further considered. Throughout this Plan review process the consideration of low probability but significant adverse effects events have been considered and work commissioned to investigate buffer zones as appropriate planning tools.</p> <p>In relation to public notification, the Hearing Panel notes that such operational matters are not a content requirement of a Plan and are addressed separately in accordance with the Council's consenting standard operating procedures which have been determined from requirements under section 95A to 95G of the RMA.</p> <p>At the hearing, the submitter presented further on the on Rules 26 to 30 requesting that all exploration activities be required to provide an assessment of effects for the activity of production also. The Hearing Panel recommends declining this relief noting that it is unreasonable and inefficient to assess the effects of exploration and production during the exploration phase. First, there is no certainty that production will occur. Second, consenting an activity that might not occur until sometime in the future, may have a perverse outcome in that new information on environmental effects might arise in the interim but the activity has already been authorised.</p> |

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| 55 – Kiwis Against Seabed Mining | 882 | Amend Submitter seeks amendment to the Plan so that Rules 26 to 30 are, at minimum, a discretionary activity classification and that areas with higher natural and cultural values are either non-complying activities or prohibited activity. | No relief necessary/Decline The submitter seeks that all drilling and production activities in the coastal marine area be a discretionary activity, at the very least, and non-complying or prohibited activity within areas with higher natural and cultural values. The Hearing Panel notes that the Rules 27 to 30 already give effect to the relief sought by the submitter (but not in relation to Rule 26). For Rules 27 to 30, the Hearing Panel suggests no relief is necessary as drilling and production activities in the coastal marine area are already a discretionary or non-complying activity depending upon what coastal management area the activity occurs in. As part of that framework, Outstanding Value. Estuaries Unmodified and Estuaries Modified coastal management areas have a higher level of regulatory protection under the Plan. However, drilling activities in the Open Coast or Port coastal management areas, are currently proposed to be a controlled activity (noting it is a permitted activity under the current Plan). This is considered appropriate as drilling associated with seabed exploration should have less than minor adverse effects, subject to compliance with standards, terms and conditions set out in Rule 26. It is important to differentiate between hydrocarbon <u>exploration</u> activities and later <u>production</u> activities as they are totally different activities with totally different associated environmental effects, i.e. due to the increased scale of activities and therefore effects associated with the construction and operation of an offshore petroleum production installation. The Hearing Panel does not believe it appropriate to require this activity to be a discretionary activity. |
| Further submissions – Climate Justice Taranaki Inc (21), Te Korowai o Ngāruahine Trust (41) | | Support | |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Oppose | |
| 56 – Greenpeace | 883 | Amend Submitter seeks amendment to the Plan so that Rules 26 to 30 are, at minimum, a discretionary activity classification. | Decline The submitter seeks that all drilling and production activities in the coastal marine area be a discretionary activity at the very least and non-complying or prohibited activity within areas with higher natural and cultural values. The Hearing Panel notes that the Rules 27 to 30 already give effect to the relief sought by the submitter (but not in relation to Rule 26). For Rules 27 and 30, the Hearing Panel suggests no relief is necessary as drilling and production activities in the coastal marine area are already a |
| Further submissions – Climate Justice Taranaki Inc (21), Te Korowai o Ngāruahine Trust (41) | | Support | |
| Further submissions – Petroleum Exploration and Production | | Oppose | |

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| Association of New Zealand (37), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd 46) | | | <p>discretionary or non-complying activity depending upon what coastal management area the activity occurs in.</p> <p>However, drilling activities in the Open Coast or Port coastal management areas, are currently proposed to be a controlled activity (it is a permitted activity under the current Plan). This is considered appropriate as drilling associated with seabed exploration should have less than minor adverse effects, subject to compliance with standards, terms and conditions set out in Rule 26. It is important to differentiate between hydrocarbon exploration activities and later production activities as they are totally different activities with totally different associated environmental effects, i.e. due to the increased scale of activities and therefore effects associated with the construction and operation of an offshore petroleum production installation. The Hearing Panel does not believe it appropriate to require this activity to be a discretionary activity.</p> |
| Rule 27 – Exploration or appraisal of well drilling in the Open Coast or Port | | | |
| 25 – New Zealand Petroleum and Minerals | 884 | <p>Support</p> <p>Retain Rule 27 of the Plan as notified</p> <p>OR</p> <p>Amend to restricted discretionary and include similar matters of discretion to the matters of control in Rule 26.</p> | <p>Accept</p> <p>Support for retaining Rule 27 noted.</p> |
| Further submissions – Trans-Tasman Resources (6) | | Support | |
| 42 – Ngati Rahiri Hapū | 885 | <p>Other</p> <p>Submitter question why the standards, terms and conditions and the control and notification columns are left blank for this discretionary activity rule.</p> | <p>No relief necessary</p> <p>The submitter question why there are no standards, terms and conditions for rules in the Plan relating to discretionary activities.</p> <p>The Hearing Panel notes that it is not standard planning practice for discretionary activity rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 43 – Royal Forest and Bird Protection Society | 886 | Amend | Decline The Hearing Panel recommends declining the relief sought noting that “ <i>temporary</i> ” requires some context and temporary occupation will depend upon a broad consideration of all relevant policies and would be best determined on a case-by-case basis through the consenting process. |
| | | Submitter suggests that the application of Rule 26 is uncertain as to what duration of occupation is considered temporary under Activity (b). Submitter seeks amendment to the Plan to include a policy or definition of temporary occupation. | |
| | | Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | |
| Further submissions – Taranaki Energy Watch (51) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 887 | Amend | Accept in part The submitter suggests that exploration and appraisal well drilling activities generates noise, vibration and disturbance that has adverse effects on marine mammals. They note that noise, vibration and disturbance can be as or more significant than for production wells and are unclear as to how the Council will ensure that activities will not have adverse effects that extend into Outstanding Value, Estuaries Unmodified and Estuaries Modified management areas. The Hearing Panel recommends amendments to relevant policies in the Plan that address, in part, some of the matters sought by the submitter. |
| | | Submitter seeks other reliefs to the Plan that give effect to policies 11, 13, and 15 of the <i>New Zealand Coastal Policy Statement</i> and so that they provide direction for considering consent applications under this rule. | |
| 58 – Te Atiawa | 888 | Amend | Decline The submitter has sought the inclusion of standards, terms and conditions for a discretionary activity rule. The Hearing Panel notes that it is not standard planning practice for discretionary activity rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies. |
| | | Submitter seeks amendment to Rule 27 of the Plan to include two new standards, terms and conditions to read: <i>(a) drilling is not undertaken in the airspace above and in the ground below to the earth's core within any site identified in Schedule 5 [Historic heritage]; and</i> <i>(b) drilling is undertaken at least 6,000m from the line of mean high water springs.</i> | |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 889 | Amend | Decline The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary and non-complying activities. |
| | | Submitter seeks amendment to Rule 27 of the Plan to include standards, terms and conditions to read: | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p><u><i>(a) exploration or appraisal well drilling does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</i></u></p> <p><u><i>(b) exploration or appraisal well drilling complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</i></u></p> <p><u><i>(c) exploration or appraisal well drilling is consistent with iwi management plan.</i></u></p> <p>AND</p> <p>Include the following notification note:</p> <p><u><i>Resource consent applications under this Rule will be notified to tangata whenua.</i></u></p> | <p>The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> <p>The Hearing Panel note that all the matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 22, 28, 29, 30, 31, 32, 36, 37, 38, 39, 40, 41, 42, 44, 47 and 49 being given effect to.</p> <p>In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and or Mana Whakahono a Rohe agreements.</p> <p>In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting any references to consenting notification requirements from the rules (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA).</p> |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| Rule 28 – Exploration or appraisal of well drilling in coastal management areas: Outstanding Value, Estuaries Unmodified and Estuaries Modified | | | |
| 25 – New Zealand Petroleum and Minerals | 890 | Support | Accept |
| | | Retain Rule 28 of the Plan as notified. | Support noted. |
| Further submissions – Trans-Tasman Resources (6) | | Support | |
| 40 – Te Rūnanga o Ngāti Mutunga | 891 | Support | Accept |
| | | Retain Rule 28 of the Plan as notified. | Support noted. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 43 – Royal Forest and Bird Protection Society | 892 | Amend | Decline |
| | | Submitter seeks amendment to Rule 28 of the Plan to make exploration or appraisal of well drilling in the Outstanding Value, Estuaries Unmodified and Estuaries Modified coastal management areas a prohibited activity (rather than a non-complying activity). | The Hearing Panel does not believe it is appropriate to preclude any consideration of any exploration activities being considered in these areas regardless of any environmental effect considerations. The Hearing Panel notes that a non-complying activity already has a very high level of regulatory protection whereby a resource consent cannot be granted unless the effects of the activity are minor and the activity is not contrary to the objectives and policies of the Plan. Of note, the policies themselves are also very prescriptive. |
| Further submissions – Department of Conservation (29) | | Support | |
| 51 – Taranaki Energy Watch | 893 | Amend | Decline |
| | | Submitter seeks amendment to the Rule 28 of the Plan to make exploration or appraisal of well drilling in the Outstanding Value, Estuaries Unmodified and Estuaries Modified coastal management areas a prohibited activity (rather than a non-complying activity). | The Hearing Panel does not believe it is appropriate to preclude any consideration of any exploration or appraisal of well drilling in the Outstanding Value, Estuaries Unmodified and Estuaries Modified coastal management areas. The Hearing Panel notes that non-complying activity already provides a very high level of regulatory protection whereby a resource consent cannot be granted unless the effects of the activity are minor and the activity is not contrary to the objectives and policies of the Plan. Of note the policies themselves are also very prescriptive. |
| 58 – Te Atiawa | 894 | Support | Accept |
| | | Retain Rule 28 of the Plan as notified. | Support noted. |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 895 | Amend | Decline |
| | | Submitter seeks amendment to Rule 28 of the Plan to include standards, terms and conditions to read: <i><u>(a) exploration or appraisal well drilling does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</u></i> <i><u>(b) exploration or appraisal well drilling complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></i> <i><u>(c) exploration or appraisal well drilling is consistent with iwi management plan.</u></i> AND | The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary and non-complying activities. The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a non-complying activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | Include the following notification note: <i>Resource consent applications under this Rule will be notified to tangata whenua.</i> | The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 22, 28, 29, 30, 31, 32, 36, 37, 38, 39, 40, 41, 42, 44, 47 and 49 being given effect to. |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | In relation to notification requirements proposed by the submitter, the Hearing Panel also notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and/or any Mana Whakahono a Rohe agreements. In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. Hearing Panel note that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting any references to consenting notification requirements from the rules (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA). |
| Rule 29 – Petroleum production installation erection or placement in coastal management areas: Port and Open Coast | | | |
| 25 – New Zealand Petroleum and Minerals | 896 | Support Retain Rule 29 of the Plan as notified. | Accept Support noted. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 40 – Te Rūnanga o Ngāti Mutunga | 897 | Amend Submitter seeks amendment to Rule 29 of the Plan to include the addition of the conditions listed for Rule 26 with the alteration from 2,000m to 6,000m as outlined for that rule. | Decline The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to a discretionary activity. The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity rules to include standards, terms and conditions. |
| Further submissions – Department of Conservation (29) | | Support | The Hearing Panel notes that the rules differentiate between hydrocarbon exploration activities and later production activities. Due to the increased scale of effects associated with the construction and operation of an offshore petroleum production installation it may be that a buffer distance of 6,000 m |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | from the line of the mean high water springs is appropriate. However, the Hearing Panel still believes it is appropriate that locational and other considerations be addressed on a case-by-case basis (noting that Council may decide not to grant a consent if not satisfied that adverse effects can be appropriately avoided, remedied or mitigated) as part of a consenting process. |
| 42 – Ngati Rahiri Hapū | 898 | Other | No relief necessary |
| | | Submitter question why the standards, terms and conditions and the control and notification columns are left blank for this discretionary activity rule. | The Hearing Panel notes that it is not standard planning practice for discretionary activity rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies. |
| 43 – Royal Forest and Bird Protection Society | 899 | Other | No relief necessary |
| | | <p>The submitter notes that the installation and placement for petroleum production and drilling activities generate noise, vibration and disturbance which has an adverse effect on marine species and habitats. The submitter is unclear how the Council will ensure that activities will not have adverse effects that extend into Outstanding Value, Estuaries Unmodified and Estuaries Modified coastal management areas.</p> <p>Submitter seeks amendment to the Plan, as sought, to give effect to policies 11, 13, and 15 of the <i>New Zealand Coastal Policy Statement</i> and so they provide direction for considering consent applications under this rule.</p> | <p>The Hearing Panel notes that amendments have been made to relevant policies in the Plan that address in part some of the matters sought by the submitter in relation to giving effect to Policies 11, 13, and 15 of the <i>New Zealand Coastal Policy Statement</i>.</p> <p>The Hearing Panel notes that all matters identified in Policies 1 to 21, 22, 28, 29, 30, 31, 32, 36, 37, 38, 39, 40, 41, 42, 44, 47 and 49 would be considered and given effect to as part of any resource consent application. The Hearing Panel believes that these policies would provide the necessary direction and guidance to inform Council decision-making (noting that Council may decide not to grant a consent if it is not satisfied that adverse effects can be appropriately avoided, remedied or mitigated).</p> |
| 58 – Te Atiawa | 900 | Amend | Decline |
| | | <p>Submitter seeks amendment to Rule 29 to include two new conditions to read:</p> <p><u>(a) drilling is not undertaken in the airspace above and in the ground below to the earth's core within any site identified in Schedule 5 [Historic heritage]; and;</u></p> <p><u>(b) drilling is undertaken at least 6,000m from the line of mean high water springs.</u></p> | <p>The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to a discretionary activity.</p> <p>The Hearing Panel recommends declining the relief sought noting that it is not standard planning practice for discretionary activity rules to include standards, terms and conditions.</p> <p>The Hearing Panel notes that the rules differentiate between hydrocarbon exploration activities and later production activities. Due to the increased scale of effects associated with the construction and operation of an offshore petroleum production installation it maybe that a buffer distance of 6,000 m</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | from the line of the mean high water springs is appropriate. However, the Hearing Panel still believes it is appropriate that locational and other considerations be addressed on a case-by-case basis (noting that Council may decide not to grant a consent if not satisfied that adverse effects can be appropriately avoided, remedied or mitigated) as part of a consenting process. |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 901 | <p>Amend</p> <p>Submitter seeks amendment to Rule 29 to include standards, terms and conditions to read:</p> <p><i><u>(a) placement of a structure and discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</u></i></p> <p><i><u>(b) placement of a structure and discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></i></p> <p><i><u>(c) placement of a structure and discharge is consistent with iwi management plan.</u></i></p> <p>AND</p> <p>Include the following notification note:</p> <p><i><u>Resource consent applications under this Rule will be notified to tangata whenua.</u></i></p> | <p>Decline</p> <p>The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to Discretionary Activities.</p> <p>The Hearing Panel recommends declining the relief sought noting that it is not standard planning practice for discretionary activity rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> <p>The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 22, 28, 29, 30, 31, 32, 36, 37, 38, 39, 40, 41, 42, 44, 47 and 49 being given effect to.</p> <p>In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and or Mana Whakahono a Rohe agreements.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | <p>Support</p> | <p>In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting references to consenting notification requirements in the rules (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA).</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Rules 29 and 30 – Petroleum production installation erection or placement | | | |
| 21 – Climate Justice Taranaki | 902 | <p>Amend</p> <p>Submitter opposes the drilling of new production wells but would support provisions for the maintenance and occupation of space by existing wells and associated infrastructure. If any new production wells are to be drilled, then prudent buffer distances should apply.</p> <p>Submitter supports provisions for the maintenance and occupation of space by existing wells and associated infrastructure but seek that the setback distance from sensitive marine benthic habitat (Schedule 4B), reef system or boundary of coastal marine area Outstanding Value be at least 6,000 m.</p> | <p>No relief necessary</p> <p>The Hearing Panel believes the issues raised by the submitter are already addressed in Rules 29 and 30.</p> <p>Pursuant to Rules 29 and 30 any new production well would require a resource consent as a discretionary activity or a non-complying activity, depending upon which coastal management area the activity will occur in. Through those rules a resource consent must be obtained, which would involve the consideration of appropriate buffer distances.</p> <p>The Hearing Panel notes that the rules differentiate between hydrocarbon exploration activities and later production activities. Due to the increased scale of effects associated with the construction and operation of an offshore petroleum production installation it maybe that a buffer distance of 6,000 m from the line of the mean high water springs is appropriate. However, the Hearing Panel still believes it is appropriate that locational and other considerations be addressed on a case-by-case basis (noting that Council may decide not to grant a consent if not satisfied that adverse effects can be appropriately avoided, remedied or mitigated) as part of a consenting process.</p> |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| Further submissions – Te Korowai o Ngāruahine (41) | | Support | |
| Rule 30 – Petroleum production installation erection or placement in coastal management areas: Outstanding Value, Estuaries Unmodified and Estuaries Modified | | | |
| 21 – Climate Justice Taranaki | 903 | <p>Amend</p> <p>Amend Rule 30 of the Plan to be a prohibited activity (rather than non-complying).</p> | <p>Decline</p> <p>The Hearing Panel does not believe it is appropriate to preclude any consideration of an activity being considered regardless of the effects.</p> <p>The Hearing Panel notes that non-complying activity is already a very high level of regulatory protection whereby a resource consent cannot be granted unless the effects of the activity are minor and the activity is not contrary to the objectives and policies of the Plan. Of note the policies themselves are very prescriptive.</p> |
| Further submissions – Department of Conservation (29) | | Support | |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| 25 – New Zealand Petroleum and Minerals | 904 | <p>Support</p> <p>Retain Rule 30 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 40 – Te Rūnanga o Ngāti Mutunga | 905 | Support | Accept |
| | | Retain Rule 30 of the Plan as notified. | Support noted. |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Support | |
| 42 – Ngāti Rahiri Hapū | 906 | Other | No relief necessary |
| | | Submitter question why the standards, terms and conditions and the control and notification columns are left blank for this non-complying activity rule. | The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to a non-complying activity. The Hearing Panel notes that it is not standard planning practice for non-complying rules to include standards, terms and conditions. Conditions relating to a non-complying activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies. |
| 43 – Royal Forest and Bird Protection Society | 907 | Amend | Decline |
| | | Submitter seeks amendment to Rule 30 of the Plan to make erection or placement of petroleum production installations in the Outstanding Value, Estuaries Unmodified and Estuaries Modified coastal management areas a prohibited activity (rather than a non-complying activity). | The Hearing Panel does not believe it is appropriate to preclude any consideration of the placement of petroleum production installations in the Outstanding Value, Estuaries Unmodified and Estuaries Modified coastal management areas being considered regardless of the effects. The Hearing Panel notes that non-complying activity is already a very high level of regulatory protection whereby a resource consent cannot be granted unless the effects of the activity are minor and the activity is not contrary to the objectives and policies of the Plan. Of note, the policies themselves are very prescriptive. |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | |
| 51 – Taranaki Energy Watch | 908 | Amend | Decline |
| | | Submitter seeks amendment to Rule 30 of the Plan to make erection or placement of petroleum production installations in the Outstanding Value, Estuaries Unmodified and Estuaries Modified coastal management areas a prohibited activity (rather than a non-complying activity). | The Hearing Panel does not believe it is appropriate to preclude any consideration of an activity being considered regardless of the effects. The Hearing Panel notes that non-complying activity is already a very high level of regulatory protection whereby a resource consent cannot be granted |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | unless the effects of the activity are minor and the activity is not contrary to the objectives and policies of the Plan. Of note the policies themselves are very prescriptive. |
| 58 – Te Atiawa | 909 | Support Retain Rule 30 of the Plan as notified. | Accept Support noted. Rule 30 is retained subject to minor inconsequential amendments to better differentiate between placement, maintenance, alteration and extension activities. |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 910 | Amend Submitter seeks amendment to the standards, terms and conditions of Rule 30 of the Plan to read: <i><u>(a) placement of structure and discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment</u></i> <i><u>(b) placement of structure and discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></i> <i><u>(c) placement of structure and discharge is consistent with iwi management plan</u></i> AND include as a control/notification: <i><u>Resource consent applications under this rule will be notified to tangata whenua.</u></i> | Decline The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to a non-complying activity. The Hearing Panel recommends declining the relief sought noting that it is not standard planning practice for non-complying rules to include standards, terms and conditions. Conditions relating to a non-complying activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies. The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 22, 28, 29, 30, 31, 32, 36, 37, 38, 39, 40, 41, 42, 44, 47 and 49 being given effect to. In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and/or any Mana Whakahono a Rohe agreements. In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting references to consenting notification |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | requirements in the rules (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA). |
| Rule 31– Temporary military training | | | |
| 29 – Department of Conservation | 911 | Amend Submitter seeks amendment to Rule 31 to exclude its application to coastal management areas Estuaries Unmodified. | Decline The Hearing Panel recommends declining the relief sought. The Hearing Panel considers the relief sought to be unnecessary and excessive. The Hearing Panel notes that granting the relief sought would exclude the New Zealand Defence Force from carrying out temporary military training exercises in and around a number of Taranaki coastal settlements (such as New Plymouth, Waitara, Urenui and Patea) as a permitted activity. This is despite the activity being a permitted activity in the current Plan and for which there have been no issues to date. |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support in part | |
| Further submissions – New Zealand Defence Force (33) | | Oppose in part | |
| 33 – New Zealand Defence Force | 912 | Amend Rule 31 is supported by the New Zealand Defence Force but, seek amendments to the conditions of the rule in the following areas: <ul style="list-style-type: none"> (a) is amended to allow temporary military training to occur for a duration of up to 31 day (d) is removed in its entirety <i>[...] written notice is given to the adjacent territorial authority at least five working days prior to the activity commencing; [...]</i> (g) is affected by an amendment to General Standard 8.6.3 [noise] (h) and (j) are retained as notified. | Accept in part The Hearing Panel recommends granting most of the reliefs sought by the submitter. Specific comments on each of their submission points are as follows: <ul style="list-style-type: none"> Accept in part: The submitter noted that most temporary military training can be completed in a 31 day period and sought that this be provided for noting that they have sought a similar duration in other plans around the country. The Hearing Panel recommends increasing the duration period from 21 days (in the notified Plan) to 30 days noting that this is in alignment with that in other plans around the country and in the interests of inter-regional consistency. Accept: The Hearing Panel recommends deleting a Condition (d) and the requirement to notify another jurisdictional authority. Refer to submission point 1157 in relation to the Hearing Panel response on amendments sought to General Standard 8.6.3 [noise]. Accept: The Hearing Panel notes the submitter's support for retaining Conditions (h) and (j). |
| Further submissions – Climate Justice Taranaki Inc (21) | | Oppose | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 41 – Te Korowai o Ngāruahine Trust | 913 | Amend Submitter seeks amendment to Condition (j) of Rule 31 of the Plan to read: <i>(b) activity does not have an adverse effect on the values associated with historic heritage identified in Schedule 5A and B Historic heritage; [...]</i> | Accept The Hearing Panel recommends granting the relief sought by the submitter. |
| Further submissions – New Zealand Defence Force (33) | | Support | |
| 42 – Ngati Rahiri Hapū | 914 | Amend Submitter seeks amendment to Rule 31 of the Plan to make temporary military training a controlled activity (rather than a permitted activity) AND that there be iwi/hapū consultation in all cases. | Decline The Hearing Panel recommends declining the relief sought. The Hearing Panel considers the relief sought to be unnecessary and excessive. The Panel notes temporary military training exercises are already a permitted activity in the current Plan for which there have been no issues identified to date. |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | Notwithstanding the above, the Hearing Panel notes that temporary training activities not able to comply with the standards, terms and conditions of Rule 31 are a controlled activity under Rule 32 or a discretionary or non-complying activity under Rules 33 and 34, depending on the coastal management area involved. The Hearing Panel further notes Guidance note (1) of that rule that states that iwi authorities that have requested to be informed of this activity will be advised by Council. |
| Further submissions – New Zealand Defence Force (33) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 915 | Amend Submitter seeks amendment to Rule 31 of the Plan by deleting the Estuaries Unmodified and Estuaries Modified coastal management areas from the rule. | Decline The Hearing Panel does not recommend granting the relief sought by the submitter noting that temporary military training exercises are already a permitted activity for these areas in the current Plan for which there have been no issues identified to date. |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support in part | The Hearing Panel agrees with the submitter in terms of the importance of estuaries to indigenous species but believes the issue has been adequately addressed in the Plan. Conditions (c) and (k) are particularly relevant. |
| Further submissions – New Zealand Defence Force (33) | | Oppose | Condition (k) means the activity is subject to the activity being of a scale/type/time/location that it does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4 [Significant indigenous biodiversity]. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>Many training activities are of a type or carried out at a time that impacts on indigenous biodiversity should not be an issue. However, through Condition (c), which requires that the Council be notified at least five working days prior to the activity being undertaken, the Council will have the opportunity to consider the proposed activity and confirm that that is the case (noting that Council's GIS and other information systems are a significant repository of biodiversity information).</p> <p>If, in the Council's view the activity is of a type or being carried out at a time that there are likely to be adverse impacts on indigenous biodiversity, a resource consent would be required under Rules 32, 33 or 34.</p> |
| 43 – Royal Forest and Bird Protection Society | 916 | <p>Amend</p> <p>Submitter seeks amendment to Rule 31 of the Plan by adding a standard, term and condition that noise and vibration must only be from normal operation of marine vessels and does not include any seismic testing, explosions, artillery or sonar.</p> | <p>No relief necessary</p> <p>The Hearing Panel does not believe the amendments sought by the submitter are necessary noting that temporary military training exercises can take a number of forms, only some of which might involve noise and explosions. The effect of those activities are likely to differ depending upon where and when it is carried out. To preclude certain type of activities regardless of the likely adverse effect is not considered appropriate and would be unnecessarily restrictive.</p> |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support in part | <p>The Hearing Panel notes that temporary military training exercises are already a permitted activity for these areas in the current Plan for which there have been no issues identified to date. Notwithstanding that, the Hearing Panel notes that the Rule includes a number of new conditions. Conditions (c) and (k) are particularly relevant.</p> |
| Further submissions – New Zealand Defence Force (33) | | Oppose | <p>Condition (k) means the activity is subject to the activity being of a scale/type/time/location that it does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4 [Significant indigenous biodiversity].</p> <p>Many training activities are of a type or carried out at a time that impacts on indigenous biodiversity should not be an issue. However, through Condition (c), which requires that the Council be notified at least five working days prior to the activity being undertaken, Council will have the opportunity to consider the proposed activity and confirm that that is the case (noting that Council's GIS and other information systems are a significant repository of biodiversity information).</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | If, in the Council's view, the activity is of a type or being carried out at a time that there are likely to be adverse impacts on indigenous biodiversity, a resource consent would be required under Rules 32, 33 or 34. |
| 43 – Royal Forest and Bird Protection Society | 917 | Amend Submitter seeks amendment to Rule 31 by adding new standard, term and condition that the activities must not have lighting at night. | Decline The Hearing Panel recommends declining the relief sought noting that Rule 31 needs to be read in conjunction with the General Standards set out in Section 8.6 of the Plan which addresses lighting matters. |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support in part | |
| 57 – Heritage New Zealand | 918 | Amend Submitter seeks amendment to the conditions of Rule 31(j) to read: <i>(j) activity does not have an adverse effect on the value associated with historic heritage identified in Schedule 5 [Historic Heritage]; and <u>structures and activities are not to be placed at any site identified in Schedule 5; and [...]</u></i> | Decline The Hearing Panel recommends declining the relief sought by the submitter. The Hearing Panel notes the broad RMA definition of historic heritage, which includes sites and places of significance to Maori. Through this Plan review process most estuaries and reefs have been identified by iwi as significant historic heritage. Accordingly, the relief sought would unnecessarily preclude temporary military training exercises over large parts of the Taranaki coastline regardless of whether the activity is of a type/scale/time/location that it would have an impact on those values. The Hearing Panel notes that temporary military training exercises are already a permitted activity for these areas in the current Plan for which there have been no issues identified to date. Notwithstanding that, the Hearing Panel notes that the Rule includes a number of new conditions. Conditions (c) and (j) are particularly relevant. Condition (j) means the activity is subject to the activity being of a scale/type/time/location that it does not have an adverse effect on the values associated with historic heritage identified in Schedule 5A and B (41) [Historic heritage]. Many training activities are of a type or carried out at a time that impacts on historic heritage values, e.g. mahinga kai, should not be an issue. However, through Condition (c), which requires that the Council be notified at least five working days prior to the activity being undertaken, Council will have the opportunity to consider the proposed activity and confirm that that is the case. |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support in part | |
| Further submissions – New Zealand Defence Force (33) | | Oppose | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | If, in the Council's view, the activity is of a type or being carried out at a time that there are likely to be adverse impacts on historic heritage, a resource consent would be required under Rules 32, 33 or 34. |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 919 | <p>Amend</p> <p>Submitter seeks amendment to Rule 31 of the Plan to include new or amended standards, terms and conditions to read:</p> <p>[...]</p> <p><i>(j) activity does not have an adverse effect on the values associated with <u>cultural and historic heritage identified in Schedule 5 [Cultural and Historic heritage];</u></i></p> <p><i><u>(k) activity and discharge does not have adverse effect on Schedules 1 and 2;</u></i></p> <p><i><u>(l) activity and discharge does not adversely affect the suitability of the receiving water for customary use;</u></i></p> <p><i><u>(m) the activity does not have any adverse effect on any site identified in 5B [Sites of significance to Māori and associated values] and Appendix 2;</u></i></p> <p><i><u>(n) activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant indigenous biodiversity] and taonga species protected under Taranaki iwi Deed of Settlement including those identified in Schedule 4C [Taonga species and habitat].</u></i></p> | <p>Accept in part</p> <p>The Hearing Panel notes that Rule 31 provides for the temporary military training in the coastal marine area, subject to the appropriate management of adverse effects. Through the standards, terms and conditions of the Rule, relevant environmental effects on historic heritage, indigenous biodiversity and use and enjoyment of the coast will be appropriately managed. Other adverse effects within the coastal marine area, e.g. water quality are likely to be less than minor and temporary. Of note, temporary military training exercises are already a permitted activity for these areas in the current Plan for which there have been no issues identified to date.</p> <p>The submitter seeks to introduce a number of new and amended standards, terms and conditions to the Rule. Specific comments on the new and amended proposed conditions are as follows:</p> <ul style="list-style-type: none"> Decline the relief sought in relation to Condition (j). The Hearing Panel refers the submitter to previous comments made on expanding the scope of historic heritage. Relief sought in relation to Condition (k) is unnecessary and uncertain for Plan users. The Rule is only allowing incidental discharges of sediment that might arise from the training exercises. Other discharges are addressed by other rules. The Hearing Panel further notes that the effect of granting this relief would be to make this rule redundant as it requires no adverse effects (including less than minor) across the whole coastal marine area, noting that Schedules 1 and 2 capture the whole coastal marine area plus landward parts of the coastal environment identified as having outstanding natural character or being an outstanding natural feature or landscape. Relief sought in relation to Condition (l) is unnecessary. Such matters are largely already addressed in Condition (j) of the Plan, which protects customary sites of significance. However, it is noted |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support in part | |
| Further submissions – New Zealand Defence Force (33) | | Oppose in part | |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |

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| | | | <p>that any impacts on receiving water quality will be temporary and unlikely to be noticeable in natural prevailing conditions.</p> <ul style="list-style-type: none"> Relief sought in relation to Condition (m) is unnecessary. The submitter proposes to include a new standard (m), however, the reference to sites of significance to Māori located in Schedule 5B has already been included within Condition (j) of the Rule. It is not necessary to repeat this Condition using different wording. Grant the relief in kind in relation to Condition (n). The Hearing Panel recommends expanding the scope of Rule conditions to include reference to scheduled taonga species. |
| Rules 31 and 32 – Temporary military training | | | |
| 21 – Climate Justice Taranaki | 920 | Amend | Decline |
| | | Submitter opposes Rules 31 and 32 providing for temporary military training. | No precise details of amendments sought to the Plan have been provided. However, the Hearing Panel note that temporary military training exercises are already a permitted activity for these areas in the current Plan for which there have been no issues identified to date. |
| Further submissions – New Zealand Defence Force (33) | | Oppose | |
| Rule 32 – Temporary military training | | | |
| 15 – Surfbreak Protection Society | 921 | Other | No relief necessary |
| | | Submitter seeks that there be no impacts to surf breaks and that key surfing groups and representative groups be part of any limited notification for discharge or disturbance consent applications with the potential to impact on surf breaks or coastal water. | The submitter's comments are noted and have been previously addressed in submission points 448 relating to surfing policies. Policy 19 would be considered as part of any resource consent application under this Rule. The Hearing Panel notes that matters relating to affected and interested party status and limited notification are addressed separately in accordance with the Council's consenting standard operating procedures. |
| Further submissions – New Zealand Defence Force (33) | | Support in part | |
| 29 – Department of Conservation | 922 | Amend | Accept in part |
| | | Submitter seeks amendment to Rule 32 of the Plan by: <ul style="list-style-type: none"> excluding its application to coastal management areas of "Estuaries Unmodified" | The Hearing Panel notes that Rule 32 seeks to provide for the temporary military training in the coastal marine area as a controlled activity, subject to the appropriate management of adverse effects. Through the standards, |

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| | | <ul style="list-style-type: none"> including a condition after (c) that reads occupation is for a period of no more than three consecutive weeks amending the advice note to: [...] refer to Rule 32 33 and 33 34 [...] | <p>terms and conditions of the Rule, relevant environmental effects on historic heritage, indigenous biodiversity and use and enjoyment of the coast will be appropriately managed.</p> |
| Further submissions – Climate Justice Taranaki Inc (21), New Zealand Defence Force (33) | | Support in part | <p>The submitter seeks a number of amendments to the Rule. Specific comments on the new and amended proposed conditions are as follows:</p> <ul style="list-style-type: none"> Decline the relief sought in terms of excluding Estuaries Unmodified. As previously noted, the Hearing Panel considers the relief sought to be unnecessary and excessive. The Hearing Panel notes that granting the relief sought would exclude the New Zealand Defence Force from carrying out temporary military training exercises in and around a number of Taranaki coastal settlements (such as New Plymouth, Waitara, Oakura, Urenui and Patea) as a permitted activity. Decline the relief sought. The Hearing Panel notes that the New Zealand Defence Force has sought changes to the permitted activity rule that would allow temporary activities to occur over 31 days. The Hearing Panel further notes that the Rule's matters of control include consideration of the duration of the consent and do not believe it necessary to confine this rule to a specific duration. Such matters can be appropriately considered on a case-by-case basis as part of the consenting process. Grant the relief sought in relation to the Advice Note. The submitter has highlighted a typographical error in the Advice Note that needs to be corrected. |
| 33 - New Zealand Defence Force | 923 | <p>Support</p> <p>Retain Rule 32 of the Plan as notified.</p> | <p>Accept</p> <p>At the hearing of submissions, the submitter noted that Rule 32 has been amended to include temporary exclusive occupation and the placement of structures as an inconsequential amendment. Although the submitter supports the inclusion, they suggested reframing the rule's 'gateway' for consistency with similar rules elsewhere in the Plan. The Hearing Panel agrees and recommend that Rule 32 be aligned with similar provisions in the Plan.</p> <p>For consistency, the Hearing Panel also recommend similar amendments to Rule 31.</p> |

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| 41 – Te Korowai o Ngāruahine Trust | 924 | Amend | Accept |
| | | Submitter seeks amendment to Condition (b) of Rule 32 to read: <i>(b) activity does not have an adverse effect on the values associated with historic heritage identified in Schedule 5 <u>A and B</u> Historic heritage; [...]</i> | The Hearing Panel recommends granting the relief sought by the submitter. |
| Further submissions – New Zealand Defence Force (33) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 925 | Amend | Decline |
| | | Submitter seeks amendment to Rule 32 of the Plan to make temporary military training under this rule a restricted discretionary activity (rather than a controlled activity). | The Hearing Panel considers the relief sought to be unnecessary and excessive. The Hearing Panel notes that granting the relief sought would impose unnecessary constraints and costs on the New Zealand Defence Force from carrying out temporary military training exercises. This is despite there being an equivalent controlled activity rule in the current Plan and for which there have been no issues to date. |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support in part | |
| Further submissions – New Zealand Defence Force (33) | | Oppose | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 926 | Amend | Accept in part |
| | | Submitter seeks amendment to Rule 32 of the Plan to include new or amended standards, terms and conditions to read: <i>(b) activity does not have an adverse effect on the values associated with <u>cultural and historic heritage identified in Schedule 5 [Cultural and Historic heritage];</u></i> <i>(c) the discharge does not have adverse effect on Schedules 1 and 2;</i> <i>(d) the discharge does not have any adverse effect on any site identified in 5B [Sites of significance to Māori and associated values] and Appendix 2;</i> <i>(e) activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant species and ecosystems]; and taonga species protected under Taranaki iwi Deed of Settlement including those identified in Schedule 4C [Taonga species and habitat]</i> <i>(f) the discharge does not adversely affect the suitability of the receiving area for customary use</i> | The submitter seeks to introduce a number of new and amended standards, terms and conditions to the Rule. Specific comments on the new and amended proposed conditions are as follows: <ul style="list-style-type: none"> Decline the relief sought in relation to Condition (b). The Hearing Panel refers the submitter to previous comments made on expanding the scope of historic heritage. Relief sought in relation to Condition (c) is unnecessary and uncertain for Plan users. The Rule is only allowing incidental discharges of sediment that might arise from the training exercises. Other discharges are addressed by other rules. The Hearing Panel further notes that the effect of granting this relief would be to make this rule redundant as it requires no adverse effects (including less than minor) across the whole coastal marine area, noting that Schedules 1 and 2 capture the whole coastal marine area plus |

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| | | <p><u><i>(g) discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</i></u></p> <p><u><i>(h) discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</i></u></p> <p><u><i>(i) discharge is consistent with iwi management plan.</i></u></p> | <p>landward parts of the coastal environment identified as having outstanding natural character or being an outstanding natural feature or landscape.</p> <ul style="list-style-type: none"> Reliefs sought in relation to Condition (d) and (f) are unnecessary. Such matters are largely already addressed in Condition (b) of the Rule, which protects customary sites of significance. However, it is noted that any impacts on receiving water quality will be temporary and unlikely to be noticeable in natural prevailing conditions. Grant the relief in kind in relation to Condition (e). The Hearing Panel recommends expanding the scope of Rule conditions to include reference to scheduled taonga species Decline the relief sought in relation to Condition (g), (h) and (i) as being uncertain in terms of their application and given the details as to managing effects on water quality and monitoring are already identified in the rule as matters of control. |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support in part | |
| Further submissions – New Zealand Defence Force (33) | | Oppose | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 927 | <p>Amend</p> <p>Submitter seeks amendment to the Control/notification column for Rule 32 of the Plan to read:</p> <p><i>Control is reserved over:</i></p> <p>[...]</p> <p><i>(e) effects on water quality <u>and mauri values;</u></i></p> <p>[...]</p> <p><u><i>(m) effects on Cultural Zone (referred to in Spatial Plan);</i></u></p> <p><u><i>(n) monitoring (including tangata whenua indicators referred to in the tangata whenua monitoring plan) and information requirements;</i></u></p> <p><i>(o) duration of consent; and</i></p> <p><i>(p) review of consent conditions.</i></p> <p><i>Resource consent applications under this Rule will not be publicly notified but may be limited notified <u>be notified to tangata whenua.</u></i></p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought.</p> <p>The suggested changes seem to be mixing jurisdictional, policy and operational matters and introducing a level of specificity that is not considered appropriate or necessary. Most of the changes sought are a subset of matters that have already been provided for while the submitter has also introduced some new concepts such as a cultural zone and a spatial plan that do not fit within the Proposed Plan framework. There is also a 'requirement' to be consistent with iwi management plans, while the submitter is silent on how other planning documents might fit within this framework.</p> <p>The Hearing Panel notes that this activity is already subject to the General Policies 1 to 21 of which Policies 15 [Historic heritage] and 16 [Relationship of tangata whenua] are particularly relevant. The Hearing Panel further notes that there will be an opportunity to develop an agreed framework and operational detail for implementing the Plan as part of any Mana Whakahono a Rohe agreement with the submitter.</p> |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support in part | In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which |

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| Further submissions – New Zealand Defence Force (33) | | Oppose | in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to “ <i>matters of control/discretion</i> ” and deleting any references to consenting notification requirements in the rules (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA). |
| NEW Rule 32A – Temporary military training | | | |
| 29 – Department of Conservation | 928 | Amend Submitter seeks amendment to the Plan to include a new discretionary activity rule that deals with temporary military training activities that do not come within or comply with Rule 31 or Rule 32. | Grant in kind The Hearing Panel recommends amending the Activity Description of Rules 33 and 34 to include temporary military training activities and to also amend the associated activities to ensure that the gateway fully captures the associated activities relating to temporary military training activities. |
| Further submissions – New Zealand Defence Force (33) | | Support | |
| Rule 33 – Other structure erection or placement | | | |
| 6 – Trans-Tasman Resources Ltd | 929 | Support Retain Rule 33 of the Plan as notified. | Accept Support noted. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 26 – Transpower NZ Ltd | 930 | Amend Submitter supports Rule 33 but seek amendment to delete reference to <i>National Environmental Standards for Electricity Transmission Activities</i> : [...]or the Resource Management (National Environmental Standards for Electricity Transmission Activities Regulations 2009 (Appendix 6)) . | Accept The reference to the <i>National Environmental Standards for Electricity Transmission</i> is redundant and does not add further value to the Plan. The Hearing Panel recommends granting the relief sought by the submitter. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 32 – Port Taranaki | 931 | <p>Amend</p> <p>Submitter seeks amendment to Rule 33 of the Plan to provide for hard protection structures within the Port coastal management area not provided for in rules 18-32 to be a controlled activity.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. The Hearing Panel notes that this Rule is an existing rule in the current Plan that provides a consenting pathway to authorise activities not otherwise provided for in the preceding rules. Given it is too difficult to envisage or foresee every form or type of activity that might take place in the coastal marine area, a catch-all rule is considered appropriate. The Hearing Panel does not consider it appropriate in such circumstances to differentiate between the Port and other activities given that, in accordance with the <i>New Zealand Coastal Policy Statement</i> and the policies of this Plan (particularly Policy 34), there is an expectation that hard protection structures will be discouraged and the use of alternatives promoted. This expectation is unlikely to be realised as a controlled activity.</p> |
| 32 – Port Taranaki | 932 | <p>Amend</p> <p>Submitter seeks amendment to Rule 33 of the Plan to provide an exception for Port Taranaki Ltd within the Port coastal management area for flood protection structures (similar or same definition as in the draft New Plymouth District Plan) to be Permitted Activities.</p> | <p>No relief necessary</p> <p>The Hearing Panel does not believe any relief is necessary. The Hearing Panel is unclear what flood protection structure exist within the Port Taranaki coastal management area noting that the rules are confined to the coastal marine area.</p> |
| 43 – Royal Forest and Bird Protection Society | 933 | <p>Amend</p> <p>Submitter seeks amendment to Rule 33 of the Plan to exclude Estuaries Modified coastal management areas from the discretionary activity rule.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter and that Rule 33 continues to apply to the Estuaries Modified coastal management areas.</p> |
| Further submissions – Climate Justice Taranaki Inc (21) | | <p>Support</p> | <p>The Hearing Panel notes there are significant urban areas that would be affected by the relief sought by the submitter such as New Plymouth, Waitara, Oakura, Urenui and Patea. The proposed rules regime recognises that these estuaries have already been modified and already include structures within the coastal marine area that contribute to social, cultural, economic and environmental wellbeing of local communities. However, through the resource consents process the appropriateness of further use and development can be considered having regard to General Policies 1 to 21 and Activity Specific Policies 31, 32, 33, 34, 35, 39 and 49.</p> |

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| 45 – Powerco | 934 | Support Retain Rule 33 of the Plan as notified. | Accept Support noted. Rule 33 is retained subject to minor amendments sought by other submitters to better capture relevant activities. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 935 | Support Retain Rule 33 of the Plan as notified. | Accept Support noted. Rule 33 is retained subject to minor amendments sought by other submitters to better capture relevant activities. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 47 – Fonterra | 936 | Support Retain Rule 33 of the Plan as notified. | Accept Support noted. Rule 33 is retained subject to minor amendments sought by other submitters to better capture relevant activities. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 59 – KiwiRail | 937 | Support Retain Rule 33 of the Plan as notified. | Accept Support noted. Rule 33 is retained subject to minor amendments sought by other submitters to better capture relevant activities. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 938 | Amend Submitter seeks amendment to Rule 33 of the Plan to include standards, terms and conditions to read: <i>(a) placement of structure and discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment</i> <i>(b) placement of structure and discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</i> <i>(c) placement of structure and discharge is consistent with iwi management plan.</i> AND Include the following notification note: | Decline The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to Discretionary Activities. The Hearing Panel declines the relief noting that it is not standard planning practice for discretionary activity rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies. The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with General Policies 1 to 21 and Activity-based Policies 31, 32, 33, 34, 35, 39 and 49 being given effect to. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <u>Resource consent applications under this Rule will be notified to tangata whenua.</u> | In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and/or any Mana Whakahono a Rohe agreements. In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting any references to consenting notification requirements in the rules (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA). |
| Further submissions – Trans-Tasman Resources Ltd (6), Transpower NZ Ltd (26) | Oppose | | |
| Further submissions – Climate Justice Taranaki Inc (21), Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | Support | | |
| Rule 34 – Other structure erection or placement | | | |
| 6 – Trans-Tasman Resources Ltd | 939 | Support Retain Rule 34 of the Plan as notified. | Accept Support noted. Rule 34 is retained subject to minor amendments sought by other submitters to better capture relevant activities. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 26 – Transpower NZ Ltd | 940 | Amend Submitter supports Rule 34, but seeks amendment to delete reference to <i>National Environmental Standards for Electricity Transmission Activities</i> : <u>[...]or the Resource Management (National Environmental Standards for Electricity Transmission Activities Regulations 2009 (Appendix 6)).</u> | Accept The reference to the <i>National Environmental Standards for Electricity Transmission</i> is redundant and does not add further value to the Plan. The Hearing Panel recommends granting the relief sought by the submitter. |
| 30 – First Gas Ltd | 941 | Amend Submitter seeks amendment to Rule 34 of the Plan to make network utility underground pipelines or pipelines attached to existing bridge or access structures in Outstanding Value coastal management area a controlled activity (rather than non-complying). | Grant in kind The Hearing Panel recommends granting an alternative relief to that sought by the submitter that provides a similar outcome to that which has been requested. The Hearing Panel recommends amending the Plan to include a new rule, Rule 22A [Network utility structure erection or placement] to include |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Department of Conservation (29), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | Outstanding Value coastal management areas as a restricted discretionary activity. This amendment is similar to other reliefs provided for network utility structures in Outstanding Value areas (Rules 37 and 37A). |
| Further submissions – Powerco (45) | | Support in part | |
| 30 – First Gas Ltd | 942 | Amend | Decline |
| | | Submitter seeks amendment to the standards, terms and conditions for Rule 34 of the Plan, similar in kind to those of Rule 22. | The Hearing Panel recommends declining the relief sought by the submitter. Refer to submission point 941 above. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 943 | Amend | Decline |
| | | Submitter seeks amendment to Rule 34 of the Plan to include Estuaries Modified coastal management areas in the non-complying activity rule. | The Hearing Panel recommends declining the relief sought. The Hearing Panel notes there are significant urban areas that would be affected by the relief sought by the submitter such as New Plymouth, Waitara, and Patea. The proposed rules regime recognises that these estuaries have already been modified and already include structures within the coastal marine area that contribute to social, cultural, economic and environmental wellbeing of local communities. However, through the resource consents process the appropriateness of further use and development can be considered having regard to General Policies 1 to 21 and Activity-based Policies 31, 32, 33, 34, 35, 39 and 49. |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support | |
| 45 – Powerco | 944 | Support | Accept |
| | | Retain Rule 34 of the Plan as notified. | Support noted. Rule 33 is retained subject to minor amendments sought by other submitters to better capture relevant activities. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 945 | Amend | Decline |
| | | Submitter seeks amendment to Rule 34 of the Plan to include standards, terms and conditions to read: | The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary and non-complying activities. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p><u>(a) placement of structure and discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment</u></p> <p><u>(b) placement of structure and discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></p> <p><u>(c) placement of structure and discharge is consistent with iwi management plan</u></p> <p>AND</p> <p>Include the following notification note:</p> <p><u>Resource consent applications under this Rule will be notified to tangata whenua.</u></p> | <p>The Hearing Panel recommends declining the relief sought noting that it is not standard planning practice for non-complying rules to include standards, terms and conditions. Conditions relating to a non-complying activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> <p>The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 31, 32, 33, 34, 35, 39 and 49 being given effect to.</p> <p>In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and/or any Mana Whakahono a Rohe agreements.</p> <p>In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting any references to consenting notification requirements in the rules (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA).</p> |
| Further submissions – Trans-Tasman Resources Ltd (6), Transpower NZ Ltd (26) | | Oppose | |
| Further submissions – Climate Justice Taranaki Inc (21), Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| NEW Rule 34A – Other structure erection or placement | | | |
| 26 – Transpower NZ Ltd | 946 | <p>Amend</p> <p>Submitter seeks amendment to Plan to include a new discretionary activity rule that provides for Regionally Important Infrastructure (or specific to the National Grid) in coastal management areas: Outstanding Value; Estuaries Unmodified and reads as follows:</p> <p><u>Structure erection or placement associated with Regionally Significant Infrastructure (or the National Grid) and any associated works:</u></p> <p><u>(a) occupation of space in the common marine and coastal area and does not come within or comply with Rules 18 to 32.</u></p> | <p>Accept</p> <p>The Hearing Panel recommends accepting the relief sought by the submitter.</p> <p>The Hearing Panel notes the recommendation that the Plan include a new rule addressing the placement and erection of network utility structures (that do not come within or comply with Rule 22) as a restricted discretionary activity under Rule 22A. The Hearing Panel notes that this approach is consistent with other areas of the Plan where network utilities have been recognised and provided for.</p> |

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| Further submissions – Department of Conservation (29), Royal Forest and Bird Protection Society (43) | | Oppose | The Hearin Panel considers that this is a more appropriate consenting pathway for network utilities, including the National Grid, than relying on other catch-all rules that would have potentially made the activity a non-complying activity in coastal management areas Estuaries Unmodified and Outstanding Value. |
| Further submissions – Powerco (45) | | Support in part | |
| Rule 35 – Maintenance repair of existing lawfully established structures | | | |
| 21 – Climate Justice Taranaki | 947 | <p>Amend</p> <p>Submitter seeks amendment to Rule 35 [Existing lawfully established structure maintenance and repair] of the Plan to make the activity Discretionary (rather than a permitted activity).</p> | <p>Decline</p> <p>The Hearing Panel does not believe it appropriate to require this activity to be a discretionary activity.</p> <p>The Hearing Panel notes that Rule 35 is providing for the ongoing maintenance, repair or minor alterations to already existing lawfully established structures in the coastal marine area. Subject to compliance with the standards, terms and conditions of the Rule, any adverse effects should be less than minor.</p> <p>The erection and placement of new structures are addressed in separate rules. The Hearing Panel notes that granting the relief would have the perverse outcome of making the authorisation for the maintenance of a structure more restrictive than its original placement. Maintenance of structures is important for ensuring the structure continues to be in sound condition. Structures that are not adequately maintained may become unsafe, hazardous or create additional environmental concerns.</p> |
| 26 – Transpower NZ Ltd | 948 | <p>Amend</p> <p>Submitter seeks amendment to Rule 35 of the Plan to delete reference to National Environmental Standards for Electricity Transmission Activities: <i>[...] or the Resource Management (National Environmental Standards for Electricity Transmission Activities Regulations 2009 (Appendix 6)).</i></p> | <p>Accept</p> <p>The reference to the <i>National Environmental Standards for Electricity Transmission</i> is redundant and does not add further value to the Plan. The Hearing Panel recommends granting the relief sought by the submitter.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 29 – Department of Conservation | 949 | <p>Amend</p> <p>Submitter seeks amendment to Rule 35 of the Plan to include new conditions addressing:</p> <ul style="list-style-type: none"> • how the use of vehicles and machinery in the coastal environment will be avoided where possible, and minimised/effects mitigated where necessary (including taking the shortest and least sensitive route) • the requirement for construction equipment including spoil, litter or equipment to be removed within 24 hours of completion of any works • the prohibition of any refuelling or fuel storage occur within the coastal environment and that methods should be employed to avoid any fuel spillage. | <p>Grant in kind</p> <p>At the hearing of submissions the submitter presented alternative wording suggestions requiring any disturbance to be restored to its previous state 48 hours after the activity has been completed. The Hearing Panel consider that this addition strengthens condition (e) by encouraging Plan users to minimise any disturbances and recommend amending the condition to read as follows:</p> <p><i>(e) the extent of disturbance of the foreshore and seabed is limited to the minimum required to undertake the activity and is restored to its previous state 48 hours following the completion of the activity; [...]</i></p> <p>The submitter also requested an additional amendment to avoid storing fuel in the coastal marine area and to minimise the extent of any contaminant entering the coastal marine area. The Hearing Panel notes that no adverse environmental effects occur from storing fuel in the coastal marine area and that adverse effects only occur when fuel is spilled. Condition (d) addresses unacceptable discharges which any spilled fuel would trigger. The relief sought is also problematic in that that fuel storage includes fuel stored inside vehicles, such as boats, and would preclude their use for maintenance and alteration activities. Further, it is noted that the activity description includes discharges of sediment only as an associated activity (the discharges of other contaminants are not provided for under this rule).</p> |
| Further submissions ⁴⁵ – Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Oppose | |
| 32 – Port Taranaki | 950 | <p>Amend</p> <p>Submitter seeks amendment to Rule 35 of the Plan to include the Port coastal management area to this rule.</p> | <p>Grant in kind</p> <p>Of note, the Plan includes a suite of rules specific to Port structures (Rules 39, 40 and 41) which includes permitted activity Rule 39 [Port wharves or breakwaters and attached structures, maintenance, repair or alteration].</p> <p>In pre-hearing engagement, the submitter commented that it is not always evident which Rule applies to specific conditions and that a simpler cascade would assist Plan users and ensure that activities are managed consistently.</p> <p>The Hearing Panel notes that the standards, terms and conditions for Rule 39 are less directive than Rule 35. Rule 39 is also limited in its scope and only allows maintenance, repairs and alterations to the port wharves or breakwaters. Of note there are other structures in the Port coastal management area which may require maintenance and alteration. The Hearing Panel consider that this distinction between different Port structures in the notified Plan was not necessary and that maintenance, alteration and</p> |

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| | | | <p>extension of Port structures generally should be provided for as long as the appropriate standards, terms and conditions are met.</p> <p>The Hearing Panel recommends granting an alternative relief to that sought by the submitter. The Panel recommends including the Port within Rule 35 but also deleting Rule 39 to avoid unnecessary duplication between rules and confusion as to which rule applies to structures within the Port.</p> <p>The Hearing Panel recommends further consequential changes elsewhere in the Plan to simplify the Rules cascade for Port structures. These changes involve combining Rules 40 and 41 (and then deleting the now redundant Rule 41) to provide a similar drafting approach to Rule 35.</p> |
| 32 – Port Taranaki | 951 | <p>Amend</p> <p>Submitter seeks amendment to Rule 35 of the Plan to clarify the rule to enable clear determination of minor alteration as a permitted activity. The submitter seeks that any consequential amendments required to the rules to give effect to this submission point are also recommended by Hearing Panel.</p> | <p>Accept</p> <p>The submitter has concerns whether this rule would allow Port Taranaki Ltd to replace displaced akmons on the breakwaters and other areas within the Port. In pre-hearing engagement the submitter explained that akmons are often moved about during storms and that periodic maintenance of the breakwaters and other areas of the Port is required to ensure that Port infrastructure is safeguarded. The submitter is concerned that Rule 35 as drafted would not allow this activity, despite the inclusion of the Port within the coastal management areas because of the potential for the replaced akmons to be slightly outside the original external dimensions of the structure.</p> <p>In response to the concerns of the submitter (and others) in pre-hearing engagement in relation to the application of the suite of maintenance, alteration and extension rules, the Hearing Panel recommends realigning the rules to more clearly identify the activities encompassed within each rule. Of note, the Hearing Panel has recommended changes to the definition of 'maintenance', 'alteration' and 'extension', as well as redrafting of the rules.</p> <p>The Hearing Panel considers the activity described by the submitter, and other similar activities, to be appropriate for a permitted activity, provided there are size thresholds to ensure that incremental creep does not occur over time through 'maintenance', 'repairs' and 'minor alterations'.</p> <p>The Hearing Panel further recommends amending Rule 35 to allow '<i>minor extensions</i>' that are incidental to a maintenance or alteration activity. This would address the example above, where it may be technically impossible to return the structure to its <u>exact</u> size/dimensions during maintenance. To prevent any perverse outcome or Plan users misusing the permitted activity</p> |

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| | | | <p>rule, the Hearing Panel recommends that Condition (a) include an extension limit of 10% of the original structure size.</p> <p>The amended Condition would read as follows:</p> <p><i>(a) Minor extensions are incidental to maintenance or alteration activities and the structure, including length, width and height, does not increase beyond 5% of the original size;</i></p> |
| 41 – Te Korowai o Ngāruahine Trust | 952 | <p>Amend</p> <p>Submitter seeks amendment to Rule 35 of the Plan to require notification to iwi of any maintenance, repair or minor alteration work of lawfully established structures in the coastal marine area.</p> | <p>Grant in kind</p> <p>The Hearing Panel notes that standard, term and condition (h) requires those undertaking the activity to notify the Council at least 5 working days prior to the commencement of the activity. The Council has worked with iwi regarding permitted activities that require notification to establish a notification system that includes iwi authorities.</p> <p>The Hearing Panel recommends Rule 35 clarify this in an activity note to read as follows:</p> <p><i>Note (2): Iwi authorities that have requested to be informed of this activity will be advised by the Council.</i></p> |
| Further submissions – Transpower NZ Ltd (26) | | <p>Oppose</p> | |
| 43 – Royal Forest and Bird Protection Society | 953 | <p>Amend</p> <p>Submitter seeks amendment to the Activity Description of Rule 35 of the Plan to read:</p> <p><i>Structure maintenance, repair or minor alteration [...]</i></p> | <p>Accept</p> <p>The submitter is generally supportive of the provision allowing structures to be maintained so that they can be retained in good conditions and not cause adverse environmental effects, however, the submitter is confused by the exclusion of “repair” from the definition of maintenance which is commonly considered a component of maintenance. The submitter seeks amendments to the definitions of maintenance (submission point 1213) and minor alteration (submission point 1223) to address these concerns and that the Activity Description of Rule 35 be amended as requested.</p> <p>The Hearing Panel notes that a number of submitters have raised questions around the interpretation/application of the rules relating to maintenance, alterations, extensions. In response, the Panel recommends consequential amendments to better clarify what is meant by maintenance, alteration and extension and differentiate between related activities. The Panel recommends consequential amendments to relevant definitions and Rules 35 to 43.</p> |

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| | | | The Hearing Panel also recommends granting the relief sought by the submitter by amending relevant definitions so that the reader understands that repairs may be an aspect of maintenance activities or alteration activities. |
| 45 – Powerco | 954 | <p>Amend</p> <p>Submitter seeks amendment to Rule 35(a) of the Plan to read: [...]</p> <p><i>(a) size of the structure, including length, width and height, does not increase beyond original size (except for existing communications cables or electricity transmission <u>or distribution</u> lines where these activities do not result in an increase in the design voltage and the new or altered cables or lines are not lower in height above the foreshore or seabed)</i></p> <p>OR</p> <p><i>(a) size of the structure, including length, width and height, does not increase beyond original size (except for existing communications cables or electricity transmission <u>or distribution</u> lines where these activities do not result in an increase in the design voltage <u>above 33kV</u> and the new or altered cables or lines are not lower in height above the foreshore or seabed)</i></p> | <p>Grant in kind</p> <p>The Hearing Panel recommends granting an alternative relief to that sought by the submitter that takes into account other amendments sought by other submitters to Condition (a).</p> <p>The recommended alternative amendment splits the existing condition into two separate conditions to improve readability and reads as follows: <i>(aa) for existing communication cables, electricity transmission <u>or distribution</u> lines the activity <u>does not cause</u> an increase in the design voltage <u>above 33kV</u> and the new or altered cables or lines are not lowered in height above the foreshore or seabed; [...]</i></p> <p>The Hearing Panel notes that the submitter requested additional amendments to Condition (a) to allow more more than a 10% extension increase where a greater increase is required to meet the <i>Australian/New Zealand Standard for Overhead line design</i> (AS/NZS 7000:2016) or the <i>Electricity (Safety) Regulations 2010</i>. The Panel does not consider that this would be appropriate for a permitted activity rule noting that these standards could change over the life of the Plan and allow even more significant extensions in the future. The Panel recommends retaining amendments to Condition (a) as identified above.</p> |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 955 | <p>Amend</p> <p>Submitter seeks amendment to Rule 35 of the Plan to:</p> <ul style="list-style-type: none"> • delete reference in the Activity Description to “minor” • include the Port coastal management area to this rule. | <p>Accept in part</p> <p>The Hearing Panel recommends accepting in part the relief sought by the submitter.</p> <p>The Hearing Panel considers that the reference to “minor” is necessary as it reflects the recommended wording in Policy 36 [Maintenance, minor alteration or minor extension of existing structures]. There is a distinction between those alteration and extension activities that are minor (and can therefore comply with the standards, terms and conditions listed in Rule 35) and those which are considered more significant and will require a resource consent.</p> <p>The Hearing Panel notes that consequential amendments are also recommended to the Plan definitions including amending the existing</p> |

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| | | | <p>definition for “<i>maintenance</i>” and introducing new definitions for “<i>alteration</i>” and “<i>extension</i>”.</p> <p>The Hearing Panel recommends granting the relief sought by the submitter to include the Port within Rule 35, however, recommend deleting Rule 39 as a consequential amendment to ensure that there is no confusion around which rule applies to structures within the Port.</p> <p>Further to simplifying the Rules cascade for Port structures and ensuring consistency within the Plan with regards to the inclusion of the Port within Rule 35, the Hearing Panel recommend that Rule 41 is also deleted and that the provisions that are covered by Rule 41 are incorporated into Rule 40. This will provide a similar drafting approach to Rule 35 and ensures a simpler pathway for Port structures that do not comply with the standards, terms and conditions of Rule 35 as a permitted activity.</p> |
| 47 – Fonterra | 956 | Support | Accept |
| | | Retain Rule 35 of the Plan as notified. | Support noted. The Hearing Panel notes that amendments are recommended for Rule 35 which includes the inclusion of the Port coastal management area, and further clarification of the standards, terms and conditions. |
| 59 – KiwiRail | 957 | Support | Accept |
| | | Retain Rule 35 of the Plan as notified. | Support noted. The Hearing Panel notes that amendments are recommended for Rule 35 which includes the inclusion of the Port coastal management area, and further clarification of the standards, terms and conditions. |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 958 | Amend | Accept in part |
| | | <p>Submitter seeks amendment to the standards, terms and conditions of Rule 35 of the Plan to read:</p> <p>[...]</p> <p><i>(ca) the activity does not have any adverse effect on any site identified in 5B [Sites of significance to Māori and associated values] and Appendix 2;</i></p> <p><i>(cb) the activity does not have adverse effect on Schedules 1 and 2</i></p> <p><i>(c) for structures <u>and culturally significant areas</u> identified in Schedule 5 [Cultural and Historic heritage];</i></p> <p>[...]</p> | <p>The Hearing Panel notes that Rule 35 is providing for the ongoing maintenance, minor alteration or minor extension of already existing lawfully established structures in the coastal marine area. Subject to compliance with the standards, terms and conditions of the Rule, any adverse effects should be less than minor.</p> <p>The erection and placement of new structures are addressed in separate rules. Specific comments on the new and amended proposed conditions are as follows:</p> <ul style="list-style-type: none"> Relief sought in relation to Condition (ca) is unnecessary and uncertain for Plan users. The Rule is only providing for maintenance, repair or minor alterations to structures already |

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| | | <p>(e) the extent of disturbance of the foreshore and seabed is limited to the minimum required to undertake the activity; <u>and does not adversely affect continued customary use within the area;</u></p> <p>[...]</p> <p>(g) activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant species and ecosystems]; <u>and taonga species protected under Taranaki iwi Deed of Settlement including those identified in Schedule 4C [Taonga species and habitat] [...].</u></p> | <p>existing in the coastal marine area. The Hearing Panel notes that impacts on cultural sites of significance are already addressed in Condition (c). The effect of granting this relief regarding Appendix 2 would be to make this rule redundant as it requires no adverse effects (including less than minor) across the entire coastal marine area.</p> <ul style="list-style-type: none"> The Hearing Panel recommends declining the relief sought in relation to Condition (cb). The Panel note that the effect of granting this relief would also make this rule redundant as it again requires no adverse effects (including less than minor) across the whole coastal marine area, noting that Schedules 1 and 2 capture the whole coastal marine area plus landward parts of the coastal environment identified as having outstanding natural character or being an outstanding natural feature or landscape. Decline the relief sought in relation to Condition (c). The Hearing Panel refers the submitter to previous comments made on expanding the scope of historic heritage. Reliefs sought in relation to Condition (e) are unnecessary. Such matters should already be addressed in Condition (c) of the Rule, which protects customary sites of significance. However, it is noted that any impacts on receiving water quality will be temporary and unlikely to be noticeable in natural prevailing conditions. Grant the relief in kind in relation to Condition (g). The Hearing Panel recommends expanding the scope of Rule conditions to include reference to scheduled taonga species. |
| Rule 36 – Hard protection structure repair, alteration, extension or removal and replacement | | | |
| 29 – Department of Conservation | 959 | <p>Support</p> <p>Retain Rule 36 of the Plan as notified.</p> | <p>Decline</p> <p>Support noted. However, the Hearing Panel notes recommendation to delete Rule 36 in order to improve the structure, maintenance, alteration and extension rules pathway. See submission point below for further clarification.</p> |
| Further submissions – Fonterra (47) | | <p>Support</p> | |

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| 32 – Port Taranaki | 960 | <p>Amend</p> <p>Submitter seeks amendment to Rule 36 of the Plan to provide for repair, alteration, extension or removal and replacement of existing lawfully established hard protection structures within the Port coastal management area as a controlled activity (rather than a discretionary activity) and provide a non-notification clause.</p> <p>The submitter seeks that any consequential amendments required to the rules to give effect to this submission point are also recommended by Hearing Panel.</p> | <p>Grant in kind</p> <p>The Hearing Panel notes that there are three aspects to this submission point which will be addressed separately, (1) maintenance, alteration and extension of hard protection structures, (2) removal and replacement of hard protection structures, and (3) notification.</p> <p>(1) In pre-hearing engagement, the submitter noted that the Port is an area that requires hard protection structures to ensure the safety of Port infrastructure as well as the ongoing operation of the Port which is considered regionally important and has a functional need to locate within the coastal marine area. Thus hard protection structures are expected to locate in this area and their maintenance and 'future proofing' should be appropriately provided for within the Plan.</p> <p>The submitter noted that hard protection structures are not always isolated structures and are generally integrated into other Port structures. The current regime would potentially require two consents to be sought (potentially with different activity classifications) for one activity: one to address the hard protection aspect of the structure and another to address the structure itself.</p> <p>The submitter further noted that the rules relating to maintenance, alteration, extension and removal and replacement of structures are confusing and unclear as to exactly which rule would apply for some activities.</p> <p>The Hearing Panel notes that the <i>New Zealand Coastal Policy Statement</i> discourages the use of hard protection structures and encourages the use of alternatives, however, it is the Hearing Panel's view that discouragement should only apply to the initial placement or erection of the structure and does not stretch to the maintenance and alteration of legally established hard protection structures.</p> <p>Providing an appropriate pathway for the maintenance and upgrading to ensure the 'future proofing' of hard protection structures is necessary for good environmental outcomes and personnel safety. Further to this, the Hearing Panel notes that maintenance and minor alteration of hard protection structures has already been provided for generally under Rule 35 as a permitted activity (hard protection structures are not excluded from the rule).</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>For this reason, the Hearing Panel recommends an alternative relief that addresses the submitter's concerns to delete Rule 36 so that it is clear that maintenance, alteration or extension of hard protection structures are initially addressed under Rule 35 (for all structure types and coastal management areas as a permitted activity). If the activity cannot comply with Rule 35 then a higher regulatory process and consent will be required under Rules 37 and 37A (for network utility structures); and Rules 40 and 40A (for all Port structures). Other hard protection structure maintenance, alteration and extension that does not comply with Rule 35 is addressed under Rules 42 (discretionary) and 43 (non-complying) depending on the coastal management area involved.</p> <p>(2) In relation to the removal and replacement aspect of the submitter's concerns, the Hearing Panel notes that there are potentially two pathways within the Plan for this activity. Through Rule 38 [Structure removal and replacement] or through Rules 44, 45 and 46 [Structure removal and demolition] and then the appropriate structure erection or placement rule (Rules 18 to 25).</p> <p>It is vital that the Plan provide a single clear pathway for Plan users. For this reason, the Hearing Panel recommends deleting Rule 38 so that a Plan user will have to consult the appropriate removal rule as well as the appropriate placement or erection rule. This will ensure an appropriate level of regulatory control depending on the activity. Permitted, controlled and discretionary pathways are all possible depending on the activity specifics.</p> <p>(3) Regarding the non-notification clause, the Hearing Panel considers that this level of detail is not necessary to be included within a Plan and is more appropriately set out within the RMA sections 95A to 95G. In order to ensure alignment with the RMA, the Panel recommends an alternative relief that deletes reference to consenting notification requirements in the Plan rules.</p> |
| 43 – Royal Forest and Bird Protection Society | 961 | <p>Amend</p> <p>Submitter seeks amendment to Activity Description of Rule 36 of the Plan to read: <i>Existing lawfully established hard protection structure <u>maintenance repair, minor alteration</u>, extension or removal and replacement [...]</i></p> | <p>Decline</p> <p>The submitter supports the intention to provide for structures to be retained in good repair, however, considers that the definitions for the activity described are uncertain. The submitter requests that the definitions for 'maintenance' and 'minor alteration' be amended as sought in submission points 1213 and 1223.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | The Hearing Panel recommends declining the relief sought by the submitter noting that it is proposed to delete Rule 36. The Panel recommends that existing lawfully established hard protection structures be addressed in the same manner as other lawfully established structures and that the inclusion of a specific rule for hard protection structures is confusing and unnecessary. |
| 59 – KiwiRail | 962 | <p>Amend</p> <p>Submitter seeks amendment to Rule 36 of the Plan to provide for repair of hard protection structures as a permitted activity (rather than a discretionary activity) OR Amend Rule 35 to allow hard protection structures to be maintained, repaired or have minor alterations.</p> | <p>No relief necessary</p> <p>The Hearing Panel notes that Rule 35 already provides for the maintenance of hard protection and other structures as a permitted activity, subject to compliance with the standards, terms and conditions.</p> <p>The Hearing Panel recommends that rules relating to maintenance, alterations, extensions and removal be reframed to more clearly differentiate between the respective activities based upon changes in their external dimensions and environmental effects.</p> <p>In addition to other consequential amendments to definitions, the Hearing Panel recommend that Rule 36 is deleted and that the rules relating to maintenance, alteration and extension of structures need not differentiate hard protection structures as separate from other types of structures.</p> <p>Instead, a simplified cascade is recommended which begins as Permitted (Rule 35) and then identifies network utility structures (37 and 37A) and port structures (40 and 40A) separately. The 'catch-all' provisions (Rules 42 and 43) will address any activities not covered by this framework.</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 963 | <p>Amend</p> <p>Submitter seeks amendment to the standards, terms and conditions of Rule 36 of the Plan to read:</p> <p><i><u>(a) repair, alteration, extension or removal of structure and discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment</u></i></p> <p><i><u>(b) repair, alteration, extension or removal of structure and discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></i></p> <p><i><u>(c) repair, alteration, extension or removal of structure and discharge is consistent with iwi management plan.</u></i></p> <p>AND</p> <p>Include the following notification note:</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter.</p> <p>The Hearing Panel notes its previous recommend to delete Rule 36. The Panel recommends that existing lawfully established hard protection structures be addressed in the same manner as other lawfully established structures and that the inclusion of a specific rule for hard protection structures is confusing and unnecessary.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <u>Resource consent applications under this Rule will be notified to tangata whenua.</u> | |
| Rule 37 – Network utility structure, repair, alteration or extension | | | |
| 15 – Surfbreak Protection Society | 964 | Other | No relief necessary |
| | | Submitter seeks that there be no impacts to surf breaks and that key surfing groups and representative groups be part of any limited notification for discharge or disturbance consent applications with the potential to impact on surf breaks or coastal water. | The submitter's comments are noted and have been previously addressed in submission point 446 relating to surfing policies. Policy 19 would be considered as part of any resource consent application under this Rule. The Hearing Panel notes that matters relating to affected and interested party status and limited notification are addressed separately in accordance with the Council's consenting standard operating procedures which are in accordance with the requirements for notification under sections 95A to 95G of the RMA. |
| 26 – Transpower NZ Ltd | 965 | Amend | Accept |
| | | Submitter seeks amendment to Rule 37 of the Plan to delete reference to National Environmental Standards for Electricity Transmission Activities: <i>[...] or the Resource Management (National Environmental Standards for Electricity Transmission Activities Regulations 2009 (Appendix 6)).</i> | The reference to the <i>National Environmental Standards for Electricity Transmission</i> is redundant and does not add further value to the Plan. The Hearing Panel recommends granting the relief sought by the submitter. |
| 29 – Department of Conservation | 966 | Amend | Accept |
| | | Submitter seeks amendment to Rule 37 of the Plan to include a provision about limiting the size of any extension of the structure. | The Hearing Panel recommends accepting the amendments requested relating to an extension limit. The Hearing Panel has considered other similar conditions in other regional coastal plans and consider a 10% extension limit to be appropriate provided other environmental concerns are addressed. The new standard, term and condition reads as follows: <i>(aa) the structure envelope, including length, width and height does not increase beyond 10% of the original size within a five year period; [...]</i> |
| Further submissions – Climate Justice Taranaki Inc (21), Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Support | |
| Further submissions – Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Oppose | The Hearing Panel also recommends that, for the purposes of consistency, a similar condition be included in Rule 40 (Controlled). |

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| 30 – First Gas Ltd | 967 | <p>Amend</p> <p>Submitter seeks amendment to Rule 37 of the Plan to make network utility pipeline repair, alteration or extension a permitted activity (rather than a non-complying activity)</p> <p>AND</p> <p>Extend the Rule to include Outstanding Value coastal management areas.</p> | <p>Grant in kind</p> <p>In response to submitters, the rules relating to maintenance, alteration and extension of structures have been reframed to more clearly delineate between the respective activities.</p> <p>The Hearing Panel recommends granting the relief in kind by including a new Restricted Discretionary rule addressing network utilities, including those in Outstanding Value areas, not covered by Rule 35 and 37.</p> <p>The Hearing Panel notes that most maintenance and minor alteration activities associated with network utilities can be addressed as a permitted activity under Rule 35. Other alteration and extension activities associated with network utilities can be addressed under Rule 37.</p> <p>The Hearing Panel notes that, for those activities not covered by Rule 35 and 37, would be addressed under a new rule, Rule 37A, whereby alteration and extension of network utilities can be addressed as a restricted discretionary activity. This is part of a framework that better recognises and provides for regionally important network utilities.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| Further submissions – Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support in part | |
| 41 – Te Korowai o Ngāruahine Trust | 968 | <p>Amend</p> <p>Submitter seeks amendment to Condition (c) of Rule 37 of the Plan to read:</p> <p>[...]</p> <p><i>(c) the activity does not have an adverse effect on the values associated with historic heritage identified in Schedule 5A and B [Historic heritage]; [...]</i></p> | <p>Grant in kind</p> <p>The Hearing Panel recommends granting the relief sought by the submitter in kind. The wording as requested by the submitter would have the perverse outcome of allowing an adverse effect on values associated with one of the Schedules and would only trigger non-compliance when values from both Scheduled A AND B occurred.</p> <p>The amended Condition (c) would read as follows:</p> <p>[...]</p> <p><i>(c) the activity does not have an adverse effect on the values associated with historic heritage identified in Schedule 5A or B [Historic heritage]; [...]</i></p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 969 | <p>Amend</p> <p>Submitter seeks amendment to the Activity Description of Rule 37 of the Plan to read:</p> <p><i>Lawfully established hard protection structure maintenance repair, minor alteration, extension or removal and replacement [...]</i></p> | <p>Accept in part</p> <p>The Hearing Panel recommends granting in part the relief sought by the submitter.</p> <p>The Hearing Panel recommends that rules relating to maintenance, alterations, extensions and removal be reframed to more clearly differentiate</p> |

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| Further submissions – Climate Justice Taranaki Inc (21) | | Support | <p>between the respective activities based upon changes in their external dimensions. Consequential changes are proposed to Rule 37 to limit the rule to alteration and extension of network utility structures in the coastal marine area. As part of that recommendation, all references to repair have been deleted. The Panel recognises that both the maintenance and alteration of structures in the coastal marine area may involve repairs.</p> <p>In relation to deleting 'extension' from the activity description, the Hearing Panel recommends declining the request and notes that greater constraints are recommended with the inclusion of a new standard, term and condition (aa). The 10% limit is similar to other limits set on other regional coastal plans around the country.</p> |
| 45 – Powerco | 970 | <p>Amend</p> <p>Submitter seeks amendment to Rule 37 of the Plan to read: <i>Lawfully established network utility structure <u>maintenance</u>, repair, alteration or extension where the structure is:</i></p> <p><i>(a) a pipeline that is buried or attached to a bridge or access structure;</i> <i>[...]</i> <i>(d) a communication or electricity cable that is buried or attached to a bridge or access structure <u>or pole</u>; or</i> <i>[...]</i> <i>(d) discharge of sediment</i> <i>and does not come within or comply with Rule 35 [...]</i></p> | <p>Accept in part</p> <p>The Hearing Panel notes that there are multiple aspects to the submitter's request. Each is addressed in turn below.</p> <ul style="list-style-type: none"> In relation to the inclusion of 'maintenance', the Hearing Panel recommends amending the Rule and note that there may be instances where a maintenance activity may not meet all of the standards, terms and conditions. In these instances, the activity may be addressed as a controlled activity under Rule 37. The Hearing Panel recommends an alternative relief to the amendment sought in relation to amending the Activity Description (d) to read as follows: <i>(d) a communication or electricity cable <u>or line</u>; or [...]</i> Regarding compliance with Rule 35, the Hearing Panel recommends declining the request and note that there may be instances where an activity does not come within the activity description of that Rule. Maintaining the current wording will ensure consistency with the rest of the Plan. <p>The Hearing Panel notes that the submitter requested additional amendments to Condition (a) to allow more more than a 10% extension increase where a greater increase is required to meet the <i>Australian/New Zealand Standard for Overhead line design (AS/NZS 7000:2016)</i> or the <i>Electricity (Safety) Regulations 2010</i>. The Hearing Panel does not consider that this would be appropriate for a permitted activity rule noting that these standards could change over the life of the Plan and allow even more significant extensions in</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support | |

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| | | | the future. The Hearing Panel recommends retaining amendments to Condition (a) as identified above. |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 971 | <p>Amend</p> <p>Submitter seeks amendment to Rule 37 of the Plan to read: <i>Lawfully established network utility structure <u>maintenance</u>, repair, alteration or extension where the structure is:</i> <i>(a) a pipeline that is buried or attached to a bridge, <u>wharf</u> or access structure;</i> <i>[...]</i> <i>(h) discharge of sediment</i> <i>and does not come within or comply with Rule 35</i> <i>excluding activities regulated by the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (Appendix 6).</i></p> | <p>Accept in part</p> <p>The Hearing Panel recommends granting the relief sought in relation to amending the activity description (a) and the inclusion of 'wharf'. Regarding compliance with Rule 35, the Hearing Panel recommends declining the relief sought noting that there may be instances where an activity does not come within the activity description of that Rule. Maintaining the current wording will ensure drafting consistency with the rest of the Plan.</p> |
| 58 – Te Atiawa | 972 | <p>Amend</p> <p>Submitter seeks amendment to Rule 37 of the Plan to recognise Iwi notified as an affected party AND Change reference in the Conditions to Schedule 5 to Schedules 5A and 5B.</p> | <p>Accept in part</p> <p>The Hearing Panel recommends granting the relief sought by the submitter in relation to amending Condition (c) to refer to Schedules 5A or 5B (rather than just Schedule 5). However, in relation to the notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and/or any Mana Whakahoā a Rohe agreements. Notwithstanding the above, the Hearing Panel notes that, as part of this Coastal Plan review process, and in relation to 'sites of significance' to Māori (refer Condition (c)), Council has already agreed to recognise Iwi, subject to conditions, as an affected party for all resource consent applications that affect the values identified in Schedules 5A and B.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 59 – KiwiRail | 973 | <p>Amend</p> <p>Submitter seeks amendment to Rule 37 of the Plan to remove the (a) to (e) Activity Descriptions on the type of network utility structure, OR Include existing railway assets as new (f).</p> | <p>Accept</p> <p>The Hearing Panel believes railway assets in the coastal marine area are likely to be bridges or access structures. The Hearing Panel recommends amending Rule 37 to include bridges, wharves and access structures for network utilities. The Hearing Panel therefore recommends amending the gateway clause (a) to read as follows:</p> |

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| | | | <p>(a) <u>a bridge, wharf or access structure, including any attached pipelines or cables or lines that are buried or attached; [...]</u></p> <p>The Hearing Panel notes that this amendment aligns with equivalent provisions in the operative Freshwater Plan.</p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 974 | <p>Amend</p> <p>Submitter seeks amendment to Rule 37 of the Plan to include new and amended standards, terms and conditions to read:</p> <p>[...]</p> <p><u>(c) activity does not have an adverse effect on the values associated with cultural and historic heritage identified in Schedule 5 [Cultural and Historic heritage];</u></p> <p><u>(ca) the activity does not have adverse effect on Schedules 1 and 2;</u></p> <p><u>(cb) the activity does not have any adverse effect on any site identified in 5B [Sites of significance to Māori and associated values] and Appendix 2;</u></p> <p><u>(d) the structure does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant species and ecosystems]; and taonga species protected under Taranaki iwi Deed of Settlement including those identified in Schedule 4C [Taonga species and habitat]</u></p> <p><u>(e) activity does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</u></p> <p><u>(f) activity complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></p> <p><u>(g) activity is consistent with iwi management plan.</u></p> | <p>Accept in part</p> <p>The Hearing Panel notes that Rule 37 is providing for the ongoing maintenance, repair or minor alterations to already existing lawfully established network utility structures in the coastal marine area. Subject to compliance with the standards, terms and conditions of the Rule, any adverse effects should be less than minor.</p> <p>The erection and placement of new structures are addressed in separate rules. Specific comments on the new and amended proposed conditions are as follows:</p> <ul style="list-style-type: none"> Decline the relief sought in relation to Condition (c). The Hearing Panel refers the submitter to previous comments made on expanding the scope of historic heritage. Decline the relief sought in relation to Condition (ca). The Hearing Panel notes that the effect of granting this relief would also make this rule redundant as it requires no adverse effects (including less than minor) across the whole coastal marine area, noting that Schedules 1 and 2 capture the whole coastal marine area plus landward parts of the coastal environment identified as having outstanding natural character or being an outstanding natural feature or landscape. Decline the relief sought in relation to Condition (cb) as unnecessary and uncertain for Plan users. The Rule is only providing for maintenance, repair or minor alterations to network utility structures already existing in the coastal marine area. Hearing Panel note that impacts on cultural sites of significance are already addressed in Condition (c). The effect of granting this relief would be to make this rule redundant as it requires no adverse effects (including less than minor). |
| Further submissions – Climate Justice Taranaki Inc (21), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <ul style="list-style-type: none"> Grant the relief in kind in relation to Condition (d). The Hearing Panel recommends expanding the scope of Rule conditions to include reference to scheduled taonga species. Reliefs sought in relation to Condition (e) are unnecessary. Such matters should already be addressed in Condition (c) of the Rule, which protects customary sites of significance. However, it is noted that any impacts on receiving water quality will be temporary and unlikely to be noticeable in natural prevailing conditions. Decline the relief sought in relation to Condition (f) and (g) as being uncertain in terms of their application and given the details as to managing effects on water quality and monitoring are already identified in the rule as matters of control. |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 975 | <p>Amend</p> <p>Submitter seeks amendment to the control and notification column for Rule 37 of the Plan to read:</p> <p><i>Control is reserved over:</i></p> <p>[...]</p> <p><i>(e) effects on water quality and mauri values;</i></p> <p><i>(f) effects on ecological values;</i></p> <p><i>(g) effects on historic, cultural and amenity values;</i></p> <p><i>(hi) effects on surf breaks;</i></p> <p><i>(i) effects of occupation on public access;</i></p> <p><i>(j) effects on navigation;</i></p> <p><i>(k) effects of noise and light;</i></p> <p><i>(l) effects on Cultural Zone (referred to in Spatial Plan);</i></p> <p><i>(m) monitoring (including tangata whenua indicators referred to in the tangata whenua monitoring plan) and information requirements;</i></p> <p><i>(n) duration of consent; and</i></p> <p><i>(o) review of consent conditions.</i></p> <p><i>Resource consent applications under this Rule will not be publicly notified but may be limited notified be notified to tangata whenua.</i></p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter.</p> <p>The suggested changes seem to be mixing jurisdictional, policy and operational matters and introducing a level of specificity that is not considered appropriate or necessary for a regional plan. Most of the changes sought are a subset of matters that have already been provided for while the submitter has also introduced some new concepts such as a cultural zone and a spatial plan that do not fit within the Proposed Plan framework. There is also a 'requirement' to be consistent with iwi management plans, while the submitter is silent on how other planning documents, by other parties, might fit within this framework.</p> <p>The Hearing Panel notes that this activity is already subject to the General Policies 1 to 21 of which Policies 15 [Historic heritage] and 16 [Relationship of tangata whenua] are particularly relevant. The Hearing Panel further notes that there will be an opportunity to develop an agreed framework and operational detail for implementing the Plan as part of any Mana Whakahohe a Rohe agreement with the submitter.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Climate Justice Taranaki Inc (21) | | Support | |
| Rule 38 – Existing lawfully established structure removal and replacement | | | |
| 12 – Chorus New Zealand Limited | 976 | <p>Amend</p> <p>Submitter seeks amendment to the standards, terms and conditions of Rule 38 [Existing lawfully established structure removal and replacement] of the Plan to read:</p> <p>[...]</p> <p><i>(f) the replacement structure is built in the same <u>or similar location</u> as the original structure;</i></p> <p><i>(g) the existing structure is removed completely with no waste being placed into the coastal marine area, <u>unless the removal of the structure is considered by a Suitably Experienced and Qualified Coastal Professional, in collaboration with the Regional Council, to have greater adverse effects on the environment than leaving it in place;</u></i></p> <p>OR</p> <p>the standards, terms and conditions are amended to read:</p> <p><i>(f) the replacement structure, <u>except for submarine cables or lines</u>, is built in the same location as the original structure. <u>A replacement submarine cable or line must be laid or suspended within a horizontal distance of no more than three times the depth of water from the cable or line which is being replaced;</u></i></p> <p><i>(g) the existing structure is removed completely with no waste being placed into the coastal marine area, <u>unless the removal of the structure is considered by an independent suitably qualified and experienced coastal practitioner, to have greater adverse effects on the environment than leaving it in place. The reasoning for this must be provided to Taranaki Regional Council; [...]</u></i></p> | <p>Decline</p> <p>In response to other submitters, the Hearing Panel considers that Rule 38 is unnecessary as it addresses matters already covered through a different rule pathway. The Hearing Panel recommends deleting Rule 38 to avoid confusion for Plan users and instead rely on Rules 44, 45 and 46 for the removal aspect of the structure, and Rules 18 to 34 for the 'replacement' aspects of the structure.</p> |
| Further submissions – Powerco (45) | | Support in part | |
| 13 – Spark New Zealand Trading Limited | 977 | <p>Amend</p> <p>Submitter seeks amendment to the standards, terms and conditions of Rule 38 [Existing lawfully established structure removal and replacement] of the Plan to read:</p> | <p>Decline</p> <p>In response to other submitters, the Hearing Panel considers that Rule 38 is unnecessary as it addresses matters already covered through a different Rule pathway. The Hearing Panel recommends deleting Rule 38 to avoid confusion</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p>[...]</p> <p>(f) the replacement structure is built in the same <u>or similar location</u> as the original structure;</p> <p>(g) The existing structure is removed completely with no waste being placed into the coastal marine area, <u>unless the removal of the structure is considered by a Suitably Experienced and Qualified Coastal Professional, in collaboration with the Regional Council, to have greater adverse effects on the environment than leaving it in place;</u></p> <p>OR</p> <p>the standards, terms and conditions are amended to read:</p> <p>(f) the replacement structure, <u>except for submarine cables or lines,</u> is built in the same location as the original structure. <u>A replacement submarine cable or line must be laid or suspended within a horizontal distance of no more than three times the depth of water from the cable or line which is being replaced;</u></p> <p>(g) the existing structure is removed completely with no waste being placed into the coastal marine area, <u>unless the removal of the structure is considered by an independent suitably qualified and experienced coastal practitioner, to have greater adverse effects on the environment than leaving it in place. The reasoning for this must be provided to Taranaki Regional Council; [...]</u></p> | <p>for Plan users and instead rely on Rules 44, 45 and 46 for the removal aspect of the structure, and Rules 18 to 34 for the 'replacement' aspects of the structure.</p> |
| Further submissions – Port Taranaki Ltd (32), Powerco (45) | | Support in part | |
| 14 – Vodafone New Zealand Limited | 978 | <p>Amend</p> <p>Submitter seeks amendment to Rule 38 [Existing lawfully established structure removal and replacement] of the Plan to include standards, terms and conditions to read:</p> <p>[...]</p> <p>(f) the replacement structure is built in the same <u>or similar location</u> as the original structure;</p> <p>(g) the existing structure is removed completely with no waste being placed into the coastal marine area, <u>unless the removal of the structure is considered by a Suitably Experienced and Qualified Coastal Professional, in collaboration with the Regional Council, to have greater adverse effects on the environment than leaving it in place;</u></p> | <p>Decline</p> <p>In response to other submitters, the Hearing Panel considers that Rule 38 is unnecessary as it addresses matters already covered through a different Rule pathway. The Hearing Panel recommends deleting Rule 38 to avoid confusion for Plan users and instead rely on Rules 44, 45 and 46 for the removal aspect of the structure, and Rules 18 to 34 for the 'replacement' aspects of the structure.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p>OR</p> <p>the standards, terms and conditions are amended to read:</p> <p>(f) the replacement structure, <u>except for submarine cables or lines, is built in the same location as the original structure. A replacement submarine cable or line must be laid or suspended within a horizontal distance of no more than three times the depth of water from the cable or line which is being replaced;</u></p> <p>(g) the existing structure is removed completely with no waste being placed into the coastal marine area, <u>unless the removal of the structure is considered by an independent suitably qualified and experienced coastal practitioner, to have greater adverse effects on the environment than leaving it in place. The reasoning for this must be provided to Taranaki Regional Council. [...]</u></p> | |
| Further submissions – Powerco (45) | | Support in part | |
| 21 – Climate Justice Taranaki | 979 | <p>Amend</p> <p>Submitter seeks amendment to Rule 38 of the Plan to make the activity a discretionary activity (rather than permitted activity).</p> | <p>Grant in kind</p> <p>The Hearing Panel recommends an alternative relief that will address the concerns of the submitter. The Panel notes that Rule 38 is uncertain as there are multiple rules which may apply for the same activity.</p> <p>The Hearing Panel recommends deleting Rule 38 to offer a more certain pathway for Plan users and a suite of rules to better take into account the differing level of environmental effects that removing and replacing an activity might have. This would mean that the removal of a structure is addressed as a permitted, controlled or discretionary activity under Rules 44, 45 and 46. The 'replacement' of the structure would similarly be addressed as a permitted, controlled, discretionary or non-complying activity under Rules 18 to 34.</p> <p>The Hearing Panel also notes that additional standards, terms and conditions have also been included in the appropriate removal and demolition rules which increases and broadens environmental considerations for Permitted and Controlled Activities.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| 26 – Transpower NZ Ltd | 980 | <p>Amend</p> <p>Submitter seeks amendment to Rule 38 of the Plan to delete reference to National Environmental Standards for Electricity Transmission Activities:</p> | <p>Accept</p> <p>The reference to the <i>National Environmental Standards for Electricity Transmission</i> is redundant and does not add further value to the Plan. The Hearing Panel recommends granting the relief sought by the submitter.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | [...] or the Resource Management (National Environmental Standards for Electricity Transmission Activities Regulations 2009 (Appendix 6)) | |
| 29 – Department of Conservation | 981 | <p>Amend</p> <p>Submitter seeks amendment to Rule 38 of the Plan to include new standards, terms and conditions addressing:</p> <ul style="list-style-type: none"> • how the use of vehicles and machinery in the coastal environment will be avoided where possible, and minimised/effects mitigated where necessary (including taking the shortest and least sensitive route) • the requirement for construction equipment including spoil, litter or equipment to be removed within 24 hours of completion of any works • the prohibition of any refuelling or fuel storage occur within the coastal environment and that methods should be employed to avoid any fuel spillage. | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. Similar type conditions have been considered as part of the Plan review process and were not deemed to be not necessary with the effects of those activities being addressed in the standards, terms and conditions of the Rule. Notwithstanding the above, in response to other submitters' requests, the Hearing Panel considers that Rule 38 is unnecessary as it addresses matters already covered through a different rule pathway. The Hearing Panel recommends deleting Rule 38 to avoid confusion for Plan users and for resource users to instead rely on Rules 44, 45 and 46 for the removal aspect of the structure, and Rules 18 to 34 for the 'replacement' aspects of the structure.</p> |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support | |
| Further submissions – Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Oppose | |
| 30 – First Gas Ltd | 982 | <p>Amend</p> <p>Submitter seeks that network utility pipeline removal and replacement within coastal management areas: Outstanding Value and Estuaries Unmodified, Estuaries Modified and Port be classified as a permitted activity and be included under Rule 38 (or under a separate rule).</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. The Hearing Panel notes that the Activity Description of Rule 38 deliberately excludes petroleum production installations and pipelines because of the higher environmental risks involved.</p> <p>The Hearing Panel further notes that rules relating to maintenance, alterations, extensions and removal are recommended to be reframed to more clearly differentiate between the respective activities.</p> <p>In response to other submitters, the Hearing Panel considers that Rule 38 is unnecessary as it addresses matters already covered through a different Rule pathway. The Hearing Panel recommends deleting Rule 38 to avoid confusion for Plan users and for resource users to instead rely on Rules 44, 45 and 46</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Oppose | |
| Further submissions – Powerco (45) | | Neutral | |

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| | | | for the removal aspect of the structure, and Rules 18 to 34 for the 'replacement' aspects of the structure. |
| 40 – Te Rūnanga o Ngāti Mutunga | 983 | <p>Amend</p> <p>Submitter opposes permitting the removal or replacement of existing lawfully established structures in the coastal marine area and seek that such activities be a discretionary activity (rather than a permitted activity).</p> | <p>Grant in kind</p> <p>The Hearing Panel recommends granting in kind the relief sought by the submitter.</p> <p>In response to other submitters, the Hearing Panel recommends deleting Rule 38, which permits the removal and replacement of lawfully established structures. To better clarify and differentiate between the different structure activities, the Hearing Panel considers Rules 44, 45 and 46 to adequately provide for the removal aspect. In relation to the structure replacement, Rules 18 to 34 would be considered as part of the "placement". Together these rules provide a broad suite of regulatory control from permitted activity to non-complying activity depending on the significance of effects.</p> |
| 41 – Te Korowai o Ngāruahine Trust | 984 | <p>Amend</p> <p>Submitter seeks amendment to Condition (i) of Rule 38 of the Plan to read: <i>(i) structure is not located within any historic heritage site identified in Schedule 5A and B [Historic heritage] or any other archaeological site; [...]</i></p> | <p>Grant in kind</p> <p>The Hearing Panel notes that, in response to other submitters, the Panel recommends deleting Rule 38 as it addresses matters already covered through a different Rule pathway. The Panel recommends deleting Rule 38 to avoid confusion for Plan users and for resource users to instead rely on Rules 44, 45 and 46 for the removal aspect of the structure, and Rules 18 to 34 for the 'replacement' aspects of the structure</p> <p>Notwithstanding the above, the Hearing Panel recommends that the relevant standards, terms and conditions are amended in the other rules to ensure that they reference Schedule 5A and B as requested by the submitter.</p> |
| 43 – Royal Forest and Bird Protection Society | 985 | <p>Amend</p> <p>Submitter seeks amendment to Rule 38 of the Plan by:</p> <ul style="list-style-type: none"> deleting and excluding Outstanding Value coastal management areas from the rule deleting and excluding the "replacement" of lawfully established structures from the rule (and instead providing for the replacement of existing structures via rules for erection and placement of new structures | <p>Accept in part</p> <p>The Hearing Panel recommends accepting in part, the relief sought by the submitter. The Panel considers that Rule 38 is confusing as removal of structures is already addressed under Rules 44, 45 and 46. In order to assist Plan users, the Panel recommends deleting Rule 38 and relying on Rules 44, 45 and 46 for the removal aspect of the activity and to (as requested by the submitter) to provide for the replacement of existing structures through the appropriate structure placement and erection rules (Rules 18 to 34).</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | OR Alternatively provide for replacement of lawfully established structures as a Restricted Discretionary rule (rather than a permitted activity) and include matters for discretion that address: effects on natural character and natural features and landscapes; effects on indigenous biodiversity; generation of noise; location; and whether the replacement structure maintains the form of the original structure with no increase in length, width or height, or increase in adverse effects. | In relation to excluding Outstanding Value coastal management areas it is noted that when considering whether there are any adverse effects on the characteristics and qualities of 'outstanding areas', it must be recognised that many areas contain ongoing use and development that was present when the areas were first identified as outstanding. Removal and replacement of structures in accordance with the standards, terms and conditions of the appropriate rules will have only minor and temporary effects. |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support | |
| 47 – Fonterra | 986 | Support Retain Rule 38 of the Plan as notified. | Decline Support noted. However, the Hearing Panel notes that Rule 38 is recommended to be deleted in response to other submitter's requests due to duplication of Plan provisions. |
| Further submissions – Port Taranaki Ltd (32) | | Support in part | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 987 | Amend Submitter seeking amendment to Rule 38 of the Plan to include new and amended standards, terms and conditions to read: [...] <i>(i) structure is not located within cultural and historic heritage identified in Schedule 5 [Cultural and Historic heritage] or any other archaeological site;</i> <i>(ia) structure is not located within Schedules 1 and 2;</i> <i>(ib) structure does not adversely affect the suitability of the receiving area for customary use;</i> <i>(ic) structure is not located within any site identified in 5B [Sites of significance to Māori and associated values] and Appendix 2;</i> <i>(j) structure is not located at any site identified in Schedules 5 [Sites of geological significance];</i> <i>(k) the structure does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant species and ecosystems]; and taonga species protected under Taranaki iwi Deed of Settlement including those identified in Schedule 4C [Taonga species and habitat]. [...]</i> | Accept in part The Hearing Panel notes that, in response to other submitters, the Panel recommends deleting Rule 38 as it addresses matters already covered through a different Rule pathway. The Hearing Panel recommends deleting Rule 38 to avoid confusion for Plan users and instead rely on Rules 44, 45 and 46 for the removal aspect of the structure, and Rules 18 to 34 for the 'replacement' aspects of the structure. The Hearing Panel notes that, in relation to the requests made by the submitter, consideration of the points raised is detailed in other submission points made by the submitter in regards to Rules 44 to 46 and 18 to 34. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Climate Justice Taranaki Inc (21), Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| NEW Rule 38A – Existing lawfully established structure removal and replacement in Outstanding Value areas | | | |
| 43 – Royal Forest and Bird Protection Society | 988 | <p>Amend</p> <p>Submitter seeks amendment to the Plan to include a new Rule that would provide for the removal of existing lawfully established structures in Outstanding Value coastal management areas as a controlled activity (rather than a permitted activity provided for in Rule 38).</p> | <p>Decline</p> <p>In response to other submitters, the Hearing Panel considers that Rule 38 is unnecessary as it addresses matters already covered through a different Rule pathway. The Panel recommends deleting Rule 38 to avoid confusion for Plan users and instead rely on Rules 44, 45 and 46 for the removal aspect of the structure, and Rules 18 to 34 for the 'replacement' aspects of the structure.</p> <p>The Hearing Panel suggests that this relief provides a more certain pathway for Plan users for the replacement of structures which includes permitted, controlled and discretionary activity classifications as well as additional standards, terms and conditions.</p> <p>The Hearing Panel does not believe it necessary to exclude Outstanding Value coastal management areas from the permitted activity pathway noting that when considering whether there are any adverse effects on the characteristics and qualities of 'outstanding areas', it must be recognised that many areas contain ongoing use and development that was present when the areas were first identified as outstanding and which continue to be identified as 'outstanding'.</p> |
| Rule 39 – Existing lawfully established Port structure maintenance and repair | | | |
| 40 – Te Rūnanga o Ngāti Mutunga | 989 | <p>Amend</p> <p>Submitter seeks amendment to Rule 39 of the Plan to make the maintenance, repair or alteration of structures in the Port a controlled activity (rather than a permitted activity).</p> | <p>Decline</p> <p>The Hearing Panel notes that Rule 39 relates to the maintenance, repair or alteration of existing lawfully established structures in the Port. It is similar in kind to existing rules in the current Plan relating to the Port.</p> <p>The Hearing Panel notes that the Port is already a highly modified environment that provides a national and regionally important function whereby the movement of goods is dependent upon the ongoing maintenance, repair and alteration of Port structures. Subject to complying</p> |

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| | | | <p>with the standards, terms and conditions that include that the structure does not increase beyond original size, in accordance with Policy 6 the Council should seek to provide for such activities. The Panel sees no net environmental benefit to imposing consenting and compliance costs on the Port by making the activity a controlled activity.</p> <p>Notwithstanding the above, the Hearing Panel recommends deleting Rule 39 and addressing the matters covered by Rule 39 under Rule 35. This addresses concerns raised by other submitters relating to issues of potential duplication and overlap between rules as well as wider issues relating to providing a simpler cascade for Plan users in relation to the maintenance, alteration and extension rules framework.</p> |
| 43 – Royal Forest and Bird Protection Society | 990 | <p>Amend</p> <p>Submitter seeks amendment to the Activity Description of Rule 39 of the Plan to read: <i>Existing lawfully established structure maintenance repair, or <u>minor</u> alteration where the activity [...]</i></p> | <p>Accept in kind</p> <p>The Hearing Panel recommends granting the relief sought by the submitter in kind.</p> <p>The Hearing Panel recommends deleting Rule 39 and addressing the matters covered by Rule 39 under Rule 35. This addresses concerns raised by other submitters relating to issues of potential duplication and overlap between rules as well as wider issues relating to providing a simpler cascade for Plan users in relation to the maintenance, alteration and extension rules framework. Notwithstanding the above, the Panel notes that the amendments sought by the submitter have been provided in Rule 35 as requested under submission point 953.</p> |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 991 | <p>Amend</p> <p>Submitter seeks amendment to the Activity Description of Rule 39 of the Plan to read: <i>Existing lawfully established structure maintenance, repair or alteration where the activity relates to that part of the wharves or breakwaters that is normally above the water surface including any attached structures, and relates directly to port company operations and any associated: [...]</i></p> | <p>Grant in kind</p> <p>The Hearing Panel recommends granting the relief in kind.</p> <p>The Hearing Panel notes that amendments made to Rule 35 have made Rule 39 redundant due to duplication of provisions. As a result, Rule 39 is recommended to be deleted.</p> <p>The Hearing Panel notes that the concerns raised by the submitter and request to broaden the scope of Rule 39 to all Port operations has already been provided for under Rule 35.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 58 – Te Atiawa | 992 | Support | Decline |
| | | Retain Rule 39 of the Plan as notified. | Support for Rule 39 is noted. However, Rule 39 is recommended to be deleted in order to address the concerns of other submitters. |
| Rule 40 – Existing lawfully established Port structure maintenance and repair | | | |
| 40 – Te Rūnanga o Ngāti Mutunga | 993 | Amend | Decline |
| | | Submitter seeks amendment to Rule 40 of the Plan to make the maintenance, repair or alteration of structures in the Port where it does not comply with Rule 39 a discretionary activity (rather than a controlled activity). | <p>The Hearing Panel notes that Rule 40 relates to the maintenance, repair or alteration of existing lawfully established structures in the Port where the activity does not come within or comply with Rule 39.</p> <p>The Port is already a highly modified environment that provides a national and regionally important function whereby the movement of goods is dependent upon the ongoing maintenance, repair and alteration of Port structures. Subject to complying with the standards, terms and conditions it is recommended that the activity be allowed to get a resource consent as a controlled activity to provide some business certainty in accordance with Policy 6. The Hearing Panel sees no net environmental benefit to reducing business certainty for the Port (in terms of whether a consent would be granted or not) by making the activity a discretionary activity.</p> <p>Notwithstanding the above, the Hearing Panel notes recommendations to amend the Activity Description and include additional standards, terms and conditions to ensure adverse effects can be appropriately considered and managed as a controlled activity.</p> |
| 43 – Royal Forest and Bird Protection Society | 994 | Amend | Accept in part |
| | | <p>Submitter seeks amendment to Rule 40 of the Plan by:</p> <ul style="list-style-type: none"> including a new condition that the activity will not have adverse effects on the adjacent Outstanding Value area amending the matters for control to include consideration of effects on indigenous biodiversity and natural character. | <p>The Hearing Panel suggests that the current Rule, which applies only to the 'Port' coastal management area, and which has conditions whereby the size of the structure does not increase from its original size and where the activity cannot impact on significant indigenous biodiversity (which includes not just within the Port but also the Sugar Loaf Islands), already address potential impacts on adjacent areas. The Hearing Panel does not believe any change is necessary or appropriate.</p> <p>With regards to amending the matters of control to explicitly address indigenous biodiversity and natural character, the Hearing Panel agrees. The Panel recommends replacing the term "ecological values" with "natural</p> |

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| | | | <i>character, features and landscapes</i> " and " <i>indigenous biodiversity</i> " to clarify its policy intent. |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 995 | Support | Accept |
| | | Retain Rule 40 of the Plan as notified. | Support noted but note the inclusion of additional standards, terms and conditions. |
| Further submission – Port Taranaki Ltd (32) | | Support | |
| 58 – Te Atiawa | 996 | Support | Accept |
| | | Retain Rule 40 of the Plan as notified. | Support noted but note the inclusion of additional standards, terms and conditions. |
| Rule 41 – Existing lawfully established Port repair, alteration and extension | | | |
| 15 – Surfbreak Protection Society | 997 | Other | No relief necessary |
| | | Submitter seeks that there be no impact on surf breaks. | Submitter's comments are noted and have been previously addressed in submission point 448 relating to surfing policies. Policy 19 would be considered as part of any resource consent application under this Rule. |
| 40 – Te Rūnanga o Ngāti Mutunga | 998 | Amend | Decline |
| | | Submitter seeks amendment to Rule 41 of the Plan to make the maintenance, repair or alteration of structures in the Port that does not come within or comply with other related rules a discretionary activity (rather than a controlled activity). | The Hearing Panel recommends declining the relief sought. The Hearing Panel notes that the Port is already a highly modified environment that provides a national and regionally important function whereby the movement of goods is dependent upon the ongoing maintenance, repair and alteration of Port structures. Subject to complying with the standards, terms and conditions, in accordance with Policy 6 the Council seeks to provide for such activities. The Council sees no net environmental benefit to reducing business certainty for the Port (by the potential of declining a resource consent application) by making the activity a discretionary activity. Notwithstanding the above, the Hearing Panel notes that in order to simplify the rules cascade relating to structure maintenance, alteration and extension Rules 40 and 41 have been merged and additional standards, terms and |
| Further submission – Port Taranaki Ltd (32) | | Oppose | |

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| | | | conditions inserted to address environmental effects to ensure the broader consideration of environmental effects. |
| 58 – Te Atiawa | 999 | <p>Amend</p> <p>Submitter seeks amendment to Rule 41 of the Plan to notify Iwi as an affected party.</p> | <p>No relief necessary</p> <p>The Hearing Panel considers that no relief is necessary.</p> <p>The Hearing Panel notes that in order to simplify the rules cascade relating to structure maintenance, alteration and extension Rules 40 and 41 have been merged and additional standards, terms and conditions inserted to address environmental effects to ensure the broader consideration of environmental effects.</p> <p>The Hearing Panel further notes that, as part of this Coastal Plan review process, and in relation to 'sites of significance' to Māori (refer Condition (c)), Council has already agreed to recognise iwi, subject to conditions, as an affected party for all resource consent applications. There will be further opportunity to set consultation requirements and expectations as part of the development of Mana Whakahono a Rohe agreements.</p> |
| Rule 42 – Other structure repair, extension, removal or replacement | | | |
| 6 – Trans-Tasman Resources Ltd | 1000 | <p>Support</p> <p>Retain Rule 42 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Rule 42 is retained subject to amendments to offer relief to other submitters' concerns where appropriate.</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | <p>Oppose</p> | |
| 26 – Transpower NZ Ltd | 1001 | <p>Amend</p> <p>Submitter seeks amendment to Rule 42 of the Plan to delete reference to National Environmental Standards for Electricity Transmission Activities: <i>[...] or the Resource Management (National Environmental Standards for Electricity Transmission Activities Regulations 2009 (Appendix 6)).</i></p> | <p>Accept</p> <p>The reference to the <i>National Environmental Standards for Electricity Transmission</i> is redundant and does not add further value to the Plan. The Hearing Panel recommends granting the relief sought by the submitter.</p> |
| 32 – Port Taranaki | 1002 | <p>Amend</p> <p>Submitter seeks amendment to Rule 42 of the Plan to:</p> <ul style="list-style-type: none"> insert a new rule specifically for the Port coastal management area and in respect to Port activities providing controlled activity status for other | <p>Accept in part</p> <p>The Hearing Panel recommends accepting in part the relief requested by the submitter. The Hearing Panel considers that regionally important infrastructure, which includes the Port, should be recognised within the Rules</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p>structure repair, alteration, extension or removal and replacement that is not provided for in Rules 35 to 41</p> <ul style="list-style-type: none"> make any consequential amendments to other rules and objectives and policies to give effect to this relief <p>OR</p> <ul style="list-style-type: none"> provide another rule structure or amendment/additional rules to Rules 35-41 that delivers the same result for the port. | <p>and provided for in a manner that promotes the maintenance and future proofing of infrastructure, subject to the appropriate regulatory controls and environmental outcomes.</p> <p>The Hearing Panel recommends including two additional rules that provide a Restricted Discretionary pathway for maintenance, alteration and extension activities for the Port and for network utilities. These are new Rules 37A for network utility structures and 40A for Port structures. The Panel notes that Rules 35 and 37 already provide a Permitted and Controlled activity pathway for most maintenance, alteration and extension activities within the Port. Only in circumstances where the activity cannot comply with the standards, terms and conditions of these rules will a higher regulatory rule be required, i.e. Rule 40A.</p> |
| Further submissions – Port Taranaki Ltd (32), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support | |
| 45 – Powerco | 1003 | Support | Accept |
| | | Retain Rule 42 of the Plan as notified. | Support noted. Rule 42 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1004 | Support | Accept |
| | | Retain Rule 42 of the Plan as notified. | Support noted. Rule 42 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 47 – Fonterra | 1005 | Support | Accept |
| | | Retain Rule 42 of the Plan as notified. | Support noted. Rule 42 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1006 | Amend | Decline |
| | | Submitter seeks amendment to Rule 42 of the Plan to include standards, terms and conditions to read: | The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary and non-complying activities. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p><u>(a) repair, alteration, extension or removal of structure and discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</u></p> <p><u>(b) repair, alteration, extension or removal of structure and discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></p> <p><u>(c) repair, alteration, extension or removal of structure and discharge is consistent with iwi management plan.</u></p> <p>AND</p> <p>Include the following notification note: <u>Resource consent applications under this Rule will be notified to tangata whenua.</u></p> | <p>The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> <p>The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 36, 37 and 38 being given effect to.</p> <p>In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and/or any Mana Whakahono a Rohe agreements.</p> <p>In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting any references to consenting notification requirements in the rules (noting relevant notification requirements are set out in sections 95A to 95G of the RMA).</p> |
| Further submissions – Trans-Tasman Resources (6) | | Oppose | |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| Rule 43 – Other structure repair, extension, removal or replacement | | | |
| 6 – Trans-Tasman Resources Ltd | 1007 | Support | Accept |
| | | Retain Rule 43 of the Plan as notified. | Support noted. Rule 43 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 26 – Transpower NZ Ltd | 1008 | Amend | Accept |
| | | Submitter seeks amendment to Rule 43 of the Plan to delete reference to the <i>National Environmental Standards for Electricity Transmission Activities</i> : | The reference to the <i>National Environmental Standards for Electricity Transmission</i> is redundant and does not add further value to the Plan. The Hearing Panel recommends granting the relief sought by the submitter. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <i>[...] or the Resource Management (National Environmental Standards for Electricity Transmission Activities Regulations 2009 (Appendix 6)).</i> | |
| 43 – Royal Forest and Bird Protection Society | 1009 | Support Retain the non-complying classification for Rule 43 of the Plan. | Accept Support noted. Rule 43 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| 45 – Powerco | 1010 | Support Retain Rule 43 of the Plan as notified. | Accept Support noted. Rule 43 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1011 | Amend Submitter seeks amendment to the standards, terms and conditions of Rule 43 of the Plan to read: <i>(a) repair, alteration, extension or removal of structure and discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</i> <i>(b) repair, alteration, extension or removal of structure and discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</i> <i>(c) repair, alteration, extension or removal of structure and discharge is consistent with iwi management plan.</i> AND Include the following notification note: <i>Resource consent applications under this Rule will be notified to tangata whenua.</i> | Decline The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary and non-complying activities. The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a non-complying activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies. The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 36, 37 and 38 being given effect to. In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and or Mana Whakahono a Rohe agreements. In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of |
| Further submissions – Trans-Tasman Resources (6) | | Oppose | |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |

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| | | | control/discretion" and deleting any references to consenting notification requirements in the rules (noting relevant notification requirements are set out in sections 95A to 95G of the RMA). |
| Rule 44 – Structure removal or demolition | | | |
| 6 – Trans-Tasman Resources Ltd | 1012 | Support Retain Rule 44 of the Plan as this rule appropriately recognises the benefits of enabling removal of structures as a permitted activity from the coastal marine area when they are no longer required. | Accept Support noted. Rule 44 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 26 – Transpower NZ Ltd | 1013 | Amend Submitter seeks amendment to Rule 44 of the Plan to delete reference to the <i>National Environmental Standards for Electricity Transmission Activities</i> : [...] or the Resource Management (National Environmental Standards for Electricity Transmission Activities Regulations 2009 (Appendix 6)) | Accept The reference to the <i>National Environmental Standards for Electricity Transmission</i> is redundant and does not add further value to the Plan. The Hearing Panel recommends granting the relief sought by the submitter. |
| 29 – Department of Conservation | 1014 | Amend Submitter seeks amendment to Rule 44 of the Plan to include new conditions addressing: <ul style="list-style-type: none"> • how the use of vehicles and machinery in the coastal environment will be avoided where possible, and minimised/effects mitigated where necessary (including taking the shortest and least sensitive route) • the requirement for construction equipment including spoil, litter or equipment to be removed within 24 hours of completion of any works • the prohibition of any refuelling or fuel storage occur within the coastal environment and that methods should be employed to avoid any fuel spillage. | Accept in part At the hearing of submissions, the submitter presented alternative wording suggestions requiring any disturbance to be restored to its previous state 48 hours after the activity has been completed. The Hearing Panel recommends amending Condition (a) to require plan users to minimise the impact of their disturbance activities and to restore the disturbed area to its previous state. The amended Condition would read as follows: <i>(a) the extent of disturbance of the foreshore and seabed is limited to the minimum required to undertake the activity and is restored to its previous state 48 hours following the completion of the activity; [...]</i> The submitter also requested an additional amendment to avoid storing fuel in the coastal marine area and to minimise the extent of any contaminant entering the coastal marine area. The Hearing Panel notes the relief sought by the submitter is problematic in that that fuel storage includes fuel stored inside vehicles, such as boats, and the relief sought would preclude their use. However, the Panel believes the risk sought to be addressed by the submitter |
| Further submissions – Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Oppose | |

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| | | | <p>relates to avoiding fuel spills and, in the event of an oil spill, there are a variety of management/enforcement actions available to the Council. Of note, the rule's activity description includes discharges of sediment only as an associated activity (the discharges of other contaminants are not provided for under this rule).</p> <p>The Hearing Panel consider that the amendment requested is not necessary as the only discharge permitted through the rule is the discharge of sediment incidental to the removal activity.</p> |
| 41 – Te Korowai o Ngāruahine Trust | 1015 | <p>Amend</p> <p>Submitter seeks amendment to Rule 44 of the Plan to require notification to iwi of any structure removal or demolition work in the coastal marine area.</p> | <p>Accept</p> <p>In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the rule includes a notification requirement to the Council under standard, term and condition (g). The Council have already agreed to pass the notification information onto interested iwi authorities.</p> <p>The Hearing Panel recommends amending the rule to include an additional note under the Activity Description to indicate this for Plan users.</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 1016 | <p>Support</p> <p>Retain Rule 44 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Rule 44 is retained subject to amendments to offer relief to other submitters' concerns where appropriate.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1017 | <p>Support</p> <p>Retain Rule 44 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Rule 44 is retained subject to amendments to offer relief to other submitters' concerns where appropriate.</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 58 – Te Atiawa | 1018 | <p>Amend</p> <p>Submitter seeks amendment to Rule 44 of the Plan by changing the activity classification to controlled activity (rather than a permitted activity).</p> | <p>Decline</p> <p>The Hearing Panel notes that Rule 44 relates to the removal or demolition of a structure in the coastal marine area not involving the use of explosives and includes a suite of standards, terms and conditions such that the environmental effects of the activity should be less than minor and transitory.</p> <p>The Hearing Panel does not consider it appropriate to require a consent to remove or demolish a structure in the coastal marine area, provided the</p> |

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| | | | <p>standards, terms and conditions can be met. The Hearing Panel notes that the removal of structures in the coastal marine area is generally a positive environmental outcome that contributes to the enhancement of natural character plus other values.</p> <p>The Council requires that the person undertaking the activity notify the Council under Condition (g) at least five working days before commencing the activity so that the Council can assess and confirm that the activity is appropriate and that any adverse effects arising from the activity should be less than minor and transitory.</p> <p>Council sought seek to provide for such activities. The Council sees no net environmental benefit to imposing consenting and compliance costs on the Port by making the activity a controlled activity.</p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1019 | <p>Amend</p> <p>Submitter seeks amendment to Rule 44 of the Plan to include new and amended standards, terms and conditions to read:</p> <p>[...]</p> <p><i>(e) activity is not located within cultural and historic heritage identified in Schedule 5 [Cultural and Historic heritage] or any other archaeological site;</i></p> <p><i>(ea) activity is not located within Schedules 1 and 2;</i></p> <p><i>(eb) the activity does not have any adverse effect on any site identified in 5B [Sites of significance to Māori and associated values] and Appendix 2;</i></p> <p><i>(ec) activity does not adversely affect the suitability of the receiving area for customary use;</i></p> <p><i>(f) the activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant species and ecosystems]; and taonga species protected under Taranaki iwi Deed of Settlement including those identified in Schedule 4C [Taonga species and habitat]. [...]</i></p> | <p>Accept in part</p> <p>The Hearing Panel notes that Rule 44 relates to the removal or demolition of a structure in the coastal marine area not involving the use of explosives (with some exceptions).</p> <p>The submitter is seeking amendment to Rule 44 of the Plan to include new and amended standards, terms and conditions. Specific comments on the new and amended proposed conditions are as follows:</p> <ul style="list-style-type: none"> Decline the relief sought in relation to Condition (e). The Hearing Panel refers the submitter to previous comments made on expanding the scope of historic heritage. Decline the relief sought in relation to Condition (ea). The Hearing Panel notes that the effect of granting this relief would also make this rule redundant as Schedules 1 and 2 capture the whole coastal marine area plus landward parts of the coastal environment identified as having outstanding natural character or being an outstanding natural feature or landscape. Decline relief sought in relation to Condition (eb) as unnecessary and uncertain for Plan users. The Rule is only providing for the removal and replacement of structures already existing in the coastal marine area. The Hearing Panel notes that impacts on cultural sites of significance are already addressed in Condition (e). |
| Further submissions – Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |

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| | | | <ul style="list-style-type: none"> Reliefs sought in relation to Condition (ec) are unnecessary. Such matters should already be addressed in Condition (i) of the Rule, which protects customary sites of significance. However, it is noted that any impacts on receiving water quality or disturbances to the foreshore and seabed will be temporary and unlikely to be noticeable in natural prevailing conditions. Grant the relief in kind in relation to Condition (f). The Hearing Panel recommends expanding the scope of Rule conditions to include reference to scheduled taonga species in new standard, term and condition (fa). |
| Rule 45 – Structure removal or demolition | | | |
| 26 – Transpower NZ Ltd | 1020 | Amend | Accept |
| | | Submitter seeks amendment to Rule 45 of the Plan to delete reference to the <i>National Environmental Standards for Electricity Transmission Activities: [...] or the Resource Management (National Environmental Standards for Electricity Transmission Activities Regulations 2009 (Appendix 6))</i> . | The reference to the <i>National Environmental Standards for Electricity Transmission</i> is redundant and does not add further value to the Plan. The Hearing Panel recommends granting the relief sought by the submitter. |
| 29 – Department of Conservation | 1021 | Amend | Accept |
| | | Submitter seeks amendment to Rule 45 of the Plan to read: <i>[...] and the activity does not comply with Rule 45 44 [...]</i> . | The Hearing Panel recommends granting the relief sought by the submitter. |
| 32 – Port Taranaki | 1022 | Amend | Accept |
| | | Submitter seeks amendment to Rule 45 of the Plan to read <i>[...] and the activity does not comply with Rule 45 44 [...]</i> . | The Hearing Panel recommends granting the relief sought by the submitter. |
| 43 – Royal Forest and Bird Protection Society | 1023 | Amend | Grant in kind |
| | | Submitter seeks amendment to Rule 45 of the Plan to delete and exclude the Outstanding Value, Estuary Unmodified and Estuary Modified coastal management areas from the Rule. | The Hearing Panel notes that Rule 45 relates to the removal or demolition of a structure in the coastal marine area. However, it does allow the use of explosives. The Hearing Panel does not consider it appropriate to make the removal or demolition of a structure in Outstanding Value, Estuary Unmodified and Estuary Modified coastal management areas a Discretionary or non- |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>complying activity (for which a resource consent might be refused). The Hearing Panel notes that the removal of structures in the coastal marine area is generally a positive environmental outcome that contributes to the enhancement of natural character plus other values. It is particularly positive in the aforementioned areas where people might be seeking the enhancement or restoration of natural values.</p> <p>The submitter is concerned about the effects of using explosives on indigenous marine species noting that this may not be appropriate in all cases. The Hearing Panel agrees but recommends an alternative relief involving the inclusion of a new standards, terms and condition addressing adverse effects on significant indigenous biodiversity and taonga species under new Conditions (aa) and (ab). Such matters can then be considered through the resource consent process and may result in limitations in location, method, and timing of works.</p> |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1024 | Support | Accept |
| | | Retain Rule 45 of the Plan as notified. | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | Support noted. Rule 45 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| 58 – Te Atiawa | 1025 | Amend | Grant in kind |
| | | Submitter seeks amendment to Rule 45 of the Plan by changing the activity classification to discretionary activity (rather than a controlled activity). | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | <p>The Hearing Panel notes that Rule 45 relates to the removal or demolition of a structure in the coastal marine area.</p> <p>The Hearing Panel does not consider it appropriate to make the removal or demolition of a structure in the coastal marine area a discretionary or non-complying activity (for which a resource consent might be refused). Hearing Panel note that the removal of structures in the coastal marine area is generally a positive environmental outcome that contributes to the enhancement of natural character plus other values.</p> <p>However, the submitter is concerned about the effects of using explosives on sites of significant ecological value and historic heritage and suggest as a discretionary activity they can be involved in the decision making process and there will be consent monitoring.</p> <p>The Hearing Panel notes that, as part of this Coastal Plan review process, and in relation to 'sites of significance' to Māori (refer Condition (a)), Council</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>has already agreed to recognise iwi, subject to conditions, as an affected party for all resource consent applications having an impact on scheduled sites of significance. There will be further opportunity to set consultation requirements and expectations as part of the development of Mana Whakahono a Rohe agreements. The Panel further notes that as a controlled activity, one of its matters of control include information and monitoring requirements.</p> <p>Notwithstanding the above, the Hearing Panel recommends an alternative relief involving the inclusion of a new condition addressing adverse effects on significant indigenous biodiversity and taonga species under new Conditions (aa) and (ab). Such matters can then be considered through the resource consent process and may result in limitations in location, method, and timing of works or impose requirements to notify and consult.</p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1026 | <p>Amend</p> <p>Submitter seeks amendment to Rule 45 of the Plan to include new and amended standards, terms and conditions to read:</p> <p>[...]</p> <p><i>(a) activity is not located within <u>cultural and</u> historic heritage identified in Schedule 5 [<u>Cultural and</u> Historic heritage] or any other archaeological site;</i></p> <p><i>(b) activity is not located within Schedules 1 and 2;</i></p> <p><i>(c) activity does not adversely affect the suitability of the receiving area for customary use;</i></p> <p><i>(d) the activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant species and ecosystems]; and taonga species protected under Taranaki iwi Deed of Settlement including those identified in Schedule 4C [Taonga species and habitat];</i></p> <p><i>(e) the activity does not have any adverse effect on any site identified in 5B [Sites of significance to Māori and associated values] and Appendix 2;</i></p> <p><i>(f) activity does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</i></p> <p><i>(g) activity complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</i></p> | <p>Accept in part</p> <p>The submitter is seeking amendment to Rule 45 of the Plan to include new and amended standards, terms and conditions. Specific comments on the new and amended proposed conditions are as follows:</p> <ul style="list-style-type: none"> Decline the relief sought in relation to Condition (a). The Hearing Panel refers the submitter to previous comments made on expanding the scope of historic heritage. Decline the relief sought in relation to Condition (b). The Hearing Panel notes that the effect of granting this relief would also make this rule redundant as Schedules 1 and 2 capture the whole coastal marine area plus landward parts of the coastal environment identified as having outstanding natural character or being an outstanding natural feature or landscape. Decline relief sought in relation to Condition (c) and (e) as unnecessary and uncertain for Plan users. The Rule is only providing for the removal and replacement of structures already existing in the coastal marine area. The Hearing Panel notes that impacts on cultural sites of significance are already addressed in Condition (a) |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <u><i>(h) activity is consistent with iwi management plan.</i></u> | <ul style="list-style-type: none"> Grant the relief in kind in relation to Condition (d). The Hearing Panel recommends expanding the scope of Rule conditions to include reference to scheduled taonga species (new Condition (ab)). Decline the relief sought in relation to Condition (f), (g) and (h) as being uncertain in terms of their application and given the details as to managing effects on water quality and monitoring are already identified in the rule as matters of control. |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1027 | <p>Amend</p> <p>Submitter seeks amendment to the Control/notification column for Rule 45 of the Plan to read:</p> <p><i>Control is reserved over:</i></p> <p>[...]</p> <p>(d) effects on water quality <i>and mauri values</i>;</p> <p>(e) effects on ecological values;</p> <p>(f) effects on historic, cultural and amenity values;</p> <p>(g) effects on surf breaks;</p> <p>(h) effects of occupation on public access;</p> <p>(i) effects on navigation;</p> <p>(j) effects of noise and light;</p> <p><i>(k) effects on Cultural Zone (referred to in Spatial Plan)</i>;</p> <p><i>(l) monitoring (including tangata whenua indicators referred to in the tangata whenua monitoring plan) and information requirements</i>;</p> <p>(m) duration of consent; and</p> <p>(n) review of consent conditions.</p> <p>Resource consent applications under this Rule will <i>not be publicly notified but may be limited notified be notified to tangata whenua</i>.</p> | <p>Decline</p> <p>The suggested changes seem to be mixing jurisdictional, policy and operational matters and introducing a level of specificity that is not considered appropriate or necessary. Most of the changes sought are a subset of matters that have already been provided for while the submitter has also introduced some new concepts such as a cultural zone and a spatial plan that do not fit within the Proposed Plan framework. There is a 'requirement' to be consistent with iwi management plans, while the submitter is silent on how other planning documents might fit within this framework.</p> <p>The Hearing Panel notes that this activity is already subject to the General Policies 1 to 21 of which Policies 15 [Historic heritage] and 16 [Relationship of tangata whenua] are particularly relevant. The Hearing Panel further notes that there will be an opportunity to develop an agreed framework and operational detail for implementing the Plan as part of any Mana Whakahono a Rohe agreement with the submitter.</p> <p>In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting any references to consenting notification requirements in the rules (noting relevant notification requirements are set out in sections 95A to 95G of the RMA).</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| Rule 45A – Structure removal or demolition | | | |
| 43 – Royal Forest and Bird Protection Society | 1028 | <p>Amend</p> <p>Submitter seeks amendment to Plan to include a new Rule that would provide for the removal or demolition of structures in the Outstanding Value, Estuary Unmodified and Estuary Modified coastal management areas as a restricted discretionary activity (rather than a controlled activity provided for in Rule 45)</p> | <p>Decline</p> <p>The Hearing Panel does not believe it is appropriate or necessary to include a new Rule that provides for the removal or demolition of structures in the Outstanding Value, Estuary Unmodified and Estuary Modified coastal management areas as a restricted discretionary activity. Refer to submission point 1023.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | OR provide for the removal or demolition of structures in the Outstanding Value, Estuary Unmodified and Estuary Modified coastal management areas as a discretionary activity under Rule 46. | |
| Rule 46 – Structure removal or demolition | | | |
| 26 – Transpower NZ Ltd | 1029 | Amend | Accept |
| | | Submitter seeks amendment to Rule 46 of the Plan to delete reference to the <i>National Environmental Standards for Electricity Transmission Activities</i> : <i>[...]or the Resource Management (National Environmental Standards for Electricity Transmission Activities Regulations 2009 (Appendix 6))</i> . | The reference to the <i>National Environmental Standards for Electricity Transmission</i> is redundant and does not add further value to the Plan. The Hearing Panel recommends granting the relief sought by the submitter. |
| 37 – Petroleum Exploration and Production Association of NZ | 1030 | Support | Accept |
| | | Retain Rule 46 of the Plan's discretionary activity classification as notified. | Support noted. Rule 46 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| 43 – Royal Forest and Bird Protection Society | 1031 | Support | Accept |
| | | Retain Rule 46 of the Plan as notified. | Support noted. Rule 46 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1032 | Support | Accept |
| | | Retain Rule 46 of the Plan as notified. | Support noted. Rule 46 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1033 | Amend | Decline |
| | | Submitter seeks amendment to Rule 46 of the Plan to include standards, terms and conditions to read: <i>(a) demolition or removal of structure and discharge does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment</i> | The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary and non-complying activities. The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p><u><i>(b) demolition or removal of structure and discharge complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</i></u></p> <p><u><i>(c) demolition or removal of structure and discharge is consistent with iwi management plan.</i></u></p> <p>AND</p> <p>Include the following notification note:</p> <p><u><i>Resource consent applications under this Rule will be notified to tangata whenua.</i></u></p> | <p>discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> <p>The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 22, 38, 40, 41, 42, 44 and 49 being given effect to.</p> <p>In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and or Mana Whakahono a Rohe agreements.</p> <p>In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting any references to consenting notification requirements in the rules (noting relevant notification requirements are set out in sections 95A to 95G of the RMA).</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| Rule 47 – Temporary occupation for community, recreational or sporting events | | | |
| 22 – Lyndon DeVantier | 1034 | <p>Amend</p> <p>Submitter opposes Rule 47 of the Plan providing for the temporary occupation for community, recreational or sporting events, up to four days, as a permitted activity.</p> | <p>Decline</p> <p>The Hearing Panel notes that the purpose of Rule 47 is to allow for community (volunteer) recreational or sporting events to occur as much as possible without imposing unnecessary costs and constraints on the event associated with obtaining a resource consent. It potentially applies to such events as national and regional sailing, surf live saving, surfing, triathlons, swimming events and beach carnivals.</p> <p>The Hearing Panel recognises that temporary occupation of parts of the coastal marine area for such events may impact or impinge on other users. As part of the Coastal Plan review, Council compared the proposed rule against equivalent rules elsewhere in the country in terms of duration and area of the temporary occupation and noted that the duration of such events would ranged from three days to unlimited. The Panel notes that the relief sought by</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | the submitter is more restrictive than the norm elsewhere in the country. The Panel recommends no change to the four days. |
| 38 – Nigel Cliffe | 1035 | <p>Amend</p> <p>Submitter seeks amendment to Rule 47 of the Plan to limit temporary occupation for community, recreational or sporting events to no more than 3 consecutive days over a 5-day period, as a permitted activity.</p> | <p>Decline</p> <p>The Hearing Panel notes that the purpose of Rule 47 is to allow for community (voluntary) recreational or sporting events to occur as much as possible without imposing unnecessary costs and constraints on the event associated with obtaining a resource consent. It potentially applies to such events as national and regional sailing, surf live saving, surfing, triathlons, swimming events and beach carnivals.</p> <p>The Hearing Panel recognises that temporary occupation of parts of the coastal marine area for such events may impact or impinge on other users. As part of the Coastal Plan review, Council compared the proposed rule against equivalent rules elsewhere in the country in terms of duration and area of the temporary occupation and noted that the duration of such events ranged from three days to unlimited. The Panel notes that the relief sought by the submitter is more restrictive than the norm elsewhere in the country. The Panel recommends no change to the four days.</p> |
| 41 – Te Korowai o Ngāruahine Trust | 1036 | <p>Amend</p> <p>Submitter seeks amendment to Rule 47 of the Plan to require notification to iwi of any community, recreational or sporting events authorised by this rule</p> <p>AND</p> <p>Amend Condition (b) of Rule 47 to read:</p> <p><i>(b) the activity does not have an adverse effect on the values associated with historic heritage identified in Schedule 5A and B [Historic heritage]; [...]</i></p> | <p>Accept</p> <p>The Hearing Panel recommends granting the relief sought by the submitter.</p> <p>The Hearing Panel notes that Condition (g) requires that the person undertaking the activity notify the Council at least 5 working days prior to the activity commencing. The Council have agreed to pass the notification information to interested iwi authorities.</p> <p>The Hearing Panel recommends amending the rule to include an additional note under the Activity Description to indicate this for Plan users.</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | In relation to amending Condition (c) to refer to Schedules 5A and 5B (rather than just Schedule 5). However, in relation to the notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and or Mana Whakahono a Rohe agreements. |
| | 1037 | Amend | No relief necessary |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 42 – Ngati Rahiri Hapū | | Submitter seeks amendment to Rule 47 of the Plan (if it remains a permitted activity) to include a new or amended condition that no activity can take place within 100m of an historic site unless consultation with iwi has taken place. | The Hearing Panel believes no relief is necessary in that any activity must comply with Condition (b), which relates to the protection of historic heritage (and sites of significance to tangata whenua). Further more Condition (g) includes the requirement for the organisers to notify the Council. This provides the opportunity for Council to check that no scheduled sites of significance are likely to be affected and the appropriateness of a buffer distance. The need or appropriateness of a buffer zone would depend upon the activity and/or the values associated with the particular site. |
| 43 – Royal Forest and Bird Protection Society | 1038 | Amend Submitter seeks amendment to Rule 47 of the Plan to make temporary occupation for community, recreational or sporting events a controlled activity (rather than a permitted activity). | Decline The Hearing Panel does not recommend granting the relief sought by the submitter. The Hearing Panel notes that the purpose of Rule 47 is to allow for community (voluntary) recreational or sporting events to occur as much as possible without imposing unnecessary costs and constraints on the event associated with obtaining a resource consent. It potentially applies to such events as national and regional sailing, surf live saving, surfing, triathlons, swimming events and beach carnivals and is largely a continuation of an existing rule in the current Plan. |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 1039 | Amend Submitter seeks amendment to Rule 47 of the Plan to include matters for control to consider effects on indigenous biodiversity, natural character and natural features and landscapes. | Decline The Hearing Panel notes that the purpose of Rule 47 is to allow for as many community (voluntary) recreational or sporting events to occur as possible without imposing unnecessary costs and constraints associated with obtaining a resource consent. Of note the permitted activity rule already includes conditions that address indigenous biodiversity. Council's experience with the current Rule has also been that any adverse effects are less than minor and are temporary and certainly do not impact on natural character, features and landscapes. However, through the notification requirement there is an opportunity for the Council to undertake a preliminary assessment to ensure that this is indeed the case. |
| 43 – Royal Forest and Bird Protection Society | 1040 | Amend Submitter seeks amendment to the note in Rule 47 of the Plan to refer to Rule 50, which is a discretionary activity classification. | Accept The Hearing Panel recommends granting the relief sought by the submitter. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1041 | <p>Amend</p> <p>Submitter seeks amendment to Rule 47 of the Plan to include new or amended standards, terms and conditions to read:</p> <p><i>(a) activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant indigenous biodiversity]; and taonga species protected under Taranaki iwi Deed of Settlement including those identified in Schedule 4C [Taonga species and habitat]</i></p> <p><i>(b) the activity does not have an adverse effect on the values associated with cultural and historic heritage identified in Schedule 5 [Cultural and Historic heritage];</i></p> <p><i>(ba) the activity does not have adverse effect on Schedules 1 and 2</i></p> <p><i>(bb) the activity does not adversely affect the suitability of the receiving environment for customary use;</i></p> <p><i>(bc) the activity does not have any adverse effect on any site identified in 5B [Sites of significance to Māori and associated values] and Appendix 2; [...]</i></p> | <p>Accept in part</p> <p>The submitter is seeking amendment to Rule 45 of the Plan to include new and amended standards, terms and conditions. Specific comments on the new and amended proposed conditions are as follows:</p> <ul style="list-style-type: none"> Grant the relief in kind in relation to Condition (a). The Hearing Panel recommends expanding the scope of Rule conditions to include reference to scheduled taonga species. Decline the relief sought in relation to Condition (b). The Hearing Panel refers the submitter to previous comments made on expanding the scope of historic heritage. Decline the relief sought in relation to Condition (ba). The Hearing Panel note that the effect of granting this relief would also make this rule redundant as Schedules 1 and 2 capture the whole coastal marine area plus landward parts of the coastal environment identified as having outstanding natural character or being an outstanding natural feature or landscape. Decline relief sought in relation to Condition (bb) and (bc) as unnecessary and uncertain for Plan users. The Rule is only providing for the removal and replacement of structures already existing in the coastal marine area. The Hearing Panel notes that impacts on cultural sites of significance are already addressed in Condition (b). |
| Rule 48 – Continued occupation | | | |
| 6 – Trans-Tasman Resources Ltd | 1042 | <p>Support</p> <p>Retain Rule 48 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Rule 48 is retained subject to amendments to offer relief to other submitters' concerns where appropriate.</p> |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | <p>Oppose</p> | |
| 40 – Te Rūnanga o Ngāti Mutunga | 1043 | <p>Amend</p> <p>Submitter seeks amendment to Rule 48 of the Plan to include two additional conditions to read:</p> | <p>Accept in part</p> <p>The Hearing Panel notes that, through the Coastal Plan review process, permitted activity rule conditions have been reviewed and in many instances</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p><u><i>(b) the activity does not have an adverse effect on the values associated with historic heritage identified in Schedule 5 (Historic Heritage)</i></u></p> <p><u><i>(c) the activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A.</i></u></p> | <p>have additional or more restrictive limits to ensure that adverse environmental effects are not more than minor. The Hearing Panel therefore consider that existing structures should be required to meet the standard and expectations of the Plan for permitted structures.</p> <p>The Hearing Panel recommends amending Rule 48 to include additional standards, terms and conditions to read as follows:</p> <p><u><i>(a) The structure is being used for its originally permitted purpose;</i></u> <u><i>(b) the structure is not causing erosion or scour; and</i></u> <u><i>(c) the structure does not have an adverse effect on significant indigenous biodiversity, including those identified in Schedule 4 [Significant indigenous biodiversity]; and</i></u> <u><i>(d) the structure does not have an adverse effect on the values associated with taonga species identified in Schedule 4C [Taonga species].</i></u></p> |
| 41 – Te Korowai o Ngāruahine Trust | 1044 | <p>Amend</p> <p>Submitter seeks amendment to Rule 48 of the Plan to make the continued occupation of the common marine and coastal area, with an existing lawfully established structure (where the occupation was previously a permitted activity) a restricted discretionary activity (rather than a permitted activity).</p> | <p>Grant in kind</p> <p>At the hearing of submissions, the submitter presented further on this rule and recommended that if the Hearing Panel does not consider that it is necessary to raise the activity classification of the rule to Restricted Discretionary to include additional standards, terms and conditions to ensure that the continued occupation of the structure is not causing adverse environmental effects.</p> <p>The Hearing Panel notes that through the Coastal Plan review process, permitted rule conditions have been reviewed and in many instances have additional or more restrictive limits to ensure that adverse environmental effects are not more than minor. The Panel therefore consider that existing structures should be required to meet the standard and expectations of the Plan for permitted structures.</p> <p>The Hearing Panel recommend amending Rule 48 to include additional standards, terms and conditions to read as follows:</p> <p><u><i>(a) The structure is being used for its originally permitted purpose;</i></u> <u><i>(b) the structure is not causing erosion or scour;</i></u> <u><i>(c) the structure does not have an adverse effect on significant indigenous biodiversity, including those identified in Schedule 4 [Significant indigenous biodiversity]; and</i></u> <u><i>(d) the structure does not have an adverse effect on the values associated with taonga species identified in Schedule 4C [Taonga species].</i></u></p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 43 – Royal Forest and Bird Protection Society | 1045 | Amend | Accept in part |
| | | <p>Submitter seeks amendment to Rule 48 of the Plan by:</p> <ul style="list-style-type: none"> amending Condition (a) to refer to the original permitted use of the structure removing Outstanding Value, Estuaries Unmodified, and Estuaries Modified coastal management areas from the rule and to make the continued occupation of an existing lawfully established structure in such areas (where the occupation was previously a permitted activity) a restricted discretionary activity (rather than a permitted activity). | <p>The Hearing Panel recommends amending Condition (a) to refer to the original permitted use of the structure.</p> <p>In relation to removing Outstanding Value, Estuaries Unmodified, and Estuaries Modified coastal management areas from the rule and to making the continued occupation of an existing lawfully established structure in such areas a restricted discretionary activity seems unnecessary and would result in the imposition of unnecessary consenting costs for structures already present in these areas and which are considered to be having less than minor adverse effects (noting that issues with placement have already been separately addressed in another rule).</p> <p>Notwithstanding the above, the Hearing Panel recommend additional standards, terms and conditions to address any adverse environmental effects that may be occurring through the continued occupation of the structure and note that if the new standards, terms and conditions are not met then a consent will be required under Rule 49.</p> |
| 45 – Powerco | 1046 | Support | Accept |
| | | Retain Rule 48 of the Plan as notified. | Support noted. Rule 48 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1047 | Support | Accept |
| | | Retain Rule 48 of the Plan as notified. | Support noted. Rule 48 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| Further submissions – Port Taranaki Ltd (32) | Support | | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | Oppose | | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 47 – Fonterra | 1048 | Support Retain Rule 48 of the Plan as notified. | Accept Support noted. Rule 48 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 58 – Te Atiawa | 1049 | Amend Submitter seeks amendment to Rule 48 of the Plan to make the continued occupation of the common marine and coastal area, with an existing lawfully established structure (where the occupation was previously a permitted activity) a restricted discretionary activity (rather than a permitted activity). | Decline The Hearing Panel notes that Rule 48 relates to the continued occupation of existing lawfully established structures where the occupation was a permitted activity at the time of its placement or erection. At the time of the original placement and erection of the structure wider considerations relating to historic heritage and indigenous biodiversity would have been addressed (under alternative rules). The Hearing Panel believes that ongoing occupation of a structure is likely to have less adverse effects subject to it continuing to be used for its originally consented purpose. The Hearing Panel does not believe it practicable, necessary or appropriate to make the continued occupation of existing lawfully established structures in the coastal marine area a restricted discretionary activity for which a resource consent would be required. Of note, as part of this Coastal Plan review, this Council has adopted a precautionary approach whereby, if uncertain that effects can be adequately identified and addressed as a permitted activity or controlled activity, it has determined that the effects will be considered as a fully discretionary activity to ensure issues are comprehensively canvassed. Notwithstanding the above, the Hearing Panel recommend additional standards, terms and conditions to address any adverse environmental effects that may be occurring through the continued occupation of the structure and note that if the new standards, terms and conditions are not met then a consent will be required under Rule 49. |
| Rule 49 – Continued occupation | | | |
| 15 – Surfbreak Protection Society | 1050 | Other Submitter seeks that there be no impacts to surf breaks. | No relief necessary Submitter's comments are noted and have been previously addressed in submission point 448 relating to surfing policies. Policy 19 would be considered as part of any resource consent application under this Rule. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 41 – Te Korowai o Ngāruahine Trust | 1051 | <p>Amend</p> <p>Submitter seeks amendment to Rule 49 of the Plan to make the continued occupation of the common marine and coastal area, with an existing lawfully established structure (where the occupation was previously a controlled activity) a restricted discretionary activity (rather than a controlled activity).</p> | <p>Decline</p> <p>The Hearing Panel notes that Rule 49 relates to the continued occupation of existing lawfully established structures after the expiry of its consent (and where the occupation was a controlled activity at the time of its placement or erection).</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | <p>Support</p> | <p>At the time of the original placement and erection of the structure wider considerations relating to historic heritage and indigenous biodiversity would have been addressed (under alternative rules). The Hearing Panel believes that ongoing occupation of a structure is likely to have less adverse effects subject to it continuing to be used for its originally consented purpose. The Hearing Panel does not believe it necessary to include additional conditions.</p> <p>Of note, as part of this Coastal Plan review, the Council has adopted a precautionary approach whereby, if uncertain that effects can be adequately identified and addressed as a permitted activity or controlled activity, it has determined that the effects will be considered as a fully discretionary activity to ensure issues are comprehensively canvassed.</p> |
| 43 – Royal Forest and Bird Protection Society | 1052 | <p>Amend</p> <p>Submitter seeks amendment to Rule 49 of the Plan by:</p> <ul style="list-style-type: none"> removing Outstanding Value, Estuaries Unmodified, and Estuaries Modified coastal management areas from the rule and to make the continued occupation of an existing lawfully established structure in such areas (where the occupation was previously a controlled activity) a restricted discretionary activity (rather than a controlled activity) including matters for control to consider effects on indigenous biodiversity, natural character and natural features and landscapes and other matters to consider the effects of noise, light and location. | <p>Accept in part</p> <p>The Hearing Panel does not recommend granting the relief sought by the submitter.</p> <p>In relation to removing Outstanding Value, Estuaries Unmodified, and Estuaries Modified coastal management areas from the rule and to making the continued occupation of an existing lawfully established structure in such areas a restricted discretionary activity is not considered appropriate or necessary and would result in the imposition of unnecessary consenting costs for structures already present in these areas and which are considered to be having less than minor adverse effects (noting that issues with placement have already been separately addressed in another rule).</p> <p>The Hearing Panel notes that Rule 49 relates to the continued occupation of existing lawfully established structures after the expiry of its consent (and where the occupation was a controlled activity at the time of its placement or erection). At the time of the original placement and erection of the structure wider considerations relating to indigenous biodiversity and natural character would have been addressed (under alternative rules). The Hearing Panel</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | believes that ongoing occupation of a structure is likely to have less adverse effects subject to it continuing to be used for its originally consented purpose. Notwithstanding the above, the Hearing Panel recommends that the matters of control be amended to include natural character, features and landscape values and effects on indigenous biodiversity. This Council has adopted a precautionary approach whereby, if uncertain that effects can be adequately identified and addressed as a permitted activity or controlled activity, it has determined that the effects will be considered as a fully discretionary activity to ensure issues are comprehensively canvassed. |
| 45 – Powerco | 1053 | Support | Accept |
| | | Retain Rule 49 of the Plan as notified. | Support noted. Rule 49 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1054 | Support | Accept |
| | | Retain Rule 49 of the Plan as notified. | Support noted. Rule 49 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 47 – Fonterra | 1055 | Support | Accept |
| | | Retain Rule 49 of the Plan as notified. | Support noted. Rule 49 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 58 – Te Atiawa | 1056 | Amend | Decline |
| | | Submitter seeks amendment to Rule 49 to make the continued occupation of an existing lawfully established structure in such areas (where the occupation was previously a controlled activity) a restricted discretionary activity (rather than a controlled activity). | The Hearing Panel does not recommend granting the relief sought by the submitter. In relation to removing Outstanding Value, Estuaries Unmodified, and Estuaries Modified coastal management areas from Rule 49, and to making |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | <p>the continued occupation of an existing lawfully established structure in such areas a restricted discretionary activity, is not considered appropriate or necessary and would result in the imposition of unnecessary consenting costs for structures already present in these areas and which are considered to be having less than minor adverse effects (noting that issues with placement have already been separately addressed in another rule).</p> <p>The Hearing Panel notes that Rule 49 relates to the continued occupation of existing lawfully established structures after the expiry of its consent (and where the occupation was a controlled activity at the time of its placement or erection). At the time of the original placement and erection of the structure wider considerations relating to indigenous biodiversity and natural character would have been addressed (under alternative rules). The Panel believes that ongoing occupation of a structure is likely to have less adverse effects subject to it continuing to be used for its originally consented purpose.</p> <p>Of note, as part of this Coastal Plan review, this Council has adopted a precautionary approach whereby, if uncertain that effects can be adequately identified and addressed as a permitted activity or controlled activity, it has determined that the effects will be considered as a fully discretionary activity to ensure issues are comprehensively canvassed.</p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1057 | <p>Amend</p> <p>Submitter seeks amendment to Rule 49 of the Plan to include new and amended standards, terms and conditions to read:</p> <p><i>(a) the structure is being used for its originally intended purpose;</i></p> <p><i><u>(b) continued occupation does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</u></i></p> <p><i><u>(c) continued occupation complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></i></p> <p><i><u>(d) continued occupation is consistent with iwi management plan.</u></i></p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought in relation to Conditions (b), (c) and (d) as being uncertain in terms of their application and given the details as to managing adverse effects on a range of values including cultural and heritage values and monitoring are already identified in the rule as matters of control.</p> <p>The Hearing Panel notes that Rule 48 relates to the continued occupation of existing lawfully established structures where the occupation was a controlled activity at the time of its placement or erection. At the time of the original placement and erection of the structure wider considerations relating to historic heritage and indigenous biodiversity would have been addressed (under alternative rules). The Panel believes that ongoing occupation of a structure is likely to have less adverse effects subject to it continuing to be used for its originally consented purpose. The Panel does not believe it necessary to include additional conditions.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| | 1058 | Amend | Decline |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 61 – Te Rūnanga o Ngāti Ruanui Trust | | <p>Submitter seeks amendment to the Control/notification column for Rule 49 of the Plan to read:</p> <p><i>Control is reserved over:</i></p> <p>[...]</p> <p>(d) effects on water quality <i>and mauri values</i>;</p> <p>(e) effects on ecological values;</p> <p>(f) effects on historic, cultural and amenity values;</p> <p>(g) effects on surf breaks;</p> <p>(h) effects of occupation on public access;</p> <p>(i) effects on navigation;</p> <p>(j) effects of noise and light;</p> <p><i>(k) effects on Cultural Zone (referred to in Spatial Plan):</i></p> <p><i>(l) monitoring (including tangata whenua indicators referred to in the tangata whenua monitoring plan) and information requirements;</i></p> <p><i>(m) duration of consent; and</i></p> <p><i>(n) review of consent conditions.</i></p> <p>Resource consent applications under this Rule will not be publicly notified but may be limited notified <i>be notified to tangata whenua.</i></p> | <p>The Hearing Panel recommends declining the relief sought by the submitter.</p> <p>The suggested changes seem to be mixing jurisdictional, policy and operational matters and introducing a level of specificity that is not considered appropriate or necessary. Most of the changes sought are a subset of matters that have already been provided for while the submitter has also introduced some new concepts such as a cultural zone and a spatial plan that do not fit within the Proposed Plan framework. There is a 'requirement' to be consistent with iwi management plans, while the submitter is silent on how other planning documents might fit within this framework.</p> <p>The Hearing Panel notes that this activity is already subject to the General Policies 1 to 21 of which Policies 15 [Historic heritage] and 16 [Relationship of tangata whenua] are particularly relevant. The Panel further notes that there will be an opportunity to develop an agreed framework and operational detail for implementing the Plan as part of any Mana Whakahono a Rohe agreement with the submitter.</p> <p>In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting any references to consenting notification requirements in the rules (noting relevant notification requirements are set out in sections 95A to 95G of the RMA).</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| Rule 50 – Coastal occupation | | | |
| 26 – Transpower NZ Ltd | 1059 | <p>Amend</p> <p>Submitter seeks amendment to Rule 50 of the Plan to delete reference to the <i>National Environmental Standards for Electricity Transmission Activities: [...]</i> or the Resource Management (National Environmental Standards for Electricity Transmission Activities Regulations 2009 (Appendix 6)).</p> | <p>Accept</p> <p>The reference to the <i>National Environmental Standards for Electricity Transmission</i> is redundant and does not add further value to the Plan. The Hearing Panel recommends granting the relief sought by the submitter.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 29 – Department of Conservation | 1060 | Amend | Accept |
| | | Submitter seeks amendment to Rule 50 of the Plan's activity description to read: <i>[...] and the activity does not come within or comply with Rules 47 – 50 49 [...].</i> | The Hearing Panel recommend granting the relief sought by the submitter. |
| 32 – Port Taranaki | 1061 | Amend | Accept |
| | | Submitter seeks amendment to Rule 50 of the Plan's activity description to read: <i>[...] and the activity does not come within or comply with Rules 47 – 50 49 [...].</i> | The Hearing Panel recommends granting the relief sought by the submitter. |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1062 | Support | Accept |
| | | Retain Rule 50 of the Plan as notified. | Support noted. Rule 50 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 47 – Fonterra | 1063 | Support | Accept |
| | | Retain Rule 50 of the Plan as notified. | Support noted. Rule 50 is retained subject to amendments made to offer relief to other submitters' concerns where appropriate. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1064 | Amend | Decline |
| | | Submitter seeks amendment to Rule 50 of the Plan to include standards, terms and conditions to read: <i><u>(a) the occupation does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</u></i> <i><u>(b) the occupation complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></i> <i><u>(c) the occupation is consistent with iwi management plan.</u></i> AND Include the following notification note: <i><u>Resource consent applications under this Rule will be notified to tangata whenua.</u></i> | The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary and non-complying activities. The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies. The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 31, 32 and 39 being given effect to. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41) | | Support | <p>In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to “<i>matters of control/discretion</i>” and deleting any references to consenting notification requirements in the rules (noting relevant notification requirements are set out in sections 95A to 95G of the RMA).</p> <p>The Hearing Panel further notes that, in addition to the requirements of the RMA, notification to iwi can also be addressed through Mana Whakahono a Rohe agreements without the need to be included in the Plan rules.</p> |
| NEW Rule 50A – Coastal occupation | | | |
| 43 – Royal Forest and Bird Protection Society | 1065 | <p>Amend</p> <p>Submitter seeks amendment to the Plan to make the continued occupation of an existing lawfully established structure in Outstanding Value, Estuaries Unmodified, and Estuaries Modified coastal management areas (where the occupation was previously a Permitted or controlled activity).</p> | <p>Decline</p> <p>Refer to submission points 1045 and 1052.</p> |
| Rule 51 – Clearance of outfalls, culverts and intake structures | | | |
| 21 – Climate Justice Taranaki | 1066 | <p>Amend</p> <p>Submitter seeks amendment to Rule 51 [Clearance of outfalls, culverts and intake structures and any associated activities] of the Plan to make the activity Discretionary (rather than Permitted) in coastal management areas: Outstanding value and Estuaries Unmodified – especially the discharge of contaminants.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter.</p> <p>The Hearing Panel notes that the activity is to allow minor disturbances of the foreshore and seabed for the purpose of removing accumulated sediment that is adversely affecting the use and performance of a culvert, outfall or intake structure. Anticipated effects should be less than minor, subject to compliance with the standards, terms and conditions.</p> <p>Of note, Rule 51 relates only to maintenance activities (and incidental discharges) associated with existing structures rather than the discharge itself. Given that the placement of these structures are already authorised in Outstanding value and Estuaries Unmodified coastal management areas,</p> |

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| | | | requiring a resource consent for ongoing maintenance works is not considered appropriate or necessary. |
| 40 – Te Rūnanga o Ngāti Mutunga | 1067 | <p>Amend</p> <p>Submitter seeks amendment to Rule 51 of the Plan to include two additional conditions:</p> <p><i>(f) the activity does not have an adverse effect on the values associated with historic heritage identified in Schedule 5 (Historic Heritage)</i></p> <p><i>(g) the activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A.</i></p> | <p>Accept</p> <p>The Hearing Panel notes that Rule 51 relates to allowing minor disturbances of the foreshore and seabed for the purpose of removing accumulated sediment that is adversely affecting the use and performance of a culvert, outfall or intake structure.</p> <p>At the time of the original placement and erection of the structure wider considerations relating to historic heritage and indigenous biodiversity would have been addressed (under alternative rules).</p> <p>However, to ensure a precautionary approach, the Hearing Panel recommends the inclusion of additional standards terms and conditions to ensure no adverse effects to significant indigenous biodiversity, including taonga species and historic heritage identified in Schedules 5A and B. These are reflected in new standards terms and conditions (aa), (ab) and (ac).</p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| 40 – Te Rūnanga o Ngāti Mutunga | 1068 | <p>Amend</p> <p>Submitter opposes permitting the clearance of outfalls, culverts and intake structures in the coastal marine area and seek amendment to Rule 51 of the Plan to make such activities be a discretionary activity.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter.</p> <p>The Hearing Panel notes that the activity is to allow minor disturbances of the foreshore and seabed for the purpose of removing accumulated sediment that is adversely affecting the use and performance of a culvert, outfall or intake structure. Anticipated effects should be less than minor, subject to compliance with the standards, terms and conditions.</p> <p>Of note Rule 51 relates only to maintenance activities (and incidental discharges) associated with existing structures rather than the discharge itself. Requiring a resource consent for ongoing maintenance works is not considered appropriate or necessary.</p> |
| 43 – Royal Forest and Bird Protection Society | 1069 | <p>Amend</p> <p>Submitter seeks amendment to Rule 51 of the Plan to clarify that the rule provides for clearance of lawfully established structures only and add further conditions and limits to specify:</p> <ul style="list-style-type: none"> the amount of disturbance or deposition of material | <p>Accept in part</p> <p>The Hearing Panel recommends amending the Activity Description of Rule 51 to refer to lawfully established structures.</p> <p>In relation to the other matters raised by the submitter, the Hearing Panel does not recommend granting the reliefs sought. Of note, the Rule is based on an equivalent rule in the current Plan for which there have been no issues</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <ul style="list-style-type: none"> • a limit or guidance on “<i>minimum necessary</i>” to ensure removal of material does not result in adverse effects • whether mitigation may be appropriate in outstanding or significant locations and require consent • the type of material which can be deposited • adverse effects of depositing the material inappropriately. | <p>with its implementation and application to date. Specific comments are as follows:</p> <ul style="list-style-type: none"> • The amount of disturbance or deposition of material will depend upon the structure but given there can be significant costs associated with doing this maintenance works there is an incentive for the person not to do more than they need to do to protect the use and performance of their culvert, outfall or intake structure. • As per above, the minimum amount of material that can be removed will depend upon the structure but given there can be significant costs associated with doing this maintenance works, again, there is an incentive for the person not to do more than they need to do to protect the use and performance of their culvert, outfall or intake structure. • As per the reading of the condition, any material placed on the foreshore or seabed will consist of the same material as the receiving environment., e.g. shingle or rocks on rocky shores, sand on sandy beaches or sea floors. • Subject to the standards, terms and conditions, the Hearing Panel believes adverse environments will be appropriately managed. However, in response to concerns raised by the submitter, the Hearing Panel recommends the inclusion of two new standards, terms and conditions addressing adverse effects on indigenous biodiversity and historic heritage. |
| 47 – Fonterra | 1070 | <p>Amend</p> <p>Submitter seeks amendment to Condition (e) of Rule 51 of the Plan to read: <i>(e) activity does not restrict public access for more than <u>seven days 24 hours</u>.</i></p> | <p>Accept in part</p> <p>Submitter notes that clearance activities on larger structures may take longer than one day due to weather events and notes that these structures are located in areas where there is generally low levels of demand for access. The Hearing Panel agrees in part but consider a restriction on public access up to 7 days to be excessive for a permitted activity. Instead, the Hearing Panel recommends that public access restrictions be limited to 72 hours.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 57 – Heritage New Zealand | 1071 | Amend | Accept |
| | | Submitter seeks amendment to Rule 51 of the Plan to include an additional condition: <i>(f) disturbance does not occur within a site included in Schedule 5 [Historic Heritage].</i> | The Hearing Panel recommends granting the relief sought by the submitter with the inclusion of new standard, term and condition (ac). |
| 58 – Te Atiawa | 1072 | Amend | Accept |
| | | Submitter seeks amendment to Rule 51 of the Plan to include two additional conditions to read: <i>(f) activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant indigenous biodiversity], and:</i> <i>(g) the activity does not have an adverse effect on the values associated with sites of significance to Māori identified in Schedule 5A and 5B.</i> | The Hearing Panel recommends granting the relief sought by the submitter. |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| 59 – KiwiRail | 1073 | Support | Accept |
| | | Retain Rule 51 of the Plan as notified. | Support noted. Rule 51 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1074 | Amend | Accept in part |
| | | Submitter seeks amendment to Rule 51 of the Plan to include new standards, terms and conditions to read: [...] <i>(f) the discharge does not have an adverse effect on the values associated with cultural and historic heritage identified in Schedule 5 [Cultural and Historic heritage];</i> <i>(g) the discharge does not have adverse effect on Schedules 1 and 2;</i> <i>(h) the discharge does not have any adverse effect on any site identified in 5B [Sites of significance to Māori and associated values] and Appendix 2;</i> | The submitter is seeking amendment to Rule 51 of the Plan to include new and amended standards, terms and conditions that primarily address cultural and historic heritage and indigenous biodiversity considerations. The Hearing Panel notes that a number of submitters have raised similar considerations. The Panel recommends that in a manner that is consistent to that adopted in conditions adopted in other rules that three new conditions be added to the rule that reads as follows: [...] |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p><i>(i) the discharge does not adversely affect the suitability of the receiving environment for customary use;</i></p> <p><i>(j) activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type, or any sensitive marine benthic habitat including those identified in Schedule 4 [Significant indigenous biodiversity] or any reef system; and taonga species protected under Taranaki iwi Deed of Settlement including those identified in Schedule 4C [Taonga species and habitat].</i></p> | <p><i>(aa) disturbance does not have an adverse effect on significant indigenous biodiversity, including those identified in Schedule 4 [Significant indigenous biodiversity];</i></p> <p><i>(ab) the activity does not have a significant effect on the values associated with taonga species identified in Schedule 4C [Taonga species];</i></p> <p><i>(ac) disturbance does not have an adverse effect on the values associated with historic heritage identified in Schedule 5A and B [Historic heritage];</i></p> |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| Rule 52 – Collection of benthic grab samples | | | |
| 6 – Trans-Tasman Resources Ltd | 1075 | <p>Support</p> <p>Retain Rule 52 of the Plan as this rule appropriately enables monitoring of effects on benthic communities by providing for the removal of benthic material as a permitted activity where it is for scientific or monitoring purposes and where it meets the terms set out in the rule.</p> | <p>Accept</p> <p>Support noted. Rule 52 is retained subject to amendments to offer relief to other submitters' concerns where appropriate.</p> <p>The Hearing Panel further note that in relation to other requests from the submitter (and others) additional rules have been incorporated into the Plan to address other disturbance activities for scientific sampling and monitoring purposes generally (Rules 52, 52A and 52B).</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 6 – Trans-Tasman Resources Ltd | 1076 | <p>Amend</p> <p>Submitter seeks consequential changes to Condition (g) of Rule 52 of the Plan that gives effect to previous reliefs sought. Consequential amendments read as follows:</p> <p><i>(g) sampling does not have an adverse effect on any threatened or at risk, or regionally distinctive (declining) species, or any rare and uncommon ecosystem type, or any sensitive marine benthic habitat including those identified in Schedule 4 [Significant indigenous biodiversity] or any reef system; [...]</i></p> | <p>Decline</p> <p>The Hearing Panel does not recommend granting this relief as deleting reference to regionally distinctive species would be inconsistent with Bio Policy 4 of the <i>Regional Policy Statement</i>, which refers to, amongst other things, the presence of regionally distinctive species as a criteria for identifying significant indigenous biodiversity values in Taranaki. The category also contributes to giving effect to Policy 11(a)(iv) of the <i>New Zealand Coastal Policy Statement</i>. It is the Hearing Panel's view that Plan provisions should recognise the local context and provide for the protection of indigenous species that are locally significant to the Taranaki region, irrespective of their national threat status.</p> |
| Further submissions – Department of Conservation (29) | | Oppose | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | The Hearing Panel also recommends declining the relief sought in relation to deleting reference to sensitive benthic habitats. Sensitive benthic habitats refer to marine habitats identified in the report https://www.trc.govt.nz/assets/Documents/Plans-policies/CoastalPlanReview/SensitiveHabitats.PDF that have low tolerance to habitat damage and for which the time for the habitat to recover from any damage would be significant. Given the sensitivity and vulnerability of such marine habitats, the Hearing Panel considers it appropriate that they be recognised and provided for in Rule 52. |
| 41 – Te Korowai o Ngāruahine Trust | 1077 | Amend Submitter seeks amendment to Rule 52 of the Plan to require notification to iwi of any benthic grab sampling authorised by this rule. | Accept The Hearing Panel notes that, under Condition (h), the Council requires to be informed of the activity at least five working days prior to the activity commencing and have agreed to pass this information to iwi authorities. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | The Hearing Panel recommends including an additional note under the Activity Description in response to the submitters request to read as follows: |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Support | <i>Note (2): Iwi authorities that have requested to be informed of this activity will be advised by the Council.</i> |
| 43 – Royal Forest and Bird Protection Society | 1078 | Support Retain Rule 52 of the Plan as notified. | Accept Support noted. Rule 52 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. |
| 58 – Te Atiawa | 1079 | Amend Submitter seeks amendment to Rule 52 of the Plan so that Iwi are notified. | Accept In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and/or any Mana Whakahono a Rohe agreements. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | However, in relation to permitted activity notifications, the Council requires notification under standard, term and condition (h) at least five working day before the activity is due to commence, and has agreed to forward this notification to iwi authorities that have requested to be kept informed. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | The Hearing Panel recommends including Note (2) in response to the submitters request to read: |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <u>Note (2): Iwi authorities that have requested to be informed of this activity will be advised by the Council.</u> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1080 | <p>Amend</p> <p>Submitter seeks amendment to Rule 52 of the Plan to include new and amended standards, terms and conditions to read:</p> <p>[...]</p> <p><i>(f) sampling does not have an adverse effect on the values associated with <u>cultural and historic heritage identified in Schedule 5 [Cultural and Historic heritage];</u></i></p> <p><i><u>(fa) the sampling does not have adverse effect on Schedules 1 and 2;</u></i></p> <p><i><u>(fb) the activity does not have any adverse effect on any site identified in 5B [Sites of significance to Māori and associated values] and Appendix 2;</u></i></p> <p><i>(g) sampling does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type, or any sensitive marine benthic habitat including those identified in Schedule 4 [Significant indigenous biodiversity] or any reef system <u>and taonga species protected under Taranaki iwi Deed of Settlement including those identified in Schedule 4C [Taonga species and habitat] [...]</u></i></p> | <p>Accept in part</p> <p>The submitter is seeking amendment to Rule 52 of the Plan to include new and amended standards, terms and conditions. Specific comments on the new and amended proposed conditions are as follows:</p> <ul style="list-style-type: none"> Decline the relief sought in relation to Condition (f). The Hearing Panel refers the submitter to previous comments made on expanding the scope of historic heritage. Decline the relief sought in relation to Condition (fa). The Hearing Panel notes that the effect of granting this relief would also make this rule redundant as Schedules 1 and 2 capture the whole coastal marine area plus landward parts of the coastal environment identified as having outstanding natural character or being an outstanding natural feature or landscape and it requires no adverse effects (even those less than minor), Decline relief sought in relation to Condition (fb) as unnecessary and uncertain for Plan users. The Rule is only providing for the collection of benthic grab samples for scientific or monitoring purposes in the coastal marine area. The Hearing Panel notes that impacts on cultural sites of significance are already addressed in Condition (f). Grant the relief in kind in relation to Condition (d). The Hearing Panel recommends expanding the scope of Rule conditions to include reference to scheduled taonga species. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| Rule 53 – Minor disturbance and removal | | | |
| 6 – Trans-Tasman Resources Ltd | 1081 | <p>Support</p> <p>Retain Rule 53 of the Plan as this rule recognises the minor effects arising from such disturbance and removal.</p> | <p>Accept</p> <p>Support noted. Rule 53 is retained subject to amendments to offer relief to other submitters' concerns where appropriate.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Climate Justice Taranaki Inc (21), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 1082 | Amend Submitter supports retaining Conditions (c) to (g) but seeks amendment to Rule 53 of the Plan by removing Outstanding Value, Estuaries Unmodified, and Estuaries Modified coastal management areas from the rule and to make minor disturbance and removal of sand, shingle or other natural material in such areas a restricted discretionary activity (rather than a permitted activity). | Decline The Hearing Panel notes that Rule 53 is a new rule providing for the removal of small quantities of sand for non-commercial purposes, e.g. for the sandpit or material for customary uses. Subject to compliance with standards, terms and conditions set out in the Rule, any adverse effects would be less than minor and transitory. The Panel does not believe it appropriate or necessary to require people to obtain a resource consent to take less than 0.5 m ³ of sand, shingle, shell or other natural material. |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 1083 | Amend Submitter seeks amendment to Rule 53 of the Plan by including matters for control to consider effects on indigenous biodiversity, natural character and natural features and landscapes and other matters to consider the effects of noise, light and location. | Decline Refer to submission point 1082. The Hearing Panel does not recommend requiring people to get a resource consent for such small scale activities. Notwithstanding that, it is the Panel's view that indigenous biodiversity considerations are adequately addressed in the standards, terms and conditions. |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 1084 | Amend Submitter seeks amendment to Rule 53 of the Plan by adding a new condition that restricts the activity to outside of bird breeding periods. | Decline Refer to submission point 1082. The Hearing Panel does not consider the amendment sought to add any further value and consider the current standards, terms and conditions to provide the necessary direction for Plan users. The Panel notes that the scale of the activity is small and can be appropriately managed as a permitted activity. The Hearing Panel recommends declining the relief requested. |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1085 | Amend Submitter seeks amendment to Rule 53 of the Plan to include new and amended standards, terms and conditions to read: | Accept in part |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
|---|------------------|--|--|
| | | <p>(a) the activity does not have an adverse effect on the values associated with <u>cultural and historic heritage identified in Schedule 5 [Cultural and Historic heritage]</u>;</p> <p><u>(aa) the activity does not have adverse effect on Schedules 1 and 2;</u></p> <p><u>(ab) the activity does not have any adverse effect on any site identified in 5B [Sites of significance to Māori and associated values] and Appendix 2;</u></p> <p>(b) the activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type, or any sensitive marine benthic habitat including those identified in Schedule 4 [Significant indigenous biodiversity] or any reef system <u>and taonga species protected under Taranaki iwi Deed of Settlement including those identified in Schedule 4C [Taonga species and habitat]</u>. [...]</p> | <p>The submitter is seeking amendment to Rule 53 of the Plan to include new and amended standards, terms and conditions. Specific comments on the new and amended proposed conditions are as follows:</p> <ul style="list-style-type: none"> Decline the relief sought in relation to Condition (a). The Hearing Panel refers the submitter to previous comments made on expanding the scope of historic heritage. Decline the relief sought in relation to Condition (aa). The Hearing Panel notes that the effect of granting this relief would also make this rule redundant as Schedules 1 and 2 capture the whole coastal marine area plus landward parts of the coastal environment identified as having outstanding natural character or being an outstanding natural feature or landscape and it requires no adverse effects (even those less than minor or transitory). Decline relief sought in relation to Condition (ab) as unnecessary and uncertain for Plan users. The Rule is only providing for the extraction of small quantities of material (e.g. for a sandpit) in the coastal marine area. The Hearing Panel also notes that impacts on cultural sites of significance are already addressed in Condition (a) Grant the relief in kind in relation to Condition (b). The Hearing Panel recommends expanding the scope of Rule conditions to include reference to scheduled taonga species. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support | |
| Rule 54 – Burial of dead animals | | | |
| 29 – Department of Conservation | 1086 | <p>Amend</p> <p>Submitter seeks amendment to Rule 54(e) of the Plan to read:</p> <p>(e) <u>except for seals</u>, where a marine mammal is buried, the relevant iwi authority is notified prior to the burial taking place [...]</p> | <p>Accept</p> <p>The submitter notes that most of the marine mammals that the Department of Conservation bury are dead seals and that the frequency of dead seal burials means that it is likely to be impracticable to consult with iwi on every occasion. The submitter further notes that the Taranaki Iwi deed of settlement already adequately covers the requirement for the Department to cooperate with and advise iwi of any marine mammal strandings and burials.</p> <p>The Hearing Panel recommends granting the relief sought by the submitter.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 40 – Te Rūnanga o Ngāti Mutunga | 1087 | Amend | Accept |
| | | Submitter seeks amendment to Rule 54(b) of the Plan to read: <i>(b) the activity does not occur at any site identified in Schedule 56B [Sites of significance to Māori] [...]</i> | The Hearing Panel recommends granting the relief sought by the submitter. |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| 58 – Te Atiawa | 1088 | Support in Part | Accept |
| | | Submitter seeks amendment to Rule 54(b) of the Plan to read: <i>(b) the activity does not occur at any site identified in Schedule 56B [Sites of significance to Māori] [...]</i> | The Hearing Panel recommends granting the relief sought by the submitter. |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| 60 – Te Kaahui o Rauru | 1089 | Amend | Decline |
| | | Submitter seeks amendment to Rule 54 of the Plan to require active involvement of tangata whenua (not just notification) when it comes to the burial of dead animals on the beach, particularly the burial of marine mammals. | In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and/or any Mana Whakahono a Rohe agreements. In addition, the Hearing Panel notes that the activity of burying marine mammals in the coastal marine area is undertaken by the Department of Conservation and notes that involvement with local iwi and hapu is often provided for through the Department of Conservation engagement processes. The Hearing Panel notes that Council routinely works with the Department of Conservation in such matters. Treaty of Waitangi deeds of settlement adequately covers Departmental requirements to cooperate with and advise iwi of any marine mammal strandings and burials. |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1090 | Amend | Accept in part The submitter is seeking amendment to Rule 54 of the Plan to include new and amended standards, terms and conditions. Specific comments on the new and amended proposed conditions are as follows: <ul style="list-style-type: none"> Decline the relief sought in relation to Condition (a). The Hearing Panel refers the submitter to previous comments made on expanding the scope of historic heritage. Decline the relief sought in relation to Condition (aa) and (ab). Hearing Panel note that the effect of granting this relief would also make this rule redundant as Schedules 1 and 2 capture the whole coastal marine area plus landward parts of the coastal environment identified as having outstanding natural character or being an outstanding natural feature or landscape and it requires no adverse effects (even those less than minor or transitory). Decline relief sought in relation to deleting Condition (b) as express permission from the appropriate iwi authority should the burial of dead animals be required in their sites of significance is considered appropriate. Grant the relief in kind in relation to Condition (b). The Hearing Panel recommends expanding the scope of Rule conditions to include reference to scheduled taonga species. |
| | | Submitter seeks amendment to Rule 54 of the Plan to include new and amended standards, terms and conditions to read: <i>(a) the activity does not have an adverse effect on the values associated with <u>cultural and historic heritage identified in Schedule 5 [Cultural and Historic heritage];</u></i> <i>(aa) the activity does not have adverse effect on Schedules 1 and 2;</i> <i>(ab) the activity does not have any adverse effect on any site identified in 5B [Sites of significance to Māori and associated values] and Appendix 2;</i> <i>(b) the activity does not occur at any site identified in 6B [Sites of significance to Māori and associated values] except with express permission of the relevant iwi authority;</i> <i>(c) activity complies with the general standards in Section 8.6;</i> <i>(d) the activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type, or any sensitive marine benthic habitat including those identified in Schedule 4 [Significant indigenous biodiversity] or any reef system and taonga species protected under Taranaki iwi Deed of Settlement including those identified in Schedule 4C [Taonga species and habitat]; [...]</i> | |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| Rule 55 – Dredging and spoil disposal (Port) | | | |
| 43 – Royal Forest and Bird Protection Society | 1091 | Support | Accept |
| | | Retain Rule 55 of the Plan as notified. | Support noted. |
| 58 – Te Atiawa | 1092 | Support | Accept |
| | | Retain Rule 55 of the Plan as notified. | Support noted. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Rule 56 – Dredging and spoil disposal (Open Coast) | | | |
| 43 – Royal Forest and Bird Protection Society | 1093 | Support Retain Rule 56 of the Plan as notified. | Accept Rule 56 is retained as notified. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 58 – Te Atiawa | 1094 | Amend Submitter seeks amendment to Rule 56 of the Plan to include the following conditions: <i><u>(a) activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant indigenous biodiversity], and;</u></i> <i><u>(b) the activity does not have an adverse effect on the values associated with sites of significance to Māori identified in Schedule 5A and 5B.</u></i> | Decline The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to Discretionary activities. The Hearing Panel declines the relief noting that it is not standard planning practice for discretionary or non-complying activity rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies. The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 22, 39, 40, 41, 42, 43, 44 and 49 being given effect to. In particular, Policy 14 [Indigenous biodiversity], Policy 15 [Historic heritage] and Policy 16 [Relationship with tangata whenua] will provide protections for areas of concern identified by the submitter. |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1095 | Amend Submitter seeks amendment to Rule 56 of the Plan to include standards, terms and conditions to read: <i><u>(a) the activity does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</u></i> <i><u>(b) the activity complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></i> <i><u>(c) the activity is consistent with iwi management plan.</u></i> AND Include the following notification note: <i><u>Resource consent applications under this Rule will be notified to tangata whenua.</u></i> | Decline The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to Discretionary activities. The Hearing Panel declines the relief noting that it is not standard planning practice for Discretionary or non-complying activity rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies. The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 22, 39, 40, 41, 42, 43, 44 and 49 being given effect to. In particular, Policy 16 |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | [Relationship with tangata whenua] will provide protections for areas of concern identified by the submitter. In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and/or any Mana Whakahono a Rohe agreements. |
| Rule 57 – Beach replenishment | | | |
| 29 – Department of Conservation | 1096 | Amend Submitter seeks amendment to Rule 57 of the Plan to read: <i>Deposition of natural marine material [...]</i> AND Include controls around particle size, and requirements for marine material similar to that of the receiving environment. | Decline The Hearing Panel agrees that beach replenishment materials should be similar to the sediments that already existing in the natural receiving environment, however, this is a detail that would be addressed within the consenting process on a case-by-case basis and does not require mention within the rule itself. |
| 40 – Te Rūnanga o Ngāti Mutunga | 1097 | Amend Submitter seeks amendment to Rule 57 of the Plan to include 2 additional conditions: <i>(c) the activity does not have an adverse effect on the values associated with historic heritage identified in Schedule 5 [Historic Heritage]</i> <i>(d) the activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A.</i> | Decline The submitter has sought the inclusion of standards, terms and conditions for a rule in the Plan that has a discretionary activity classification. The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a non-complying activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies. The Hearing Panel notes that effects on species and ecosystems are provided for and protected under Policy 14 [Indigenous biodiversity] and will be required to be given effect through this rule by having regard for Policies 1 to 21, 22, 40, 41, 42, 44 and 49 being given effect to. |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| 41 – Te Korowai o Ngāruahine Trust | 1098 | Amend Submitter seeks amendment to Rule 57 of the Plan to acknowledge the role that kaitiaki play in wanting to protect areas of ecological value and biodiversity and sites of significance. | Decline The Hearing Panel recommends declining the relief sought by the submitter. The Hearing Panel does not consider the rules to be an appropriate place to discuss the role of kaitiaki in wanting to protect areas of ecological value, |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | <p>biodiversity and sites of significance. Such matters have been addressed elsewhere in the Plan.</p> <p>The Hearing Panel notes that the rules are subject to the provisions within the policies and as such kaitiaki is already provided for within Policy 16 [Relationship of tangata whenua]. Thus, kaitiaki will have to be considered through this rule irrespective of whether it is explicitly mentioned or not and can be done so through iwi involvement in the consent process on a case-by-case basis.</p> |
| 41 – Te Korowai o Ngāruahine Trust | 1099 | <p>Amend</p> <p>Submitter seeks amendment to Rule 57 of the Plan to include standards, terms and conditions to ensure that the activities do not have any adverse effects on species and ecosystems and do not impact on the values of the sites listed in Schedules 5A and B.</p> | <p>Decline</p> <p>The submitter has sought the inclusion of standards, terms and conditions for a rule in the Plan that has a discretionary activity classification.</p> <p>The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a non-complying activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> <p>The Hearing Panel notes that effects on species and ecosystems are provided for and protected under Policy 14 [Indigenous biodiversity] and will be subject to the activity obtaining a resource consent and giving effect to Policies 1 to 21, 22, 40, 41, 42, 44 and 49.</p> |
| 43 – Royal Forest and Bird Protection Society | 1100 | <p>Support</p> <p>Retain Rule 57 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Rule 57 is retained as notified.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 58 – Te Atiawa | 1101 | <p>Amend</p> <p>Submitter seeks amendment to Rule 57 of the Plan to include the following conditions:</p> <p><i><u>(a) activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant indigenous biodiversity], and;</u></i></p> | <p>Decline</p> <p>The submitter has sought the inclusion of standards, terms and conditions for a rule in the Plan that has a discretionary activity classification.</p> <p>The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a non-</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p><u><i>b) the activity does not have an adverse effect on the values associated with sites of significance to Māori identified in Schedule 5A and 5B.</i></u></p> | <p>complying activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> <p>The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 22, 40, 41, 42, 44 and 49 being given effect to. In particular, Policy 14 [Indigenous biodiversity] and Policy 15 [Historic heritage] will provide for the areas of concern raised by the submitter.</p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1102 | <p>Amend</p> <p>Submitter seeks amendment to Rule 57 of the Plan to include standards, terms and conditions to read:</p> <p><u><i>(a) the activity does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</i></u></p> <p><u><i>(b) the activity complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</i></u></p> <p><u><i>(c) the activity is consistent with iwi management plan.</i></u></p> <p>AND</p> <p>Include the following notification note:</p> <p><u><i>Resource consent applications under this Rule will be notified to tangata whenua.</i></u></p> | <p>Decline</p> <p>The submitter has sought the inclusion of standards, terms and conditions for a rule in the Plan that has a discretionary activity classification.</p> <p>The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> <p>The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 22, 40, 41, 42, 44 and 49 being given effect to. In particular, Policy 16 [Relationship with tangata whenua] will provide protections for areas of concern identified by the submitter.</p> <p>In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and or Mana Whakahono a Rohe agreements.</p> <p>In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting any references to consenting notification requirements in the rules (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA).</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Rule 58 – Introduction of exotic plants | | | |
| 29 – Department of Conservation | 1103 | Support | Accept |
| | | Retain Rule 58 of the Plan as notified. | Support noted. Rule 58 is retained as notified. |
| 43 – Royal Forest and Bird Protection Society | 1104 | Support | Accept |
| | | Retain Rule 58 of the Plan as notified. | Support noted. Rule 58 is retained as notified. |
| 58 – Te Atiawa | 1105 | Other | No relief necessary |
| | | Seek discussion with the Taranaki Regional Council with respect to the purpose of allowing the introduction of exotic plants into the coastal marine area. | Comments noted. The Hearing Panel note that the Rule framework recognises that the introduction of exotic plants into the coastal marine area would not generally be acceptable. Hence, the activity can only be authorised through the consenting process as a discretionary activity or a non-complying activity (depending upon the coastal marine area where the activity is proposed to occur). |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1106 | Amend | Decline |
| | | <p>Submitter seeks amendment to Rule 58 of the Plan to include standards, terms and conditions to read:</p> <p><i><u>(a) the activity does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</u></i></p> <p><i><u>(b) the activity complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></i></p> <p><i><u>(c) the activity is consistent with iwi management plan.</u></i></p> <p>AND</p> <p>Include the following notification note:</p> <p><i><u>Resource consent applications under this Rule will be notified to tangata whenua.</u></i></p> | <p>The submitter has sought the inclusion of standards, terms and conditions for a rule in the Plan that has a discretionary activity classification.</p> <p>The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> <p>The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with General Policies 1 to 21 and Activity-specific Policy 28 being given effect to. In particular, Policy 16 [Relationship with tangata whenua] would provide protections for areas of concern identified by the submitter.</p> <p>In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and or Mana Whakahono a Rohe agreements.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting any references to consenting notification requirements in the rules (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA). |
| Rule 59 – Introduction of exotic plants | | | |
| 29 – Department of Conservation | 1107 | Support | Accept |
| | | Retain Rule 59 of the Plan as notified. | Rule 59 retained as notified. |
| 40 – Te Rūnanga o Ngāti Mutunga | 1108 | Support | Accept |
| | | Retain Rule 59 of the Plan as notified. | Rule 59 retained as notified. |
| 43 – Royal Forest and Bird Protection Society | 1109 | Amend | No relief necessary |
| | | Submitter seek amendment to Rule 59 to give effect to the <i>New Zealand Coastal Policy Statement</i> . | The submitter notes that the introduction of exotic plants is not consistent with protection or enhancement of natural character. In particular they are concerned about adverse effects on significant biodiversity values. The Hearing Panel does not believe that relief is required. The Panel agrees with the submitter that the introduction of exotic plants in the coastal marine area is likely to degrade natural character. This has been recognised in the Plan whereby Rule 59 makes this activity a non-complying activity for which a resource consent would be required. The Panel notes that non-complying activity represents a very high level of regulatory protection whereby a resource consent cannot be granted unless the effects of the activity are minor and the activity is not contrary to the objectives and policies of the Plan. |
| 58 – Te Atiawa | 1110 | Support | Accept |
| | | Submitter supports Rule 59 of the Plan as notified. | Support noted. Rule 59 retained as notified. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1111 | <p>Amend</p> <p>Submitter seeks amendment to Rule 59 of the Plan to include standards, terms and conditions to read:</p> <p><i><u>(a) the activity does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</u></i></p> <p><i><u>(b) the activity complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></i></p> <p><i><u>(c) the activity is consistent with iwi management plan.</u></i></p> <p>AND</p> <p>Include the following notification note:</p> <p><i><u>Resource consent applications under this Rule will be notified to tangata whenua.</u></i></p> | <p>Decline</p> <p>The submitter has sought the inclusion of standards, terms and conditions for a rule in the Plan that has a non-complying activity classification.</p> <p>The Hearing Panel recommends declining the relief sought noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a non-complying activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> <p>The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21 and 28 being given effect to. In particular, Policy 16 [Relationship with tangata whenua] will provide protections for areas of concern identified by the submitter.</p> <p>In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and or Mana Whakahono a Rohe agreements.</p> <p>In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting any references to consenting notification requirements in the rules (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA).</p> |
| Rule 60 – Other disturbance, damage, destruction, removal or deposition | | | |
| 26 – Transpower NZ Ltd | 1112 | <p>Amend</p> <p>Submitter supports Rule 60 of the Plan but seeks amendment to Rule to delete reference to National Environmental Standards for Electricity Transmission Activities:</p> | <p>Accept</p> <p>The reference to the <i>National Environmental Standards for Electricity Transmission</i> is redundant and does not add further value to the Plan. The Hearing Panel recommends granting the relief sought by the submitter.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | [...] or the Resource Management (National Environmental Standards for Electricity Transmission Activities Regulations 2009 (Appendix 6)). | |
| 40 – Te Rūnanga o Ngāti Mutunga | 1113 | <p>Amend</p> <p>Submitter seeks amendment to Rule 60 of the Plan to make disturbance, damage, destruction, removal or deposition of the foreshore and seabed a non-complying activity in Estuaries Modified, Open Coast and Port coastal management areas (i.e. all coastal management areas).</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. The Hearing Panel notes that discretionary activity classifications provides a high level of regulatory protection and Hearing Panel do not consider it appropriate to preclude this activity across coastal management areas already modified by coastal activities without determining the scale and possible effects as would be determined on a case-by-case basis through the consenting process.</p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 1114 | <p>Amend</p> <p>Submitter seeks amendment to Rule 60 of the Plan to give effect to the <i>New Zealand Coastal Policy Statement</i>.</p> | <p>No relief necessary</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. The submitter suggests that these activities can have significant adverse effects on indigenous biodiversity and natural character not identified in the Plan. The submitter seeks amendments to Plan policies to give effect to the <i>New Zealand Coastal Policy Statement</i> and believes amendments are necessary to provide for this activity as a discretionary activity.</p> <p>The Hearing Panel notes that the submitters concerns regarding indigenous biodiversity and natural character are provided for within the Plan in Policy 9 [Natural character and natural features and landscapes] and Policy 14 [Indigenous biodiversity] and that Rule 60 must give effect to the relevant policies including all of the General Policies as indicated in the Policy reference column.</p> <p>It is Hearing Panel's view that the requirements of the <i>New Zealand Coastal Policy Statement</i> have been fulfilled through the Proposed Plan and suggested amendments to the Proposed Plan (addressed elsewhere in this report).</p> |
| 47 – Fonterra | 1115 | <p>Support</p> <p>Retain Rule 60 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Rule 60 retained as notified.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 58 – Te Atiawa | 1116 | Amend Submitter seeks amendment to Rule 60 of the Plan to change the activity classification to non-complying (currently discretionary activity) for the Estuaries Modified and the Open Coast coastal management areas. | Decline The Hearing Panel recommends declining the relief requested by the submitter. The Hearing Panel does not consider it appropriate to further restrict this activity in the Estuaries Modified and the Open Coast coastal management areas. As a discretionary activity a resource consent is required and, through the consenting process, any application for disturbance activities on the foreshore or seabed can be fully considered. |
| Further submissions – Trans-Tasman Resources Ltd (6), Department of Conservation (29) | | Oppose | |
| Further submissions – Climate Justice Taranaki Inc (21) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1117 | Amend Submitter seeks amendment to Rule 60 of the Plan to include standards, terms and conditions to read: <i>(a) the activity does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</i> <i>(b) the activity complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</i> <i>(c) the activity is consistent with iwi management plan.</i> AND Include the following notification note: <i>Resource consent applications under this Rule will be notified to tangata whenua.</i> | Decline The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary and non-complying activities. The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies. The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 39, 40, 41, 42 and 44 being given effect to. In particular, Policy 16 [Relationship with tangata whenua] will provide protections for areas of concern identified by the submitter. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and or Mana Whakahono a Rohe agreements. In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly |

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| | | | changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting any references to consenting notification requirements in the rules (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA). |
| Rules 60 and 61 - Other disturbance, damage, destruction, removal, or deposition that is not provided for in Rules 51 to 59 | | | |
| 6 – Trans-Tasman Resources Ltd | 1118 | <p>Support</p> <p>Retain Rules 60 and 61 providing for other disturbance activities as Discretionary or non-complying in more sensitive areas and suggests this is appropriate and consistent with the way in which the other rules have approached similar catch all provisions (Rules 13, 14, 33, 34, 42, and 43).</p> | <p>Accept</p> <p>Support noted. Rules 60 and 61 are retained with minor amendment to Rule 61 to remove the reference to the <i>Resource Management (National Environmental Standards for Electricity Transmission Activity Regulations 2009 (Appendix 6))</i>.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 21 – Climate Justice Taranaki | 1119 | <p>Amend</p> <p>Submitter notes concerns that Rules 60 and 61 are silent on seabed mining and seeks that the Plan be amended to make seabed mining a prohibited activity.</p> | <p>Decline</p> <p>The Hearing Panel notes that non-complying activity is already a very high level of regulatory protection whereby a resource consent cannot be granted unless the effects of the activity are minor and the activity is not contrary to the objectives and policies of the Plan. Of note the policies themselves are very prescriptive and that it is necessary to give effect to all policies recognised in the policy reference column, namely General Policies 1 – 21 and Activity-based Policies 39, 40, 41, 42 and 44.</p> <p>The Hearing Panel does not believe it is appropriate to preclude any consideration of an activity being considered without first determining the possible effects.</p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| Further submissions – Climate Justice Taranaki Inc (21), Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Support | |

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| Rule 61 - Other disturbance, damage, destruction, removal, or deposition that is not provided for in Rules 51 to 59 (Outstanding Value, Estuaries Unmodified) | | | |
| 26 – Transpower NZ Ltd | 1120 | Amend | Accept |
| | | Submitter supports Rule 61 but seeks amendment to Rule to delete reference to National Environmental Standards for Electricity Transmission Activities: <i>[...] or the Resource Management (National Environmental Standards for Electricity Transmission Activities Regulations 2009 (Appendix 6)).</i> | The reference to the <i>National Environmental Standards for Electricity Transmission</i> is redundant and does not add further value to the Plan. The Hearing Panel recommends granting the relief sought by the submitter. |
| 58 – Te Atiawa | 1121 | Support | Accept |
| | | Retain Rule 61 as notified. | Support noted. Rule 61 is retained with minor amendment to remove the reference to the <i>Resource Management (National Environmental Standards for Electricity Transmission Activity Regulations 2009 (Appendix 6))</i> . |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1122 | Amend | Decline |
| | | Submitter seeks amendment to Rule 61 of the Plan to include standards, terms and conditions to read: <i>(a) the activity does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</i> <i>(b) the activity complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</i> <i>(c) the activity is consistent with iwi management plan.</i> AND Include the following notification note: <i>Resource consent applications under this Rule will be notified to tangata whenua.</i> | The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary and non-complying activities. The Hearing Panel recommends declining the relief sought noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a non-complying activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies. The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 39, 40, 41, 42 and 44 being given effect to. In particular, Policy 16 [Relationship with tangata whenua] will provide protections for areas of concern identified by the submitter. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and or Mana Whakahono a Rohe agreements. In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification |

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| | | | requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Hearing Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting any references to consenting notification requirements in the rules (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA). |
| NEW Rule 61A – Other disturbance, damage, destruction, removal or deposition associated with the National Grid | | | |
| 26 – Transpower NZ Ltd | 1123 | <p>Amend</p> <p>Submitter seeks amendment to the Plan to include a new rule that provides for Regionally Important Infrastructure (or specific to the National Grid) and reads as follows:</p> <p><u><i>Rule 61A - Discretionary Activity</i></u></p> <p><u><i>Coastal management areas: Outstanding Value; Estuaries Unmodified</i></u></p> <p><u><i>Other disturbance, damage, destruction, removal or deposition associated with Regionally Significant Infrastructure (or the National Grid) and any associated works:</i></u></p> <p><u><i>(a) removal of sand, shell, shingle or other natural material; or</i></u></p> <p><u><i>(b) deposition of material in, on or under the foreshore or seabed that does not come within or comply with Rules 51 to 59, or any other Rule in this Plan including the deemed rules in the Resource Management (Marine Pollution) Regulations 1998 (Appendix 5).</i></u></p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter.</p> <p>The Hearing Panel does not believe it necessary to have a new 'catch-all' rule for disturbance activities on the seafloor and seabed (not otherwise provided for in Rules 51 to 59) addressing regionally important infrastructure in Outstanding Value and Estuaries Unmodified coastal management areas.</p> <p>The Hearing Panel notes that applications for a resource consent for Regionally Important Infrastructure may still be considered under Rule 61 as a non-complying activity. While the Panel recognises that non-complying activities represent a very high level of regulatory protection, this level of protection is considered appropriate due to the exceptional/significant values in these areas. The Panel notes that a resource consent can still be granted where the effects of the activity are less than minor and the activity is not contrary to the objectives and policies of the Plan.</p> |
| Further submissions – Department of Conservation (29), Royal Forest and Bird Protection Society (43) | | Oppose | |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Oppose (seek clarification) | |
| Rule 62 - Reclamation or drainage for erosion and flood control within areas of outstanding coastal value and unmodified estuaries | | | |
| 29 – Department of Conservation | 1124 | <p>Support</p> <p>Retain Rule 62 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Rule 62 is retained as notified.</p> |

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| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1125 | <p>Amend</p> <p>Submitter seeks amendment to Rule 62 of the Plan to include standards, terms and conditions to read:</p> <p><i><u>(a) the activity does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</u></i></p> <p><i><u>(b) the activity complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></i></p> <p><i><u>(c) the activity is consistent with iwi management plan.</u></i></p> <p>AND</p> <p>Include the following notification note:</p> <p><i><u>Resource consent applications under this Rule will be notified to tangata whenua.</u></i></p> | <p>Decline</p> <p>The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary and non-complying activities.</p> <p>The Hearing Panel recommends declining the relief sought noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a non-complying activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies as detailed in the Policy reference column. In this instance, this includes all the General Policies 1 to 21 as well as Activity-based Policies 22, 39, 40, 41, 42, 44, 45, 46, 49.</p> <p>The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process by giving effect to the above policies.</p> <p>In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and/or Mana Whakahono a Rohe agreements.</p> <p>In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting any references to consenting notification requirements in the rules (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA).</p> |
| Rule 63 – Other reclamation or drainage that is not provided for in Rule 62 (Estuaries Modified, Open Coast, Port) | | | |
| 29 – Department of Conservation | 1126 | <p>Support</p> <p>Retain Rule 63 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted</p> |

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| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 40 – Te Rūnanga o Ngāti Mutunga | 1127 | <p>Amend</p> <p>Submitter seeks amendment to Rule 63 of the Plan to include 2 additional conditions:</p> <p><i>(a) the activity does not have an adverse effect on the values associated with historic heritage identified in Schedule 5 (Historic Heritage)</i></p> <p><i>(b) the activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A.</i></p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief requested by the submitter as rules with a discretionary activity classification do not include standards, terms or conditions as they are determined on a case-by-case basis through the consenting process. The Panel notes that the activity will be required to give effect to the relevant policies, namely General Policies 1 to 21 and Activity-based Policies 45 and 46. The submitter's concerns regarding historic heritage and biodiversity will be explicitly considered and addressed when giving effect to Policy 14 [indigenous biodiversity] and Policy 15 [historic heritage].</p> |
| 41 – Te Korowai o Ngāruahine Trust | 1128 | <p>Amend</p> <p>Submitter seeks amendment to Rule 63 of the Plan to acknowledge the role that kaitiaki play in wanting to protect areas of ecological value and biodiversity and sites of significance.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. The Hearing Panel does not consider the rules to be an appropriate place to discuss the role of kaitiaki in wanting to protect areas of ecological value, biodiversity and sites of significance. Such matters have been addressed elsewhere in the Plan. The Hearing Panel note that the rules are subject to the provisions within the policies and as such kaitiaki is already provided for within Policy 16 [Relationship of tangata whenua]. Thus, kaitiaki will have to be considered through this Rule irrespective of whether it is explicitly mentioned or not and can be done so through iwi involvement in consents.</p> |
| 41 – Te Korowai o Ngāruahine Trust | 1129 | <p>Amend</p> <p>Submitter seeks amendment to Rule 63 of the Plan to include conditions to ensure that the activities do not have any adverse effects on species and ecosystems and do not impact on the values of the sites listed in Schedules 5A and B.</p> | <p>Decline</p> <p>It is not standard planning practice for discretionary and non-complying activities to contain standards, terms or conditions. These considerations are addressed through the consenting process on a case-by-case basis by giving effect to the relevant policies (1 to 21 and 47). The Hearing Panel notes that Policy 14 [Indigenous biodiversity] provides protections for regionally important species and ecosystems and Policy 15 [Historic heritage] provides protections for the values of sites listed in Schedules 5A and 5B.</p> <p>The Hearing Panel recommends declining the requested relief as it is an operational level of detail that is not required within the rules section of the Plan.</p> |

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| 58 – Te Atiawa | 1130 | <p>Amend</p> <p>Submitter seeks amendment to Rule 63 of the Plan to include the following conditions:</p> <p><i><u>(a) activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant indigenous biodiversity], and;</u></i></p> <p><i><u>(b) the activity does not have an adverse effect on the values associated with sites of significance to Māori identified in Schedule 5A and 5B.</u></i></p> | <p>Decline</p> <p>The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to Discretionary Activities.</p> <p>The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a non-complying activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> <p>The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 22, 39, 40, 41, 42, 44, 45, 46 and 49 being given effect to.</p> <p>In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and or Mana Whakahono a Rohe agreements.</p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1131 | <p>Amend</p> <p>Submitter seeks amendment to Rule 63 of the Plan to include standards, terms and conditions to read:</p> <p><i><u>(a) the activity does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</u></i></p> <p><i><u>(b) the activity complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</u></i></p> <p><i><u>(c) the activity is consistent with iwi management plan.</u></i></p> <p>AND</p> <p>Include the following notification note:</p> <p><i><u>Resource consent applications under this Rule will be notified to tangata whenua.</u></i></p> | <p>Decline</p> <p>The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary activities.</p> <p>The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a non-complying activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> <p>The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 22, 39, 40, 41, 42, 44, 45, 46 and 49 being given effect to.</p> <p>In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and or Mana Whakahono a Rohe agreements.</p> <p>In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which</p> |

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| | | | in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting any references to consenting notification requirements in the rules (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA). |
| Rule 64 – Other reclamation or drainage that is not provided for in Rule 62 (Outstanding Value, Estuaries Unmodified) | | | |
| 29 – Department of Conservation | 1132 | Support | Accept |
| | | Retain Rule 64 of the Plan as notified. | Support noted. |
| 40 – Te Rūnanga o Ngāti Mutunga | 1133 | Support | Accept |
| | | Retain Rule 64 of the Plan as notified. | Support noted. |
| 43 – Royal Forest and Bird Protection Society | 1134 | Support | Accept |
| | | Retain Rule 64 of the Plan as notified. | Support noted. |
| 58 – Te Atiawa | 1135 | Support | Accept |
| | | Retain Rule 64 of the Plan as notified. | Support noted. |
| Rule 65 – Taking or use of water, heat or energy | | | |
| 6 – Trans-Tasman Resources Ltd | 1136 | Support | Accept |
| | | Retain Rule 65 as this rule appropriately provides for the taking and use of coastal water as a permitted activity where the taking and use would not affect significant sites, species, or ecosystems. | Support noted. Rule 65 is retained subject to amendments made to offer relief to other submitters' concerns where appropriate. At the hearing, the submitter presented further on Rule 65 standard, term and condition (ca). The submitter considers that there is no quantity or rate of water take that would result in a significant adverse environmental effect and consider that the condition should be removed. The Hearing Panel agrees in part that it is difficult to envisage a quantity or rate of take from coastal waters likely to have adverse environmental effects. However, the Panel considers that, as part of a precautionary approach, and in response to other submitter |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| Further submissions– Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |

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| | | | requests, the condition should be retained in the unlikely event or scenario that wider environmental impacts do occur through the taking of coastal water. |
| 33 - New Zealand Defence Force | 1137 | Amend Submitter seeks amendment to Rule 65 of the Plan to determine a limit on quantity and/or rate of water take, or otherwise amend to ensure consistency with Policy 47. | Accept The Hearing Panel is not aware of any water allocation limit that is likely to result in sea level dropping or prevent the availability of coastal water for other uses and values. Notwithstanding that, as part of a precautionary approach, the Hearing Panel recommends granting the relief sought by amending Rule 65 to include a new condition that is consistent with Policy 47 of the Plan to read as follows: <i><u>(ca) the taking or use of water is not at a quantity or rate that would cause significant adverse environmental effects.</u></i> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| 40 – Te Rūnanga o Ngāti Mutunga | 1138 | Amend Submitter seeks amendment to Rule 65 of the Plan to exclude coastal management area Outstanding Value from the rule. | Decline The Hearing Panel recommends declining the relief sought by the submitter. Hearing Panel is not aware of any water allocation limit that is likely to result in sea level dropping, prevent the availability of coastal water for other uses and values, and or have noticeable effects on natural character, features and landscapes. |
| 40 – Te Rūnanga o Ngāti Mutunga | 1139 | Amend Submitter seeks amendment to Rule 65 by including a new standard, term and condition (and impose a limit) on the quantity of water that can be taken and to read as follows: <i><u>(c) taking or use of water is not at a quantity or rate that would cause adverse environmental effects.</u></i> | Accept in part The Hearing Panel is not aware of any water allocation limit that is likely to result in sea level dropping or prevent the availability of coastal water for other uses and values. Notwithstanding that, as part of a precautionary approach, the Panel recommends granting the relief sought noting that the new Condition (ca) is consistent with Policy 47 of the Plan. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |

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| 41 – Te Korowai o Ngāruahine Trust | 1140 | Amend | Accept |
| | | Submitter seeks amendment to Condition (b) of Rule 65 of the Plan to read: <i>(b) activity does not have an adverse effect on the values associated with historic heritage identified in Schedule 5A and B Historic heritage:[...]</i> | The Hearing Panel recommends granting the relief sought by the submitter. |
| 43 – Royal Forest and Bird Protection Society | 1141 | Amend | Decline |
| | | Submitter seeks amendment to Rule 65 of the Plan by incorporating previous reliefs sought in relation to indigenous biodiversity. | The Hearing Panel notes that Rule 65 already includes a condition specifically addressing indigenous biodiversity and no further changes are considered necessary. It is unclear what amendments are sought by the submitter to the rule noting that previous reliefs sought in other provisions will be addressed elsewhere. |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |
| 58 – Te Atiawa | 1142 | Amend | Decline |
| | | Submitter seeks amendment to Rule 65 of the Plan by removing areas of Outstanding Value from the coastal management area. | The Hearing Panel recommends declining the relief sought by the submitter. Outstanding areas includes substantial areas of the Open Coast which are unlikely to be impacted upon by any takes of water from the coastal marine area. Notwithstanding that, as part of a precautionary approach, Rule 65 of the Plan does not apply to estuaries and standards, terms and conditions apply to ensure no adverse effects on significant indigenous biodiversity, historic heritage, and surf breaks. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| 58 – Te Atiawa | 1143 | Amend | Accept |
| | | Submitter seeks amendment to Rule 65 of the Plan by adding a new standard, term and condition setting a water take limit. | The Hearing Panel is not aware of any water allocation limit that is likely to result in sea level dropping or prevent the availability of coastal water for other uses and values. Notwithstanding that, in response to relief sought by other submitters Hearing Panel have included a new condition that reads as follows: <i><u>(ca) the taking or use of water is not at a quantity or rate that would cause significant adverse environmental effects</u></i> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

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| 60 – Te Kaahui o Rauru | 1144 | Amend Submitter seeks amendment to Rule 65 of the Plan to notify Te Kaahui o Rauru of this kind of activity, especially in regards to the scale and timing of the activity. | Decline Unlike other permitted activity rules, the standards, terms and conditions do not require that the person undertaking the activity notify the Council of the activity, which, in some instances, the Council has agreed to pass on the notification details to iwi authorities. This is because the activity is considered to result in less than minor effects (if any). The Hearing Panel note that if the activity cannot comply with the standards, terms and conditions the activity will be managed as a discretionary activity under Rule 66. The Hearing Panel recommends declining the relief requested. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1145 | Amend Submitter seeks amendment to Rule 65 of the Plan to include new and amended standards, terms and conditions to read: [...] <i>(b) the activity does not have an adverse effect on the values associated with <u>cultural and historic heritage identified in Schedule 5 [Cultural and Historic heritage]</u>;</i> <i>(c) the activity does not have adverse effect on Schedules 1 and 2;</i> <i>(d) the activity does not have any adverse effect on any site identified in 5B [Sites of significance to Māori and associated values] and Appendix 2;</i> <i>(e) the activity does not adversely affect the suitability of the receiving environment for customary use;</i> <i>(f) the activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant indigenous biodiversity] and taonga species protected under Taranaki iwi Deed of Settlement including those identified in Schedule 4C [Taonga species and habitat]</i> <i>(g) activity complies with the general standards in Section 8.6 [...]</i> | Accept in part The submitter is seeking amendment to Rule 65 of the Plan to include new and amended standards, terms and conditions. Specific comments on the new and amended proposed conditions are as follows: <ul style="list-style-type: none"> Decline the relief sought in relation to Condition (b). The Hearing Panel refer the submitter to previous comments made on expanding the scope of historic heritage. Decline the relief sought in relation to Condition (c). The Hearing Panel note that the effect of granting this relief would also make this rule redundant as Schedules 1 and 2 capture the whole coastal marine area plus landward parts of the coastal environment identified as having outstanding natural character or being an outstanding natural feature or landscape and it requires no adverse effects (even those less than minor or transitory). Decline the relief sought in relation to Condition (c) and (e) noting that such matters are already addressed under Condition (b) and a new condition addressing taonga species. Grant the relief in kind in relation to Condition (f). The Hearing Panel recommends expanding the scope of Rule conditions to include reference to scheduled taonga species. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |

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| Further submission – Te Korowai o Ngāruahine Trust (41) | | Support | |
| Rule 66 – Taking or use of water, heat or energy | | | |
| 40 – Te Rūnanga o Ngāti Mutunga | 1146 | <p>Amend</p> <p>Submitter seeks amendment to Rule 66 of the Plan to include standards, terms and conditions to read:</p> <p><i><u>(a) the activity does not have an adverse effect on the values associated with historic heritage identified in Schedule 5 [Historic Heritage]</u></i></p> <p><i><u>(b) the activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A</u></i></p> <p><i><u>(c) Taking or use of water is not at a quantity or rate that would cause adverse environmental effects.</u></i></p> | <p>Decline</p> <p>The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary activities.</p> <p>The Hearing Panel recommends declining the relief noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> <p>The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21, 22, 39, 40, 41, 42, 44, 45, 46 and 49 being given effect to. In particular, Policy 16 [Relationship with tangata whenua] will provide protections for areas of concern identified by the submitter.</p> |
| 58 – Te Atiawa | 1147 | <p>Amend</p> <p>Submitter seeks amendment to Rule 66 of the Plan by removing areas of Outstanding Value, Estuaries Unmodified and Estuaries Modified from the coastal management area.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. Hearing Panel note that Rule 66 specifically addresses, amongst other things, the taking and use of water, heat and energy from estuaries and areas of outstanding value as a discretionary activity. This is considered an appropriate activity classification for activities that are allowed under sections 14(3)(d) or (e) of the RMA.</p> |
| 58 – Te Atiawa | 1148 | <p>Amend</p> <p>Submitter seeks amendment to Rule 66 of the Plan by adding a new standard, term and condition setting a water take limit.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. The Hearing Panel notes that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a non-complying activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> |

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| | | | Notwithstanding the above, the Hearing Panel notes that the setting of any limit relating to a coastal water take may be determined through the consenting process on a case-by-case basis taking into consideration the relevant policies and the nature of the activity. |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1149 | <p>Amend</p> <p>Submitter seeks amendment to Rule 66 of the Plan to include standards, terms and conditions to read:</p> <p><u><i>(a) the activity does not adversely affect the matters/values identified for protection by mana whenua in the cultural impact assessment;</i></u></p> <p><u><i>(b) the activity complies with tangata whenua indicators referred to in the tangata whenua monitoring plan</i></u></p> <p><u><i>(c) the activity is consistent with iwi management plan.</i></u></p> <p>AND</p> <p>Include the following notification note:</p> <p><u><i>Resource consent applications under this Rule will be notified to tangata whenua.</i></u></p> | <p>Decline</p> <p>The submitter has sought the inclusion of standards, terms and conditions for rules in the Plan relating to discretionary and non-complying activities.</p> <p>The Hearing Panel recommends declining the relief sought noting that it is not standard planning practice for discretionary activity or non-complying activity rules to include standards, terms and conditions. Conditions relating to a discretionary activity are developed on a case-by-case basis through the consenting process having regard to the relevant Plan policies.</p> <p>The Hearing Panel notes that all matters identified by the submitter would be considered through the consenting process with Policies 1 to 21 and 47 being given effect to. In particular, Policy 16 [Relationship with tangata whenua] will provide protections for areas of concern identified by the submitter.</p> <p>In relation to notification requirements proposed by the submitter, the Hearing Panel notes that the Plan is not intended to provide the operational detail for implementing every aspect of the Plan. Such detail is more appropriately included in the Council's standard operating procedures and/or any Mana Whakahono a Rohe agreements.</p> <p>In relation to notification requirements, the submitter (and others) has highlighted an issue with the notification requirements stated in the Plan which in turn raises issues with notification requirements in the RMA being regularly changed. The Hearing Panel notes that, over time the notification requirements identified in the Plan may become misleading and outdated following changes to RMA. Consequently, the Panel recommends amending the heading throughout the rules section to refer only to "matters of control/discretion" and deleting any references to consenting notification requirements in the rules (noting that the relevant notification requirements are set out in sections 95A to 95G of the RMA).</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Rules 1 to 66 | | | |
| 28 – Grant Knuckey | 1150 | Amend Amend Rules 1 to 66, as appropriate, to identify/address two new marine spatial management areas – Wahi Tapu Areas and Wahi Taonga Areas. | Decline The Hearing Panel recommends declining the relief sought by the submitter. Refer to submission point 1296 for further information. |
| Further submissions – Trans-Tasman Resources Ltd (6) | Oppose | | |
| Further submissions – Ministry for Primary Industries (16) | Oppose in part | | |
| 50 – Te Kāhui o Taranaki Trust | 1151 | Amend Submitter seeks amendment to all rules in Section 8 of the Plan to provide a new standard/term/condition to read: <i>[...] the activity does not adversely impact on Māori cultural values [...]</i> | Decline All of the rules are subject to the policies within the Plan. Māori cultural values are recognised and provided for in Policy 16 [Relationship of tangata whenua] where it states: <i>Recognise and provide for the relationship of tangata whenua culture, values and traditions within the coastal environment [...]</i> The Hearing Panel recommends declining the relief sought on the basis that it is already provided for and it is unnecessary to reiterate provisions within the Plan where they already apply. The Panel notes that activities will be subject to meeting the requirements of all of the General Policies as well as the relevant Activity-based Policies when being considered through the resource consenting process. |
| Further submissions – Trans-Tasman Resources (6) | Oppose | | |
| General Standards | | | |
| 43 – Royal Forest and Bird Protection Society | 1152 | Amend Submitter seeks amendment to General Standards to include limits for permitted activities for: <ul style="list-style-type: none"> foreshore and seabed disturbance, vegetation disturbance and removal limits on sediment disturbance and resulting sediment plumes time periods to avoid removal or disturbance of vegetation during fish spawning to protect eggs until hatching | Decline The requests of the submitter are already addressed within the rules under rules relating the disturbance, deposition and extraction and therefore do not require further iteration within the general standards. The Hearing Panel recommends declining the relief requested as the necessary standards and limits for permitted activities are already addressed in the relevant rules standards, terms and conditions. In addition, the concerns regarding disturbance of vegetation seems to be a matter |

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| | | <ul style="list-style-type: none"> other limits to avoid adverse effects consistent with Policies 13, 14 and 15 of the NZCPS, and ensure that any other adverse effects are no more than minor. | concerned with the terrestrial environment and not within the coastal marine area, therefore, not relevant to this particular Plan. |
| General standards 8.6.2 – Light | | | |
| 43 – Royal Forest and Bird Protection Society | 1153 | <p>Amend</p> <p>Submitter seeks amendment to General Standard 8.6.2 [Lights] of the Plan to include:</p> <ul style="list-style-type: none"> standards for lights to be shielded or of a colour so that they do not attract or disturb seabirds new standard to avoid lighting near any seabird, including penguin, breeding areas new standards for navigational aids and safety to mitigate any adverse effects on seabirds. | <p>Decline</p> <p>The Hearing Panel recommends declining this relief sought by the submitter and note the following:</p> <ul style="list-style-type: none"> General standard 8.6.2 already states that light sources will be shielded except for navigational aids and lights required under the Acts of Parliament. For navigational aids, a shielded light would lessen its effective over long distances and result in higher risks to vessels within the coastal marine area. A further consideration is that light colour is an important identifier of hazards and vessel pathways. Specific colours are required to comply with international regulations and standards. Lights in the coastal marine area are largely used for navigation and safety. As they are in the coastal marine area (and not on land) impacts on penguin breeding areas is likely to be minimal. Navigational aids are critical and ensure the safe passage of vessels within the coastal marine area and avoid incidents at sea, which, in turn are likely to have a much more significant impacts on seabirds and other marine life, e.g. marine oil spills. |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | |
| 60 – Te Kaahui o Rauru | 1154 | <p>Amend</p> <p>Submitter seeks amendment to General Standard 8.6.2 [Lights] of the Plan to include a limit for biodiversity impacts.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. The Hearing Panel notes that biodiversity impacts will be considered through the consenting process on a case-by-case basis. The Hearing Panel notes that lighting is an important tool for effective and safe movement of vessels within the coastal marine area and in most instances, the benefits of correct lighting will outweigh any adverse effects caused by their use. An example of an adverse effect occurring as a result of incorrect lighting would be a ship wreck or collision causing an oil spill. The adverse environmental effects of</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | | such an incident may be higher for biodiversity than the correct operation of navigational aids and lighting within the coastal marine area. |
| General standards 8.6.3 – Noise | | | |
| 9 – Karen Pratt | 1155 | <p>Other</p> <p>Note that the noises limits written in the General Standards for noise would not be able to be complied with should an operation the size of the recently permitted ironsand mining occur in the territorial waters.</p> | <p>No relief necessary</p> <p>Comments noted.</p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| 32 – Port Taranaki | 1156 | <p>Support</p> <p>Retain the noise provisions in the Plan based on implementation of the Port Noise Standard and alignment between the New Plymouth District Plan and the Proposed Coastal Plan provisions as each go through their respective review processes.</p> | <p>Accept</p> <p>Support noted. General Standards 8.6.3 relating to Port activities are retained as notified.</p> |
| 33 – New Zealand Defence Force | 1157 | <p>Amend</p> <p>Submitter seeks amendment to General Standard 8.6.2(c) of the Plan by removing the provisions within general standards and replacing with standards prepared by the New Zealand Defence Force specifically for temporary military training activities (NZDF standards provided with submission).</p> | <p>Accept</p> <p>The Hearing Panel recommends accepting the relief sought by the submitter. The Hearing Panel agrees with the submitter that the noise provisions set out in General Standard 8.6.2(c) of the Plan, plus revised standards recommended in the Officers' Report would be unnecessarily and excessively restrictive to the submitter from undertaking essential training exercises. The submitter has suggested the inclusion of noise standards prepared specifically to address temporary military training activities and which the submitter has successfully sought to be included in district and regional coastal plans nationally. It is the Hearing Panel's view that the noise standards proposed by the submitter will protect residential amenity values adjoining the coastal marine area. The Hearing Panel notes that the amended standard include new separation distances for activities involving live firing, firing of blanks or explosives, new guidance for helicopter noise as well as amended limits for noise during different time intervals.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 37 – Petroleum Exploration and Production Association of NZ | 1158 | Other | No relief necessary |
| | | Submitter note the noise limits under (d) from 10pm to 7am is now 40dB LAeq, while under the current Coastal Plan the limit is 45 dBA L10 but are unaware of any issues warranting the proposed stricter condition. | The submitter has not requested any changes to the Plan. However, the Hearing Panel notes that as part of this Plan review, the Council has sought to better align noise provisions with equivalent provisions arising from the New Plymouth district plan review. Notwithstanding that, in response to reliefs sought by submitter 33, noise limits are recommended to be amended that are more aligned with the current Coastal Plan. Refer to submission point 1157 for further information. |
| 43 – Royal Forest and Bird Protection Society | 1159 | Amend | Decline |
| | | Submitter seeks amendment to General Standard 8.6.2 [Noise] of the Plan to include a specific standard setting out guidance on how appropriate noise standards are to be determined for activities which generate noise in the marine environment that reads as follows (or similar): <i>Considerations of the latest information of the effects of noise of marine species and habitats. The use of the most recent professionally supported noise modelling for the marine environment. Taking a precautionary approach where limited information is available.</i> | The Hearing Panel recommends declining the relief sought by the submitter. The Hearing Panel is concerned that references to the “latest information” and “most recent professionally supported noise modelling for the marine environment” does not provide sufficient clarity for Plan users, is ambiguous and would result in potentially different standards to be applied throughout the life of the Plan. Further, there is often a level of division amongst the scientific community within any area of research, and therefore, may be difficult to determine a “professionally supported” noise model. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | The Hearing Panel notes that the General Standards only apply where a rule explicitly states that the standards apply. Activities to which these General Standards apply have been assessed as generally having less than minor adverse effects. |
| 48 – Taranaki District Health Board | 1160 | Support | Accept |
| | | Retain General Standards 8.6.3(a), (b) and (c) [Noise] of the Plan as notified. | Support noted. General Standards 8.6.3(a) and (b) are retained as notified subject to minor amendments. The Hearing Panel note that amendments are recommended to General Standard 8.6.3(c) to align with similar noise levels for temporary military training activities adopted in other district plans and coastal plans adopted nationally. |
| 48 – Taranaki District Health Board | 1161 | Amend | Accept |
| | | Submitter seeks amendment to General Standards 8.6.3(d) [Noise] of the Plan to read: | The amendment retains the intention of the clause but contains language that is more directive and commonly understood. The Hearing Panel recommends granting the relief sought by the submitter. |

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| | | <i>Noise generated by any other activity in the coastal marine area (excluding those in (a), (b) and (c) above) shall not exceed the following at any point landward of at or beyond the boundary of the coastal marine area: [...]</i> | |
| 9 – Karen Pratt | 1161A | Other Note that the noises limits written in the General Standards for noise would not be able to be complied with should an operation the size of the recently permitted ironsand mining occur in the territorial waters. | No relief necessary Comments noted. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |

4.7 Financial contributions, monitoring and review

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Section 9 – Financial contributions | | | |
| 15 – Surfbreak Protection Society | 1162 | <p>Other</p> <p>Submitter notes that the use of economic instruments to mitigate adverse effects to surf breaks could be problematic and that surf breaks are finite. Currently there are no manmade structures that can produce surf breaks and suggests that it is imperative that existing breaks should be given a high priority of protection.</p> | <p>No relief necessary</p> <p>Comments noted. Policy 19 provides strong direction and guidance on the protection of surf breaks.</p> <p>The Hearing Panel agrees that surf breaks are finite and that for some values such as surf breaks economic instruments are not necessarily the most appropriate response to avoiding, remedying or mitigating any adverse effects arising from use and development in the coastal marine area. However, economic instruments may be an option for offsetting some adverse effects (where that is appropriate).</p> <p>Economic instruments are implemented only in accordance with Section 9 of the Plan and relevant policies and when other avoidance, mitigation and remedial options have been exhausted.</p> |
| 29 – Department of Conservation | 1163 | <p>Amend</p> <p>Submitter seeks amendment to Section 9 of the Plan to include a statement that states consideration of whether a coastal occupation charging regime is included in the Plan.</p> | <p>Accept</p> <p>The Council will not be operating a coastal occupation charging regime. Under section 64A [Imposition of coastal occupation charges] of the RMA, the Council must include a statement to explain this. Therefore, the Hearing Panel recommends amending Section 9 to include the following statement:</p> <p><i>Note: The Council is not operating a charging regime for occupation of the coastal area.</i></p> <p>At the hearing of submissions the submitter presented further on this submission point noting that section 64A identifies other statutory requirements necessary before the relief can be officially adopted by the Council. The Hearing Panel note that steps have been taken to ensure that the correct statutory process is being followed prior to Plan adoption by the Council.</p> |
| 32 – Port Taranaki | 1164 | <p>Amend</p> <p>Retain Section 9 of the Plan but seek amendment of the heading of Section 9 of the Plan to read:</p> <p>9 - Financial contributions <i>and environmental compensation.</i></p> | <p>Accept</p> <p>The Hearing Panel agrees to the requested amendment as it more accurately describes the content of this section which is not limited to financial contributions but also includes environmental compensation.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 43 – Royal Forest and Bird Protection Society | 1165 | Support | Accept |
| | | Submitter supports retaining the note in Section 9.1.1 of the Plan, which recognises that changes to the RMA mean that councils will no longer be able to require financial contributions under the Act from 2022. | Support noted. The note is retained as notified. |
| Further submissions – Fonterra (47) | | Support in part | |
| Section 9.1 – Purpose | | | |
| 2 – Federated Farmers | 1166 | Support | Accept |
| | | Submitter supports the note in Section 9.1.1 of the Plan. Retain as notified. | Support noted. The note is retained as notified. |
| 32 – Port Taranaki | 1167 | Amend | No relief necessary |
| | | Submitter seeks amendment to Section 9.1 of the Plan to include wording that provides for environmental compensation to be applied wider afield than the immediate/adjacent site or surrounding area. | <p>Hearing Panel note that Section 9 does not generally require environmental compensation to be applied in the immediate/adjacent site or surrounding area.</p> <p>The majority of situations described in Section 9.1 refer to “<i>the general area</i>” or “<i>locality</i>” and is not confined to “<i>immediate or adjacent sites</i>”. The only exception is Section 9.1.4 [Protection, maintenance or enhancement of visual amenity and landscape] which requires compensation to occur adjacent to the site to address visual amenity impacts. The Hearing Panel considers these conditions to be appropriate and provides the necessary flexibility for Council to consider the effects of consenting a particular activity and the appropriateness of avoidance, mitigation and remediation measures to address adverse environmental effects.</p> <p>On occasion there may be a requirement to offset or mitigate any residual effects. Such matters necessarily need to be considered on a case-by-case basis having regard for the scale of the activity and the nature of the receiving location, including the surrounding landscape.</p> |
| Sections 9.1.3 – Protection, maintenance or enhancement of biodiversity | | | |
| 60 – Te Kaahui o Rauru | 1168 | Amend | Grant in kind |
| | | Submitter seeks amendment to Sections 9.1.3 [Protection, maintenance or enhancement of biodiversity] of the Plan to include the option of financial contributions to improve kaitiakitanga. | The purpose of this section is to set out the criteria by which Council may require financial contributions from consent applicants. The purpose of the financial |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | <p>contributions are confined to giving effect to the objectives and policies of the Plan and, in particular, those values and uses identified in General Policies 1 to 21.</p> <p>Of note, the Hearing Panel considers that there is scope for financial contributions to enhance or restore the habitats of taonga and other species and recommends the inclusion of an additional Clause (c) in section 9.1.5 [Protection, maintenance or restoration of sites of historic importance] that reads as follows:</p> <p><i>Purpose: To mitigate adverse effects on sites of historic importance by:</i></p> <p>[...]</p> <p><i>(c) enhancing or restoring habitat of taonga species.</i></p> |
| Section 9.1.5 – Protection, maintenance or restoration of sites of historic importance | | | |
| 60 – Te Kaahui o Rauru | 1169 | <p>Amend</p> <p>Submitter seeks further engagement and discussion regarding Section 9.1.5 [Protection, maintenance or restoration of sites of historic importance]. Specifically to widen offset options.</p> | <p>No relief necessary</p> <p>Comments noted. The Hearing Panel considers the current offset options to be reasonable and note that the options should already provide for the appropriate protection of historic heritage, including sites of significance to Māori.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| Section 9.1.6 – Protection, restoration or enhancement of seabed and foreshore | | | |
| 60 – Te Kaahui o Rauru | 1170 | <p>Amend</p> <p>Submitter seeks amendment to Section 9.1.6 [Protection, restoration or enhancement of seabed and foreshore] of the Plan to include the option of improving kaitiakitanga.</p> | <p>Decline</p> <p>The purpose of this section is to set out the criteria by which Council may require financial contributions from consent applicants. The purpose of the financial contributions are confined to giving effect to the objectives and policies of the Plan and, in particular, those values and uses identified in General Policies 1 to 21.</p> <p>There will be occasion when financial contributions addressing those matters set out in Section 9 will also contribute to improving kaitiakitanga. However, the Hearing Panel does not believe it appropriate for the Plan to specify that the purpose of financial contributions to address resource management effects in the coastal marine area should be <u>specifically</u> to enhance kaitiakitanga. Such matters are implicit given the matters of consideration.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |

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| Section 9.1.8 – General – environmental compensation | | | |
| 43 – Royal Forest and Bird Protection Society | 1171 | <p>Amend</p> <p>The submitter is uncertain as to how these provisions are to be applied and states that it is not appropriate to consider compensation for adverse effects which are to be avoided under the <i>New Zealand Coastal Policy Statement</i>. The submitter suggests compensation does not achieve protection of the values and characteristics to be protected. There must be limits to compensation to give effect to the <i>New Zealand Coastal Policy Statement</i>.</p> <p>Submitter seeks amendment to the Plan by deleting Section 9.1.8 [General environmental compensation]:</p> <p>9.1.8 General – environmental compensation</p> <p>Purpose: To provide environmental compensation where an activity will have adverse effects, which will not be adequately avoided, remedied or mitigated by protecting, restoring and/or enhancing natural and physical resources and/or amenity values elsewhere in the coastal environment in the same general locality.</p> | <p>Decline</p> <p>The submitter's comments are noted. However, the Hearing Panel notes that environmental compensation is still subject to the objectives and policies of the Plan, which provide varying levels of protection including avoidance type policies. Environmental compensation cannot be considered in lieu of compliance with those policies.</p> <p>The Hearing Panel recommends declining the relief sought. Environmental compensation may be a useful tool for activities unable to avoid adverse effects. This may be the case for necessary developments, upgrade or the placement of regionally important infrastructure which is provided for under the <i>Regional Policy Statement</i> (Section 15.2 [Providing for regionally significant infrastructure]). Further, the <i>New Zealand Coastal Policy Statement</i> does not require avoidance of <u>all</u> adverse effects. In such instances the Council may be required to “avoid significant adverse effects” or to “have regard to”. This language may introduce instances where financial contributions are appropriate, acceptable, reasonable and recommended.</p> <p>It is important to recognise that these compensations can only be implemented when the policies within the Plan permit. The Hearing Panel considers the policies within the Plan to be strong and to uphold the requirements of the <i>New Zealand Coastal Policy Statement</i> and therefore the compensations provided for here will be in alignment with requirements of the <i>New Zealand Coastal Policy Statement</i>.</p> |
| Further submissions – Trans-Tasman Resources Ltd (6), Port Taranaki Ltd (32) | | Oppose | |
| Section 9.2 and 9.2.6 – Determining a financial contribution | | | |
| 60 – Te Kaahui o Rauru | 1172 | <p>Other</p> <p>Submitter seeks further clarification on Section 9.2 of the Plan on the use of financial contributions and their application</p> <p>AND</p> <p>Seek further engagement and discussion regarding Section 9.2.6 specifically to clarify whether it is the intention to aim for full mitigation or compensation in general, although that may not always be achieved.</p> | <p>No relief necessary</p> <p>The use of financial contributions will be tailored to the consent activity on a case-by-case basis having regard for the likely effects and in accordance with Plan policies.</p> <p>Full mitigation is a desirable outcome. However, the Hearing Panel recognises that this may not be achievable in all circumstances. Compensation is a way of recognising and providing for instances where full mitigation is not possible or is only partially possible. Section 9.2.6 provides for these instances so is a provision</p> |

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| | | | for compensation in general, however, it is preferable to mitigate in full if/where possible. |
| Section 9.2.1 –Matters to be considered | | | |
| 60 – Te Kaahui o Rauru | 1173 | Other Submitter seeks clarification within Section 9.2.1 of the Plan to specify whether “community effects” is considered under cultural effects. | No relief necessary The Hearing Panel note that consideration of community effects encompasses cultural effects, amongst other things, and will recognise and take into consideration any possible cultural effects. |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | |
| Section 10.1 – Monitoring | | | |
| 41 – Te Korowai o Ngāruahine Trust | 1174 | Amend Submitter seeks amendment to Section 10.1 of the Plan to include a specific method about engaging in dialogue with iwi in order to understand perceptions and values, and the application of mātauranga Māori. | Accept This section specifically describes how the Council will determine the effectiveness of the Plan through ongoing monitoring and evaluation processes. The Council is not currently in a position to implement any monitoring programmes that include elements of māuri values or the application of mātauranga Māori but will be seeking to engage with local iwi and hapū to investigate the development of such a system. The Hearing Panel recommends granting the relief sought by the submitter by including a new Clause (3A) in Section 10.1 of the Plan that reads as follows: <i>3A. Investigate, develop and implement appropriate and relevant monitoring methods for the incorporation of mātauranga Māori into state of the environment monitoring for the coastal environment.</i> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Support | |
| 50 – Te Kāhui o Taranaki Trust | 1175 | Amend Submitter seeks amendment to Section 10.1 of the Plan to include the following new monitoring methods: <ul style="list-style-type: none"> development of a mātauranga Te Ao Māori monitoring system in partnership with iwi | Accept in part There are two elements in relation to the relief sought by the submitter. In relation to the development of a mātauranga Te Ao Māori monitoring system in partnership with Iwi, the Hearing Panel agrees to the relief sought by including a new Clause (3A) in Section 10.1 of the Plan that reads as follows: |

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| | | <ul style="list-style-type: none"> annual review in partnership with Iwi of the effectiveness of a co-designed and resourced Memorandum of Understanding, Mana Whakahono a Rohe Agreement and policy and consent processes. | <p><u>3A. Investigate, develop and implement appropriate and relevant monitoring methods for the incorporation of mātauranga Māori into state of the environment monitoring for the coastal environment.</u></p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Te Atiawa (58) | | Support | <p>In relation to a new method to undertake an annual review of the effectiveness of a co-designed and a resourced Memorandum of Understanding and Mana Whakahono a Rohe Agreement, the Hearing Panel does not recommend granting the relief sought.</p> <p>The Hearing Panel is advised that the Council are hopeful that a Memorandum of Understanding or Mana Whakahono a Rohe agreements will be implemented in the future. However, at this point in time, there are no such agreements and it is not considered appropriate to pre-empt the outcomes of those agreements, including operational details around the scope and timeframes for implementing particular aspects of those agreements, by including such detail in the Plan.</p> |
| 60 – Te Kaahui o Rauru | 1176 | <p>Amend</p> <p>The procedures for a review programme should include specific mention of reviewing achievement of conditions to iwi and Māori values.</p> <p>Submitter seeks amendment to Section 10.1 of the Plan to include Māori values as a focus point in monitoring.</p> | <p>Accept</p> <p>The Hearing Panel notes Implementation Method 30 of the Plan, which states that the Council will work with iwi authorities to develop memoranda of understanding that establish and maintain an effective working relationship. In particular, Mana Whakahono a Rohe agreements between the Council and iwi represent an opportunity to set out agreements on Council/iwi relationship, including any requirements to review and report on the achievement of consent conditions relating to tangata whenua values.</p> <p>Section 10.1 of the Plan specifically describes how the Council will determine the effectiveness of the Plan through ongoing monitoring and evaluation processes. The Council is not currently in a position to implement any monitoring programmes that include elements of māuri values or the application of mātauranga Māori but will be seeking to engage with local iwi and hapū to investigate the development of such a systems.</p> <p>The Hearing Panel recommends granting the relief sought by the submitter by including a new Clause (3A) in Section 10.1 of the Plan that reads as follows</p> <p><u>3A. Investigate, develop and implement appropriate and relevant monitoring methods for the incorporation of mātauranga Māori into state of the environment monitoring for the coastal environment.</u></p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Support | <p>The Hearing Panel recommends granting the relief sought by the submitter by including a new Clause (3A) in Section 10.1 of the Plan that reads as follows</p> <p><u>3A. Investigate, develop and implement appropriate and relevant monitoring methods for the incorporation of mātauranga Māori into state of the environment monitoring for the coastal environment.</u></p> |

4.8 Definitions

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Definitions – General | | | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1177 | Support | Accept Definitions for “best practicable option”, “coastal marine area”, “common marine and coastal areas”, “discharge”, “environment”, “structure”, and “industrial or trade premises” are retained as notified. |
| | | Retain the RMA definitions such as “best practicable option”, “coastal marine area”, “common marine and coastal areas”, “discharge”, “environment”, “structure”, and “industrial or trade premises”. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| Definition – Accretion | | | |
| 43 – Royal Forest and Bird Protection Society | 1178 | Amend | Accept Within the Plan, accretion is mentioned once in Policy 32 [Placement of structures] and therefore has been defined to assist in the interpretation and application of that Policy. The Hearing Panel agrees with the submitter that accretion is related to natural processes and recommend amending the definition of “accretion” to read: Accretion means the seaward extension of land as a result <u>of the natural process</u> of deposition of sediments. |
| | | Submitter notes that “accretion” is not provided for in the rules and that the definition should be amended to clarify that the term relates to the natural processes. It is suggested that, as worded, the definition could include deposition resulting from reclamation. Submitter seeks amendment to the definition of “accretion” to clarify that accretion is a result of natural processes. | |
| Definition – Adaptive management | | | |
| 6 – Trans-Tasman Resources Ltd | 1179 | Amend | Decline Recent case law has highlighted adaptive management as an inappropriate method of managing activities that may produce impacts that are uncertain, little understood or potentially significantly adverse. As a result, the Hearing Panel recommends removing reference to adaptive management from the Plan entirely, including the definition of adaptive management. |
| | | Submitter seeks amendment to the term “adaptive management” to read: <i>Adaptive management means a structured, iterative process of robust decision making in the face of uncertainty, <u>which includes allowing an activity to commence on a small scale or for a short period so that its effects can be assessed and a decision made about the appropriateness of continuing the activity (with or without amendment) on the basis of those effects with an aim to reducing uncertainty over time via system monitoring.</u> For the purposes of this Plan, the principles underpinning adaptive management include:</i> | |

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| | | (a) robust baseline monitoring to good baseline information to establish the existing receiving environment; (b) resource consent conditions that require provide for effective monitoring of adverse effects using appropriate indicators; [...] | |
| Further submissions – Royal Forest and Bird Protection Society (43), Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | |
| Further submissions – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support in part | |
| 29 – Department of Conservation | 1180 | Support Retain the definition “adaptive management” as notified. | Decline Recent case law has highlighted adaptive management as an inappropriate method of managing activities that may produce impacts that are uncertain, little understood or potentially significantly adverse. As a result, the Hearing Panel recommends removing reference to adaptive management from the Plan entirely, including the definition of adaptive management. |
| Further submissions – Meridian Energy Ltd (20), Port Taranaki Ltd (32) | | Support | |
| 43 – Royal Forest and Bird Protection Society | 1181 | Amend The submitter requests reference to “adaptive management” be deleted from Policy 3 and also seeks the deletion of the definition of adaptive management from the Plan. | Accept Recent case law has highlighted adaptive management as an inappropriate method of managing activities that may produce impacts that are uncertain, little understood or potentially significantly adverse. As a result, the Hearing Panel recommends removing reference to adaptive management from the Plan entirely, including the definition of adaptive management as requested by the submitter. |
| NEW Definition – Alteration | | | |
| 57 – Heritage New Zealand | 1182 | Amend Alteration is referred to in a number of rules relating to structures in the coastal environment. This term can be interpreted in a variety of ways, so a specific definition would aid in Plan interpretation. Submitter seeks amendment to the Plan to include a new definition for “alteration” to read: <u>Alteration, in relation to buildings, means any changes to the fabric or characteristics of a structure involving, but not limited to, the removal and replacement of walls, windows, ceilings, floors or roofs, either internally or</u> | Accept in part The Hearing Panels agrees that the interpretation and application of the Plan, particularly in relation to rules addressing structures in the coastal marine area, would be improved by defining the term “alteration”. The Panel notes that alteration may apply to many types of structures and is not restricted to buildings, therefore, for the purpose of the Plan, reads as follows: <u>Alteration in relation to a structure, means any modification to a structure that does not increase its external dimensions.</u> |

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| | | <u><i>externally and includes any sign attached to the structure. In relation to structures, means any changes to function, layout, or appearance of a structure without changing its physical dimensions.</i></u> | The Hearing Panel notes that change to the external dimensions of a structure is defined through the term "extension" which the Panel suggests should also be included within the definitions section for consistency. The definition of "extension" reads: <u><i>Extension in relation to a structure, means any modification to the external dimensions of a structure, including length, width and height.</i></u> |
| Further submissions – Port Taranaki Ltd (32), Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Oppose | |
| Definition – Amenity values | | | |
| 43 – Royal Forest and Bird Protection Society | 1183 | Amend The submitter seeks clarity on whether "amenity values" includes visual amenity so that the areas identified in Policy 18 are recognised under the <i>National Environmental Standard for Plantation Forestry</i> and seeks that, if it does not include visual amenity, that the definition be amended to include visual amenity as part of amenity values. | Decline Under the <i>National Environmental Standard for Plantation Forestry</i> , visual amenity landscape means: <i>"a landscape or landscape feature that –</i> <i>(a) is identified in a district plan as having visual amenity values, however described; and</i> <i>(b) is identified in the policy statement or plan by its location, including by a map, a schedule, or a description of the area."</i> The Hearing Panel recommends declining the request to amend the definition of "amenity values". The term "amenity values" is defined by the RMA and the Hearing Panel does not consider it appropriate to amend the statutory definition. In addition, the Panel notes that the use of "landscapes" in the suggested amendment provides a different meaning and the application of the term "amenity values" meaning that only landscapes identified in plans or policy statements can be considered to have any amenity values, significantly reduces the locations where Policy 18 can be applied within the Plan. Notwithstanding the above, visual amenity is already implied within the current definition being a quality that contributes to "people's appreciation of its pleasantness and aesthetic coherence". |
| Further submissions – Meridian Energy Ltd (20), Port Taranaki Ltd (32) | | Oppose | |
| Definition – Biofouling | | | |
| 16 – Ministry for Primary Industries | 1184 | Amend Submitter seeks amendment to the definition of "biofouling" to include the following words after aquatic environment: | Grant in kind The Hearing Panel recommends accepting the inclusion of definitions for macrofouling and microfouling but propose an alternative relief to that sought by |

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| | | <ul style="list-style-type: none"> "microfouling" – a layer of microscopic organisms including bacteria and diatoms and the slimy substances they produce, Often referred to as a 'slime layer', microfouling can usually be removed by gently passing a finger over the surface. "macrofouling" – any organism not included in the definition of "microfouling". | <p>the submitter. The Hearing Panel suggests that the appropriate location of these definitions is not within the definition of biofouling and that each term should have its own, stand-alone definition following the alphabetical listing order that is within this section of the Plan and that the definition for "biofouling" should remain as notified.</p> <p>Refer to new definitions for macrofouling and microfouling within this section.</p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | Neutral | | |
| Further submissions – Port Taranaki Ltd (32) | Oppose | | |
| 33 – New Zealand Defence Force | 1185 | <p>Support</p> <p>Retain the definition of "biofouling" as notified.</p> | <p>Accept</p> <p>Definition of biofouling is retained as notified.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| Definition – Coastal environment | | | |
| 43 – Royal Forest and Bird Protection Society | 1186 | <p>Amend</p> <p>Submitter seeks amendment to the Plan by mapping the coastal environment for Taranaki and referencing this in an amended definition of "coastal environment"</p> <p>OR</p> <p>Alternatively delete the definition:</p> <p><i>Coastal environment means the areas where coastal processes, influences or qualities are significant, including lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of those and includes the coastal marine area</i></p> | <p>Accept</p> <p>The Hearing Panel notes previous recommendations to include an indicative line incorporated within the coastal mapping layers to help establish the extent of the coastal environment.</p> <p>The submitter further presented at the hearing on this issue and suggested a simplified definition of coastal environment to that presented in the Section 42A Repor (plus a footnote referring the reader to the planning maps showing the indicative coastal marine area and coastal environment line).</p> <p>The Hearing Panel supports the suggestions and recommend an amended definition of coastal environment to read:</p> <p>Coastal environment means:</p> <p><i>(a) all of the coastal marine area; and</i></p> <p><i>(b) areas landward of the coastal marine area and identified under Policy 4.</i></p> |
| Further submissions – Meridian Energy Ltd (20) | | Oppose | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose in part | |

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| 45 – Powerco | 1187 | <p>Amend</p> <p>Submitter seeks amendment to the Plan by mapping the coastal environment line for Taranaki and referencing this in an amended definition of “<i>coastal environment</i>” to read:</p> <p><i>Coastal environment means the areas where coastal processes, influences or qualities are significant, including lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of these and includes all of the coastal marine areas, land inland to the point defined on the maps at Schedule X, the natural and physical resources within it, and the atmosphere above it.</i></p> | <p>Accept</p> <p>The Hearing Panel recommends including an indicative coastal environment line into the coastal mapping layers to help establish the extent of the coastal environment and to amend the definition of “<i>coastal environment</i>”. However, the Panel notes that this line is only an indicative line and the range of coastal processes captured in the original definition may still apply and may be relevant for determining on a case-by-case basis, whether or not an activity affects the coastal environment.</p> <p>The amended definition would read as follows:</p> <p>Coastal environment means:</p> <p><i>(a) all of the coastal marine area; and</i></p> <p><i>(b) areas landward of the coastal marine area and identified under Policy 4.</i></p> <p>The Hearing Panel also recommends additional consequential amendments to the Plan, including amendments to associated planning maps to identify the coastal environment line that are aligned with the coastal environment line identified in a district plan or proposed district plan (or their equivalent).</p> |
| Further submissions – Meridian Energy Ltd (20) | | Oppose | |
| Further submissions – Transpower NZ Ltd (26) | | Support in part | |
| Further submissions – Fonterra (47) | | Support | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1188 | <p>Amend</p> <p>Submitter seeks amendment to the Plan by mapping the coastal environment line for Taranaki and referencing this in an amended definition of “<i>coastal environment</i>” to read:</p> <p><i>Coastal environment means the areas where coastal processes, influences or qualities are significant, including lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of these and includes all of the coastal marine areas, land inland to the point defined on the maps at Schedule X, the natural and physical resources within it, and the atmosphere above it.</i></p> | <p>Accept</p> <p>The Hearing Panel recommends granting the relief sought by the submitter. Refer to submission point 1187 above.</p> |
| Further submissions – Meridian Energy Ltd (20) | | Oppose | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| NEW Definition – Data deficient | | | |
| 43 – Royal Forest and Bird Protection Society | 1189 | Amend | Accept |
| | | Submitter seeks amendment to the Plan to include a new definition for “ <i>data deficient</i> ” species which are likely to be at risk or threatened however populations are so low that information is not available to determine status under the NZ Threat Classification. | The Hearing Panel recommends including a new definition for “ <i>data deficient species</i> ” to read: <i><u>Data deficient species means those species that are likely to be at risk or threatened, however, populations are so low that information is not available to determine their status under the New Zealand Threat Classification. This includes, but is not limited to, species identified as such in Schedule 4A.</u></i> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| Definition – Disturbance | | | |
| 43 – Royal Forest and Bird Protection Society | 1190 | Support | Accept |
| | | Retain definition of “ <i>disturbance</i> ” as notified. | Support noted. Definition of “ <i>disturbance</i> ” is retained as currently notified. |
| Definition – Ecosystem | | | |
| 43 – Royal Forest and Bird Protection Society | 1191 | Support | Accept |
| | | Retain definition of “ <i>ecosystem</i> ” as notified. | Support noted. Definition of “ <i>ecosystem</i> ” is retained as currently notified. |
| Definition – Erosion | | | |
| 43 – Royal Forest and Bird Protection Society | 1192 | Support | Accept |
| | | Retain definition of “ <i>erosion</i> ” as notified. | Support noted. Definition of “ <i>erosion</i> ” is retained as currently notified. |
| Definition – Estuary Modified | | | |
| 29 – Department of Conservation | 1193 | Amend | Accept |
| | | Submitter seeks amendment to the definition of “ <i>Estuary Modified</i> ” to read: [...] means the coastal management area identified in Schedule 1 of the Plan, as the Pātea, Waiwhakaiho or Waitara Estuaries <u>and their outlets</u> , and which are surrounded by urban, extensively modified environments. | The Hearing Panel recommend amending the definition of Estuaries Unmodified, with a minor word change to maintain consistency with the RMA and the <i>Regional Policy Statement for Taranaki</i> . The amended definition would read as follows: |

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| | | | Estuaries Modified refers to the coastal management area identified in Schedule 1 of the Plan, as the Pātea, Waiwhakaiho or Waitara Estuaries <u>and river mouths</u> , and which are surrounded by extensively modified environments. |
| 43 – Royal Forest and Bird Protection Society | 1194 | <p>Amend</p> <p>Submitter seeks amendment to the definition of “<i>Estuary Modified</i>” to reflect other reliefs sought by the submitter in relation to Policy 1.</p> | <p>Accept in part</p> <p>The Hearing Panel recommend amending the definition of Estuaries Unmodified, with a minor word change to maintain consistency with the RMA and the <i>Regional Policy Statement for Taranaki</i>.</p> <p>The amended definition would read as follows:</p> <p>Estuaries Modified refers to the coastal management area identified in Schedule 1 of the Plan, as the Pātea, Waiwhakaiho or Waitara Estuaries <u>and river mouths</u>, and which are surrounded by extensively modified environments.</p> |
| Definition – Estuary Unmodified | | | |
| 29 – Department of Conservation | 1195 | <p>Amend</p> <p>The submitter seeks amendment to the definition of “<i>Estuary Unmodified</i>” to read: <i>[...] refers to estuaries identified in Schedule 1 of the Plan, <u>and their outlets</u> that are permanently open to tidal movements and are characteristically largely unmodified.</i></p> | <p>Accept in part</p> <p>The Hearing Panel recommend amending the definition of Estuaries Unmodified, with a minor word change to maintain consistency with the RMA and the <i>Regional Policy Statement for Taranaki</i>.</p> <p>The amended definition would read as follows:</p> <p>Estuaries unmodified refers to estuaries <u>and river mouths</u> identified in Schedule 1 of the Plan, that are permanently open to tidal movements and are characteristically largely unmodified.</p> |
| 43 – Royal Forest and Bird Protection Society | 1196 | <p>Amend</p> <p>Submitter seeks amendment to the definition of “<i>Estuary Unmodified</i>” to reflect other reliefs sought by submitter in relation to Policy 1.</p> | <p>Decline</p> <p>The Hearing Panel recommends retaining the definition of “<i>Estuaries Unmodified</i>” subject to minor amendments sought by other submitters. Refer to recommendations on Policy 1.</p> |
| NEW definition – Functional need | | | |
| 26 – Transpower NZ Ltd | 1197 | <p>Amend</p> <p>Amend Plan to include a new definition for “<i>functional need</i>” to read: <u><i>The locational, operational, practical or technical needs of an activity, including development and upgrades.</i></u></p> | <p>Accept</p> <p>The Hearing Panel recommends including a definition for “<i>functional need</i>” but noting that the definition must be aligned with the <i>National Planning Standards 2019</i>.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Meridian Energy Ltd (20) | | Support | <p>The definition would read as follows:</p> <p><u>Functional need means the need for a proposal of activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.</u></p> |
| Further submissions – Port Taranaki Ltd (32), Royal Forest and Bird Protection Society – (43) | | Oppose | |
| Further submissions - Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support in part | |
| 45 – Powerco | 1198 | <p>Amend</p> <p>Amend Plan to include a new definition for “functional need” to read:</p> <p><u>Functional need means a requirement for a proposal or activity to traverse, locate or operate in the coastal environment.</u></p> | <p>Accept in part</p> <p>The Hearing Panel recommends including a definition for “functional need” but note that the definition must be aligned with the <i>National Planning Standards 2019</i> provided by the Ministry for the Environment as this sets and aims to standardise the definitions of district and regional plans going forward.</p> <p>The definition would read as follows:</p> <p><u>Functional need means the need for a proposal of activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.</u></p> |
| Further submissions – Royal Forest and Bird Protection Society (43) | | Oppose | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1199 | <p>Amend</p> <p>Amend Plan to include a new definition for “functional need” to read:</p> <p><u>Functional need means a requirement for a proposal or activity to traverse, locate or operate in the coastal environment.</u></p> | <p>Accept in kind</p> <p>The Hearing Panel agrees to include a definition for “functional need” as amendments to the Plan include reference to functional need within the Policies and Rules. The Hearing Panel recommends alignment with the <i>National Planning Standards 2019</i> provided by the Ministry for the Environment as this sets and aims to standardise the definitions of district and regional plans going forward.</p> <p>The definition would read as follows:</p> <p><u>Functional need means the need for a proposal of activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.</u></p> |
| 47 – Fonterra | 1200 | <p>Amend</p> <p>Amend Plan to include a new definition for “functional need” to read:</p> <p><u>Functional need means the need for a proposal or activity to traverse, locate or operate in a particular environment because it can only occur in that environment.</u></p> | <p>Accept</p> <p>The Hearing Panel agrees to include a definition for “functional need” as requested by the submitter.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Trans-Tasman Resources Ltd (6) | | Support | |
| Further submissions – Royal Forest and Bird Protection Society (43) | | Oppose | |
| Further submissions – Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Oppose in part | |
| Definition – Habitat | | | |
| 43 – Royal Forest and Bird Protection Society | 1201 | Support | Accept |
| | | Retain definition of “ <i>habitat</i> ” as notified. | Support noted. Definition of “ <i>habitat</i> ” is retained as currently notified. |
| Definition – Hapū | | | |
| 42 – Ngati Rahiri Hapū | 1202 | Amend | Accept |
| | | Submitter seek amendment to the definition of “ <i>hapū</i> ” to specify: [...] <u>families of people of Māori descent</u> . | The definition of hapū was originally taken from the <i>Regional Policy Statement</i> and was adopted in this instance to maintain consistency with this and other regional plans. However, the Hearing Panel agrees that the relief sought provides important detail that aids in the understanding of the definition. Over time the Council will update and align the definitions that have changed across different planning documents. The Hearing Panel recommends amending the definition to read: Hapū means sub-tribe, usually a number of whanau (families) <u>of people of Māori descent</u> with a common ancestor. |
| Definition – Hard protection structure | | | |
| 43 – Royal Forest and Bird Protection Society | 1203 | Support | Accept |
| | | Retain definition of “ <i>hard protection structure</i> ” as notified. | Support noted. Definition of “ <i>hard protection structure</i> ” is retained as currently notified. |

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| Definition – Hazardous substance | | | |
| 43 – Royal Forest and Bird Protection Society | 1204 | Support | Accept |
| | | Retain definition of “ <i>hazardous substance</i> ” as notified. | Support noted. Definition of “ <i>hazardous substance</i> ” is retained as currently notified. |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1205 | Support | Accept |
| | | Retain definition of “ <i>hazardous substances</i> ” as notified. | Support noted. Definition of “ <i>hazardous substance</i> ” is retained as currently notified. |
| Definition – Heritage values | | | |
| 43 – Royal Forest and Bird Protection Society | 1206 | Other | No relief necessary |
| | | Submitter seeks clarification on whether definition of “ <i>heritage values</i> ” includes natural heritage values. | The Hearing Panel notes that, depending upon context, “ <i>heritage values</i> ” does include natural heritage values. |
| Definition – Historic heritage | | | |
| 42 – Ngati Rahiri Hapū | 1207 | Amend | Decline |
| | | Submitter seeks amendment of the Plan to include the currently accepted definition of waahi taonga (Treasured Place) and requests amendment to (b)(iii) of the definition for “historic heritage” to read : [...] (b)(iii) sites of significance to Māori, including waahi tapu, <u>and waahi taonga</u> ; and [...] | The submitter comments that while the RMA generally includes sites of significance under the definition of “historic heritage”, the submitter believes this to be a too broad approach to their sites. It is their view that Environment Court case law has eroded the definition of traditional waahi tapu sites, to such an extent that waahi tapu are now no more than isolated and very small areas of land. The submitter further points out, the current definition for historic heritage is given by the RMA and dictates the current definition of historic heritage. The Hearing Panel notes the submitter’s comments but do not believe it appropriate to deviate from the legislative definition. However, the Panel notes that, in an effort to recognise wider cultural values associated with sites of significance to Māori, both wāhi tapu and wāhi taonga sites have been identified within the Plan and both of these terms have received their own definitions. |

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| Definition – Incidental water | | | |
| 43 – Royal Forest and Bird Protection Society | 1208 | Support | Accept |
| | | Retain definition of “ <i>incidental water</i> ” as notified. | Support noted. Definition of “ <i>incidental water</i> ” is retained as currently notified. |
| NEW Definition – Industrial or trade site | | | |
| 42 – Ngati Rahiri Hapū | 1209 | Amend | Decline |
| | | This definition is not included in the Plan, however, “ <i>industrial or trade premises</i> ” is. The submitter believes that there is far more chance of problems happening with a “ <i>site</i> ” than with a “ <i>premise</i> ” so would like to see this definition added. Amend Plan to include a definition of “ <i>industrial or trade site</i> ”. | The definition of “ <i>industrial or trade premises</i> ” is taken from the RMA The definition has a wide application that also covers industrial or trade “ <i>sites</i> ” although this is not explicitly recognised. The Hearing Panel does not consider it necessary to include a new definition when the location in question has already been provided for under the original definition. |
| Definition – Integrated management | | | |
| 43 – Royal Forest and Bird Protection Society | 1210 | Amend | Accept |
| | | Submitter seeks amendment to the Plan by deleting definition of “ <i>integrated management</i> ”. | The submitter comments that it is not clear whether the Plan definition of “ <i>integrated management</i> ” is consistent with Policy 2. The submitter suggests that it is not necessary to have a definition as this is more appropriately set out in Policy 2 of the Plan to give effect to the <i>New Zealand Coastal Policy Statement</i> . The Hearing Panel agrees with the submitter and considers that Policy 2 sets out the necessary and appropriate direction for Plan users. The Panel recommends deleting the definition for “ <i>integrated management</i> ”. |
| Definition – Land | | | |
| 42 – Ngati Rahiri Hapū | 1211 | Amend | Accept in part |
| | | Submitter seeks amendment to the definition of “ <i>land</i> ” to include everything below the surface as well as above the surface. | The Hearing Panel recommends amending the definition of “ <i>land</i> ” to reflect previous amendments to that definition in the RMA. However, Hearing Panel notes that the statutory definition must prevail. Within this definition it refers to land covered by water and it is implicit that this covers all area above and below the surface. The amended definition reads: Land – |

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| | | | <p><u>(a) includes land covered by water and the airspace above the land; and</u> <u>(b) in a national environmental standard dealing with a regional council function under section 30 or a regional rule, does not include the bed of a lake or river; and</u> <u>(c) in a national environmental standard dealing with a territorial authority function under section 31 or a district rule, includes the surface of water in a lake or river.</u></p> |
| NEW Definition – Macrofouling | | | |
| 29 – Department of Conservation | 1212 | <p>Amend</p> <p>Submitter seeks amendment to the Plan by including a new definition of “macrofouling” that reads: <u>Macrofouling - is any organism not included in the definition of microfouling.</u></p> | <p>Accept</p> <p>The Hearing Panel recommends accepting the requested relief as it provides further clarity for Plan users and is consistent with additional relief requested by other submitters.</p> <p>The new definition of “macrofouling” would read as follows: <u>Macrofouling is any biofouling organism not included in the definition of microfouling.</u></p> |
| Definition – Maintenance | | | |
| 43 – Royal Forest and Bird Protection Society | 1213 | <p>Amend</p> <p>Submitter seeks amendment to the definition of “maintenance” to read: <i>Maintenance in relation to structures, includes activities which restore a structure or asset to its original authorised standard and purpose, and where the character, intensity and scale of the structure, asset or site remains the same or similar. It excludes the extension or repair of structures or assets, or change in location.</i> AND Amend all rules which provide for “maintenance and repair” to only use the term “maintenance”. Amend all rules which provide for “alteration or extension” in the same rule as “maintenance” to “minor alteration or extension”. Amend all rules which provide for new structures to include “major alteration or extension”.</p> | <p>Grant in kind</p> <p>The submitter comments that the definition is generally helpful, however, believes that the exclusion of repair is confusing. The definition includes restore which is equivalent to repair. Also the Oxford online dictionary defines “maintain” as to “keep (a building, machine, or road) in good condition by checking or repairing it regularly.”</p> <p>The submitter supports the exclusion of “extension”; however they are not clear how this relates to Policy 37 which provides for “major alterations and extensions”. The Oxford dictionary defines “extension” as to enlarge or prolong something. As such it would generally fit with the policy requirements for “major upgrades”.</p> <p>In the submitter’s view, the Plan could provide for minor alterations or extensions in the same rules for “maintenance”, however, major alterations or extensions must be considered under separate rules which enable adequate consideration of effects.</p> <p>The Hearing Panel recommend largely giving effect to the relief sought by the submitter by an alternative relief involving reframing the maintenance, alteration, extension and removal rules (to more clearly differentiate between the respective</p> |

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| | | | <p>activities based upon changes in their external dimensions). Consequential changes are also proposed to the Plan definition for "maintenance" and with new definitions for "alteration" and "extension" also proposed.</p> <p>The definition of "maintenance" has been reworded to better reflect the scope of the term and reads as follows:</p> <p><u>Maintenance includes the ongoing and regular activities that aid in the preservation of a structure and includes repair works conducted for the purpose of keeping the structure in good condition and/or working efficiently and where the character, intensity and scale of the structure remains the same.</u></p> |
| 45 – Powerco | 1214 | <p>Amend</p> <p>Submitter comments that much of the maintenance work taken by the submitter arises when it has to replace old equipment with the modern equivalent or to replace a piece of equipment that is no longer working or is a safety risk. In requiring maintenance activities to restore an asset to its original authorised standard, the inference is that maintenance which is required to bring a standard up to a new standard is not provided for. This is opposed but could be readily addressed by amending the definition of "maintenance".</p> <p>Submitter seeks amendment to the definition of "maintenance" to read:</p> <p><i>Maintenance in relation to structures, includes <u>replacement, repair, or renewal, activities for the purpose of keeping a structure in good condition and/or working efficiently which restore a structure or asset to its original authorised standard and purpose, and where the character, intensity and scale of the structure, or asset or site remains the same or similar. In relation to network utilities it includes the addition of extra lines.</u> It excludes the extension or repair of structures or assets, or change in location.</i></p> | <p>Grant in kind</p> <p>The Hearing Panel notes that the distinction between a maintenance activities and alteration activities may overlap in some instances, however, do not recommend including alteration within the definition of maintenance. The Hearing Panel recommends that definitions differentiate between 'maintenance' and 'alteration'. These definitions align with relevant rules, particularly Rules 35 to 43.</p> <p>The Hearing Panel recommends the definition for "maintenance" read as follows:</p> <p><u>Maintenance in relation to a structure, means the ongoing and regular activities that aid in the preservation of a structure and includes repair works conducted for the purpose of keeping the structure in good condition and/or working efficiently and where the character, intensity and scale of the structure remains the same.</u></p> <p>The Hearing Panel further notes that alterations may not be restricted to alterations completed in order to bring a piece of equipment up to a new standard and there may be other reasons for altering a structure and may include other modifications for other purposes. The Panel considers that it is appropriate to leave the definition broad so that it can be applied to other scenarios. For the purpose of the Plan, the Panel recommends that the definition of alteration read as follows:</p> <p><u>Alteration, in relation to a structure, means any modification to a structure that does not increase its external dimensions.</u></p> |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Support in part | |
| Further submissions – Royal Forest and Bird Protection Society (43) | | Oppose | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1215 | <p>Amend</p> <p>In requiring maintenance activities to restore an asset to its original authorised standard, the inference is that maintenance which is required to bring a standard</p> | <p>Accept</p> <p>Hearing Panel note that the distinction between a maintenance activities and alteration activities may overlap in some instances, however, do not recommend</p> |

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| | | <p>up to a new standard is not provided for. This is opposed but could be readily addressed by amending the definition of "maintenance".</p> <p>Submitter seeks amendment to the definition of "maintenance" to read:</p> <p><i>Maintenance in relation to structures, includes <u>replacement, repair, or renewal</u>, activities <u>for the purpose of keeping a structure in good condition and/or working efficiently which restore a structure or asset to its original authorised standard and purpose</u>, and where the character, intensity and scale of the structure, <u>or asset or site</u> remains the same or similar. It excludes the extension <u>or repair</u> of structures or assets, or change in location.</i></p> | <p>including alteration within the definition of maintenance. The Hearing Panel recommends that definitions differentiate between "maintenance" and "alteration". These definitions align with relevant rules, particularly Rules 35 to 43.</p> <p>The following amendments to the definition of "maintenance" are recommended:</p> <p><u>Maintenance in relation to a structure, means the ongoing and regular activities that aid in the preservation of a structure and includes repair works conducted for the purpose of keeping the structure in good condition and/or working efficiently and where the character, intensity and scale of the structure remains the same.</u></p> <p>The Hearing Panel further notes that alterations may not be restricted to alterations completed in order to bring a piece of equipment up to a new standard and there may be other reasons for altering a structure and may include other modifications for other purposes. The Panel considers that it is appropriate to leave the definition broad so that it can be applied to other scenarios. For the purpose of the Plan, the Panel recommends that the definition of alteration read as follows:</p> <p><u>Alteration in relation to a structure, means any modification to a structure that does not increase its external dimensions.</u></p> |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Support in part | |
| 57 – Heritage New Zealand | 1216 | <p>Amend</p> <p>Submitter seeks amendment to the Plan to include definition of "maintenance" to read:</p> <p><u>Maintenance means the ongoing protective care of a place.</u></p> | <p>Grant in kind</p> <p>The Hearing Panel does not consider that the relief suggested by the submitter provides the necessary direction or clarification as to what activities can be considered "maintenance" due to the use of the term "protective care". This term is broad and has potential to be misinterpreted or distorted to fit a user's requirements irrespective of the intent of the Plan.</p> <p>The Hearing Panel recommends amending the definition of 'maintenance to read' as follows:</p> <p><u>Maintenance in relation to a structure, means the ongoing and regular activities that aid in the preservation of a structure and includes repair works conducted for the purpose of keeping the structure in good condition and/or working efficiently and where the character, intensity and scale of the structure remains the same.</u></p> |
| Further submissions – Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Oppose | |
| Definition – Maintenance dredging | | | |
| 43 – Royal Forest and Bird Protection Society | 1217 | <p>Support</p> <p>Retain definition of "maintenance dredging" as notified.</p> | <p>Accept</p> <p>Definition of "maintenance dredging" is retained as notified.</p> |

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| NEW Definition – Major alteration or extension | | | |
| 43 – Royal Forest and Bird Protection Society | 1218 | Amend Submitter seeks amendment to the Plan to include a new definition of “ <i>major alteration or extension</i> ” to mean any alteration or extension of a structure which does not meet the definition of a minor alteration or extension. | Accept in part The Hearing Panel recommends giving partial relief to the request sought by the submitter involving reframing the maintenance, alterations, extensions and removal rules (to more clearly differentiate between the respective activities based upon changes in their external dimensions). Consequential changes are also proposed to the Plan definition for ‘ <i>maintenance</i> ’ and with new definitions for ‘ <i>alteration</i> ’ and ‘ <i>extension</i> ’ also proposed. However, the Hearing Panel does not believe it is necessary to include a definition for “ <i>major alteration</i> ”. The Panel suggests that the distinction between major and minor alterations is determinable through the individual reading of relevant rules. The Hearing Panel recommends that the following new definitions of “ <i>alteration</i> ” and “ <i>extension</i> ” be included in the Plan to read as follows: <u>Extension in relation to a structure, means any modification to the external dimensions of a structure, including length, width and height.</u> <u>Alteration in relation to a structure, means any modification to a structure that does not increase its external dimensions.</u> |
| Further submissions – Port Taranaki Ltd (32), Powerco (45) | Oppose | | |
| Definition – Marine and coastal area | | | |
| 43 – Royal Forest and Bird Protection Society | 1219 | Support Retain definition of “ <i>marine and coastal area</i> ” as notified. | Accept Definition of “ <i>marine and coastal area</i> ” is retained as notified. |
| Definition – Method | | | |
| 43 – Royal Forest and Bird Protection Society | 1220 | Support Retain definition of “ <i>method</i> ” as notified. | Accept Definition of “ <i>method</i> ” is retained as notified. |
| NEW Definition – Microfouling | | | |
| 29 – Department of Conservation | 1221 | Amend Submitter seeks amendment to the Plan to include a new definition of “ <i>microfouling</i> ” that reads: | Accept The Hearing Panel recommends granting the relief sought by the submitter and to include a new definition of ‘ <i>microfouling</i> ’ to read as follows: |

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| | | <u>Microfouling – is a layer of microscopic organisms including bacteria and diatoms and the slimy substances they produce. Often referred to as a 'slime layer', microfouling can usually be removed by gently passing a finger over the surface.</u> | <u>Microfoul is a layer of microscopic organisms including bacteria and diatoms and the slimy substances they produce. Often referred to as a 'slime layer'.</u> With the following footnote: |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | <u>Microfouling can usually be removed by gently passing a finger over the surface.</u> |
| Definition – Military training | | | |
| 33 – New Zealand Defence Force | 1222 | <p>Support</p> <p>Retain the definition of “military training” as notified.</p> | <p>Accept in part</p> <p>Definition of “military training” is retained subject to amendments to align the Plan with the definition for ‘temporary military training activities’ within the <i>National Planning Standards 2019</i> to read:</p> <p><u>Temporary military training activity means a temporary activity undertaken for the training of any component of the New Zealand Defence Force (including with allied forces) for any defence purpose. Defence purposes are those purposes for which a defence force may be raised and maintained under section 5 of the Defence Act 1990 which are:</u></p> <ul style="list-style-type: none"> <u>(a) the defence of New Zealand, and of any area for the defence of which New Zealand is responsible under any Act;</u> <u>(b) the protection of the interests of New Zealand, whether in New Zealand or elsewhere;</u> <u>(c) the contribution of forces under collective security threats, agreements, or arrangements;</u> <u>(d) the contribution of forces to, or for any of the purpose of, the United Nations, or in association with other organisations or States and in accordance with the principles of the Charter of the United Nations;</u> <u>(e) the provision of assistance to the civil power either in New Zealand or elsewhere in time of emergency;</u> <u>(f) the provision of any public service.</u> |

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| NEW Definition – Minor alteration or extension | | | |
| 43 – Royal Forest and Bird Protection Society | 1223 | <p>Amend</p> <p>Submitter seeks amendment to the Plan to include a new definition of “<i>minor alteration or extension</i>” to read:</p> <p><u><i>Minor alteration or extension means, the alteration of a structure where the alteration or extension is within the same footprint, does not result in an increase in adverse effects over effects generated from the operation and maintenance of the structure.</i></u></p> | <p>Accept in part</p> <p>The Hearing Panel recommends giving partial relief to the request sought by the submitter involving reframing the maintenance, alterations, extensions and removal rules of the Plan (to more clearly differentiate between the respective activities based upon changes in their external dimensions).</p> <p>Consequential changes are also proposed to the Plan definition for “<i>maintenance</i>” and with new definitions for “<i>alteration</i>” and “<i>extension</i>” also proposed. However, the Hearing Panel does not believe it is necessary to include a definition. Use of the term minor alteration is only used within Rule 35 of the Plan. This rule includes a number of standards, terms and conditions that establish the parameters for what would be considered ‘minor’. The Hearing Panel notes that activities that do not fit these standards, terms and conditions would not be considered to be ‘minor’ and would be considered under another rule.</p> <p>The Hearing Panel recommends that the following new definitions of “<i>alteration</i>” and “<i>extension</i>” be included in the Plan to read as follows:</p> <p><u><i>Extension in relation to a structure, means any modification to the external dimensions of a structure, including length, width and height.</i></u></p> <p><u><i>Alteration in relation to a structure, means any modification to a structure that does not increase its external dimensions.</i></u></p> |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | |
| Further submissions – Powerco (45) | | Oppose in part | |
| Definition – Natural | | | |
| 43 – Royal Forest and Bird Protection Society | 1224 | <p>Support</p> <p>Retain the definition of “<i>natural</i>” as notified.</p> | <p>Accept</p> <p>Definition of “<i>natural</i>” is retained as notified.</p> |
| Definition – Natural Character | | | |
| 29 – Department of Conservation | 1225 | <p>Amend</p> <p>Submitter seeks amendment to the definition of “<i>natural character</i>” to better reflect Policy 13 of the <i>New Zealand Coastal Policy Statement</i>.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Further submissions – Meridian Energy Ltd (20) | | Support | <p>The Hearing Panel notes that the proposed definition of natural character would encompass all of the qualities identified in Policy 13 of the <i>New Zealand Coastal Policy Statement</i> and that Policy 13 is not an exhaustive list but merely identifies some characteristics that <u>may</u> (emphasis added) be recognised as natural character. For this reason, the Panel considers that a more generic and broader definition than that sought by the submitter is required in order to avoid a verbose Plan and the inclusion of an unnecessarily lengthy definition that do not capture all of the possible characteristics.</p> <p>The Hearing Panel notes that all of the characteristics listed in Policy 13 of the <i>New Zealand Coastal Policy Statement</i> are either natural elements, patterns or process or are the experiential perceptions of those processes.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support in part | |
| Further submissions – Powerco (45) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 1226 | <p>Amend</p> <p>Submitter seeks amendment to the definition of “<i>natural character</i>” to include in the definition that protection of natural character of the coastal environment is set out in Policy 13 of the <i>New Zealand Coastal Policy Statement</i>.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter and notes that protection of natural character introduces elements that are not appropriate to be included within a definition. The Panel notes that a definition should be limited to a statement of the exact meaning of a word as it applies to the Plan.</p> <p>In addition, protection of natural character, as required by the <i>New Zealand Coastal Policy Statement</i>, is provided for within this Plan and is not solely confined to the <i>New Zealand Coastal Policy Statement</i>. This Plan recognises and gives effect to Policy 13 of the <i>New Zealand Coastal Policy Statement</i> in a number of ways and areas within the Plan such as the objectives and policies including (but not limited to) Objective 6 [Natural character], Policy 9 [Natural character and natural features and landscapes] and Policy 10 [Restoration of natural character].</p> <p>The Hearing Panel further recommends against cross referencing external documents within the definitions as this creates uncertainty if the <i>New Zealand Coastal Policy Statement</i> is revised or amended during the life of the Plan.</p> |
| Definition – Natural feature | | | |
| 29 – Department of Conservation | 1227 | <p>Amend</p> <p>Submitter seeks amendment to the definition of “<i>natural feature</i>” to better reflect Policy 15(c) of the <i>New Zealand Coastal Policy Statement</i>.</p> | Decline |

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| Further submissions – Meridian Energy Ltd (20) | | Support | <p>The Hearing Panel recommends declining the relief sought by the submitter and note that the definition of “<i>natural feature</i>” encompasses those elements and characteristic identified in Policy 15 of the <i>New Zealand Coastal Policy Statement</i>.</p> <p>The Hearing Panel notes that Policy 15 of the <i>New Zealand Coastal Policy Statement</i> includes a list of features, characteristics and values that are components of a natural landscape which are either part of the physical character of the area (such as natural science factors, presence of water, vegetation and presence of wildlife), the perceptions of that character or associations with that area (such as the legibility or expressiveness of those characters, their aesthetic values, memorability and wild or scenic values), and cultural spiritual, historical and heritage associations (such as values of tangata whenua and historic heritage associations).</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support in part | |
| Further submissions – Powerco (45) | | Oppose | |
| 43 – Royal Forest and Bird Protection Society | 1228 | <p>Amend</p> <p>Amend definition of “<i>natural feature</i>” to include in the definition that protection of natural character of the coastal environment as set out in Policy 15 of the <i>New Zealand Coastal Policy Statement</i>.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought by the submitter. The Panel does not believe it is necessary to paraphrase the <i>New Zealand Coastal Policy Statement</i> policies in the Plan. The Hearing Panel suggests the definition as proposed reflects most people’s understanding of what is a “<i>natural feature</i>” and to amend the definition to paraphrase those elements set out in Policy 15 of the <i>New Zealand Coastal Policy Statement</i> risks making the Plan overly verbose.</p> <p>Notwithstanding the above, the Hearing Panel notes that elsewhere in the Plan, provisions apply to give effect to Policy 15 of the <i>New Zealand Coastal Policy Statement</i>, e.g. Objective 7 [Natural features and landscapes] and Policy 9 [Natural character and natural features and landscapes]. The Hearing Panel further notes that other objectives and policies contribute to giving effect to Policy 15 of the <i>New Zealand Coastal Policy Statement</i> by identifying and protecting independent values identified as natural features (for example, policies protecting indigenous biodiversity, historic heritage, relationships of tangata whenua with the coastal environment and amenity values).</p> <p>The Hearing Panel further recommends against cross referencing external documents within the definitions as this creates uncertainty if the <i>New Zealand Coastal Policy Statement</i> is revised or amended during the life of the Plan.</p> |

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| Definition – Natural landscape | | | |
| 43 – Royal Forest and Bird Protection Society | 1229 | Amend | Decline |
| | | Submitter seeks amendment to the definition of “ <i>natural landscape</i> ” to include in the definition that protection of natural character of the coastal environment is set out in Policy 15 of the <i>New Zealand Coastal Policy Statement</i> . | The Hearing Panel recommends declining the relief sought. The Panel does not believe it necessary for the definition to specifically reference Policy 15 of the <i>New Zealand Coastal Policy Statement</i> and risks making the Plan overly verbose, particularly if this approach is adopted for other terms used in the <i>New Zealand Coastal Policy Statement</i> . |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | |
| Definition – Naturally rare or originally rare | | | |
| 43 – Royal Forest and Bird Protection Society | 1230 | Support | Accept |
| | | Retain definition of “ <i>naturally rare or originally rare</i> ” as notified. | Definition of “ <i>naturally rare or originally rare</i> ” is retained as notified. |
| Definition – Network utility | | | |
| 12 – Chorus New Zealand Limited | 1231 | Support | Accept |
| | | Retain the definition of “ <i>network utility</i> ” as notified. | Definition of “ <i>network utility</i> ” is retained as notified, however, a minor and inconsequential amendment is recommended to include a footnote that references Section 166 of the RMA to assist Plan users. |
| 13 – Spark New Zealand Trading Limited | 1232 | Support | Accept |
| | | Retain the definition of “ <i>network utility</i> ” as notified. | Definition of “ <i>network utility</i> ” is retained as notified, however, a minor and inconsequential amendment is recommended to include a footnote that references Section 166 of the RMA to assist Plan users. |
| 14 – Vodafone New Zealand Limited | 1233 | Support | Accept |
| | | Retain the definition of “ <i>network utility</i> ” as notified. | Definition of “ <i>network utility</i> ” is retained as notified, however, a minor and inconsequential amendment is recommended to include a footnote that references Section 166 of the RMA to assist Plan users. |
| | 1234 | Support | Accept |

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| 43 – Royal Forest and Bird Protection Society | | Retain the definition of “ <i>network utility</i> ” as notified. | Definition of “ <i>network utility</i> ” is retained as notified, however, a minor and inconsequential amendment is recommended to include a footnote that references Section 166 of the RMA to assist Plan users. |
| 45 – Powerco | 1235 | Support Retain the definition of “ <i>network utility</i> ” as notified. | Accept Definition of “ <i>network utility</i> ” is retained as notified, however, a minor and inconsequential amendment is recommended to include a footnote that references Section 166 of the RMA to assist Plan users. |
| Further submissions – Transpower NZ Ltd (26) | | Support | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1236 | Support Retain the definition of “ <i>network utility</i> ” as notified. | Accept Definition of “ <i>network utility</i> ” is retained as notified, however, a minor and inconsequential amendment is recommended to include a footnote that references Section 166 of the RMA to assist Plan users. |
| 59 – KiwiRail | 1237 | Support Retain the definition of “ <i>network utility</i> ” as notified. | Accept Definition of “ <i>network utility</i> ” is retained as notified, however, a minor and inconsequential amendment is recommended to include a footnote that references Section 166 of the RMA to assist Plan users. |
| Definition – Offshore installation or installation | | | |
| 43 – Royal Forest and Bird Protection Society | 1238 | Support Retain the definition of “ <i>offshore installation or installation</i> ” as notified. | Accept Definition of “ <i>offshore installation or installation</i> ” is retained as notified. |
| NEW definition – Operational requirement | | | |
| 47 – Fonterra | 1239 | Amend Submitter seeks amendment to the Plan to include a new definition for “operational requirement” to read: <u><i>Operational requirement means the requirement for a proposal or activity to traverse, locate or operate in a particular environment because of technical or operational characteristics or constraints.</i></u> | Grant in kind Submitter requests amendment to the Plan to include a definition for “ <i>operational requirement</i> ” as a consequential amendment as a result of amendments requested for Policy 5 [Appropriate use and development of the coastal environment] of the Plan. |

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| Further submissions – Royal Forest and Bird Protection Society (43) | | Oppose | The Hearing Panel recommends granting the relief sought by the submitter in kind by including a new definition for “operational need”, which is aligned with the <i>National Planning Standards 2019</i> and reads as follows: <u>Operational need means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical or operational characteristics or constraints.</u> |
| Further submissions – Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Oppose in part | |
| Definition – Outstanding Value | | | |
| 43 – Royal Forest and Bird Protection Society | 1240 | Amend Submitter seeks amendment to the definition of “ <i>Outstanding Value</i> ” to refer to areas identified under Policy 8 of the Plan. | No relief required These areas are already identified within the definition of outstanding value with reference to Schedule 1 and 2 of the Plan. Schedules 1 and 2 are the main sources whereby Policy 8 also directs the reader to this location. Therefore, it is not necessary to also refer to Policy 8. The Hearing Panel recommends retaining the current wording of “ <i>outstanding value</i> ” as notified. |
| Definition – Petroleum | | | |
| 42 – Ngati Rahiri Hapū | 1241 | Amend Submitter considers the definition of “ <i>petroleum</i> ” to be rather long-winded and that (a) and (b) could be combined to simply read: <i>[...] any naturally occurring hydrocarbon <u>or naturally occurring mixture of hydrocarbons</u> (other than coal) whether in a gaseous, liquid or solid state.</i> | Accept The Hearing Panel agrees with the submitter and recommends granting the relief sought by amending the definition of “ <i>petroleum</i> ” to read: <i>[...] any naturally occurring hydrocarbon <u>or naturally occurring mixture of hydrocarbons</u> (other than coal) whether in a gaseous, liquid or solid state.</i> |
| 43 – Royal Forest and Bird Protection Society | 1242 | Support Retain the definition of “ <i>petroleum</i> ” as notified. | Accept Definition of “ <i>petroleum</i> ” is retained subject to minor amendment in response to a relief sought by another submitter (refer submission point 1241). |
| Definition – Pipeline | | | |
| 42 – Ngati Rahiri Hapū | 1243 | Amend Submitter seeks amendment to definition of “ <i>pipeline</i> ” to delete reference to machinery and tanks and read: | Decline The submitter considers the definition of pipeline, as it stands, to be too broad. A pipeline does not mean all machinery, tanks and fittings connected to the pipeline. The submitter will accept that pipelines includes fittings connected to the line, |

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| | | [...] a pipeline constructed or used to convey any matter or substance, and includes all <i>machinery, tanks and fittings</i> connected to the pipeline. | <p>however other machinery and tanks should be removed from this definition and, if required, have their own definition.</p> <p>The Hearing Panel considers a "pipeline" to encompass any equipment that aids the pipeline in the normal safe transportation of materials through that pipeline. The Panel notes that there are no instances within the Plan where a pipeline would be considered separate from all equipment that aids in its operation and therefore consider it unnecessary, and potentially confusing for Plan users, to separate them within the definition. Further, this amendment would require additional consequential amendments throughout the Plan, to align the policies and rules to the new definitions, which the Hearing Panel does not believe offers additional value in either the clarity or readability of the Plan.</p> <p>The Hearing Panel recommends retaining the definition of "pipeline" as currently notified.</p> |
| 43 – Royal Forest and Bird Protection Society | 1244 | <p>Support</p> <p>Retain the definition of "pipeline" as notified.</p> | <p>Accept</p> <p>Definition of "pipeline" retained as notified.</p> |
| 45 – Powerco | 1245 | <p>Support</p> <p>Retain the definition of "pipeline" as notified.</p> | <p>Accept</p> <p>Definition of "pipeline" retained as notified.</p> |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1246 | <p>Support</p> <p>Retain the definition of "pipeline" as notified.</p> | <p>Accept</p> <p>Definition of "pipeline" retained as notified.</p> |
| Definition – Port | | | |
| 43 – Royal Forest and Bird Protection Society | 1247 | <p>Amend</p> <p>Submitter seeks amendment of the definition of "Port" to state that the port is Port Taranaki</p> <p>OR</p> <p>Alternatively delete the definition.</p> | <p>Accept</p> <p>The submitter contends that the current definition does not make sense given the common meaning of port. The submitter suggests Policy 1 sets out that the "port" is Port Taranaki and states the definition would be clearer if it said it was the Port of Taranaki.</p> <p>The Hearing Panel agrees and recommends amending the definition of "Port" to read:</p> |
| Further submissions – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Oppose in part | |

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| Further submissions – Port Taranaki Ltd (32) | | Oppose | <i>Port</i> refers to the coastal management area identified in Schedule 1 of the Plan <u>as Port Taranaki</u> . |
| Definition – Port Air Zone | | | |
| 43 – Royal Forest and Bird Protection Society | 1248 | Amend Submitter seeks amendment to the definition of “Port Air Zone” to state that it relates to Port Taranaki. | Accept The Hearing Panel recommend amending the definition of “port air zone” to read: <i>Port air zone</i> <u>relates to Port Taranaki and is identified in</u> refer to Schedule 8 of the Plan. |
| Definition – Produced water | | | |
| 42 – Ngati Rahiri Hapū | 1249 | Amend Submitter seeks amendment to the definition of “produced water” to read: <i>Produced water means water with <u>or without</u> high mineral or salt content associated with the production of oil and gas from reservoirs. It may include water, water that has been injected into the reservoir, and any chemicals added during the production/treatment/enhancement process.</i> | Decline Produced water is a specific by product of the petroleum industry. The characteristics of this by product are well known and anticipated due to the operational methods and associated products used during petroleum production. Produced water is a brine liquid that, due to the operational methods, will contain high mineral and/or salt content. It is therefore not necessary to include the possibility that the water may not contain high mineral or salt content. The Hearing Panel considers this addition unnecessary and broadens the scope of the definition unreasonably. Therefore, the Hearing Panel recommends retaining the definition of “produced water” as currently notified. |
| 43 – Royal Forest and Bird Protection Society | 1250 | Support Retain the definition of “produced water” as notified. | Accept Definition of “produced water” retained as notified. |
| Definition – Rare and uncommon ecosystem type | | | |
| 43 – Royal Forest and Bird Protection Society | 1251 | Support Retain the definition of “rare and uncommon ecosystem type” as notified. | Accept Definition of “rare and uncommon ecosystems” retained as notified. |

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| NEW Definition – Reclamation | | | |
| 43 – Royal Forest and Bird Protection Society | 1252 | <p>Amend</p> <p>Submitter seeks amendment to the definition of “reclamation” to read (or similar):</p> <p><u>The formation of permanent land located above mean high water springs that was formerly below the line of mean high water springs. Reclamation does not include:</u></p> <ol style="list-style-type: none"> <u>1. land that has arisen above the line of mean high-water springs as a result of natural processes, including accretion, or</u> <u>2. any infilling where the purpose is to provide beach nourishment, or</u> <u>3. structures such as breakwaters, moles, groynes or sea walls.</u> | <p>Grant in kind</p> <p>The Hearing Panel recommends granting the relief sought by the submitter by amending the Plan to include a definition for “reclamation”, however, recommend aligning with the definition in the <i>National Planning Standards</i>, which reads as follows:</p> <p><u>Reclamation means the manmade formation of permanent dry land by the positioning of material into or onto any part of a waterbody, bed of a lake or river or the coastal marine area; and</u></p> <p><u>(a) includes the construction of any causeway; but</u></p> <p><u>(b) excludes the construction of natural hazard protection structures such as seawalls, breakwaters or groynes except where the purpose of those structures is to form dry land.</u></p> |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | |
| Definition – Regionally distinctive | | | |
| 43 – Royal Forest and Bird Protection Society | 1253 | <p>Support</p> <p>Retain the definition of “regionally distinctive” as notified.</p> | <p>Accept</p> <p>The definition of “regionally distinctive” is retained as notified.</p> |
| Definition – Regionally important infrastructure | | | |
| 12 – Chorus New Zealand Limited | 1254 | <p>Amend</p> <p>Submitter seeks amendment to the definition of “regionally important infrastructure” so that it preferably refers only to “infrastructure” and to read as follows:</p> <p>Regionally important infrastructure means infrastructure of regional and/or national importance and is includes:</p> <ol style="list-style-type: none"> <i>(a) Port Taranaki and its approaches and on-going development to meet changing operational needs;</i> <i>(b) facilities and arterial pipelines for the supply or distribution of minerals including oil and gas and their derivatives;</i> <i>(c) the national electricity grid, as defined by the Electricity Industry Act 2010;</i> | <p>Accept in part</p> <p>The intent of this definition is to specifically highlight infrastructure that the Council considers to be of added significance to the economic and social wellbeing of Taranaki and New Zealand and which, through policies and rules, should be recognised and provided for. This definition has been intentionally constrained to only include specific infrastructures and exclude others. It is therefore considered inappropriate to broaden the term to encompass all “infrastructure”.</p> <p>Notwithstanding the above, the Hearing Panel recommends granting that part of the relief sought by the submitter to amend (h) and (i) by deleting reference to strategic facilities. The Panel recommends making that part of the change to better align with terminology adopted in relevant legislation relating to those facilities.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p>(d) facilities for the generation and/or transmission of electricity where it is supplied to the national electricity grid and/or the local electricity distribution network, including supply within the local electricity distribution network;</p> <p>(e) defence facilities;</p> <p>(f) flood protection works;</p> <p>(g) infrastructure associated with the safe and efficient operation of state highways and the rail network;</p> <p>(h) strategic telecommunications facilities, as defined in section 5 of the Telecommunications Act 2001;</p> <p>(i) strategic radiocommunications facilities as defined in section 2(1) of the Radio Communications Act 1989;</p> <p>(j) New Plymouth airport, including flight paths;</p> <p>(k) arterial pipelines and pumping stations for the distribution of potable water and water treatment plants; and</p> <p>(l) arterial pipelines and pumping stations for the collection of wastewater and stormwater, and wastewater treatment plants.</p> <p>OR</p> <p>amend the definition of "regionally important infrastructure" as follows: <i>Regionally important infrastructure means infrastructure of regional and/or national importance and is:</i> [...]</p> <p>(h) strategic telecommunications facilities, as defined in section 5 of the Telecommunications Act 2001;</p> <p>(i) strategic radiocommunications facilities as defined in section 2(1) of the Radio Communications Act 1989 [...]</p> | |
| 13 – Spark New Zealand Trading Limited | 1255 | <p>Amend</p> <p>Submitter seeks amendment to the definition of "regionally important infrastructure" so that it preferably refers only to "infrastructure" and to read as follows: <i>Regionally important infrastructure means infrastructure of regional and/or national importance and is</i> includes:</p> <p>(a) Port Taranaki and its approaches and on-going development to meet changing operational needs;</p> | <p>Accept in part</p> <p>The intent of this definition is to specifically highlight infrastructure that the Council considers to be of added significance to the economic and social wellbeing of Taranaki and New Zealand and which through policies and rules should be recognised and provided for. This definition has been intentionally constrained to only include specific infrastructures and exclude others. It is therefore considered inappropriate to broaden the term to encompass all "infrastructure".</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <p>(b) facilities and arterial pipelines for the supply or distribution of minerals including oil and gas and their derivatives;</p> <p>(c) the national electricity grid, as defined by the Electricity Industry Act 2010;</p> <p>(d) facilities for the generation and/or transmission of electricity where it is supplied to the national electricity grid and/or the local electricity distribution network, including supply within the local electricity distribution network;</p> <p>(e) defence facilities;</p> <p>(f) flood protection works;</p> <p>(g) infrastructure associated with the safe and efficient operation of state highways and the rail network;</p> <p>(h) strategic telecommunications facilities, as defined in section 5 of the Telecommunications Act 2001;</p> <p>(i) strategic radiocommunications facilities as defined in section 2(1) of the Radio Communications Act 1989;</p> <p>(j) New Plymouth airport, including flight paths;</p> <p>(k) arterial pipelines and pumping stations for the distribution of potable water and water treatment plants; and</p> <p>(l) arterial pipelines and pumping stations for the collection of wastewater and stormwater, and wastewater treatment plants.</p> <p>OR</p> <p>amend the definition of "regionally important infrastructure" as follows:</p> <p>Regionally important infrastructure means infrastructure of regional and/or national importance and is:</p> <p>[...]</p> <p>(h) strategic telecommunications facilities, as defined in section 5 of the Telecommunications Act 2001;</p> <p>(i) strategic radiocommunications facilities as defined in section 2(1) of the Radio Communications Act 1989 [...]</p> | <p>However, the Hearing Panel recommends granting that part of the relief sought by the submitter to amend (h) and (i) by deleting reference to strategic facilities. The Panel recommends making that part of the change to better align with terminology adopted in relevant legislation relating to those facilities.</p> |
| 14 – Vodafone New Zealand Ltd | 1256 | <p>Amend</p> <p>Submitter seeks amendment to the definition of "regionally important infrastructure" so that it preferably refers only to "infrastructure" and to read as follows:</p> | <p>Accept in part</p> <p>The intent of this definition is to specifically highlight infrastructure that the Council considers to be of added significance to the economic and social wellbeing of Taranaki and New Zealand and which through policies and rules should be</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
|-----------|------------------|--|--|
| | | <p>Regionally important infrastructure means infrastructure of regional and/or national importance and is includes:</p> <p>(a) Port Taranaki and its approaches and on-going development to meet changing operational needs;</p> <p>(b) facilities and arterial pipelines for the supply or distribution of minerals including oil and gas and their derivatives;</p> <p>(c) the national electricity grid, as defined by the Electricity Industry Act 2010;</p> <p>(d) facilities for the generation and/or transmission of electricity where it is supplied to the national electricity grid and/or the local electricity distribution network, including supply within the local electricity distribution network;</p> <p>(e) defence facilities;</p> <p>(f) flood protection works;</p> <p>(g) infrastructure associated with the safe and efficient operation of state highways and the rail network;</p> <p>(h) strategic telecommunications facilities, as defined in section 5 of the Telecommunications Act 2001;</p> <p>(i) strategic radiocommunications facilities as defined in section 2(1) of the Radio Communications Act 1989;</p> <p>(j) New Plymouth airport, including flight paths;</p> <p>(k) arterial pipelines and pumping stations for the distribution of potable water and water treatment plants; and</p> <p>(l) arterial pipelines and pumping stations for the collection of wastewater and stormwater, and wastewater treatment plants.</p> <p>OR</p> <p>amend the definition of "regionally important infrastructure" as follows:</p> <p>Regionally important infrastructure means infrastructure of regional and/or national importance and is:</p> <p>[..]</p> <p>(h) strategic telecommunications facilities, as defined in section 5 of the Telecommunications Act 2001;</p> <p>(i) strategic radiocommunications facilities as defined in section 2(1) of the Radio Communications Act 1989 [...]</p> | <p>recognised and provided for. This definition has been intentionally constrained to only include specific infrastructures and exclude others. It is therefore considered inappropriate to broaden the term to encompass all "infrastructure".</p> <p>Notwithstanding the above, the Hearing Panel recommends granting that part of the relief sought by the submitter to amend (h) and (i) by deleting reference to strategic facilities. The recommended amendments better align with terminology adopted in relevant legislation relating to those facilities.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 23 – New Plymouth District Council | 1257 | Support | Accept |
| | | Retain (k) and (l) in the definition of “regionally important infrastructure”. | Clauses (k) and (l) in the definition of “regionally important infrastructure” are retained as notified. |
| 26 – Transpower NZ Ltd | 1258 | Amend | Decline |
| | | <p>Submitter seeks amendment to the definition of “regionally important infrastructure” throughout the Plan to refer to “regionally significant infrastructure”</p> <p>AND</p> <p>That the reference to the National Grid be amended to read:</p> <p>(c) <i>the National electricity Grid, being the assets used or owned by Transpower New Zealand Limited as defined by the Electricity Industry Act 2010;</i></p> <p>AND</p> <p>That a new definition of “National Grid” is added to the Definition Chapter as follows:</p> <p><i>National Grid means the assets used or owned by Transpower New Zealand Limited.</i></p> | <p>The Hearing Panel recommends declining the relief sought to amend the Plan to refer to “regionally significant infrastructure” rather than “regionally important infrastructure” in the interests of aligning terminology with other regions (noting that similar terminology has been adopted in other recent second generation plans).</p> <p>The Hearing Panel also recommends no amendments to (c) as the definition should be directly aligned to specific legislation rather than any particular company. This allows the definition to be future proofed in the event that Transpower NZ Ltd is no longer the National Grid provider or the company's name changes.</p> <p>The Hearing Panel notes that reference to the National Grid has not been used within the Plan outside of the definition of “regionally important infrastructure”, and do not believe a definition is necessary.</p> |
| 33 – New Zealand Defence Force | 1259 | Support | Accept |
| | | Retain the definition of “regionally important infrastructure” as notified, particularly (e) which refers to defence facilities. | Clause (e) of “regionally important infrastructure” is retained as notified. |
| 35 – Radio New Zealand Ltd | 1260 | <p>Amend</p> <p>Submitter seeks amendment to the definition of “regionally important infrastructure” as follows:</p> <p><i>Regionally important infrastructure means infrastructure of regional and/or national importance and is:</i></p> <p>[...]</p> <p>(i) strategic radio communications <i>radiocommunications</i> facilities as defined in section 2(1) of the Radiocommunications Act 1989 [...]</p> | <p>Accept</p> <p>The reason for including “strategic” radiocommunications facilities within the definition for “regionally important infrastructure” is to highlight those essential radiocommunications facilities that provide an essential national or regional service and to differentiate these from less critical facilities.</p> <p>Notwithstanding the above, the Hearing Panel recommends granting the relief sought by the submitter seeking amendments to (i) to delete reference to strategic facilities. The recommended changes better align with terminology adopted in relevant legislation relating to those facilities.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
|--|------------------|--|---|
| 37 – Petroleum Exploration and Production Association of NZ | 1261 | <p>Amend</p> <p>Submitter seeks amendment to the definition of “regionally important infrastructure” to read:</p> <p><i>Regionally important infrastructure means infrastructure of regional and/or national importance and is:</i></p> <p>[...]</p> <p>(c) facilities and arterial pipelines for the supply, <u>storage</u> or distribution of minerals including oil and gas and their derivatives; [...]</p> | <p>Accept</p> <p>The Hearing Panel recommends amending Clause (c) of the definition of “regionally important infrastructure” to include the storage of minerals including oil and gas and their derivatives as requested by the submitter to read:</p> <p><i>Regionally important infrastructure means infrastructure of regional and/or national importance and is:</i></p> <p>[...]</p> <p>(b) facilities and arterial pipelines for the supply, <u>storage</u> or distribution of minerals including oil and gas and their derivatives; [...]</p> |
| Further submissions – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Neutral | |
| 43 – Royal Forest and Bird Protection Society | 1262 | <p>Support</p> <p>Retain the definition of “regionally important infrastructure” as notified.</p> | <p>Accept in part</p> <p>The definition of “regionally important infrastructure” is retained subject to minor amendments sought by other submitters.</p> <p>At the hearing, the submitter opposed the inclusion of “storage” in the amended definition of “regionally important infrastructure” and sought that the definition return to its notified version. However, the Hearing Panel considers that the definition addressing facilities and arterial pipelines for, amongst other things, the storage of minerals is entirely appropriate.</p> |
| Further submissions – Te Atiawa (58) | | Support | |
| 45 – Powerco | 1263 | <p>Support</p> <p>Retain the definition of “regionally important infrastructure” as notified but adopt the term “regionally significant infrastructure” (instead of the term “regionally important infrastructure”) to ensure consistency between the Plan and other planning documents such as the Regional Policy Statement.</p> | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought to amend the Plan to refer to “regionally significant infrastructure” rather than “regionally important infrastructure” in the interests of aligning terminology with other regions (noting that similar terminology has been adopted in other recent second generation plans).</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support in part | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1264 | <p>Support</p> <p>Retain the definition of “regionally important infrastructure” as notified but adopt the term “regionally significant infrastructure” (instead of the term “regionally important infrastructure”) to ensure consistency between the Plan and other planning documents such as the Regional Policy Statement.</p> | <p>Accept</p> <p>The Hearing Panel recommends declining the relief sought to amend the Plan to refer to “regionally significant infrastructure” rather than “regionally important infrastructure” in the interests of aligning terminology with other regions (noting that similar terminology has been adopted in other recent second generation plans).</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 59 – KiwiRail | 1265 | Support | Accept |
| | | Retain the definition of “regionally important infrastructure” as notified. | The definition of “regionally important infrastructure” is retained subject to minor amendments sought by other submitters. |
| Definition – Repair | | | |
| 43 – Royal Forest and Bird Protection Society | 1266 | Amend | Accept |
| | | Submitter seeks amendment to the Plan by deleting the definition of “repair”: Repair means reconstruction. | The submitter suggests that repair is a key aspect of maintenance and must be included within that definition. The Hearing Panel agrees and recommends granting the relief sought. Repairs are a type of maintenance activity and the standalone definition should be deleted. Consequential amendments are also necessary to the definition of maintenance and associated rules. |
| 45 – Powerco | 1267 | Amend | Accept |
| | | Submitter seeks amendment to the Plan by deleting the definition of “repair”: Repair means reconstruction. | The submitter suggests that repair is a type of maintenance activity and that the standalone definition should be deleted. The Hearing Panel agrees and recommends granting the relief sought. Consequential amendments are also necessary to the definition of maintenance and associated rules. |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1268 | Amend | Accept |
| | | Submitter seeks amendment to the Plan by deleting the definition of “repair”: Repair means reconstruction. | The submitter suggests that repair is a type of maintenance activity and that the stand-alone definition should be deleted. The Hearing Panel agrees and recommends granting the relief sought. Consequential amendments are also necessary to the definition of maintenance and associated rules. |
| 47 – Fonterra | 1269 | Support | Decline |
| | | Retain the definition of “repair”. | Several submitters have requested deletion of the definition of “repair”. The Hearing Panel recommends deletion of the term. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| 57 – Heritage New Zealand | 1270 | <p>Amend</p> <p>Submitter seeks amendment to the Plan by changing the definition of “repair” to read:</p> <p><i>Repair means reconstruction. Repair (of historic heritage) means the restoration to good or sound condition of any existing structure (or any part of an existing structure) for the purpose of its maintenance.</i></p> | <p>Accept in part</p> <p>Several submitters have requested deletion of the definition of “repair” to which the Hearing Panel agrees. Repair is proposed to be addressed under an amended definition for “maintenance” which, in part, addresses the suggestion made by the submitter, however, in relation to this Plan, is not limited by its application to historic heritage.</p> |
| Definition – Reverse sensitivity | | | |
| 43 – Royal Forest and Bird Protection Society | 1271 | <p>Support</p> <p>Retain the definition of “reverse sensitivity” as notified.</p> | <p>Grant in kind</p> <p>Support noted. The definition of reverse sensitivity is recommended to be amended in order to provide more clear direction to Plan users. However, the intent and scope of the definition is retained.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 45 – Powerco | 1272 | <p>Amend</p> <p>Submitter seeks amendment to the definition of “reverse sensitivity” to read:</p> <p><i>Reverse sensitivity refers to the potential for the operation of an existing effects of sensitive activities on other lawfully established activity yes to be constrained or curtailed by the more recent establishment or intensification of other activities which are sensitive to the proposed activity in their vicinity.</i></p> | <p>Accept</p> <p>A range of activities may be susceptible to reverse sensitivity effects. As drafted, it could be interpreted that only sensitive activities, for instance residential activities, care facilities, and the like could be affected in this way. This does not recognise that other activities may also be affected. The submitter has suggested amendments to the definition that retain its intent but provides added clarity and minimises potential for misinterpretation.</p> <p>The Hearing Panel agrees that the definition for “reverse sensitivity” is ambiguous and potentially confusing. The Hearing Panel recommends amending the definition to read as follows:</p> <p><i>Reverse sensitivity refers to the potential for the operation of an existing lawfully established activity to be constrained or curtailed by the more recent establishment or intensification of other activities which are sensitive to the existing activity.</i></p> |
| Further submissions – Federated Farmers (2) | | Support in part | |
| Further submissions – Transpower NZ Ltd (26) | | Support | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1273 | <p>Amend</p> <p>Submitter seeks amendment to the definition of “reverse sensitivity” to read:</p> <p><i>Reverse sensitivity refers to the potential for the operation of an existing effects of sensitive activities on other lawfully established activity yes to be constrained or</i></p> | <p>Accept</p> <p>A range of activities may be susceptible to reverse sensitivity effects. As drafted, the submitter believes that the definition could be interpreted that only sensitive activities, for instance residential activities, care facilities, and the like could be</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| | | <i>curtailed by the more recent establishment or intensification of other activities which are sensitive to the proposed activity in their vicinity.</i> | affected in this way. This does not recognise that other activities may also be affected. The submitter has suggested amendments to the definition that retain its intent but provides added clarity and minimises potential for misinterpretation. |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Oppose | The Hearing Panel agrees that the definition for “reverse sensitivity” is ambiguous and potentially confusing. The Panel recommends amending the definition to read as follows: <i>Reverse sensitivity refers to <u>the potential for the operation of an existing lawfully established activity to be constrained or curtailed by the more recent establishment or intensification of other activities which are sensitive to the existing activity.</u></i> |
| Definition – Seascape | | | |
| 43 – Royal Forest and Bird Protection Society | 1274 | Support Retain the definition of “seascape” as notified. | Accept Definition of “seascape” is retained as notified. |
| Definition – Sensitive marine benthic habitats | | | |
| 43 – Royal Forest and Bird Protection Society | 1275 | Support Retain the definition of “sensitive marine benthic habitats” as notified. | Accept Definition of “sensitive marine benthic habitats” as notified. |
| Definition – Sewage | | | |
| 42 – Ngati Rahiri Hapū | 1276 | Amend Submitter seeks amendment to the definition of “sewage” to read: <i>Sewage means: drainage and other wastes from any form of toilet, urinal and WC <u>water closet</u> scupper [...]</i> | Grant in kind The Hearing Panel recommends consequential amendments to align with the definition of “sewage” in the <i>National Planning Standards 2019</i> to read as follows: Sewage means <u>human excrement and urine.</u> |
| 43 – Royal Forest and Bird Protection Society | 1277 | Support Retain the definition of “sewage” as notified. | Decline The Hearing Panel recommends retaining the definition of sewage but notes consequential amendments to align with the definition of “sewage” in the <i>National Planning Standards 2019</i> to read: Sewage means <u>human excrement and urine.</u> The Hearing Panel notes that this amendment does not change the intent of the definition or the intent of its application within the Plan. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Definition – Significant indigenous biodiversity | | | |
| 43 – Royal Forest and Bird Protection Society | 1278 | Support | Accept |
| | | Retain the definition of “ <i>significant indigenous biodiversity</i> ” as notified. | Definition of “ <i>significant indigenous biodiversity</i> ” is retained as notified. |
| Definition – Silent files | | | |
| 42 – Ngati Rahiri Hapū | 1279 | Amend | Decline |
| | | Submitter seeks amendment to the Plan to include a new definition for “ <i>silent files</i> ” added to describe those sites that iwi/hapū have identified but do not wish to disclose details or even the location of. | The Hearing Panel does not believe that the use of the term “silent files” requires reference in the definitions section. The term is generally understood by the public and does not take on any additional, or contrary meaning within the Plan. The location of its use within the Plan indicates that these files relate to iwi/hapū sites. The Panel does not consider the addition of a definition for “ <i>silent files</i> ” to be necessary. |
| Definition – Stormwater | | | |
| 43 – Royal Forest and Bird Protection Society | 1280 | Support | Grant in kind |
| | | Retain the definition of “ <i>stormwater</i> ” as notified. | The Hearing Panel recommends retaining the definition of stormwater but note consequential amendments to align with the definition of “ <i>stormwater</i> ” in the <i>National Planning Standards 2019</i> to read: <i>Stormwater means runoff that has been channelled, diverted, intensified or accelerated by human modification of <u>a</u> land surface or runoff from the surface of any structure, as a result of precipitation and includes <u>any</u> contaminants <u>contained within</u>.</i> |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1281 | Support | Grant in kind |
| | | Retain the definition of “ <i>stormwater</i> ” as notified. | The Hearing Panel recommends retaining the definition of stormwater but note consequential amendments to align with the definition of “ <i>stormwater</i> ” in the <i>National Planning Standards 2019</i> to read: <i>Stormwater means runoff that has been channelled, diverted, intensified or accelerated by human modification of <u>a</u> land surface or runoff from the surface of any structure, as a result of precipitation and includes <u>any</u> contaminants <u>contained within</u>.</i> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Definition – Structure | | | |
| 45 – Powerco | 1282 | Support | Accept |
| | | Retain the definition of “ <i>structure</i> ” as notified. | Definition of “ <i>structure</i> ” is retained as notified. |
| Definition – Surf break | | | |
| 43 – Royal Forest and Bird Protection Society | 1283 | Support | Accept |
| | | Retain the definition of “ <i>surf break</i> ” as notified. | Definition of “ <i>surf break</i> ” is retained as notified. |
| Definition – Surfable wave | | | |
| 43 – Royal Forest and Bird Protection Society | 1284 | Support | Accept |
| | | Retain the definition of “ <i>surfable wave</i> ” as notified. | Definition of “ <i>surfable wave</i> ” is retained as notified. |
| Definition – Synthetic based drilling muds | | | |
| 43 – Royal Forest and Bird Protection Society | 1285 | Support | Accept |
| | | Retain the definition of “ <i>synthetic based drilling muds</i> ” as notified. | Definition of “ <i>synthetic based drilling muds</i> ” is retained as notified. |
| Definition – Tangata whenua | | | |
| 42 – Ngati Rahiri Hapū | 1286 | Amend | Decline |
| | | Submitter seeks amendment to the definition of “ <i>tangata whenua</i> ” to read: <i>Tangata whenua* in relation to a particular area, means the iwi, or hapū, <u>or whanau</u> that holds mana whenua over the area.</i> | The RMA sets out the legislative definition of tangata whenua from which the Plan takes the definition from. The Hearing Panel recommends retaining the current definition of “ <i>tangata whenua</i> ” as notified to maintain consistency with the RMA as well as other regional and national plans. Notwithstanding the above, the Hearing Panel offer reassurance to the submitter that the definition does not exclude “ <i>whanau</i> ” but is implicit within the inclusion of hapū which is defined within the Plan and includes whanau. Refer to the amended definition of hapū for more information. |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
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| Definition – Taonga | | | |
| 42 – Ngati Rahiri Hapū | 1287 | <p>Amend</p> <p>Submitter seeks amendment to the definition of “<i>taonga</i>” to include iwi, hapū and whanau, or perhaps generically, use the word Māori.</p> | <p>Grant in kind</p> <p>The submitter comments that currently the definition describes prized possessions of the tribe only.</p> <p>The Hearing Panel has investigated the meaning of the word “<i>taonga</i>” and recommends simplifying the meaning to broaden it and not to refer to iwi, hapū, whanau or Māori as this is implicit. The revised definition would read as follows:</p> <p><i>Taonga means treasured and/or prized possession(s).</i></p> |
| Definition – Threatened | | | |
| 43 – Royal Forest and Bird Protection Society | 1288 | <p>Support</p> <p>Retain the definition of “<i>threatened</i>” as notified.</p> | <p>Accept</p> <p>The definition of “<i>threatened</i>” is retained as notified.</p> |
| Definition – Waihi taonga | | | |
| 42 – Ngati Rahiri Hapū | 1289 | <p>Amend</p> <p>Submitter seeks amendment to the Plan to include a new definition for “<i>wahi taonga</i>”.</p> | <p>Accept</p> <p>The Hearing Panel recommends granting the relief sought by the submitter by including a definition of “<i>wahi taonga</i>” that reads as follows:</p> <p><i>Wahi taonga means a treasured location or place.</i></p> |
| Definition – Wastewater | | | |
| 43 – Royal Forest and Bird Protection Society | 1290 | <p>Support</p> <p>Retain the definition of “<i>wastewater</i>” as notified.</p> | <p>Accept</p> <p>The definition of “<i>wastewater</i>” is retained as notified.</p> |
| Definition – Water based drilling muds | | | |
| 43 – Royal Forest and Bird Protection Society | 1291 | <p>Support</p> <p>Retain the definition of “<i>water based drilling muds</i>” as notified.</p> | <p>Accept</p> <p>The definition of “<i>water based drilling muds</i>” is retained as notified.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel's recommendation and response |
|---|------------------|---|---|
| Definition – Water quality | | | |
| 43 – Royal Forest and Bird Protection Society | 1292 | Support | Accept |
| | | Retain the definition of “ <i>water quality</i> ” as notified. | The definition of “ <i>water quality</i> ” is retained as notified. |
| Definition – Well | | | |
| 32 – Port Taranaki Ltd | 1293 | Amend | Accept in part |
| | | <p>Submitter seeks amendment to the definition of “<i>well</i>” to include wells and bores for other purposes, including for the purposes of geotechnical investigations</p> <p>AND</p> <p>provide for such investigations through a rule that permits test bores/wells for geotechnical investigative purposes subject to permitted conditions.</p> <p>The proposed definition of “<i>well</i>” would read as follows:</p> <p>Well means a hole drilled for <i>geotechnical investigation or for</i> the purpose of exploring for, appraising or extracting hydrocarbons and includes:</p> <p>(a) any hole for injection purposes;</p> <p>(b) any down-hole pressure containing equipment; and</p> <p>(c) any pressure-containing equipment on top of the well.</p> | <p>The Hearing Panel recommends declining the relief sought in relation to “<i>well</i>” which is deliberately framed to capture drilling for hydrocarbon exploration and production only. However, the Panel does recommend amending the Plan to include a new pathway for drilling for scientific purposes involving a Permitted, Controlled and Restricted Discretionary pathway depending on the activity and the coastal management areas. Rule 52 [Collection of benthic grab samples] (Permitted) has been amended to broaden the gateway and additional Controlled and Restrictive Discretionary rules follow as new Rules 52A and 52B.</p> |
| 43 – Royal Forest and Bird Protection Society | 1294 | Support | Accept |
| | | Retain the definition of “ <i>well</i> ” as notified. | The definition of “ <i>well</i> ” is retained as notified. |
| Definition – Wetland | | | |
| 43 – Royal Forest and Bird Protection Society | 1295 | Support | Accept |
| | | Retain the definition of “ <i>wetland</i> ” as notified. | The definition of “ <i>wetland</i> ” is retained as notified. |

4.9 Schedules and appendices

| Submitter | Submission point | Submitter's requests | Hearing Panel' recommendation and response |
|--|------------------|--|---|
| Schedule 1 – Coastal management areas | | | |
| 28 – Grant Knuckey | 1296 | Amend Submitter seeks amendment to Schedule 1 of the Plan to identify two new marine spatial management areas – Wahi Tapu Areas and Wahi Taonga Areas. | Grant in kind The Hearing Panel does not consider it appropriate to include wāhi tapu and wāhi taonga as independent coastal management areas within Schedule 1. |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | The Hearing Panel has noted requests for amendments to the Plan to include reference to both wāhi tapu and wāhi taonga sites and have agreed to many of these requests provided it is within the correct context. Of note, Schedule 5B identifies sites of significance to Māori (and associated values) and should include wāhi tapu and wāhi taonga areas as identified by iwi or hapū. The Panel are aware that this is not explicitly stated in Schedule 5B so recommend amending the introduction of Schedule 5B to read: <i>Schedule 5B - Sites of significance to Māori and associated values</i> <i>This schedule identifies known sites with special cultural, spiritual, historical and traditional associations located within the coastal marine area. The Taranaki Regional Council is committed to working with iwi o Taranaki to identify all culturally significant sites that are located within the coastal marine area. Site locations area approximate only and are not intended to provide a definitive location or extent of a site. <u>These include those sites that are identified as wāhi tapu and wāhi taonga by the iwi and hapū.</u> [...]</i> In addition, the Hearing Panel recommends amending Schedule 5B to identify additional wāhi tapu and wāhi taonga sites identified through pre-hearing engagement by iwi and hapū. |
| 43 – Royal Forest and Bird Protection Society | 1297 | Amend Submitter seeks amendment to Schedule 1 of the Plan by identifying significant indigenous biodiversity areas and add them as individual map links for each site, under the corresponding management area. Include information that sets out the values and characteristics that contribute to the significance of each area. | Grant in kind The Hearing Panel notes that, although the Council does maintain information relating to significant indigenous biodiversity areas, there is a lack of comprehensive information relating to <u>all</u> significant indigenous biodiversity within the coastal marine area and that some information that exists may be better suited to sit outside of the Plan. |
| Further submissions – Department of Conservation (29) | | Support | In relation to identifying 'significant indigenous biodiversity', the Hearing Panel believes that the planning maps already largely identifies known sites of interest in |

| Submitter | Submission point | Submitter's requests | Hearing Panel' recommendation and response |
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| | | | <p>the coastal marine area (noting that the identification of terrestrial sites in the coastal environment are considered the responsibility of the district councils). In particular, the Plan and associated planning maps identify for the coastal marine area the following areas with known significant indigenous biodiversity values:</p> <ul style="list-style-type: none"> • Outstanding Value coastal management areas – Whitecliffs, Mimi Estuary, Paritutu, Ngā Motu (Sugar Loaf Islands), Tapuae, Hangatahua River, Oaonui (Sandy Bay), Kaipokonui, Kapuni, Whenuakura, Waipipi Dunes, Project Reef, North and South Traps, Waverley Beach, and Waitotara • Estuaries Unmodified coastal management areas – Urenui, Onaero, Waiongana, Oākura, Waingongoro, Tangahoe, and Manawapou estuaries • Estuaries Modified coastal management areas – Patea, Waiwhakaiho, and Waitara estuaries • Parininihi Marine Reserve • Ngā Motu/Sugar Loaf Islands Marine Protected Area • Tapuae Marine Reserve • All inshore reefs. <p>Notwithstanding the above, the Hearing Panel further recommends amending the planning maps to better identify the aforementioned areas as significant indigenous biodiversity areas. The Panel further recommends amending the Plan and associated planning maps to identify additional spatial information relating to significant indigenous biodiversity in the coastal marine area, these being the marine mammal sanctuary and also the significant sea bird areas.</p> |
| 43 – Royal Forest and Bird Protection Society | 1298 | <p>Amend</p> <p>Submitter seeks amendment to Schedule 1 of the Plan by replacing the numbering (e.g. 1 to 5) so that each coastal management area is identified as (a) to (e) in a manner consistent with Policy 1 (a) to (e).</p> | <p>Accept</p> <p>The Hearing Panel recommends amending the numbering system of coastal management areas in Schedule 1 to reflect the same style used in Policy 1.</p> |
| 47 – Fonterra | 1299 | <p>Support</p> <p>Retain the classification of the coastal management area in the vicinity of Whareroa as Open Coast.</p> | <p>Accept</p> <p>The classification of the coastal management area in the vicinity of Whareroa is retained as an Open Coast coastal management area as currently notified.</p> |

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| Schedules 1 and 2 – Coastal management areas and areas of outstanding value | | | |
| 21 – Climate Justice Taranaki | 1300 | Amend | Decline |
| | | <p>Submitter seeks amendment to Schedules 1 and 2 of the Plan to include and identify as coastal management areas of Outstanding Value based on the recommendation of Cawthron from the report <i>Sensitive habitats and threatened species in the Taranaki Coastal Marine Area (TCMA)</i>:</p> <ul style="list-style-type: none"> • Patea Shoals • Rolling Ground. <p>The submitter requests that the Council investigate the value of Graham Bank as this has potential to be an outstanding area.</p> | <p>The Hearing Panel recognises the recommendation of the report to <u>consider</u> Patea Shoals and that the Council report by Cawthron (2016) described the Patea Shoals and Rolling Ground as “worth considering”. However, it is the opinion of Hearing Panel that, at this point in time, there is insufficient information to confirm that ‘outstanding’ criteria have been met.</p> <p>With regards to the Graham Bank, as the submitter has recognised, there is insufficient information to determine whether this is an area of Outstanding Value. At present it is not within the scope of the Council to conduct an investigation into this location in time to determine its value prior to this Plan becoming fully operative.</p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose in part | |
| 45 – Powerco | 1301 | Amend | Accept in part |
| | | <p>Submitter seeks amendment to Schedules 1 and 2 of the Plan by:</p> <ul style="list-style-type: none"> • mapping the coastal environment line • ensuring that the extent of sensitive coastal management areas (outstanding areas, modified and unmodified estuaries) are appropriate having particular regard to existing infrastructure, including roads and overhead electricity lines • amending the corresponding descriptions of the coastal management areas throughout the Plan to recognise existing infrastructure in these sensitive areas to ensure it can be operated, maintained, and upgraded as appropriate. | <p>A number of submitters have requested to have the coastal environment defined by a line that recognises its extent.</p> <p>The Hearing Panel recommends granting the relief sought by referencing an ‘indicative coastal environment line in the planning maps and identifying the coastal environment on associated planning maps that are aligned with the coastal environment line identified in a district plan or proposed district plan (or their equivalent).</p> <p>The indicative nature of this line is to recognise that the coastal environment is a dynamic environment where process of can occur rapidly and induce change to the nature and character of the area and as such the coastal environment line may become redundant or inaccurate in the future due to these changes. The indicative line is useful for identifying whether a particular activity is likely to fall within the coastal environment, however, proper assessment of the location with regards to coastal features and processes may still be necessary from time to time to consider the nature of that location, including the relative significance of any coastal features and characteristics (such matters to be considered on a case-by-case basis through the consenting process).</p> <p>With regards to existing infrastructure, the location of infrastructure has been considered, however, the values associated with these locations are considered to</p> |
| Further submissions – Transpower NZ Ltd (26) | | Support in part | |
| Further submissions – Fonterra (47) | | Support | |

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| | | | <p>be high enough to afford the protections provided for within the Plan despite any infrastructure that may exist in their vicinity. Further, the Hearing Panel considers it unnecessary and inappropriate to retrospectively amend the extent of any sensitive management areas or their descriptions to simply provide for existing infrastructure.</p> <p>The Hearing Panel further note that areas of Outstanding Value are consistent with the extents of outstanding natural feature and landscapes identified by the New Plymouth District Council in the Draft District Plan and South Taranaki District Council. The Hearing Panel recommends that the Council seek, as far as is practicable, alignment and consistency with other plans within the region.</p> |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1302 | <p>Amend</p> <p>Submitter seeks amendment to Schedules 1 and 2 of the Plan by:</p> <ul style="list-style-type: none"> • mapping the coastal environment line • ensuring that the extent of sensitive coastal management areas are appropriate having particular regard to existing infrastructure, particularly the landward edge of Nga Motu and Tapuae areas of outstanding value • amending the corresponding descriptions of the coastal management areas throughout the Plan to recognise existing infrastructure in these sensitive areas to ensure it can be operated, maintained, and upgraded as appropriate. | <p>Accept in part</p> <p>A number of submitters have requested that the coastal environment be defined by a line that recognises its extent.</p> <p>The Hearing Panel recommends granting this relief subject to it being identified as the “indicative coastal environment line”. The indicative nature of this line is to recognise that the coastal environment is a dynamic environment where process of can occur rapidly and induce change to the nature and character of the area and as such the coastal environment line may become redundant or inaccurate in the future due to these changes. The line that is also aligned with the coastal environment line identified in a district plan or proposed district plan (or their equivalent) would be useful for identifying whether a particular activity is likely to fall within the coastal environment. However, proper assessment of the location with regards to coastal features and processes may be necessary from time to time to determine with complete assurance the coastal nature and characteristics of that location.</p> |
| Further submissions – Royal Forest and Bird Protection Society (43) | | Oppose | <p>The extents of Nga Motu and Tapuae are considered appropriate having specific regard to the natural character of the location.</p> <p>The Hearing Panel notes that infrastructure has been recognised but is not considered in the assessment contributing to outstanding values. Instead, the areas are evaluated based upon the natural character attributes present and despite any existing infrastructure. Further, the Hearing Panel considers it inappropriate to amend the extents of any sensitive management areas or their descriptions to reflect existing infrastructure as this would defeat the purpose of the management areas.</p> |

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| | | | <p>The Hearing Panel further note that areas of Outstanding Value are consistent with the extents of outstanding natural feature and landscapes identified by the New Plymouth District Council in the Draft District Plan and South Taranaki District Council. The Hearing Panel seeks, as far as is practicable, alignment and consistency with other Plans within the region.</p> <p>The Hearing Panel maintains that the descriptions of coastal management areas are appropriate and that the recognition of existing infrastructure is not necessary.</p> |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1303 | <p>Amend</p> <p>Submitter seeks amendment to Schedules 1 and 2 of the Plan (and associated planning maps) to include and identify as coastal management areas Estuaries Unmodified:</p> <ul style="list-style-type: none"> • Hauroto Stream • Waihi Stream • Katewheta Stream • Waikaikai Stream • Mangaroa Stream • Kaikura Stream • Whenuakura River • Manawapou River. | <p>Accept in part</p> <p>The Council has assessed the requested locations and have determined that the majority of these streams (Huroto Stream, Waihi Stream, Katewheta Stream, Waikaikai Stream, Mangaroa Stream and Kaikura Stream), although they exist in generally unmodified environments, do not meet the requirement of scale (need to be large) and being permanently open to tidal movements.</p> <p>The Hearing Panel notes that the flow of coastal water upstream of the river mouth depends upon tidal movements and there will be a salinity gradient decreasing upstream from the mouth of the river. The predominance of coastal processes is essential for river mouths to be recognised as estuaries (and thereby covered in the Coastal Plan rather than Freshwater Plan). Without these characteristics these locations cannot be considered estuaries irrespective of the low amounts of development.</p> <p>Notwithstanding the above, the Hearing Panel notes that the Whenuakura River has been identified as an area of outstanding value and as a site of significance to Māori providing significant protections for this location. Further, the Manawapou River has also been identified as an unmodified estuary as requested by the submitter.</p> |
| Schedule 2 – Coastal areas of outstanding value | | | |
| 6 – Trans-Tasman Resources Ltd | 1304 | <p>Amend</p> <p>Submitter seeks amendment to Schedule 2 of the Plan to delete inclusion of the Project Reef (ONC6) as an area of outstanding value, including:</p> <ul style="list-style-type: none"> • the reference to ONC6 and Map-link Map 42 on page 121; • the entire ONC6 Project Reef material on page 129; and • Map Link Map 42. | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought.</p> <p>The ONC 6 area was assessed under the outstanding natural character criteria and found to exhibit a very high degree of natural character in all assessment areas which include abiotic attributes (two large adjoining pinnacle reefs which are unusual features on a shelf region dominated by sand), biotic attributes (important</p> |

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| Further submissions – Karen Pratt (9), South Taranaki Underwater Club (10), Department of Conservation (29), Te Rūnanga o Ngāti Mutunga (40), Royal Forest and Bird Protection Society (43), Nga Motu Marine Reserve Society Inc (44), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | kelp beds, a diverse range of fish and encrusting sponge species, and provides a valuable habitat for crayfish) and perceptual and experiential attributes (minimum human activity and the location experience maintains a high sense of wilderness and remoteness). “Very high” is the highest rating on a 7 point grading system and illustrates unequivocally that this as an area of outstanding natural character as currently determined. These individual assessment criteria contribute to the overall rating for the area as being “outstanding”. Further, the Hearing Panel notes strong support for this inclusion from other submitters confirming these values. The Panel recommends maintaining ONC 6 as an area of outstanding natural character. |
| 9 – Karen Pratt | 1305 | Support Support inclusion of the Project Reef (ONC6) as an area of outstanding value. | Accept Support noted. |
| Further submissions – Nga Motu Marine Reserve Society Inc (44), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 10 – South Taranaki Underwater Club | 1306 | Support Support inclusion of the Project Reef (ONC6) as an area of outstanding value. | Accept Support noted. |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Nga Motu Marine Reserve Society Inc (44), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 11 – Bruce Boyd | 1307 | Support Support inclusion of the Project Reef (ONC6) as an area of outstanding value. | Accept Support noted. |
| Further submissions – Nga Motu Marine Reserve Society Inc (44), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

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| 17 – David Pearce | 1308 | Amend | Accept |
| | | Submitter seeks amendment to boundaries of ONC 8 and ONFL 9 [Waitotara] as an area of outstanding value to exclude modified landscape and to align with South Taranaki's Proposed District Plan. | The Hearing Panel recommends aligning the extent of ONC 8 and ONFL 9 with South Taranaki District Council's Proposed District Plan recognising that the area to be excluded consists of highly modified scrub and farmland. |
| Further submissions – Royal Forest and Bird Protection Society (43) | | Oppose | |
| 19 – South Taranaki District Council | 1309 | Support | Accept |
| | | Notes support for aligning areas of outstanding value with South Taranaki's Proposed District Plan. | Support noted. |
| 21 – Climate Justice Taranaki | 1310 | Amend | Accept |
| | | Submitter seeks amendment to boundaries of ONC 8 and ONFL9 [Waitotara] as an area of outstanding value to align with South Taranaki's Proposed District Plan. | The Hearing Panel recommends granting the relief sought by the submitter by aligning the extent of ONC 8 and ONFL 9 with South Taranaki District Council's Proposed District Plan – recognising that the area to be excluded consists of highly modified scrub and farmland. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Neutral in part | |
| 23 – New Plymouth District Council | 1311 | Support | Accept |
| | | Submitter supports Schedule 2 as notified. | Support noted. |
| Further submissions – Port Taranaki Ltd (32) | | Support | |
| 26 – Transpower NZ Ltd | 1312 | Amend | Decline |
| | | Submitter seeks amendment to Schedule 2 of the Plan and associated planning maps so that the Indicative coastal marine area boundary line on Map 44 is retained, but the Outstanding Value area landward of the Indicative coastal marine area boundary line is moved to align with the Indicative coastal marine area boundary line. | The Hearing Panel recommends declining the relief sought. The coastal marine area line does not delineate the maximum extent of the Coastal Plan. The Coastal Plan covers both the coastal marine area and the coastal environment, landward of the indicative coastal marine area boundary line. As such, through analysis of the values and characteristics associated with the outstanding value area (ONC3 and ONFL2), The Hearing Panel recommends that the Plan retains the extent of the outstanding value areas to show the landward component recognising that these values are not only associated with features within the coastal marine area. |

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| | | | The Hearing Panel further notes that both the Council and the New Plymouth District Council have identified the landward extent of the ONC3 location to extend onto the coastal environment and that councils that operate across the same regional area should maintain consistency between planning maps where possible and practical. |
| 30 – First Gas Ltd | 1313 | <p>Other</p> <p>Submitter seeks confirmation that the First Gas Pipeline at the Waitotara River is outside the area of outstanding value as identified on planning maps 38-39. If the existing pipeline corridor is in the area of outstanding value amend Schedule 2 and associated maps to exclude the corridor.</p> | <p>No relief necessary</p> <p>The Hearing Panel confirms that the First Gas Pipeline at the Waitotara River is outside the area of outstanding value as identified on planning maps 38-39 (based upon the datasets provided).</p> |
| Further submissions – Royal Forest and Bird Protection Society (43) | | Oppose in part | |
| 44 – Nga Motu Marine Reserve Society Inc | 1314 | <p>Support</p> <p>Submitter supports the inclusion of eight coastal areas of outstanding value and the nine outstanding natural features or landscapes and, in particular, the inclusion of ONC 6 [Project Reef] and ONC 7 [North and South Traps].</p> | <p>Accept</p> <p>Support noted.</p> |
| 52 – Emily Bailey | 1315 | <p>Amend</p> <p>Submitter believes that the following locations possess great cultural, ecological, economic and recreational importance and require special protection from development, dredging and uncontrolled recreational disturbance.</p> <p>Submitter seeks amendment to Schedule 2 of the Plan to include the following as areas of outstanding value:</p> <ul style="list-style-type: none"> • Waipapa, Otarāua Road, Waitara • the Waitara Reefs, and • the reefs, tauranga kia/waka and urupā in the following 8 fishing reserves along the coast of Taranaki: Tui Raho (Tuhiraroa), Te Whanganui, Ihurangi, Okawa, Te Ikaroa, Tipoka 55a and 55b, Mataurukuhia, and Te Wairua (Wairoa) (on Waitaha River). | <p>Decline</p> <p>For a location/site to be classified under the Outstanding Value Coastal Management Area it must be exceptional and meet a strict set of criteria. For this category, locations are required to exhibit very high natural character attributes with regards to abiotic features (natural features), biotic features (distribution, expression/appearance and diversity of species, natural processes and habitats) and perceptual and experiential values. In addition to these qualifiers, locations that have experienced human modification generally cannot be considered to be outstanding due to the modification elements which detract from the natural features, even if such modifications are not obvious to the viewer.</p> <p>The Hearing Panel does not believe the identified sites meet the outstanding (exceptional) thresholds adopted for the other areas identified as being outstanding natural character and/or outstanding natural features and landscapes. Notwithstanding the above, the Hearing Panel notes that these sites have been included within other Schedules of the Plan because of their 'significant' values, which, in turn means protections through relevant policies and rules will apply. The</p> |
| Further submissions – Climate Justice Taranaki Inc (21), Royal | | Support | |

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| Forest and Bird Protection Society (43) | | | <p>Plan already recognises the cultural and historic heritage values of these sites (and as identified in the submitter's commentary) as follows:</p> <ul style="list-style-type: none"> • Waipapa, Otarāua Road, Waitara is identified as a site of significance to Māori due to its Māori heritage values. The Schedule numbers are C68 and C67 under Schedule 5B • the Waitara kaawa/reefs have been identified as near shore reefs but do not possess sufficient qualities to be considered under the outstanding value management criteria. • with the eight fishing reserves identified, all of these are recorded as being sites of significance to Māori due to their cultural and historic heritage values but do not possess sufficient qualities to be considered under the outstanding value management criteria. <p>The Hearing Panel agrees with the submitter that the locations identified by the submitter contain specific values and require special protection, however, consider that the appropriate protections have already been provided within the Plan as notified and recommends declining the relief requested.</p> |
| 53 – Taranaki Regional Council | 1316 | <p>Amend</p> <p>Submitter seeks amendment to Schedule 2 of the Plan to align the mapping of Outstanding Natural Character Areas with those mapped by the South Taranaki District Council through their district plan review.</p> | <p>Accept</p> <p>Mapping of Outstanding Natural Character Areas have been done to align the mapped extents to those mapped by the South Taranaki District Council with the exception of Waitotara (ONC8). The Hearing Panel recommend aligning the extent of this site to match the extents of Outstanding Natural Character sites identified by the South Taranaki District Council.</p> |
| Further submissions – Royal Forest and Bird Protection Society (43) | | Oppose | |
| Further submissions – Powerco (45) | | Support in part | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1317 | <p>Amend</p> <p>Submitter seeks amendment to Schedule 2 of the Plan (and associated planning maps) to include and identify as coastal management areas Outstanding Value:</p> <ul style="list-style-type: none"> • Tangahoe - Hawera – Manutahi Reef system • Patea Beach • Patea River Estuary • Ohawe Beach • Manawapou Beach | <p>Grant in kind</p> <p>For a location/site to be classified under the Outstanding Value coastal management area it must be exceptional and meet a strict set of criteria. For this category, locations are required to exhibit very high natural character attributes with regards to abiotic features (natural features), biotic features (distribution, expression/appearance and diversity of species, natural processes and habitats) and perceptual and experiential values. In addition to these qualifiers, locations that have experienced human modification generally cannot be considered to be</p> |

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| | | <ul style="list-style-type: none"> Waihi Beach. | <p>outstanding due to the modification elements which detract from the natural features, even if such modifications are not obvious to the viewer.</p> <p>The Hearing Panel does not believe the identified sites meet the outstanding (exceptional) thresholds adopted for the other areas identified as being outstanding natural character and/or outstanding natural features and landscapes. However, the Hearing Panel believes that these sites could be included within other Schedules because of their 'significant' values. Schedule 5B of the Plan already recognises sites of significance to Māori and Hearing Panel consider that some of these sites maybe better identified in that Schedule. Also of note, the Patea beach lies within the Estuary Modified coastal management area and, as such, has a higher level of regulatory protection.</p> <p>In pre-hearing engagement, the submitter met with Council officers to confirm and identify sites of significance in their rohe and in or adjacent to the coastal marine area to be included in Schedule 5B. The Hearing Panel refers the submitter to submission point 1345 for further information.</p> |
| Further submissions – Climate Justice Taranaki Inc (21), Royal Forest and Bird Protection Society (43) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1318 | <p>Support</p> <p>Submitter supports the identification and inclusion of the Whenuakura River Estuary in Schedules 1 and 2 of the Plan as an area of outstanding value.</p> | <p>Accept</p> <p>Support for inclusion of Whenuakura River Estuary is noted.</p> |
| Schedule 2 – Coastal areas of outstanding value / Schedule 9 – Documents incorporated by reference | | | |
| 43 – Royal Forest and Bird Protection Society | 1319 | <p>Amend</p> <p>Submitter seeks amendment to Schedule 2 of the Plan to incorporate by reference (Schedule 9) the report <i>Regional landscape study of the Taranaki coastal environment</i> (2015).</p> | <p>Decline</p> <p>Part 3 [Incorporation of documents by reference in plans and proposed plans] of Schedule 1 of the RMA states that documents that are standards, requirements or recommended practices of international or national organisations; standards, requirements or recommended practices prescribed in any country or jurisdiction; and any other written material that deals with technical matters and is too large or impractical to include in, or print as part of the plan or proposed plan can be incorporated by reference. These documents will have legal effect as part of the plan or proposed plan.</p> <p>The Hearing Panel does not believe the document requested fits any of the required criteria to be considered an appropriate document to incorporate by reference and has only been referenced in Schedule 2 in order to provide additional background information for the reader's information.</p> |

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| Schedule 2 – Coastal areas of outstanding value | | | |
| 43 – Royal Forest and Bird Protection Society | 1320 | <p>Amend</p> <p>Submitter seeks amendment to Schedule 2 of the Plan (or include a new Schedule) and associated planning maps to identify areas of high natural character” and include the values and characteristics of identified areas.</p> | <p>Grant in kind</p> <p>The Hearing Panel notes that, although the Council does maintain information relating to natural character, other parties such as territorial authorities are better placed to address (and map) the terrestrial parts of the coastal environment.</p> <p>In relation to identifying and mapping ‘high natural charcter’, the Hearing Panel believes that a number of planning instruments currently do this.</p> <p>In relation to the landward parts of the coastal environment, it is not considered appropriate or necessary to pre-empt and/or duplicate district planning processes identifying high natural character and features (noting that the identification of teresterial sites in the coastal environment are considered the responsibility of the district councils).</p> <p>In relation to the seaward parts of the coastal environment, the Hearing Panel notes that the <i>Regional Policy Statement for Taranaki</i> plus the Proposed Coastal Plan and associated planning maps already largely identify ‘high natural character’ areas. For example, Appendix II of the <i>Regional Policy Statement for Taranaki</i> already identifies high quality or high value areas of the Taranaki coastal environment. The Coastal Plan review process further investigated this issue. In relation to the coastal marine area, the Council has undertaken a precautionary approach in its assessment of natural character ‘by generally identifying areas with ‘high natural character’ as ‘outstanding’. Coastal areas of outstanding value cover a combined area of approximately 67.2 km (or 22.5%) of the Taranaki coastline.</p> <p>The Hearing Panel recommends granting the submitter relief in kind by amending the relevant planning maps to identify those areas already identified in the Plan as having high (or higher) natural character in the coastal marine area - these being outstanding areas and estuaries unmodified, i.e:</p> <ul style="list-style-type: none"> • Whitecliffs • Mimi Estuary • Paritutu • Ngā Motu (Sugar Loaf Islands) • Tapuae • Hangatahua River • Oaonui (Sandy Bay) |

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| | | | <ul style="list-style-type: none"> • Kaupokonui • Kapuni • Whenuakura • Waipipi Dunes • Project Reef • North and South Traps • Waverley Beach • Waitotara • Urenui estuary • Onaero estuary • Waiongana estuary • Oākura estuary • Waingongoro estuary • Tangahoe estuary • Manawapou estuary. <p>In addition to the above, the Hearing Panel further recommends Council amending the planning maps to identify any additional areas identified in Appendix II of the <i>Regional Policy Statement for Taranaki</i> as having high natural character.</p> |
| Schedule 4 – Significant indigenous biodiversity | | | |
| 43 – Royal Forest and Bird Protection Society | 1321 | <p>Amend</p> <p>Submitter seeks amendment to Schedule 4 [Significant indigenous biodiversity] of the Plan to identify areas of significant indigenous biodiversity in the coastal marine area, including the values and characteristics that contribute to the significance of each area. Areas identified are to include the 'significant coastal areas' identified in the New Plymouth District Plan and the relevant Important Bird Areas for New Zealand Seabirds as show in Appendix 3 to this submission).</p> | <p>Accept in part</p> <p>As noted in the Section 32 Evaluation Report, the Council does not believe any organisation has the required datasets to accurately map all aspects of significant indigenous biodiversity with any certainty.</p> <p>Agencies with monitoring roles for biodiversity include the Department of Conservation, regional councils, district councils, Ministry for Primary Industries, Environmental Protection Authority, and Maritime New Zealand. However, data and knowledge gaps make biodiversity mapping especially challenging. There is no accurate national or regional dataset. One of the challenges for accurately mapping biodiversity is accessing data of sufficient quality and breadth to be confident that all aspects of biodiversity can be adequately mapped. The Hearing Panel is concerned that Taranaki, as with the rest of New Zealand, has incomplete</p> |
| Further submissions – Federated Farmers (2) | | Support in part | |
| Further submissions – Federated Farmers (2), Powerco (45) | | Oppose in part | |

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| Further submissions – Climate Justice Taranaki Inc (21) | | Support | <p>information and that mapping sites based upon information we currently have (such as SNAs, KNEs) would have a perverse outcome in that it provides less protection for those aspects of biodiversity that were not mapped. The situation is even worst when it comes to species information and/or the marine environment.</p> <p>The Council's preferred approach is to clearly identify those aspects of biodiversity in the coastal marine area (through Policy 14) that require a higher level of protection by avoiding the adverse effects of activities. Those areas of significant indigenous biodiversity on the landward parts of the coastal environment line are being identified separately by South Taranaki and New Plymouth district councils. The Hearing Panel believes the current protections give effect to Policy 11 [Indigenous biological diversity (biodiversity)] of the <i>New Zealand Coastal Policy Statement</i>.</p> <p>The Hearing Panel notes that the planning maps already include considerable information of interest. In particular, the Plan and associated planning maps identify for the coastal marine area the following areas with known significant indigenous biodiversity values</p> <ul style="list-style-type: none"> • Outstanding Value coastal management areas – Whitecliffs, Mimi Estuary, Paritutu, Ngā Motu (Sugar Loaf Islands) Tapuae, Hangatahua River, Oaonui (Sandy Bay), Kaupokonui'Kapuni, Whenuakura, Waipipi Dunes, Project Reef, North and South Traps, Waverley Beach, and Waitotara • Estuaries Unmodified coastal management areas – Urenui, Onaero, Waiongana, Oākura, Waingongoro, Tangahoe and Manawapou estuaries • Estuaries Modified coastal management areas – Patea, Waiwhakaiho and Waitara estuaries • Parininihi Marine Reserve • Ngā Motu/Sugar Loaf Islands Marine Protected Area • Tapuae Marine Reserve • All inshore reefs. <p>Notwithstanding the above, the Hearing Panel has reviewed spatial information to ascertain whether any additional biodiversity mapping overlays can be provided. As a result it is recommended that the Important Bird Areas for New Zealand that occur within the Taranaki region be included as a planning layer alongside the marine mammal sanctuary and that appropriate policy linkages be made as a</p> |

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| | | | <p>consequential amendment. At the hearing, the submitter requested a definition for "significant marine animal and seabird areas". The Hearing Panel notes that the term covers two distinct spatial areas in the Taranaki coastal marine area, the North Island West Coast Marine Mammal Sanctuary and the Important Bird Areas for New Zealand which will be identified and labelled on the planning maps. The Hearing Panel does not consider that a definition is necessary or useful.</p> |
| Schedule 4A – Significant species and ecosystems | | | |
| 6 – Trans-Tasman Resources Ltd | 1322 | <p>Amend</p> <p>Submitter seeks that Schedule 4A is deleted in its entirety or amended to remove any non-threatened species and any at risk species other than those which are listed as at risk (declining) under the New Zealand Threat Classification System.</p> | <p>Decline</p> <p>The submitter considers it inappropriate to include a list of significant species and ecosystems based on the threat classification status given the classification status are reviewed every three years whereas the Coastal Plan is expected to have a ten year life. If the schedule is to remain, the submitter considers that it should be amended to remove reference to non-threatened flora and fauna, and at risk species unless they are declining.</p> <p>Policy 11 [indigenous biological diversity] of the <i>New Zealand Coastal Policy Statement</i> sets out the requirements for protection of indigenous species. These protections are not limited to species that are considered threatened and the Hearing Panel notes that there is much more scope within the Policy to identify other species of importance.</p> <p>The Hearing Panel notes that the Policy provision for threatened species (Policy 14 [Indigenous biodiversity] (a)(i) and (ii)) have been framed to "include" those species listed in Schedule 4A, therefore, the policy references the schedule but does not depend upon the schedule, allowing flexibility with any changes that may occur during the life of the Plan.</p> <p>The Hearing Panel considers that the inclusion of Schedule 4A will further ensure that the appropriate measures are taken with regards to threatened species and removal of the schedule will reduce the effectiveness of the protections provided through the policies.</p> <p>Further, the inclusion of regionally significant species is consistent with the <i>Regional Policy Statement</i> that significant indigenous biodiversity includes the distinctive criterion whereby added protection is provided to species that are important in the local context. Therefore, the Hearing Panel recommends retaining Schedule 4A [Significant species and ecosystems] noting that minor amendments are recommended to grant relief to other submitters requests.</p> |
| Further submissions – South Taranaki Underwater Club (10), Climate Justice Taranaki Inc (21), Department of Conservation (29), Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Royal Forest and Bird Protection Society (43), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | <p>Oppose</p> | |

| Submitter | Submission point | Submitter's requests | Hearing Panel' recommendation and response |
|---|------------------|---|--|
| 29 – Department of Conservation | 1323 | Amend Submitter seeks amendment to Schedule 4A of the Plan to include maps of areas, ecosystems, and habitats that have significant indigenous biodiversity values. | <p>Decline</p> <p>Agencies with monitoring roles for biodiversity may include the Department of Conservation, regional councils, district councils, Ministry for Primary Industries, Environmental Protection Authority, and Maritime New Zealand. The Hearing Panel does not believe any of these agencies are in a position to supply a complete and accurate record of significant indigenous biodiversity in Taranaki.</p> <p>It is Hearing Panel's view that data and knowledge gaps make biodiversity mapping especially challenging. There is no accurate national or regional dataset. One of the challenges for accurately mapping biodiversity is accessing data of sufficient quality and breadth to be confident that all aspects of biodiversity can be adequately mapped. The Panel is concerned that Taranaki, as with the rest of New Zealand, has incomplete information and that mapping sites based upon information we currently have (such as SNAs, KNEs) would have a perverse outcome in that it provides less protection for those aspects of biodiversity that were not mapped. The situation is even worse when it comes to species information.</p> |
| Further submissions – Federated Farmers (2), Trans-Tasman Resources (6), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| Further submissions – Powerco (45) | | Support in part | |
| 43 – Royal Forest and Bird Protection Society | 1324 | Amend Submitter seeks amendment to Schedule 4A of the Plan by identifying and mapping the locations where rare and uncommon ecosystem types identified in the schedule occur. | <p>Decline</p> <p>The Hearing Panel recommends declining the relief sought.</p> <p>Mapping of rare and uncommon ecosystems has not been undertaken due to insufficient information regarding the locations and extents of where these occur. The Hearing Panel notes that many of these locations occur landward of the coastal marine area making the majority of these locations redundant to the purposes of this Plan. Further many of these locations will be very small scale and may be difficult to include within the planning maps.</p> <p>Agencies with monitoring responsibilities for biodiversity may include the Department of Conservation, regional councils, district councils, Ministry for Primary Industries, Environmental Protection Authority, and Maritime New Zealand and the Council considers it unreasonable to expect this agency to conduct such a detailed, fine scale and sensitive analysis out of all other relevant agencies.</p> <p>The Hearing Panel is concerned that the inclusion of incomplete mapping is likely to produce a perverse outcome in that it provides less protection for those rare and uncommon ecosystem types that were not mapped.</p> <p>It may be possible to include this information in future plans (or spatial mapping) once the necessary monitoring, data collection and analysis has been conducted.</p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Support in part | |
| Further submissions – Climate Justice Taranaki Inc (21), Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel' recommendation and response |
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| 43 – Royal Forest and Bird Protection Society | 1325 | <p>Amend</p> <p>Submitter seeks amendment to Schedule 4A of the Plan by adding to the schedule: non-vascular plant species, including coastal lichens; data deficient marine species; and missing regionally distinctive species including the common dolphin.</p> | <p>Accept in part</p> <p>Non vascular plants are not consistently recorded during site surveys in Taranaki therefore there is insufficient information to adequately identify which threatened, at risk or data deficient species may be present in the region. The Department of Conservation also do not hold this type of distributional data and the Hearing Panel is concerned that the identification and incorporation of incomplete information at this scale would be detrimental to the integrity of the Plan.</p> <p>Notwithstanding the above, the Hearing Panel has reviewed the Schedule to ensure it provides the most up-to-date information. In response to the submitter's request, the Council sought advice from the Department of Conservation in relation to candidate marine species that warrant being identified as 'regionally distinctive'. Subsequently amendments have been made to Schedule 4A, including reviewing those species identified as data deficient under the NZ Threat Classification and the Hearing Panel recommends amending Schedule 4A to identify additional marine algae, sharks and mammal species as regionally distinctive as well as amending the threat classifications, where necessary, to contain the most up to date information.</p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose in part | |
| Further submissions Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | |
| 55 – Kiwis Against Seabed Mining | 1326 | <p>Amend</p> <p>Submitter seeks amendment to Schedule 4A of the Plan by mapping to identify all significant areas, including the spatial extent of intrinsic relationship and biodiversity, to provide for the maintenance and enhancement of biodiversity in the wider coastal marine area.</p> | <p>Accept in part</p> <p>Mapping biodiversity values within the coastal marine area is a particularly difficult tasks primarily due to insufficient data sets. Further, there is a risk in providing incomplete information in plans such as this as it may produce a perverse outcome for those areas that have not been mapped or do not possess sufficient information to accurately determine the spatial values.</p> <p>Notwithstanding the above, the Council has reviewed spatial information to ascertain whether any additional biodiversity mapping overlays can be provided. As a result the Hearing Panel recommendeds that the Important Bird Areas for New Zealand that occur within the Taranaki region be included as a planning layer alongside the Maui dolphin sanctuary and that appropriate policy linkages be made as a consequential amendment.</p> |
| 55 – Kiwis Against Seabed Mining | 1327 | <p>Amend</p> <p>Submitter seeks amendment to Schedule 4 of the Plan so that rules that prohibit or restrict activities in fishing, seabed mining and oil and gas, in relation to the values of the area, are identified through marine spatial planning.</p> | |

| Submitter | Submission point | Submitter's requests | Hearing Panel' recommendation and response |
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| Further submissions – Ministry for Primary Industries (16) | | Oppose | jurisdictional responsibilities pertaining to the coastal marine area. It is not for the Plan to get into areas covered by other authorities, statutes or jurisdictions. The Hearing Panel also notes that the Plan already utilizes a coastal area management approach which sets out, through the relevant rules, what areas may not be appropriate given the rule activity description. These areas have already been mapped and are shown in the Plan Schedules and online maps. |
| 56 – Greenpeace | 1328 | Amend Submitter seeks amendment to Schedule 4A of the Plan by mapping to identify all significant areas, including the spatial extent of intrinsic relationship and biodiversity, to provide for the maintenance and enhancement of biodiversity in the wider coastal marine area. | Accept in part Mapping biodiversity values within the coastal marine area is a particularly difficult task primarily due to insufficient data sets. Further, there is a risk in providing incomplete information in regional plans such as this as it may produce a perverse outcome for those areas that have not been mapped or do not possess sufficient information to accurately determine the spatial values. Notwithstanding the above, the Council has reviewed spatial information to ascertain whether any additional biodiversity mapping overlays can be provided. As a result, the Hearing Panel recommends that the Important Bird Areas for New Zealand that occur within the Taranaki region be included as a planning layer alongside the Maui dolphin sanctuary and that appropriate policy linkages be made as a consequential amendment. |
| 56 – Greenpeace | 1329 | Amend Submitter seeks amendment to Schedule 4 of the Plan so that rules that prohibit or restrict activities in fishing, seabed mining and oil and gas, in relation to the values of the area, are identified through marine spatial planning. | Decline The Hearing Panel recommends declining the relief sought by the submitter in that rules in the Plan are confined to giving effect to the RMA and the Council's jurisdictional responsibilities pertaining to the coastal marine area. The Hearing Panel suggest it is not appropriate or necessary for the Plan to get into areas covered by other authorities, statutes or jurisdictions. |
| Further submissions – Ministry for Primary Industries (16) | | Oppose | |
| Schedule 4B – Sensitive marine benthic habitats | | | |
| 6 – Trans-Tasman Resources Ltd | 1330 | Amend Submitter seeks amendment to the Plan by deleting Schedule 4B in its entirety. | Decline Sensitive benthic habitats refer to marine habitats identified in the report <i>Sensitive habitats and threatened species in the Taranaki coastal marine area (TCMA) – database investigation</i> . These areas of marine habitat have been identified to have a low tolerance to habitat damage and for which the time for the habitat to recover from any damage would be significant. |
| Further submissions – South Taranaki Underwater Club (10), Climate Justice Taranaki Inc (21), Department of Conservation (29), Te | | Oppose | |

| Submitter | Submission point | Submitter's requests | Hearing Panel' recommendation and response |
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| Rūnanga o Ngāti Mutunga (40), Royal Forest and Bird Protection Society (43), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | | As part of a precautionary approach and given the sensitivity and vulnerability of such marine habitats, the Hearing Panel considers it appropriate that they be recognised and provided for within the Plan which requires reference to Schedules. Therefore, the Panel recommends retaining Schedule 4B [Sensitive marine benthic habitats] as currently notified. |
| Schedule 4C – Significant taonga species | | | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1331 | <p>Amend</p> <p>Submitter seeks amendment to the Plan by including a new Schedule 4C that identifies taonga species under the <i>Ngāti Ruanui Claims Settlement Act 2003</i>:</p> <ul style="list-style-type: none"> • Hapuka / Groper (<i>Polypio oxygenios</i>) • Kaeo / Sea tulip (<i>Pyrua pachydermatum</i>) • Kahawai / Sea trout (<i>Arripus trutta</i>) • Kanae / Mullet (<i>Mugil cephalus</i>) • Koeke / Common Shrimp (<i>Palaemon affinis</i>) • Marari / Butterfish (<i>Odax pullus</i>) • Moki / Blue moki (<i>Latridopsis ciliaris</i>) • Paraki/Ngaiore / Common Smelt (<i>Retropinna retropinna</i>) • Para / Frostfish (<i>Lepidopus caudatus</i>) • Patiki mahoao / Black Flounder (<i>Rhombosolea retiaria</i>) • Patiki rore / New Zealand sole (<i>Peltorhamphus novazeelandise</i>) • Pakiti tore / Lemon sole (<i>Pelotretis flavilatus</i>) • Patiki totara / Yellow belly flounder (<i>Rhombosolea leporina</i>) • Patiki / Sand flounder (<i>Rhombosolea plebeia</i>) • Patukituki / Rock cod (<i>Parapecis colias</i>) • Pioke / Rig shark (<i>Galeorhinus galeus</i>) • Reperepe / Elephant fish (<i>Callorhynchus milli</i>) • Tuna heke / Eel – long finned (<i>Anguilla dieffenbachii</i>) • Tuna roa / Eel –short finned (<i>Anguilla australis</i>) • Wheke / Octopus (<i>Octopus maorum</i>) | <p>Accept</p> <p>The Hearing Panel recognises that taonga species have important cultural value to Māori and recommends including a new Schedule (Schedule 4C [Taonga Species]) to identify those marine species that hold significant value to local iwi. These species were identified through the iwi deeds of settlement and confirmed through pre-hearing engagement.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel' recommendation and response |
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| | | <ul style="list-style-type: none"> • Koiro, ngoiro, totoke, hao, ngoio, ngoingoi, putu / Conger Eel (<i>Conger verreauxi</i>) • Koura / Crayfish (<i>Jasus edwardsii</i>) • Kaunga / Hermit Crab (<i>Pagurus novaeseelandiae</i>) • Papaka parupatu / Mud Crab (<i>Helice sp.</i>) • Papaka / Paddlecrab (<i>Ovalipes catharus</i>) • Kotere, humenga / Sea anemoe (<i>Cnidaria</i> group) • Rore, rori / Sea cucumber / sea snail <i>Stichopus mollis</i>) • Patangatanga, patangaroa, pekapeka Starfish (<i>Echinoderms</i>) • Kina / Sea urchin (<i>Evechinus chloroticus</i>) • Kuku / Kutae Green lipped mussel (<i>Perna canaliculus/mytilus edulis</i>) • Kuku / Kutae Blue lipped mussel (<i>Perna canaliculus/mytilus edulis</i>) • Paua / Paua – black foot (Abalone) (<i>Haliotis iris</i>) • Paua / Paua – yellow foot (<i>Haliotis australis</i>) • Pipi/kakahi / Pipi (<i>Paphies austral</i>) • Pupu / Pupu (Turbo smaragdus/zediloma spp) • Purimu / Surf clam (<i>Dosinia anus et al.</i>) • Rori / Sea snail (<i>Scutus breviculus</i>) • Tuangi / Cockle (<i>Austrovenus stutchburgi</i>) • Tuatua / Tuatua (<i>Paphies subtriangulata, paphies donacina</i>) • Waharoa / Horse mussel (<i>Atrina zelandica</i>) • Waikaka / Mud snail (<i>Amphibola crenata, Turbo smaragus, Zedilom spp.</i>) • Tio, Karauria, ngahiki, repe / Rock Oyster (<i>Crassostrea glomerata</i>) • Tupa, kuakua, pure, tipa, tipai, kopa / Scallop (<i>Pecten novazelandiae</i>). | |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | |

| Submitter | Submission point | Submitter's requests | Hearing Panel' recommendation and response |
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| Schedule 5A – Archaeological sites of significance and historic areas | | | |
| 50 – Te Kāhui o Taranaki Trust | 1332 | Amend | Decline |
| | | Submitter seeks amendment to Schedule 5A of the Plan (and associated planning maps) by deleting the archaeological site names and instead give the sites a number and scheduling system identical to the mapped Taranaki Iwi sites of significance in the Plan. | The Hearing Panel is unsure about the intent and exact request by the submitter., However, with regards to the names of archaeological sites of significance, the Hearing Panel considers the names to be important identifiers that will aid Plan users. Many of these sites are already identified in other Council reports that do not follow a numbering system and removing names would make it difficult to cross reference to these documents resulting in a potentially limited understanding of the scope and values associated with the location. |
| 57 – Heritage New Zealand | 1333 | Amend | Accept |
| | | Submitter seeks amendment to the title of Schedule 5A of the Plan to read: <i>Archaeological sites of significance, <u>built heritage</u> and historic areas.</i> | The Hearing Panel recognises that Schedule 5A [Archaeological sites of significance and historic areas] contains areas of built heritage, and although the definition for historic heritage includes built heritage, the Hearing Panel considers the inclusion of ' <i>built heritage</i> ' better clarifies what is included within the Schedule and recommends it be amended as requested by the submitter. |
| 57 – Heritage New Zealand | 1334 | Amend | Accept in part |
| | | Submitter seeks amendment to the maps within Schedule 5A to reduce ambiguity of mapped sites by: <ul style="list-style-type: none"> mapping the extent of scheduled sites (if site extents are unknown use buffer zones) connecting sites on the maps with specific scheduled sites specifying dates for all sites. | The Hearing Panel recommends granting the relief sought in part as follows: <ul style="list-style-type: none"> The archaeological sites of significance listed in Schedule 5A do not contain polygons. The Panel does not consider it appropriate to include buffer zones and would prefer to manage these sites on a case-by-case basis through the consenting process having regard for the particular activity and likely effects occurring within their vicinity. The Hearing Panel recommends retaining the point locations of archaeological sites of significance as currently notified. With regards to connecting sites identified on maps with the schedules, the Hearing Panel recommends adding the listing number that appears in the far left column of the schedule, to the pop up information on the planning maps to aid users in identifying specific locations within the map and correlating them to the relevant information within the schedules. Additional information is also recommended for Plan users ease of use of the planning maps and includes any archaeological/historic reference included in the Schedule. |

| Submitter | Submission point | Submitter's requests | Hearing Panel' recommendation and response |
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| | | | <ul style="list-style-type: none"> Dates have been included in the Schedules for as many sites as are known with the exception of the Harriet and Lord Worsley shipwrecks which were built in 1819 and 1858, respectively. The Panel recommends amending the Schedule to include this additional data. |
| 57 – Heritage New Zealand | 1335 | Amend | No relief required |
| | | Submitter questions the rationale for why two sites in the Scoping Study were not included in the Schedule and when the Scoping Study will be updated. | Review of the Scoping Study has revealed only one site that has not been included within the Plan: the Railway Wharf, Waitara. The location of this wharf (as determined within the Scoping study) at its most northerly extent, began at High Street in the Waitara township and extended southwards, meaning that this site is outside the coastal marine area. The Scoping Study will most likely be reviewed in preparation for the next Coastal Plan review in 10 years. As an interim measure, the Council contacted archaeologist Andy Dodd to review the Schedule who confirmed that it was up-to-date. |
| Schedule 5B – Sites of significance to Māori and associated values | | | |
| 15 – Surfbreak Protection Society | 1336 | Support | No relief necessary |
| | | Submitter support the inclusion of sites of significance to Māori and associated values in the list of Schedules. | Support noted. |
| 21 – Climate Justice Taranaki | 1337 | Amend | Decline |
| | | Submitter seeks amendment to Schedule 5B of the Plan to include sites of significance to Ngāti Maru. | The Ngāti Maru rohe does not extend to the coastal environment or the coastal marine area, nevertheless, the Council recognises that there still may be sites of significance to Ngāti Maru despite their geographic location. The Hearing Panel notes that Ngāti Maru have not provided comment on the Coastal Plan and have not requested correspondence with the Council to discuss any sites of significance that may be affected by the Coastal Plan. Ngāti Maru have received correspondence from the Council informing them of the Proposed Coastal Plan and have had the opportunity to respond. It is not the Council's intent to include this information without the request and/or approval of the relevant iwi authority. |

| Submitter | Submission point | Submitter's requests | Hearing Panel' recommendation and response |
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| 40 – Te Rūnanga o Ngāti Mutunga | 1338 | Amend | Accept |
| | | Submitter supports the inclusion of sites of significance to Te Rūnanga o Ngāti Mutunga and associated values in the list of Schedules but seek the inclusion of additional sites. | Comments noted. Council has worked with Ngati Mutunga during pre-hearing engagement to identify additional sites of significance. This has resulted in additional sites being identified and included in the Schedules and associated planning map layers. |
| 41 – Te Korowai o Ngāruahine Trust | 1339 | Neutral | No relief necessary |
| | | Submitter would like the opportunity to amend and refine Schedule 5B as required as Ngāruahine hapū progress the claims under the <i>Takutai Moana Act 2011</i> . | Comments noted. The Council recognises that successful claims under the <i>Takutai Moana Act 2011</i> would result in legislative recognition of sites that would come under Schedule 5B [Sites of Significance to Māori]. The Council will allow review of the Schedule at a designated time, within the life of the Plan, in order to incorporate additional sites that have been recognised through the <i>Takutai Moana Act 2011</i> . |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Support | Notwithstanding the above, the Hearing Panel notes that they will have legal status in any case. |
| 42 – Ngati Rahiri Hapū | 1340 | Amend | Accept |
| | | Submitter seeks amendment to the Plan to include sites of significance to Ngati Rahiri Hapū (and not information contained in the New Plymouth Draft District Plan). | The Hearing Panel recommends granting the relief sought. The Hearing Panel notes that Te Atiawa Iwi has directed the Council to liaise with their hapū as part of Coastal Plan engagement, including the identification of sites of significance. The Council has consulted further with the submitter as part of pre-hearing consultation to investigate the inclusion of additional sites of significance and recommend the inclusion of additional sites as identified in Schedule 5B. |
| 57 – Heritage New Zealand | 1341 | Amend | No relief necessary |
| | | Submitter seeks amendment to the maps within Schedule 5B of the Plan using polygons to more accurately define the extent of the sites of significance to Māori. | Sites of significance to Māori have been identified by the local iwi and hapū through Council interaction and communication. The sites listed in Schedule 5B are delineated using polygons as identified in these meetings. The Hearing Panel does not consider it necessary to review these sites without the expressed request from iwi/hapū themselves. |

| Submitter | Submission point | Submitter's requests | Hearing Panel' recommendation and response |
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| 57 – Heritage New Zealand | 1342 | <p>Amend</p> <p>Submitter seeks amendment to the Ohunuku map (Ngāruahine) with appendix information supplied by the Heritage New Zealand submission.</p> | <p>Accept</p> <p>The Hearing Panel notes that the submitter's request was proposed to Ngāruahine who have indicated their support for the amendment as sought by the submitter but also wish the site spelling to be corrected to Ōhounuku. The Hearing Panel recommends amending the site extent and spelling as requested.</p> |
| 60 – Te Kaahui o Rauru | 1343 | <p>Amend</p> <p>Submitter seeks amendment to Schedule 5B of the Plan - Ngaa Rauru Kiitahi by:</p> <ul style="list-style-type: none"> including schedule from <i>Ngaa Rauru Kiitahi Claims Settlement Act 2005</i> amending site extents including Tapuarau Conservation Area. | <p>Accept in part</p> <p>The Tapuarau Conservation area is currently identified as an area of outstanding value under Schedule 1 and the Waitotara estuary has been identified as a site of significance to Māori.</p> <p>Sites of significance refer to specific areas or places that have special significance to tangata whenua for their cultural, historical, traditional and spiritual associations within the coastal marine area. The Hearing Panel notes that the extent of sites of significance identified in the Proposed Plan so far is based on the outcomes of discussions and the provision of information by Te Kaahui o Rauru.</p> <p>Notwithstanding the above, in relation to the Tapuarau Conservation Area, officers recommend granting this part of the relief sought. Officers note that the Conservation area extent is identified in the <i>Ngaa Rauru Kiitahi Claims Settlement Act 2005</i> and that the values associated with the site are significant to Ngaa Rauru. The Hearing Panel recommends Tapuarau Conservation Area be included in Schedule 5B and the extent identified in the planning maps.</p> |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Support | |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1344 | <p>Amend</p> <p>Submitter seeks amendment to Schedule 5B of the Plan by amending the heading to read: <i>Schedule 5 – <u>Cultural and</u> historic heritage</i></p> | <p>Decline</p> <p>The Hearing Panel note that “<i>historic heritage</i>” has a broad definition under Section 2 of the RMA and includes sites of significance to Māori. Section 2 definition of “historic heritage” reads as follows: “...historic heritage means: (a) those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities: (i) archaeological, (ii) architectural, (iii) cultural, (iv) historic, [...]”</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel' recommendation and response |
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| | | | The term cultural heritage potentially has a much broader meaning. Therefore, the Hearing Panel recommends retaining the title for Schedule 5 as currently notified. |
| 61 – Te Rūnanga o Ngāti Ruanui Trust | 1345 | <p>Amend</p> <p>In relation to sites of significance to Ngāti Ruanui, submitter seeks amendment to Schedule 5B of the Plan (noting information is to follow) to include information on:</p> <ul style="list-style-type: none"> • Te Moananui A O Ngati Ruanui (Coastal Area) • Waingongoro River • Manawapou River • Waihi Stream • Katewheta Stream • Waikaikai Stream • Mangaroa Stream • Kaikura Stream • Whitikau • Tangahoe-Hawera-Manutahi Reef. | <p>Accept in part</p> <p>In pre-hearing consultation with the submitter, Council has discussed the inclusion of additional sites of significance to Ngati Ruanui and the Hearing Panel recommends amending Schedule 5B to include some of these as well as other additional sites. This includes the addition of new pa and kianga sites as well as the identification of important mahinga kai sites along the coastal reef systems.</p> <p>The Hearing Panel notes that the additional sites are not limited to the list of waterbodies provided by the submitter, however, are generally identified next to or near an important waterbody as indicated in the submission.</p> <p>Recommended amendments are identified in Schedule 5B as well as in the planning maps.</p> |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Oppose | |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Support | |
| Schedule 7A – Surf breaks | | | |
| 5 – Point Board Riders | 1346 | <p>Amend</p> <p>Submitter supports the inclusion of the designated Significant Surfing Area as an overlay in Schedule 7B for protection but submit that the area from Pungarehu to Okato is only a small area and seek to have more of the coastline added to the overlay.</p> | <p>Decline</p> <p>Support for the Significant Surfing Area noted.</p> <p>In relation to extending the Significant Surfing Area, no change is recommended. The area identified was a result of MetOcean Solutions Ltd advice arising from the report <i>Taranaki Surfbreaks of National Significance</i>, highlighting the abundance, uniqueness and large number of high quality surf breaks in that locality. The number and significance of surf breaks in this locality was subsequently confirmed through the <i>Online Wave Survey</i>.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel' recommendation and response |
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| | | | Notwithstanding the above, the Hearing Panel notes that regionally significant surf breaks outside the area still have a high level of protection in accordance with Policy 19 [Surf breaks and significant surfing area]. |
| 5 – Point Board Riders | 1347 | Amend | Decline |
| | | Submitter supports the inclusion of Nationally Significant surf breaks and Locally Significant surf breaks but raise the issue of a lack of protection for the remaining surf breaks on the coast. | The Hearing Panel is not currently aware of any additional surf break locations that are not already included within Schedule 7 and have worked closely with the local surfing community in addition to commissioning a report on regionally significant surfbreaks and undertook a surfing community survey to establish the current list. The intention of Schedule 7 is to provide a high level of protection to those surfbreaks that display significant surfing qualities through Policy 19 [Surf breaks and Significant Surfing Area]. |
| 15 – Surfbreak Protection Society | 1348 | Amend | Decline |
| | | Submitter supports the inclusion of the designated Significant Surfing Area but seeks that it be extended to include a larger area and that more surf breaks be added to the locally significant list. | <p>The Hearing Panel considers the extents of the Significant Surfing Areas to be sufficient and recognise that, due to tidal changes and changing weather conditions, a surfable area may be larger or smaller than the area identified in the maps. The polygons depicted are intended to capture the commonly utilised areas on any given day.</p> <p>The Hearing Panel is not currently aware of any additional surf break locations that are not already included within Schedule 7 and notes that the Council has worked closely with the local surfing community in addition to commissioning a report and undertaking a surfing community survey on regionally significant surfbreaks to establish the current list.</p> <p>The intention of Schedule 7 is to provide a high level of protection to those surfbreaks that display significant surfing qualities through Policy 19 [Surf breaks and Significant Surfing Area]. The Council will welcome any additional information for the inclusion of other surfbreaks if they can be valued for their surfing qualities.</p> |
| 18 – Surfing Taranaki | 1349 | Support | No relief required |
| | | Support the designated Significant Surfing Area as proposed in the Plan. | Support noted. |
| 19 – South Taranaki District Council | 1350 | Amend | Accept |
| | | Support the inclusion of the designated Significant Surfing Area but seeks that it be confined to the coastal marine area. | The Hearing Panel notes the submitter's concern and recommend amending the landward extent of the significant surf break area to align with the indicative coastal |

| Submitter | Submission point | Submitter's requests | Hearing Panel' recommendation and response |
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| Further submissions – Powerco (45) | | Support in part | marine area line so as to not capture private land. The Hearing Panel also recommends amending the extent of the Significant Surfing area and confining it to the coastal marine area. |
| 20 – Meridian Energy Limited | 1351 | Amend | Accept |
| | | Submitter seeks amendment to the Plan and associated Planning Maps to show the locations of locally significant surf breaks. | The Hearing Panel agrees and recommends amending the planning maps to identify the locations of locally significant surf breaks. |
| 24 – Paora Aneti 17 & 18 Māori Reservation Trustees | 1352 | Amend | Accept |
| | | Submitter opposes the inclusion of sections of Paora Aneti 18 amongst surf breaks identified as nationally or regionally significant. | The Hearing Panel notes the submitter's concern and recommend amending the landward extent of the significant surf break area to align with the indicative coastal marine area line so as to not capture private land. |
| 24 – Paora Aneti 17 & 18 Māori Reservation Trustees | 1353 | Other | Accept |
| | | Submitter suggests the Plan shows a lack of regard to the Māori language by having an area for surfing identified as "Punihos". | The submitter has not specifically sought any amendments to the Plan. However, the Hearing Panel recommend amending the name of the surf break to Puniho in response to their concerns. Additional amendments to Schedule 7 are also recommended to include the incorporation of traditional Māori names (where they are known) for the surf breaks identified. |
| 31 – Komene 13B Māori Reservation Trustees | 1354 | Amend | Accept |
| | | Submitter opposes the inclusion of sections of Komene 13 Māori Reservation via Waikirikiri Lagoon in the Plan, including the surf break area AND Note that "Waikiriki" is not the name of the area. | The Hearing Panel notes the submitter's comments and recommends amending the landward extent of the significant surf break area to align with the indicative coastal marine area line so as not to capture private land. |
| 32 – Port Taranaki Ltd | 1355 | Amend | Grant in kind |
| | | Submitter seeks amendment to Schedule 7A of the Plan to delete the "Breakwater" surf break from the list of regionally significant surf breaks, and delete references to it on associated maps. | At the hearing, the submitter tabled further evidence from Oceanum consultants on the values and relative significance of the breakwater surf break. In summary, it was argued that the break did not merit being identified as 'regionally significant' as it was entirely anthropogenic and that with the exception of uniqueness (ability to surf under certain conditions) ranked low for other surfing attributes. The Hearing Panel agrees with the aforementioned assessment and recommend that Schedule 7A of the Plan and associated planning maps be amended to delete the 'Breakwater' surf break from the list of regionally significant surf breaks |

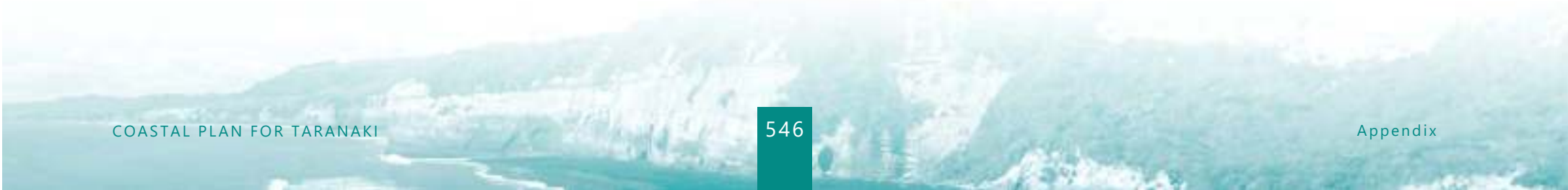
| Submitter | Submission point | Submitter's requests | Hearing Panel' recommendation and response |
|--------------------------------|------------------|---|---|
| | | | <p>(although it is recommended that it still be identified in the schedule as being 'locally significant').</p> <p>As a consequential amendment, the Hearing Panel recommend deleting the exclusion for regionally significant infrastructure in Policy 19 (b) [Surf breaks and Significant surfing Area] as the matter has now been addressed through other means and note that the exception is now redundant.</p> |
| 49 – Cam Twigley | 1356 | <p>Amend</p> <p>Submitter supports the inclusion (and the extent) of the designated Significant Surfing Area.</p> | <p>No relief necessary</p> <p>Support noted.</p> |
| 50 – Te Kāhui o Taranaki Trust | 1357 | <p>Amend</p> <p>Submitter seeks amendment to Schedule 7A of the Plan (and associated planning maps) by deleting the surf break names instead give the sites a number and scheduling system identical to the mapped Taranaki Iwi sites of significance in the Plan.</p> | <p>Grant in kind</p> <p>Through pre-hearing engagement the submitter (and others) identified that some of the surf break names were incorrect or offensive, which was the basis for the relief requested.</p> <p>The Hearing Panel considers the surfbreak names to be important and useful identifiers of surfbreaks that will aid Plan users in this area.</p> <p>The Hearing Panel recommends an alternative relief that, where possible, alternative and/or more culturally appropriate surfbreak names are incorporated alongside the currently identified surf break names commonly in use amongst the surfing community.</p> |
| 50 – Te Kāhui o Taranaki Trust | 1358 | <p>Amend</p> <p>Submitter seeks amendment to Schedule 7A of the Plan (and associated planning maps) by delineating the surf breaks in terms of location like the Taranaki Iwi sites of significance.</p> | <p>Decline</p> <p>Surf break locations have not been delineated by the Council. Delineating surf breaks would be an imprecise and expensive exercise and was not considered necessary for the purposes of this review. However, point locations will be added to the planning maps to identify where the surfbreaks occur within the coastal marine area.</p> <p>Notwithstanding the above, the Hearing Panel recommends including additional information relating to the surf breaks within Schedule 7 and the planning layer to use traditional naming of surf break locations alongside the commonly recognised surf break names.</p> |

| Submitter | Submission point | Submitter's requests | Hearing Panel' recommendation and response |
|-------------------------------------|------------------|---|--|
| Schedule 8 – Port air zone | | | |
| 32 – Port Taranaki Ltd | 1359 | <p>Amend</p> <p>Submitter seeks amendment to Schedule 8 of the Plan (and associated maps) to include the wharves in the Port Air Zone and correspond to the online maps for the Port Air Zone.</p> | <p>Accept</p> <p>The Hearing Panel recommends amending Schedule 8 to include wharves within the Port Air Zone to be consistent with the areal extent of maps online.</p> |
| Schedule 9 – References | | | |
| 48 – Taranaki District Health Board | 1360 | <p>Amend</p> <p>Submitter seeks amendment to Schedule 9 of the Plan to read:</p> <p><i>The documents referenced throughout the Plan are listed below, along with the website addresses that provide access to the documents. <u>Note that New Zealand Standards listed below are subject to copyright and are not available to be viewed on-line and may be inspected by appointment at our customer service centre.</u></i></p> <p>[...]</p> <p><u>Noise standards (Rules 6.10, 8.6.3)</u></p> <p><u>NZS 6801:2008 Acoustics – Measurement of Environmental Sound</u></p> <p><u>NZS 6802:2008 Acoustics – Environmental Noise</u></p> <p><u>NZS 6803:1999 Acoustics – Construction noise</u></p> <p><u>NZS 6809:1999 Acoustics – Port Noise and Land Use Planning</u></p> | <p>Accept</p> <p>The Hearing Panel recommends amending the Plan to include reference to the requested standards in Schedule 9, however note that some changes to those requested by the submitter are also recommended to account for other relief offered within the Plan, to read as follows:</p> <p><u>New Zealand standards (General standards)</u></p> <p><u>NZS 6809:1999 Acoustics – Port Noise and Land Use Planning</u></p> <p><u>NZS 6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas</u></p> <p><u>NZS6803:1999 Acoustics – Construction Noise</u></p> <p><u>NZS 6801:2008 Acoustics – Measurement of Environmental Sound</u></p> <p><u>NZS 6802:2008 Acoustics – Environmental Noise</u></p> <p><u>Note: the New Zealand Standards are subject to copyright and are not available to be viewed on-line and may be inspected, by appointment, at the Council premises.</u></p> |



Appendix I: Evidence and other written material presented at the hearing

This section presents copies of the evidence and other written material presented at the hearing of the Proposed Coastal Plan for Taranaki.



Taranaki Energy Watch – submission to Taranaki Regional Council draft coastal plan

Thank you for the opportunity to speak to my submission. The Taranaki Energy Watch (TEW) original submission remains unchanged through the pre-hearing process. We take this opportunity to emphasise some specific points and include some additional information.

Drilling petroleum wells

- (i) The proposed plan continues to classify exploratory offshore petroleum drilling as a controlled activity (Rule 26).
 - a. In the current plan there are 10 consents required for petroleum exploration- 6 are discretionary and 4 are permitted. Under the RMA these would be bundled and default to the highest status- discretionary. The Council has bundled them into a single controlled activity.
 - b. Both the Section 42a Report and the Offshore Drilling Review emphasise this is for business certainty as applications for a controlled activity can't be turned down.
 - (i) "Some certainty for these uses is considered appropriate which would not be the case if the activity was made a Discretionary Activity (with ability to decline a resource consent application)."¹
 - (ii) "Operator costs are likely to remain similar should exploratory offshore petroleum drilling be classified as a controlled activity that will be non-notified. However, the operator will benefit through having business certainty as applications for a controlled activity cannot be turned down by Council. Applications to undertake a discretionary activity, as currently required, can be turned down by Council."²
 - c. There is no environmental evidence provided in the s42a report and this is not a decision based on the RMA legislation. A regional plan prepared having regard to Part 2 of the Act should contain a coherent set of objectives provisions that achieve environmental outcomes.
 - d. The controlled activity status also precludes public notification. See Attachment 1.
- (ii) It is not appropriate to rely on compliance with relevant legislation and regulations managing well integrity and discharges (Matters of control/discretion (a)).

¹ <https://www.trc.govt.nz/assets/Documents/Plans-policies/CoastalPlanReview/Hearing/PCASect41A-hearing.pdf> at p.319

² <https://www.trc.govt.nz/assets/Documents/Plans-policies/CoastalPlanReview/OffshorePetroleumDrillingReview.pdf> at p.27

The recent interim findings of Taranaki Energy Watch v STDC state that WorkSafe can manage these issues however they cannot eliminate them. While the findings relate to onshore petroleum activities they are equally applicable to offshore petroleum activities.

- a. "The key point being, where a risk is minimised, because it cannot be eliminated, there is no absolute guarantee that incidents or accidents will be prevented or that harm will be prevented. Instead, measures are to be implemented to minimise those risks so far as practicable. Thus it cannot be imputed that compliance with WorkSafe legislation and regulation means risk is eliminated".³
- (iii) The section 42 a report states "The drilling associated with seabed exploration is not considered to have more than minor adverse effects, subject to compliance with standards, terms and conditions set out in Rule 26".⁴
- a. As discussed previously complying with WorkSafe legislation does not guarantee adverse effects will be eliminated.
 - b. Drilling does have potential "more than minor adverse effects" regardless of the conditions set by Rule 26. For example while a well blow out may have a low probability it has catastrophic effects. This is also emphasised in the recent interim findings of Taranaki Energy Watch v STDC.⁵
- (iv) It is not clear from the proposed plan how the Council are going to accommodate the transition of an exploration well to a production well.
- a. Currently the proposal is for drilling an exploratory well to be controlled (Rule 26) and drilling production wells to be discretionary (Rule 29). However the wells are both the same and obviously in the same location.
 - b. When a well is drilled it is initially an exploratory well. If nothing is found then it is abandoned. If something is discovered the same well becomes a production well. Basically the well is the same- exploratory and then producing. This would suggest

³ <https://environmentcourt.govt.nz/assets/Documents/Publications/2018-NZEnvC-227-Taranaki-Energy-Watch-Incorporated-v-South-Taranaki-District-Council.pdf> at para [44].

⁴ https://www.trc.govt.nz/assets/Documents/Plans_policies/CoastalPlanReview/Hearing/PCASect41A-hearing.pdf at p.318

⁵ <https://environmentcourt.govt.nz/assets/Documents/Publications/2018-NZEnvC-227-Taranaki-Energy-Watch-Incorporated-v-South-Taranaki-District-Council.pdf>

that exploratory and production activities need to be bundled together to determine if the site is appropriate at the outset.

- (v) TEW continue to submit that petroleum exploration should be a discretionary activity and publicly notified.

Prohibited status for petroleum activities in outstanding coastal management areas

- (i) Policy 29 has a new additional statement added "(aa) In relation to offshore production activities, adopting adequate separation and buffer distances having regard to the values and sensitivity of the environment."
 - a. The outstanding coastal management area would meet the requirements of this policy.
 - b. Rule 30 allows for non-complying status for petroleum production installation including drilling producing wells in outstanding value coastal management areas. Consequentially this policy would direct the Council to avoid this activity in these management areas therefore it would be in effect a prohibited activity.
 - c. Given that exploratory wells become producing wells it would then be appropriate to safeguard this area making it a prohibited activity for exploration wells as even if they are successful policy directs them away from this area.

Other

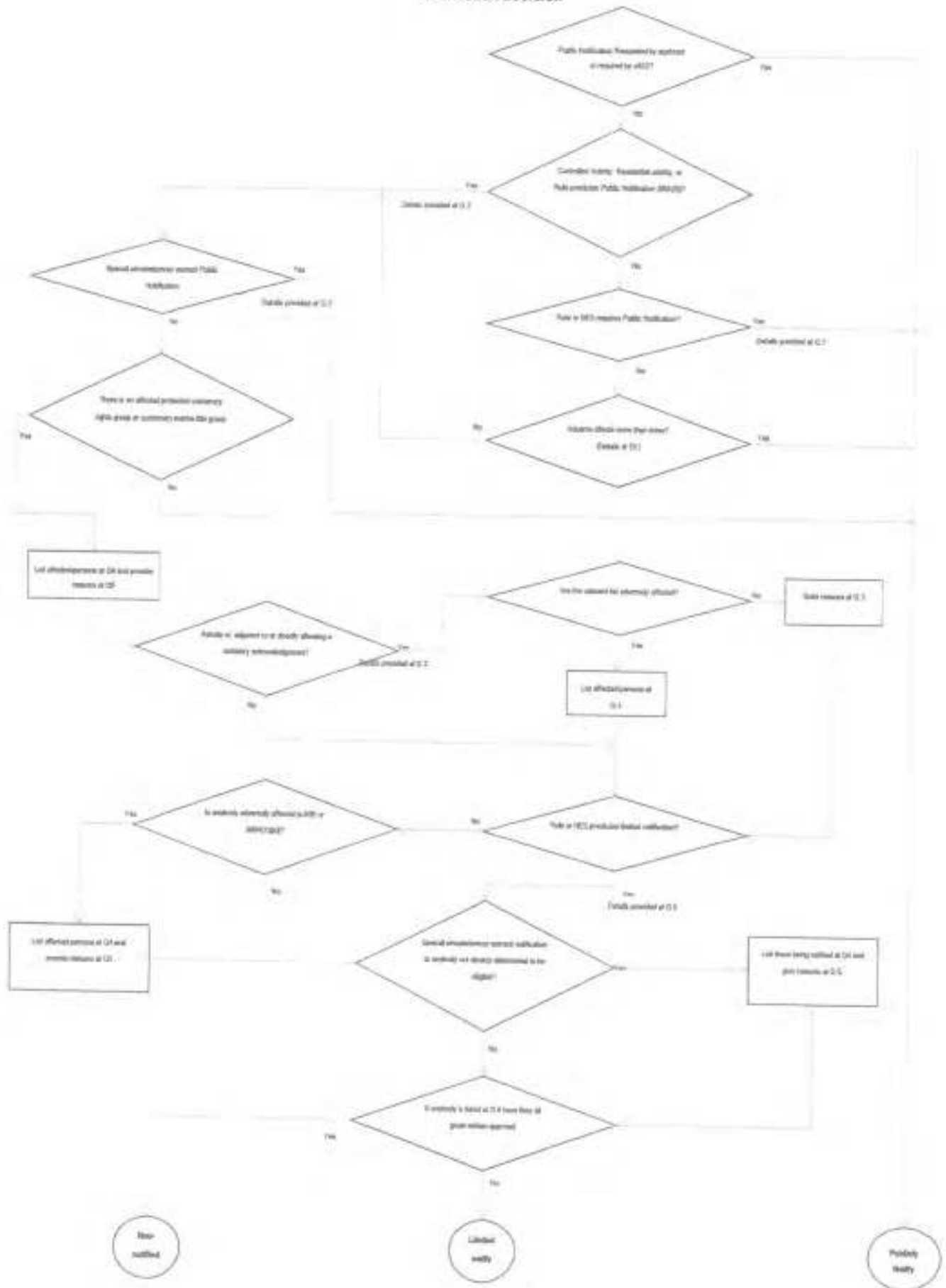
- (i) The addition to Rule 26 of "the activity does not involve the discharge or deposition of drilling fluids or cuttings" and "drilling cuttings and fluids must be removed for authorised disposal" has been proposed in the s42 a report.
 - a. For completeness and recognising this decision was informed by a commissioned review of buffer distances TEW request that the wording to be "drilling fluids or cuttings or muds".⁶

⁶ <https://www.ttc.govt.nz/assets/Documents/Plans-policies/CoastalPlanReview/BufferDistances.PDF>

- b. In the s42 a report it is unclear what the Council intends by authorised disposal and what legislation covers this as it still is a discharge.

Appendix 1

Notification decision



BEFORE THE TARANAKI REGIONAL COUNCIL

Under **The Resource Management Act 1991**

And

In the matter of **The Proposed Coastal Plan for Taranaki**

Legal submissions on behalf of the Minister of Conservation

16 July 2019

Department of Conservation

P O Box 10 420

WELLINGTON

Solicitor acting: M Downing

Telephone: 027 564 1428

Email: mdowning@doc.govt.nz

MAY IT PLEASE THE PANEL

INTRODUCTION

1. These legal submissions focus on outstanding issues between the Minister of Conservation (Minister) and the Taranaki Regional Council (TRC or Council). They provide the legal context and basis to support the remaining amendments to the Proposed Coastal Plan for Taranaki (Proposed Plan) sought by the Minister, where relevant.
2. The changes recommended in the s 42A report go some way to addressing the issues raised in the Minister's submission and further submission.
3. However, further changes are required to ensure the Minister's concerns are fully addressed, the Department of Conservation (DOC or Department) functionaries can properly undertake their statutory functions, and that the requirements under the Resource Management Act 1991 (RMA) are met.

MINISTER OF CONSERVATION'S FUNCTIONS IN THE COASTAL MARINE AREA

4. The Minister, rather than the Director-General of Conservation, submitted on the Proposed Plan. This is because the Minister has the function of approving regional coastal plans in accordance with Schedule 1 of the RMA.¹ The Minister also monitors the effect and implementation of the New Zealand Coastal Policy Statement (NZCPS).²

EVIDENCE

5. The Minister's case is supported by the evidence from the following five witnesses:
 - a. **Mr Don Neale**, marine technical advisor at the Department of Conservation, on marine ecology;
 - b. **Dr David Lundquist**, technical advisor (marine species and threats), on the Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations;

¹ RMA, section 28(b).

² RMA, section 28(d).

- c. **Ms Sarah Hucker**, senior national RMA advisor at the Department of Conservation, on marine biosecurity;
- d. **Mr Callum Lilley**, senior ranger, on operational work undertaken by the Department, including the burial of marine mammals.
- e. **Mr Graeme Silver**, senior planner at the Department of Conservation.

OUTLINE

- 6. These legal submissions are organised under the following headings:
 - a. Statutory requirements;
 - b. NZCPS Policy 11.
 - c. NZCPS Policies 13 and 15.
 - d. Coastal hazards.
 - e. Biofouling.
 - f. Other remaining matters.
 - g. Conclusion.

STATUTORY REQUIREMENTS

- 7. It is expected that the law applying to proposed plans will be summarised in the submissions of other parties. I do not intend to repeat that here, however there are two RMA matters which I outline below: coastal occupation charges and the NZCPS.

Coastal occupation charges

- 8. In preparing a regional coastal plan, the council must comply with the statutory requirements set out in section 64A of the RMA. The Minister cannot approve a coastal plan that does not comply with section 64A.
- 9. Section 64A(1) requires regional councils to consider introducing coastal occupation charging regimes into coastal plans (if such a regime does not already exist).

10. Under section 64A, regional councils are entitled to forgo a coastal charging occupation charging regime. However in this instance, section 64A prescribes certain steps to be followed:

64A Imposition of coastal occupation charges

- (1) Unless a regional coastal plan or proposed regional coastal plan already addresses coastal occupation charges, in preparing or changing a regional coastal plan or proposed regional coastal plan, a regional council must consider, after having regard to—
- (a) the extent to which public benefits from the coastal marine area are lost or gained; and
 - (b) the extent to which private benefit is obtained from the occupation of the coastal marine area,—

whether or not a coastal occupation charging regime applying to persons who occupy any part of the common marine and coastal area should be included.

- (2) Where the regional council considers that a coastal occupation charging regime should not be included, a statement to that effect must be included in the regional coastal plan.

...

11. The evidence of Mr Silver highlights that there is currently uncertainty as to whether the Taranaki Regional Council has undertaken the statutory steps outlined in paragraph 10 above.³ The reference to “the Council is not operating a charging regime for occupation of the coastal marine” in Chapter 9 of the Proposed Plan does not suffice, particularly as there seems to be no record of decision-making to satisfy that the statutory process in section 64A has been followed.⁴

12. Mr Silver’s evidence offers a practical solution to the matter.

New Zealand Coastal Policy Statement

13. Section 67(3) of the RMA requires that the Proposed Plan must give effect to the NZCPS, any other national policy statement, and the relevant regional policy statement.

³ Statement of evidence of Graeme Silver dated 12 July 2019, at [10]-[16].

⁴ Statement of evidence of Graeme Silver dated 12 July 2019, at [17]-[18].

14. The purpose of the NZCPS is to state objectives and policies in order to achieve the purpose of the RMA (being to promote sustainable management) in relation to the coastal environment of New Zealand.⁵ Accordingly, it is said that “the NZCPS gives substance to part 2’s provisions in relation to the coastal environment.”⁶ Relevant objectives and policies of the NZCPS for the purposes of this hearing are reproduced in Appendix One.
15. In a plan preparation context, the statutory requirement is “to give effect to” the NZCPS. This means “implement”.⁷ This has been recognised as being a “strong directive,”⁸ and one that creates “a firm obligation on the part of those subject to it”.⁹
16. The implementation of the NZCPS is affected by what the objective or policy relates to, or what must be given effect to. Accordingly, the terms of the NZCPS, and the extent to which they are directive is critical.¹⁰

A requirement to give effect to a policy which is framed in a specific and unqualified way may, in a practical sense, be more prescriptive than a requirement to give effect to a policy which is worded at a higher level of abstraction.

17. Accordingly, in giving effect to the NZCPS, it is of course critical to consider the precise wording of the objective or policy in issue. Is it formulated in a directive way, or is it formulated in a way that confers wide flexibility in implementation? A requirement to “avoid”, which occurs in a number of NZCPS policies, is directive in nature, it means “not allow”, or “prevent the occurrence of”.¹¹

NZCPS POLICY 11

18. NZCPS Policy 11 requires that adverse effects of activities on threatened, at risk or naturally rare species, habitats or areas be avoided. For other indigenous

⁵ RMA, section 56.

⁶ *Environmental Defence Society v New Zealand King Salmon Co Ltd*, [2014] NZSC 38, [85].

⁷ *Environmental Defence Society v New Zealand King Salmon Co Ltd*, [2014] NZSC 38, [77].

⁸ *Environmental Defence Society v New Zealand King Salmon Co Ltd*, [2014] NZSC 38, [77].

⁹ *Environmental Defence Society v New Zealand King Salmon Co Ltd*, [2014] NZSC 38, [77].

¹⁰ *Environmental Defence Society v New Zealand King Salmon Co Ltd*, [2014] NZSC 38, [80].

¹¹ *Environmental Defence Society v New Zealand King Salmon Co Ltd*, [2014] NZSC 38, [96].

habitats and areas, Policy 11 requires significant adverse effects of activities to be avoided, and other adverse effects to be avoided, remedied or mitigated.

19. Policy 11 has come under scrutiny from the High Court since the *King Salmon* decision in the case of *Royal Forest and Bird Protection Society of NZ Inc v Bay of Plenty Regional Council*¹² which confirmed:
 - a. the meaning of ‘avoid’ is as discussed in *King Salmon* (i.e. ‘not allow’, or ‘prevent the occurrence of’) and is not contextual;¹³
 - b. where there is tension between planning documents, or within them, there is an obligation to articulate and analyse those tensions and to make a thoroughgoing attempt to reconcile those tensions;¹⁴
 - c. *King Salmon* does not allow for a proportionate or contextual approach;¹⁵
20. One of the policies in the proposed Bay of Plenty Regional Coastal Environmental Plan (RCEP), Policy N4, unequivocally sought to avoid adverse effects on the values and attributes of those areas. However, other policies recognised that it might be appropriate to grant consent for regionally significant infrastructure to locate in those areas in some circumstances. The Environment Court found that the provisions recognising regionally significant infrastructure represented a “proportionate response” which gave effect to those tensions recognised by the NZCPS.
21. On appeal the High Court found that the ‘proportionate response’ approach taken by the Environment Court was, in effect, a version of the “overall broad judgment approach” which the *King Salmon* decision had done away with. The High Court said:¹⁶

“[The Environment Court] was suggesting that the benefits and costs of regionally significant infrastructure, seeking to locate in Indigenous Biological Diversity Areas A and that could have adverse effects on such areas, should be assessed on a case by case basis, having regard to all relevant factors. Given the majority’s decision in *King Salmon*, this approach was not available to it.”

¹² [2017] NZHC 3080.

¹³ *Royal Forest and Bird v Bay of Plenty Regional Council* [2017] NZHC 3080, at [100]-102]

¹⁴ *Royal Forest and Bird v Bay of Plenty Regional Council* [2017] NZHC 3080, at [98].

¹⁵ *Royal Forest and Bird v Bay of Plenty Regional Council* [2017] NZHC 3080, at [102]-[103].

¹⁶ *Royal Forest and Bird v Bay of Plenty Regional Council* [2017] NZHC 3080, at [106].

22. The Minister supports the retention of policy 14 of the Proposed Plan as recommended in the s 42A report. In my submission, this implements NZCPS Policy 11 in the policy framework of the Proposed Plan.

Rules that do not give effect to the NZCPS

23. I submit there are some gaps in NZCPS Policy 11 implementation in the rule framework of the Proposed Plan. Mr Silver has identified proposed rules which provide for permitted or controlled activities within sites recognised by NZCPS Policy 11.
24. This could lead to Council being unable to prevent activities being undertaken that have adverse effects on sites which meet the criteria in NZCPS Policy 11. In some cases, the ability for these activities to occur will be inconsistent with the direction set by NZCPS Policy 11. In most cases, the inability to require effects to be avoided, remedied or mitigated will be inconsistent with NZCPS Policy 11 as a whole. Some examples follow.

Rule 22 – Placement or erection of a network utility structure (controlled activity)

25. The Minister opposed Rule 22 and sought that the burial of pipes and cables be a discretionary activity.
26. Mr Neale’s evidence describes the range of adverse effects underground infrastructure can have on ecological values, particularly on more sensitive marine environments.¹⁷
27. Mr Silver’s evidence notes that the species and habitats in Schedules 4A and 4B of the Proposed Plan do not capture all criteria in NZCPS Policy 11(a) – NZCPS Policies 11(a)(iv) and 11(a)(v) have been overlooked.¹⁸ Mr Silver’s evidence is that Rule 22:

¹⁷ Statement of evidence of Donald Malcolm Neale dated 12 July 2019, at [30]-[31].

¹⁸ Statement of evidence of Graeme Silver dated 12 July 2019, at [104]-[105].

- a. does not include a standard that the activity does not occur in sensitive marine benthic habitats identified in Schedule 4B of the Proposed Plan, which are a habitat type that meets the criteria in NZCPS Policy 11(a).¹⁹
 - b. as a controlled activity, does not provide for the avoidance of adverse effects on sites that engage NZCPS Policies 11(a)(iv) and 11(a)(v); and
 - c. does not avoid significant adverse effects on sites that engage NZCPS Policy 11(b)(iii).²⁰
28. Thus, Rule 22 enables activities to occur which might have adverse effects on sites which meet the criteria in NZCPS Policy 11.
29. Despite there being matters of control in relation to location and effects on indigenous biodiversity values, there is no ability to decline consent on the basis of those effects.²¹ Accordingly, in my submission, the controlled activity status should not apply to those activities that engage the criteria in NZCPS Policy 11. Instead, the burial of pipes and cables should be removed from rule 22 and become a new rule with (at least) restricted discretionary status in all zones.
30. In my submission, accepting Mr Silver's recommendation is required for the Proposed Plan to give effect to Policy 11 of the NZCPS.

Rule 34 – other structure erection or placement not provided for in Rules 18-32

31. First Gas Ltd sought amendments to Rule 34 of the Proposed Plan to make network utility underground pipelines or pipelines attached to existing bridge or access structures in Outstanding Value coastal management areas a controlled activity (as opposed to non-complying). The Minister opposes that relief for similar reasons discussed in paragraphs 27-30. This could lead to Council being unable to prevent activities being undertaken that have adverse effects in Outstanding Value areas – in particular marine protected areas such as Parininihi Marine Reserve recognised under policy 1 of the Proposed Plan which trigger NZCPS Policy 11(a)(vi) as an area set aside for full or partial protection of indigenous biological diversity under other legislation.

¹⁹ Statement of evidence of Graeme Silver dated 12 July 2019, at [104]-[105].

²⁰ Statement of evidence of Graeme Silver dated 12 July 2019, at [118]-[121].

²¹ RMA, s 87A(2).

32. It is essential to retain the ability to refuse resource consent to ensure that NZCPS Policy 11 direction to “avoid adverse effects” is given effect to. It is therefore submitted that Mr Silver’s recommended amendment that the activities be restricted discretionary be accepted.

Rule 37 – network utility structure repair, alteration or extension

33. The Minister sought an additional standard to rule 37 placing a size limit on any extension to a network utility structure. The evidence of Mr Neale²² and Mr Silver²³ is that the addition of standard (aa) recommended by the s42A report, which limits extensions to 10% every 24 months, partly addresses the Minister’s concerns but could lead to significant adverse effects or cumulative adverse effects.
34. In my submission, the suggestions offered by Mr Silver to replace the “24 month” reference with a “5 year” reference will ensure the rule will not allow damage to indigenous biodiversity in a manner contrary to NZCPS Policy 11.

NZCPS POLICIES 13 AND 15

35. NZCPS Policy 13 relates to preservation of natural character and NZCPS Policy 15 relates to natural features and natural landscapes in the coastal environment. They provide a cascade of policy directions on how to protect natural character, natural features, and natural landscapes from inappropriate subdivision, use and development. Mr Silver notes that these policies have been partially implemented into the Proposed Plan by policies 8 and 9.
36. The inclusion of policies 8 and 9 in the Proposed Plan means the NZCPS is effectively implemented for discretionary and non-complying consents as policies 8 and 9 must be considered in the event consents for discretionary or non-complying activities are applied for. The inclusion of policies 8 and 9 in the Proposed Plan will be effective for restricted discretionary consents where landscape, natural character or natural features are a matter for discretion.

²² Statement of evidence of Donald Malcolm Neale dated 12 July 2019, at [34]-[35].

²³ Statement of evidence of Graeme Silver dated 12 July 2019, at [135]-[139].

37. With respect to the rules framework, a similar issue arises to that identified with NZCPS Policy 11 sites at paragraphs 27-30 of these legal submissions – there are controlled activity rules which do provide the ability for Council to refuse consent to ensure that NZCPS Policies 13 and 15 direction to “avoid adverse effects” is given effect to. For example, rule 22 makes the placement or erection of network utility structures a controlled activity in outstanding value areas (which include NZCPS Policy 13 and 15 sites).
38. Mr Neale notes that:²⁴
- The burial of pipes or cables can help to mitigate some effects, but burial is seldom permanent in a dynamic coastal environment. The natural (or accelerated) processes of coastal erosion, sediment movement, bed changes and channel migration can expose an underground or buried structure over time. Once exposed, it will then function as an unburied structure laid on top of the substrate, with associated effects such as current modification and scour, navigation and entanglement issues, substrates for pest species, and changes to the natural character and visual amenity of the area.
39. This makes it even more critical to accept Mr Silver’s proposed changes to rule 22.
40. The evidence of Mr Silver is that:
- a. while the plan has included a schedule of areas of outstanding values (Schedule 2), it does not include criteria for identifying further areas,²⁵
 - b. the lack of criteria for identifying further areas does not provide for values which can change over time.²⁶
41. Mr Silver also notes that the Proposed Plan does not give effect to NZCPS Policy 13(1)(c) in that it does not identify areas of “high natural character.”²⁷ NZCPS Policy 13(1)(c) is clear that areas of high natural character (at least) be mapped or otherwise identified.
42. The policies and rules of the Proposed Plan cannot solely apply to those listed identified areas in Schedule 2, as this precludes their application to any

²⁴ Statement of evidence of Donald Malcom Neale dated 12 July 2019, at [31].

²⁵ Statement of evidence of Graeme Silver dated 12 July 2019, at [68].

²⁶ Statement of evidence of Graeme Silver dated 12 July 2019, at [70].

²⁷ Statement of evidence of Graeme Silver dated 12 July 2019, at [73].

unidentified areas of high natural character when activities are proposed in those areas which require consent. Further, as the Proposed Plan does not capture all NZCPS Policy 13 and Policy 15 sites restricting policies to only those areas currently identified will not give effect to the requirement to avoid adverse effects on outstanding natural character areas, natural features and natural landscapes.

43. I therefore submit that Mr Silver’s recommendations that the Proposed Plan includes criteria for identifying natural character, natural features, and landscape, and that high natural character areas are identified and mapped be accepted.

COASTAL HAZARDS

44. The Minister of Conservation, in her further submission, opposed the submissions by Z Energy Ltd, BP Oil Ltd and Mobil Oil Ltd seeking amendment to objective 13 of the Proposed Plan to qualify that the risk of social, cultural, environmental and economic harm from coastal hazards is not increased “to unacceptable levels”.

45. As noted in the evidence of Mr Silver:²⁸

I consider that this amendment is inappropriate. An objective should identify the resource management outcome desired. In this case it is the reduction of risk from coastal hazards. The recommended amendment provides for instances where risks can be increased.

46. The reference to “to unacceptable levels” is not referred to, nor anticipated, by the NZCPS. The NZCPS has two policies which direct the avoidance and/or reduction of coastal hazards. NZCPS Policy 25 states (my emphasis):

Policy 25 Subdivision, use and development in areas of coastal hazard risk

In areas potentially affected by coastal hazards over at least the next 100 years:

- (a) avoid increasing the risk of social, environmental and economic harm from coastal hazards;
- (b) avoid redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards;
- (c) encourage redevelopment, or change in land use, where that would reduce the risk of adverse effects from coastal hazards...

²⁸ Statement of evidence of Graeme Silver dated 12 July 2019, at [32].

...

47. DOC guidance on Policy 25(a) says:²⁹

This clause directs decision-makers to avoid increasing the risk of harm from coastal hazards. This policy is written in a directive way, with the meaning of ‘avoid’ having been informed by court decisions since the gazettal of the NZCPS 2010, including the Supreme Court’s decision in *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited*.

48. Policy 27 also directs that in areas of significant existing development and sets out a range of strategies for “reducing coastal hazard risk”.
49. In my submission, the phrase “to unacceptable levels” must be removed in order to give effect to NZCPS Policies 25 and 27.

BIOFOULING

50. The Minister’s submission sought that the rules pertaining to biofouling are amended to align with NZCPS Policy 12, and to be consistent with the “Anti-fouling and in-water cleaning guidelines (June 2013).”³⁰
51. Evidence called by the Minister and the s42A report recommendations are mostly aligned except for some fine tuning recommended by Ms Hucker in her evidence. I make brief comment on one of those matters here.
52. The Minister of Conservation (and the Ministry for Primary Industries) sought the following standard be included in rule 9 of the Proposed Plan:

If any person undertaking or responsible for the cleaning, suspects that harmful or unusual aquatic species (including species designated as unwanted organisms or pest species under the Biosecurity Act 1993) are present on the ship, structure or navigational aid, that person shall take the following steps:

- (i) Any cleaning activities commenced shall cease immediately, and
- (ii) the Taranaki Regional Council and the Ministry for Primary Industries shall be notified without unreasonable delay, and
- (iii) the cleaning may not recommence until notified by the Council to do so, or in the event a designated unwanted

²⁹ NZCPS 2010 guidance note: Coastal Hazards, December 2017, Department of Conservation, page 44.

³⁰ Attached as Appendix 2 to the Statement of evidence of Sarah Hucker on behalf of the Minister of Conservation.

organism or pest species is found, notified to do so by the Ministry for Primary Industries.

53. The s 42A report has not recommended including the whole standard noting that it is legally uncertain as it refers to “suspects”. The s 42A report instead recommends converting this condition into the following standard:

the activity does not involve any species designated as unwanted organisms or pest species under the Biosecurity Act 1993.

54. The remaining steps set out the Minister’s submissions are placed in a footnote as guidance as opposed to a legal requirement.
55. In my submission, the condition read as a whole, as sought in the Minister’s submission, does provide legal certainty. It essentially provides that the cleaning of biofouling is a permitted activity provided that, after undertaking the steps in clause (i)-(iii), the Council or Ministry for Primary Industries confirms that there are no harmful or unusual aquatic species.³¹ I acknowledge that whether the steps in clauses (i)-(iii) are followed depends on the judgement of the person undertaking the activity, however this judgement still comes into play with the recommended drafting which requires that “the activity does not involve any species designated as unwanted organisms or pest species under the Biosecurity Act 1993”, as this still requires the steps to be followed once an organism is “suspected”. It places a responsibility on the owner of the ship, moveable object or navigation aid to check whether there are any unusual or harmful aquatic species. The Environment Court in *Waimakariri District Council v North Canterbury Clay Target Association* confirmed that the fact a rule calls for judgement does not necessarily make it ultra vires (i.e. outside the scope of the RMA), the question is whether undue subjective discretion is conferred.³²
56. I submit that it is not unusual for permitted activity standards to include this level of responsibility on a person wishing to undertake an activity, and that the

³¹ Under s 122(1)(c) of the Biosecurity Act 1993, an inspector or authorised person under the Biosecurity Act may direct the owner or person in charge of any organism or risk goods to take steps to prevent the spread of any pest or unwanted organism.

³² *Waimakariri District Council v North Canterbury Clay Target Association* [2014] NZEnvC 114 at [23].

Minister submission on condition (c) as supported in Ms Hucker’s evidence is accepted.

OTHER REMAINING MATTERS

Rule 12A – seismic surveying (controlled activity)

57. The Minister supported Rule 12 of the notified version Proposed Plan but welcomes and supports the s42A report’s recommendation to recast seismic surveying as a controlled activity (now Rule 12A).
58. NZCPS Policy 11 requires that adverse effects of activities on indigenous taxa that are listed as threatened or at risk are avoided. As noted in Dr Lundquist’s evidence, Hector’s dolphin, Māui dolphin and bottlenose dolphin are listed as threatened under the New Zealand Threat Classification System list.³³ NZCPS Policy 11(a) is therefore triggered. Whilst compliance with the “Code of Conduct for minimising acoustic disturbance to marine mammals” (the seismic Code) is a condition of Rule 12A, reference to the Code in itself does not suffice to ensure adverse effects on these threatened species will be avoided. Dr Lundquist’s evidence is that there are some situations in which the seismic Code is unable to minimise risks to marine mammals, for example because the seismic Code was not designed to minimise certain risks such as behavioural disturbance far away from the survey. Dr Lundquist notes that “there are limited options to manage the risks associated with behavioural disturbance of marine mammals under the Code”.³⁴ This provides support for controlled activity status, as Council has the ability to impose additional conditions if appropriate to avoid adverse effects on marine mammals. As stated in Mr Silver’s evidence:

the recommendation for a controlled activity status is supported as Council will be able to control the method, timing, location, and impacts to protect indigenous biodiversity from adverse effects through conditions of consent.

59. As acknowledged in Mr Lundquist’s evidence the seismic Code does not address effects on marine species that are not mammals. Mr Silver notes that permitted activity status for seismic surveying is inappropriate as the potential impacts on

³³ Statement of evidence of David Jeffrey Lundquist dated 12 July 2019, at [9] and Appendix A.

³⁴ Statement of evidence of David Jeffrey Lundquist dated 12 July 2019, at [34]-[35].

seismic surveying activities on non-marine mammals would be inadequately managed through a permitted activity rule.³⁵

60. Accordingly, controlled activity status under the RMA is appropriate to ensure adverse effects can be avoided as required by policy 11 of the NZCPS in relation to threatened marine mammals and to manage potential impacts on other marine species that are not managed by the Code.

Rule 21 – navigation aids (permitted activity)

61. The Minister’s submission sought Rule 21 be a permitted activity exclusively for Council, Port Taranaki, Maritime New Zealand, or the agents of these organisations, and overlooked reference to the Department of Conservation.
62. Mr Lilley’s evidence provides evidence on the Department’s responsibilities under the Marine Reserves Act 1971 with respect to marking the boundaries of marine reserves.³⁶ Mr Lilley’s evidence acknowledges that the preservation of a marine reserve depends on the strict observation by the public with respect to where the boundaries of the marine reserve applies.
63. One point of clarification is that Mr Silver’s evidence recommends that the “Department of Conservation” is listed under clause (aa). As the statutory function of marking the boundaries of marine reserves rests with the Director-General, I submit that it would be appropriate to list the “Director-General of Conservation” under new clause (aa).
64. The requirement to obtain a resource consent could cause unnecessary delays in the instalment of navigation aids, which would compromise the ability to ensure public awareness of “no-take” zones and therefore compromise protection of indigenous biodiversity provided for under the Marine Reserves Act.
65. I submit that including the Director-General of Conservation under rule 21 is consistent with the direction of the NZCPS Policy 5 which requires consideration of effects on land and waters on the coastal environment held or

³⁵ Statement of evidence of Graeme Silver dated 12 July 2019, at [110].

³⁶ Statement of evidence of Callum David Lilley dated 12 July 2019, at [21]-[29].

managed under the Conservation Act 1987 and any Act listed in Schedule 1 to that Act, which includes the Marine Reserves Act 1971.

66. Given the statutory roles and responsibilities the Director-General of Conservation has in relation to marine reserves it can be anticipated that the Director-General would be listed alongside Taranaki Regional Council, Port Taranaki, and Maritime New Zealand.
67. It is my submission that the Panel has scope to amend the rule to include the Director-General Conservation within clause standard (aa) of Rule 21.
68. It is my submission that in fact scope is provided in the submissions by those parties seeking higher activity status for the rule.³⁷ The notified version of the proposed plan provides for navigation aids as a permitted activity regardless of who undertakes it. I submit that the inclusion of Director-General of Conservation alongside the list of agencies permitted to undertake the instalment of navigation aids is a matter that sits between the notified version of Rule 21 and relief sought in those parties' submissions.

Rule 35 – maintenance repair of existing lawfully established structures (permitted activity), Rule 38 – structure removal and replacement (permitted activity), Rule 44 – structure removal or demolition (permitted activity)

69. The s 42A report recommends declining the Minister's submission to include new conditions to rules 35, 38 and 44 addressing:
 - a. How the use of vehicles and machinery in the coastal environment will be avoided where possible, and minimised/effects mitigated where necessary (including taking the shortest and least sensitive route).
 - b. The requirement for construction equipment including spoil, litter or equipment to be removed within 24 hours of completion of any works.
 - c. The prohibition of refuelling or fuel storage occur within the coastal environment and that methods should be employed to avoid any fuel spillage.

³⁷ For example, Te Korowai o Ngāruahine Trust, and Ngati Rahiri Hapū.

70. Mr Neale’s evidence describes the adverse effects which vehicles in the coastal environment can cause, including compaction, crushing, vegetation destruction, weed and pest incursion, and noise, which are more pronounced in sensitive environments like mudflats and shellfish/crab beds.³⁸
71. Mr Silver recommends amendments to Rules 35 and 44 by way of additional standards which will require any disturbance to the foreshore or seabed is restored to its previous state where practicable and that steps are taken to avoid storing fuel in the coastal marine area, and to minimise the extent of any debris entering the coastal marine area.
72. In my submission, the amendments provided by Mr Silver are required to implement the NZCPS Policy 11 relating to effects on indigenous biodiversity. Mr Silver’s amendments also implement NZCPS Policy 20(1) which requires controls on vehicle use on the foreshore and seabed where certain effects, such as harm to ecological systems or to indigenous flora and fauna, might occur.

New Method 6.4 – dog control

73. Mr Lilley’s evidence describes the threats dogs impose on indigenous species, including the blue penguin and New Zealand fur seals.
74. The s42A report recommends amending method 14 to state “*advocate when appropriate, to relevant agencies, to protect significant indigenous biodiversity.*” However, it is my submission that this suggested amendment is too broad and does not explicitly highlight the issue of dog control. The new method sought by the Minister signals the importance of the matter to district councils. This is particularly critical in light of continuing decline in species, habitats and ecosystems in the coastal environment which are already under pressure from a range of anthropogenic activities (i.e. subdivision and use) – pressure compounded by the threat’s dogs pose as described in Mr Lilley’s evidence.

CONCLUSION

75. The Minister’s primary concerns are to ensure the Proposed Plan:

³⁸ Statement of evidence of Donald Malcolm Neale dated 12 July 2019, at [33].

- a. meets RMA requirements and gives effect to the NZCPS; and
- b. enables the Department's functionaries to properly undertake their statutory functions.

76. The evidence of Mr Silver, read alongside the evidence of the other witnesses called by the Minister, demonstrate why further amendments to the Proposed Plan are required. In my submission, adoption of Mr Silver's changes will ensure that the Proposed Plan achieves the requirements traversed in these submissions.

77. I would like to thank the Panel for the opportunity to be heard, and the reporting officers from the Council for their contributions to this process.

DATED this 16th day of July 2019



May Downing

Solicitor for the Minister of Conservation

Appendix One: relevant NZCPS provisions

Policy 5 Land or waters managed or held under other Acts

- (1) Consider effects on land or waters in the coastal environment held or managed under:
 - (a) the Conservation Act 1987 and any Act listed in the 1st Schedule to that Act; or
 - (b) other Acts for conservation or protection purposes;and, having regard to the purposes for which the land or waters are held or managed:
 - (c) avoid adverse effects of activities that are significant in relation to those purposes; and
 - (d) otherwise avoid, remedy or mitigate adverse effects of activities in relation to those purposes.
- (2) Have regard to publicly notified proposals for statutory protection of land or waters in the coastal environment and the adverse effects of activities on the purposes of that proposed statutory protection.

Policy 11 Indigenous biological diversity (biodiversity)

To protect indigenous biological diversity in the coastal environment:

- (a) avoid adverse effects of activities on:
 - (i) indigenous taxa⁴ that are listed as threatened⁵ or at risk in the New Zealand Threat Classification System lists;
 - (ii) taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;
 - (iii) indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare⁶;
 - (iv) habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;
 - (v) areas containing nationally significant examples of indigenous community types; and
 - (vi) areas set aside for full or partial protection of indigenous biological diversity under other legislation; and
- (b) avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:
 - (i) areas of predominantly indigenous vegetation in the coastal environment;
 - (ii) habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;
 - (iii) indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;
 - (iv) habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;
 - (v) habitats, including areas and routes, important to migratory species; and
 - (vi) ecological corridors, and areas important for linking or maintaining biological values identified under this policy.

⁴ Taxa as defined in the Glossary.

⁵ Examples of taxa listed as threatened are: Maui's dolphin, Hector's dolphin, New Zealand fur seal, Southern New Zealand doddle.

⁶ Naturally rare, as defined in the Glossary.

Policy 12 Harmful aquatic organisms

- (1) Provide in regional policy statements and in plans, as far as practicable, for the control of activities in or near the coastal marine area that could have adverse effects on the coastal environment by causing harmful aquatic organisms⁷ to be released or otherwise spread, and include conditions in resource consents, where relevant, to assist with managing the risk of such effects occurring.
- (2) Recognise that activities relevant to (1) include:
 - (a) the introduction of structures likely to be contaminated with harmful aquatic organisms;
 - (b) the discharge or disposal of organic material from dredging, or from vessels and structures, whether during maintenance, cleaning or otherwise; and whether in the coastal marine area or on land;
 - (c) the provision and ongoing maintenance of moorings, marina berths, jetties and wharves; and
 - (d) the establishment and relocation of equipment and stock required for or associated with aquaculture.

Policy 13 Preservation of natural character

- (1) To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use, and development:
 - (a) avoid adverse effects of activities on natural character in areas of the coastal environment with outstanding natural character; and
 - (b) avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment;including by:
 - (c) assessing the natural character of the coastal environment of the region or district, by mapping or otherwise identifying at least areas of high natural character; and
 - (d) ensuring that regional policy statements, and plans, identify areas where preserving natural character requires objectives, policies and rules, and include those provisions.
- (2) Recognise that natural character is not the same as natural features and landscapes or amenity values and may include matters such as:
 - (a) natural elements, processes and patterns;
 - (b) biophysical, ecological, geological and geomorphological aspects;
 - (c) natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs and surf breaks;
 - (d) the natural movement of water and sediment;
 - (e) the natural darkness of the night sky;
 - (f) places or areas that are wild or scenic;
 - (g) a range of natural character from pristine to modified; and
 - (h) experiential attributes, including the sounds and smell of the sea; and their context or setting.

⁷ Harmful aquatic organisms: as defined in the Glossary.

Policy 15 Natural features and natural landscapes

To protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development:

- (a) avoid adverse effects of activities on outstanding natural features and outstanding natural landscapes in the coastal environment; and
- (b) avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects of activities on other natural features and natural landscapes in the coastal environment;

including by:

- (c) identifying and assessing the natural features and natural landscapes of the coastal environment of the region or district, at minimum by land typing, soil characterisation and landscape characterisation and having regard to:
 - (i) natural science factors, including geological, topographical, ecological and dynamic components;
 - (ii) the presence of water including in seas, lakes, rivers and streams;
 - (iii) legibility or expressiveness—how obviously the feature or landscape demonstrates its formative processes;
 - (iv) aesthetic values including memorability and naturalness;
 - (v) vegetation (native and exotic);
 - (vi) transient values, including presence of wildlife or other values at certain times of the day or year;
 - (vii) whether the values are shared and recognised;
 - (viii) cultural and spiritual values for tangata whenua, identified by working, as far as practicable, in accordance with tikanga Māori; including their expression as cultural landscapes and features;
 - (ix) historical and heritage associations; and
 - (x) wild or scenic values;
- (d) ensuring that regional policy statements, and plans, map or otherwise identify areas where the protection of natural features and natural landscapes requires objectives, policies and rules; and
- (e) including the objectives, policies and rules required by (d) in plans.

Policy 20 Vehicle access

- (1) Control use of vehicles, apart from emergency vehicles, on beaches, foreshore, seabed and adjacent public land where:
 - (a) damage to dune or other geological systems and processes; or
 - (b) harm to ecological systems or to indigenous flora and fauna, for example marine mammal and bird habitats or breeding areas and shellfish beds; or
 - (c) danger to other beach users; or
 - (d) disturbance of the peaceful enjoyment of the beach environment; or
 - (e) damage to historic heritage; or
 - (f) damage to the habitats of fisheries resources of significance to customary, commercial or recreational users; or
 - (g) damage to sites of significance to tangata whenua;might result.
- (2) Identify the locations where vehicular access is required for boat launching, or as the only practicable means of access to private property or public facilities, or for the operation of existing commercial activities, and make appropriate provision for such access.
- (3) Identify any areas where and times when recreational vehicular use on beaches, foreshore and seabed may be permitted, with or without restriction as to type of vehicle, without a likelihood of any of (1)(a) to (g) occurring.

Policy 25 Subdivision, use, and development in areas of coastal hazard risk

In areas potentially affected by coastal hazards over at least the next 100 years:

- (a) avoid increasing the risk²⁰ of social, environmental and economic harm from coastal hazards;
- (b) avoid redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards;
- (c) encourage redevelopment, or change in land use, where that would reduce the risk of adverse effects from coastal hazards, including managed retreat by relocation or removal of existing structures or their abandonment in extreme circumstances, and designing for relocatability or recoverability from hazard events;
- (d) encourage the location of infrastructure away from areas of hazard risk where practicable;
- (e) discourage hard protection structures and promote the use of alternatives to them, including natural defences; and
- (f) consider the potential effects of tsunamis and how to avoid or mitigate them.

Policy 27 Strategies for protecting significant existing development from coastal hazard risk

- (1) In areas of significant existing development likely to be affected by coastal hazards, the range of options for reducing coastal hazard risk that should be assessed includes:
 - (a) promoting and identifying long term sustainable risk reduction approaches including the relocation or removal of existing development or structures at risk;
 - (b) identifying the consequences of potential strategic options relative to the option of 'do-nothing';
 - (c) recognising that hard protection structures may be the only practical means to protect existing infrastructure of national or regional importance, to sustain the potential of built physical resources to meet the reasonably foreseeable needs of future generations;
 - (d) recognising and considering the environmental and social costs of permitting hard protection structures to protect private property; and
 - (e) identifying and planning for transition mechanisms and timeframes for moving to more sustainable approaches.
- (2) In evaluating options under (1):
 - (a) focus on approaches to risk management that reduce the need for hard protection structures and similar engineering interventions;

¹⁰ Risk as defined in the Glossary.

- (b) take into account the nature of the coastal hazard risk and how it might change over at least a 100-year timeframe, including the expected effects of climate change; and
 - (c) evaluate the likely costs and benefits of any proposed coastal hazard risk reduction options.
 - (3) Where hard protection structures are considered to be necessary, ensure that the form and location of any structures are designed to minimise adverse effects on the coastal environment.
 - (4) Hard protection structures, where considered necessary to protect private assets, should not be located on public land if there is no significant public or environmental benefit in doing so.

BEFORE THE TARANAKI REGIONAL COUNCIL

IN THE MATTER of the Resource Management
Act 1991

AND

IN THE MATTER of the Proposed Coastal Plan
for Taranaki

**STATEMENT OF EVIDENCE OF GRAEME DOUGLAS SILVER ON BEHALF OF THE
MINISTER OF CONSERVATION
DATED 12 JULY 2019**

Department of Conservation

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INTRODUCTION

- 1 My name is Graeme Douglas Silver.
- 2 I am currently employed as a Senior Planner with the Department of Conservation, based in Hamilton, where I have worked since May 2017. Prior to this I worked for the Waikato Regional Council for 15 years and the Gisborne District Council for two years. I held a variety of roles including Senior Policy Advisor and Environmental Planner, Coastal.
- 3 While employed by these councils I worked on a wide range of regional planning topics including water quality classifications, marine farming, coastal structures, moorings and marina management, coastal hazards, identification of significant natural areas, and implementation of the New Zealand Coastal Policy Statement (NZCPS).
- 4 I was a technical officer on the Hauraki Gulf Forum, represented regional councils on the Aquaculture Implementation Team from 2005 to 2008 and was a member of the Stakeholder Reference Group working on the National Environmental Standard for Aquaculture from 2015 to 2018.
- 5 I was a member of Local Government New Zealand's Coastal Special Interest Group, from 2001 to 2017 and Convener of the Group from 2015 to 2017.
- 6 I hold a Masters of Science in Geography from the University of Auckland.

CODE OF CONDUCT FOR EXPERT WITNESSES

- 7 I have read and agree to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014. While this is not an Environment Court hearing, I have prepared this evidence in accordance with that code for this hearing. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed. I confirm that the issues addressed in this

brief of evidence are within my area of expertise. I have specified where my opinion is based on limited or partial information and identified any assumptions I have made in forming my opinions. I have also identified where I have relied on the expertise of others.

SCOPE OF EVIDENCE

8. I have been asked by the Minister of Conservation (Minister) to prepare evidence in relation to the submission and further submission on the Proposed Coastal Plan for Taranaki (proposed plan). Any references to the proposed plan in my brief of evidence relate to the plan as originally notified (24 February 2018).
9. In preparing my evidence I have read:
- a. The Section 32 Evaluation report;
 - b. The submissions and further submissions on the proposed plan made by the Minister of Conservation;
 - c. The s42A officer report for the proposed plan entitled 'Section 42A Report Proposed Coastal Plan for Taranaki'. I refer to this as the s42A officer's report or the officer's report in my evidence;
 - d. The evidence of Callum Lilley in relation to the burial of marine mammals, marine reserve markers, project reef, and the impacts of dogs on wildlife;
 - e. The evidence of Don Neale in relation to marine ecology;
 - f. The evidence of Dave Lundquist in relation to seismic surveying and marine mammals;
 - g. The evidence of Sarah Hucker in relation to marine biosecurity.

COASTAL OCCUPATION CHARGES

- 10 The Minister submitted that the Plan must include a statement regarding coastal occupation charges.
- 11 Section 64A of the RMA requires that a council consider whether or not to include a coastal occupation charging regime in the regional coastal plan and include a statement to that effect in the Plan.
- 12 That consideration must have regard to the extent to which public benefits from the coastal marine area will be lost or gained, and the extent to which private benefit is obtained by the occupation.
- 13 The proposed Plan was silent on the matter of coastal occupation charges. The s42A officer's report accepts the submission and recommends the inclusion of a simple note in Chapter 9 Financial Contributions stating:
- The Council is not operating a charging regime for occupation of the coastal marine area.*
- 14 This goes some way to satisfying the requirements of section 64A but it lacks clarity regarding the Council's decision on the issue (if there has been one) and Council's intentions.
- 15 Unless the decision has been delegated to council officers, a resolution will have to be passed by the Council to make the decision required by section 64A. That decision must be based on an assessment that has regard to the public and private benefits. Once these steps are complete, a statement can be included in the Plan.
- 16 It is not clear if such a resolution has been passed. The wording proposed by the s42A report does not indicate if this has occurred and the section 32 report is silent on this matter.
- 17 I recommend that Council include a new sub-section in Section 3.1, after the subsection on coastal hazards. Prior to including this statement in the next version of the proposed Plan, if Council has not already done so, it will need to pass a resolution that it will or will not

impose coastal occupation charges. This suggested wording assumes that they will not:

Coastal occupation charges

The Council has the power to impose charges for the private occupation of public space in the coastal marine area. Any revenue gathered must be spent on the sustainable management of the coastal marine area.

The Council has decided not to include a charging regime in the regional coastal plan at this time. However, this may occur in the future if considered appropriate following an investigation under Method 6.1.8.

18 And include a new method 6.1.8:

Investigate the application of coastal occupation charges in the Taranaki region, with the view to including such charges in this Plan in the future, if appropriate and feasible.

OBJECTIVES

Objective 3 – reverse sensitivity

19 Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd lodged a submission seeking an amendment to the wording of Objective 3 to provide for maintenance and upgrading of infrastructure within the provision.

20 The Minister further submitted on this seeking that the submission be declined. I agree and consider that this amendment is inappropriate. Upgrading of major infrastructure can greatly alter the scale and intensity of an activity. This would introduce considerable uncertainty regarding potential reverse sensitivity effects.

21 The s42A report recommends that the submission is declined as the relief is unnecessary and potentially confusing. I support the Council recommendation to decline the submission.

Objective 5 – coastal water quality

22. The Minister submitted on Objective 5 seeking amendments so that the objective provides for the maintenance of good water quality, and the restoration of degraded water quality where practicable. Fonterra also submitted on this objective seeking an amendment to clarify when coastal water quality must be maintained, and when it must be restored.

23. The s42A report has recommended that Objective 5 be amended to read as follows:

“Water quality in the coastal environment is maintained where it is good and enhanced where it is degraded”.

24. I consider this recommendation is appropriate as it logically sets out the appropriate conditions for enhancement or maintenance of water quality and is more consistent with Policy 21 of the NZCPS. I support the amended version of Objective 5 as recommended in the s42A report.

Objective 6 – natural character

25. The Minister of Conservation requested that the objective be retained as notified.

26. The s42A Report recommends changes to Objective 6 to read:

“The natural character of the coastal environment is preserved and protected from inappropriate subdivision, use and development and is ~~restored~~ enhanced where ~~appropriate~~ degraded”.

27. I support the inclusion of ‘subdivision’ and ‘degraded’ in the recommended wording, however I consider that the original wording of ‘restored’ is more appropriate rather than “enhanced”. “Restored” is consistent with Policy 14 of the NZCPS which concerns the restoration of natural character.

Objective 8 – indigenous biodiversity

28. The Minister of Conservation lodged a submission in relation to Objective 8. The Minister, along with a number of other submitters,

requested that Council map and identify areas of significant indigenous biodiversity in the schedules and maps.

29 The s42A report recommends retaining Objective 8 as originally notified. I support this recommendation and I discuss the mapping of significant indigenous biodiversity under the Schedule 1, 4A, 4B matters later in my evidence.

Objective 13 – coastal hazard risk and public health and safety

30 The Minister of Conservation opposed a submission by Z Energy Ltd, BP Oil Ltd and Mobil Oil Ltd requested that Objective 13 be amended to read:

“The risk of social, cultural, environmental, and economic harm from coastal hazards is not increased to unacceptable levels...”

31 The s42A report recommends accepting this amendment as it allows minor or acceptable risks to occur, while protecting the region from coastal hazards and rewords the objective so that the risk from coastal hazards is not increased “beyond acceptable levels”.

32 I consider that this amendment is inappropriate. An objective should identify the resource management outcome desired. In this case it is the reduction of risk from coastal hazards. The recommended amendment provides for instances where risks can be increased.

33 This approach is contrary to the NZCPS Policy 25(a) which requires councils to, over a 100 year timeframe:

“avoid increasing the risk of social, environmental and economic harm from coastal hazards;”

34 Where there is good reason to build a structure in a location subject to coastal hazard, then it must be constructed in such a way that it does not increase the existing risk of coastal hazards. This could be achieved through design, location selection and enhancing natural defences such as sand dunes.

35 I note that in his evidence, Mr Neale, shows that the degree of risk from coastal hazards is increasing, and climate change is likely to

exacerbate this further. I recommend that Objective 13 is retained as notified and that the recommended amendments are declined.

POLICIES

Policy 1 – coastal management areas

36 The Minister of Conservation submitted on Policy 1 seeking an amendment to include a new characteristic for the open coast management area as follows:

“...provide important habitat for marine species”

37 The s42A report recommends granting the relief in kind by amending the scope of Policy 1(d)(ii) to “refer to marine systems, which encompasses, amongst other things, reef systems that provide habitats for marine life”¹. The recommended amendments to the policy now reads:

“include marine reef systems that provide habitat to marine life, and are valued by Maori for their mahinga kai”

38 I consider this amendment partially addresses the Minister of Conservation’s relief. I agree that “marine systems” is a broader term than “reef systems” and support this terminology. However Policy 1 (d)(ii) also includes ‘AND are valued by Māori for mahinga kai’. I am concerned that the word ‘and’ acts as a qualifier which creates uncertainty around when the characteristic applies. If a marine system provides important habitat for marine life, but is not valued by Māori, then it would not be recognised as a distinguishing characteristic the way the policy is currently written. Inversely, if something is valued by Maori but doesn’t provide habitat to marine life, it would also not be recognised as a characteristic of the open coast.

39 The NZCPS deals with mahinga kai and cultural associations in Objective 2, and Policy 3. It deals with biodiversity in separate objectives and policies. The s42A report does not provide any

¹ Section 42A report on Decisions Requested, Proposed Coastal Plan for Taranaki. 11 June 2019 69/73

justification for the two policies being intertwined. I therefore recommend that mahinga kai and marine systems should be separated from one other, and that marine systems should be dealt with separately in its own sub-policy (d)(v), as recommended by the Minister of Conservation.

Policy 2 – integrated management

40 The Minister of Conservation, and several other parties submitted in opposition of this policy on the basis that clause (c) was unclear and sought clarification.

41 The s42A report has clarified the intention of the policy, but recommends in response to the submissions that Policy 2 be amended to clarify the concept of cross-media effects by deleting clause (c) and inserting a new clause (aa) that reads:

“recognising ki tai ki uta by taking into account the interconnected nature of resources and natural processes in the management of adverse effects across air, land, freshwater bodies and the coastal environment;”

42 In my view this new clause more clearly articulates what is required in terms of integrated management. I support the s42A recommendation to include clause (aa).

Policy 4 – extent and characteristics of the coastal environment

43 The Minister of Conservation requested that the landward extent of the coastal environment be identified and mapped. Without knowing where the coastal environment lies, it is difficult for users of the plan to know whether the objectives and policies apply to their activity.

44 The s42A report recommends including an indicative landward extent of the coastal environment that is aligned with the district councils’ identified coastal environment. New Plymouth District has identified a “Coastal Environment Area” in its District Plan. South Taranaki District Council has identified a “Coastal Protection Area (Inland Boundary) in its proposed District Plan.

45. The s42A report also recommends that TRC retains the ability to consider the extent of the coastal environment on a case-by-case basis through the consenting process
46. I support the coastal environment line being consistent with the New Plymouth District Council and South Taranaki District Council coastal environment lines, and the inclusion of the line in the Plan. A coastal environment line shown on the planning maps will create clarity for most plan users. In cases of major consent applications close to the line a case-by-case assessment may still be appropriate. This consistency maintains an integrated approach between the regional council and the territorial authorities that manage parts of the coast, in line with Policy 4 of the NZCPS.
47. In his evidence, Mr Donald Neale also supports the identification of the coastal line and the ability to consider it on a case-by-case basis.
48. On a related issue I note that this Plan is a regional coastal environment plan but is not labelled as such. This has the potential to create some confusion as it is only in section 1.4.1 that the Plan states that it applies to the coastal environment with some further discussion in section 1.4.2. Many Plan users will skip the introductory sections and go straight to the policy and rule sections. For these reasons, I recommend that the title of the Plan be changed to “Coastal Environment Plan for Taranaki”.

Policy 5 – Appropriate use and development of the coastal environment

Trans-Tasman Resources Submission

49. Trans-Tasman Resources Ltd submitted seeking that Policy 5 (b) is amended to include the contributions of petroleum and mineral resources as matters which must be regarded when determining the appropriateness of an activity in the plan. The Minister opposed this submission.
50. The s42A report recommends granting Trans-Tasman’s relief and amended Policy 5(b) as follows:

The benefits to be derived from ~~the~~ other activities at a local, regional, and national level including the existing and potential

contribution of petroleum and mineral resources, and the potential contribution of aquaculture, and renewable energy sources...”

51 I disagree with the officer’s recommendation. The amendment goes beyond the NZCPS, which seeks to encourage low impact and renewable resource as a national policy directive. The amendment elevates the petroleum and mineral resources above these activities by recognising existing as well as future contributions. It is therefore in conflict with the NZCPS.

52 Furthermore, the benefits of mineral and petroleum activities are not excluded from consideration by the original wording of the policy. They can additionally be considered under Policy 6 where they are part of, or contribute to, regionally significant infrastructure. This includes, among other things, facilities and pipelines for the supply or distribution of minerals and their derivatives.

New Clause (aa)

53 The s42A report recommends including a new clause under Policy 5:
“whether the activity relates to the use, operation, maintenance and alteration of regionally important infrastructure”

54. It is unclear from what submission this recommended amendment originates. The track changes version of the plan indicates that the amendment is a result of a submission by Transpower (submitter 26), but new clause (aa) is not identified in the relief sought in Transpower’s submission.

55 Notwithstanding the unclear origin of new clause (aa), I consider that it is not appropriate to include in Policy 5 as Policy 6 already explicitly provides for the recognition of regionally important infrastructure. I recommend that new clause (aa) should not be accepted.

New policy 5A

56 Forest and Bird are seeking amendments to the plan by including a new policy that identifies appropriate locations for aquaculture, and until appropriate places are identified, excluding aquaculture from

outstanding value areas, estuaries modified, and estuaries unmodified.

57. The s42A report recommends declining this relief on the basis that it is not appropriate or necessary to identify these locations as Taranaki is not currently conducive to aquaculture activities.
58. Policy 8 of the NZCPS requires that a regional coastal plan must provide for aquaculture activities in appropriate places in the coastal environment. Whether aquaculture activities currently occur in the region is irrelevant and does not provide an exemption from this requirement. Currently the policy framework does not determine where aquaculture is appropriate, and Policy 5 (b) of the plan does not determine locations where it is appropriate and is inconsistent with Policy 8 of the NZCPS.
59. The RPS requires Council to consider the need to make provision for the need for aquaculture management areas.² There may be no demand for aquaculture presently, but the industry is innovative and future technologies may enable aquaculture in areas which are presently “not conducive” to those activities. Any future demand for aquaculture should be planned for, to avoid effects on outstanding natural character, outstanding natural features and landscapes, indigenous biodiversity. As stated in the evidence of Mr Neale, this approach is better as it directs aquaculture activities away from sensitive areas.
60. I recommend that new Policy 5A as proposed by Forest and Bird or similar be accepted and included in the plan.

Policy 8 and 9 – natural character and natural features and landscapes

61. The Minister of Conservation requested changes to Policy 9.
62. The s42A report recommends amending Policy 9 to read:

² Regional Policy Statement for Taranaki 2010, CNC METH 3, Page 72

- *Protect ~~all other areas of~~ the natural character, features and landscapes of the coastal environment not addressed in Policy 8 by:...*

R3 Policy 8 is also amended to read:

- *Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 4 2 from inappropriate subdivision, use and development by:*

(a) avoiding adverse effects of activities on the values and characteristics including those identified in Schedule 2 that contribute to areas:...

R4 I support this amendment. The proposed wording means that Policy 8 and Policy 9 follow a hierarchy of avoid 'adverse' effects on areas with outstanding value and avoid 'significant adverse' effects for any other areas that haven't been identified as outstanding (policy 9). This is in line with NZCPS Policy 13(1)(a) and 13(1)(b) regarding natural character, and Policy 15(a) and 15(b) regarding natural landscapes.

R5 Furthermore, the inclusion of 'including those' in the Policy 8(a) wording recognises that the values identified the Outstanding areas in Schedule 2 may not necessarily be a complete list.

R6 Royal Forest and Bird submitted seeking deletion of Policy 9. I do not support this request.

New policy 9A

R7 New policy(s) 9A was proposed by the Royal Forest and Bird Protection Society in its submission. They requested a policy (or policies) that would identify further areas of high and outstanding natural character, features and landscapes, and protect them.

R8 The Plan includes a schedule of areas of outstanding areas but does not include the criteria for identifying them. Therefore the plan currently does not provide for the identification of outstanding natural character and outstanding natural features and landscapes beyond those identified in the 2015 study.

Identification of high and outstanding areas

- 69 Identification of natural character and landscapes are an important part of implementing Policy 13 and 15. There are challenges in undertaking these studies, and as a result there may be gaps and changing baselines. In particular natural character values may change over time – an area of high natural character may be later deemed to be outstanding, and vice versa, or an area not identified for high or outstanding natural character may later be considered to have that quality.
- 70 The Regional Policy Statement has a policy of matters to be considered for determining natural character. However, this list is based on the 1994 NZCPS and includes matters that are no longer considered in the 2010 NZCPS for natural character, such as historic heritage.
- 71 I understand that the areas of outstanding natural character and outstanding natural features and landscapes included in Schedule 2 were identified by the *Regional landscape study of the Taranaki coastal environment (2015)*. This study outlines the statutory considerations for identifying natural character and landscapes, including Policy 13 and 15. For natural character identification, the study has a table of ‘criteria for assessing the degree of natural character’ which includes abiotic, biotic, perceptual and experiential elements of natural character. For natural landscape identification, the study has a table for ‘criteria for assessing the significance of natural features and landscapes’.
- 72 I recommend a policy that identifies a list of matters, or criteria for identifying natural character and natural features and landscape can recognise these gaps and allow for further investigation where it may be necessary and on a case-by-case basis. I support the *Regional landscape study of the Taranaki coastal environment (2015)* as appropriate method for identifying natural character and landscapes. A policy for identification could include reference to this study.

Policy for high natural character

- 73 The plan currently does not identify 'high' natural character; it has only identified areas of outstanding natural character. Policy 13(1)(c) requires the natural character of a region or district to be assessed by 'mapping or otherwise identifying at least areas of high natural character'.
- 74 The *Regional landscape study of the Taranaki coastal environment (2015)* has a draft policy which identifies areas of high natural character and a policy that sets out how the effects on natural character (including high natural character areas and values) are to be managed³. These draft policies were written in the context of the operative Coastal Plan and would not be an appropriate fit in this proposed Coastal Plan.
- 75 As discussed earlier, identification of outstanding and high natural character is a fundamental part of implementing NZCPS Policy 13 and being able to assess adverse effects and significant adverse effects under Policy 8 and 9 respectively.
- 76 I recommend that identification of high natural character is included in a plan policy. I also request that areas of high natural character are identified and mapped in the Plan.

Policy 14 – indigenous biodiversity

Removing 'areas' from the policy wording

The Minister requested the amendment of Policy 14 and the mapping and identification of significant indigenous biodiversity.

- 77 The s42A report recommends the following wording:
"Protect ~~areas of~~ significant indigenous biodiversity in the coastal environment and maintain and enhance indigenous biodiversity by [...]"
- 78 I agree with officers' justification that removal of the words 'areas of' better aligns with the definition of 'significant indigenous biodiversity'.

³ *Regional landscape study of the Taranaki coastal environment (2015) page 38 – draft policy 1.1 and 3.2*

Identification of indigenous biodiversity

79 The s42A report states that the Regional Policy Statement BIO Policy 4 provides criteria for the identification of significant indigenous biodiversity. Therefore criteria do not need be repeated in a policy in the Plan. I agree with this statement.

80 I maintain the importance of identifying areas of significant indigenous biodiversity to give effect to section 6(c) of the RMA and Policy 11 of the NZCPS. I discuss the mapping of significant indigenous biodiversity later in my evidence.

Policy 14 interaction with New Policy 6A: Benefits of regionally important infrastructure

81 Policy 14 requires significant indigenous biodiversity to be protected by 'avoiding adverse effects' of activities. Similarly, Policy 8 requires avoiding adverse effects to protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value. Policy 8 and Policy 14 give effect to NZCPS Policy 13 and 15, and NZCPS Policy 11, respectively.

82 Policy 6A requires the National Grid to 'seek to avoid' adverse effects on areas of outstanding value and significant indigenous biodiversity.

83 The National Policy Statement for Electricity Transmission (NPSET) sets out objectives and policies, including with respect to recognising the national benefits of transmission and to managing the environmental effects of transmission.

84 Policy 8 of the NPSET is particularly relevant in this instance:

- *Policy 8. In rural environments, planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities.*

85 The proposed wording of Policy 6A, 8 and 14 of the Plan all give effect to higher-level national policy statements, being the NPSET and NZCPS. These policies include the policy direction from both national

policy statements without stating whether one has precedence over the other. How directive each relevant policy is, actual and potential effects of the values of concern and the practicality of alternatives would be considerations for each specific proposal.

86 In my opinion the 'avoid adverse effects/avoid significant adverse effects' directive from policy 13 and 15 of the NZCPS and the 'seek to avoid adverse effects' directive from the NPSET needs to be reconciled on a case-by-case basis in a resource consent process.

Policy 38 – removal of coastal structures

87 New Zealand Petroleum and Minerals submitted seeking that Policy 38 is amended to allow matters such as health and safety concerns, unreasonable costs, or technical constraints to be considered when assessing whether a structure may be abandoned.

88 Officers have recommended accepting part of the relief by including clauses (d) and (e), and decline part of the relief, concluding that unreasonable costs are not an appropriate justification for abandoning a structure.

89 NZCPS policy 6(2)(e)(ii) directs that unless a structure has heritage, amenity, or reuse value, it must be removed from the coastal marine area. If the removal of a structure is cost-prohibitive, it should not be granted resource consent in the first instance. Avoiding granting consent to structures which cannot be feasibly removed is a more effective and appropriate way to reduce the need for structures to be abandoned in the CMA.

90 The occupation and use of the foreshore or seabed can adversely affect public access through the reduction of available public space, and the exclusively occupation of the CMA. Mr Neale's evidence also describes some of the adverse effects which can be caused by structures. Ensuring their removal is important to managing these effects, as well as maintaining and restoring the natural values of the coastal environment.

91 I agree with the recommendation by Council to decline the inclusion of
“unreasonable cost” as a matter for consideration.

Policy 44 – extraction or deposition of material

92 Trans – Tasman Resources Ltd submitted seeking that Policy 44 is
amended by deleting clause (f) which requires that where appropriate,
deposited material is of a similar size, sorting and parent material to
the receiving environments.

93 At para 39 of Mr Neale’s evidence he identifies that the deposition of
sediment from another, different source can have significant adverse
effects.

94 The s42A report recommends declining this relief because the
requirement is both reasonable and appropriate. I support this
recommendation and consider that Policy 44(f) should be retained as
notified.

METHODS OF IMPLEMENTATION

New method 6.4 – dog control

95 The Minister of Conservation submitted seeking a new method be
included as follows:

*“Encourage district councils to enforce dog control bylaws to preserve
indigenous biodiversity by reducing the risk of dogs killing or injuring
native birds, marine mammals and other indigenous species.”*

96 Officers have recommended partially granting the relief by amending
method 14 as follows “*advocate when appropriate, to relevant
agencies, to protect significant indigenous biodiversity...”.* And
comment that there are disadvantages to confining advocacy to a
single issue.

97 In my opinion this does not go far enough. The evidence of Mr Lilley
identifies the significant impacts of dogs on biodiversity in Taranaki’s
coastal environment, particularly on shorebirds, blue penguins, and
seals. As Mr Lilley states, DOCs ability to manage this issue is limited

and the occurrence of dog attacks has increased in frequency over time and is likely underestimated.

- 98 The Regional Policy Statement Policy BIO METH 13 states a method for achieving the intending biodiversity outcomes for the region is to ‘advocate to relevant agencies, the use of other legislation... or mechanisms to protect and restore areas of significant indigenous vegetation and habitats of indigenous fauna’. This includes advocating to district councils the use of the Local Government Act 2002 to create and enforce local bylaws. Clearly signalling this in the coastal plan can be used to highlight to the region that specific action is required. Further, it can be difficult for councils to justify expenditure in an annual or long-term plan without clear support from other statutory documents. It is therefore important to signal to Councils through this plan that dog control is a regionally important issue.
- 99 In response to the comment that confining advocacy to a single issue can be disadvantageous, I agree but similarly a broad-generalised comment as recommended will not clearly signal the necessary change.
- 100 If other significant biodiversity issues arise that require specific advocacy methods then I recommend that Council consider a plan change to add them.
- 101 I recommend that Council include a new method as outlined at para 95

REGIONAL RULES

Rule Framework and Schedules 4A and 4B

- 102 The Minister’s submission frequently refers to the need to ensure that the plan to give effect to the NZCPS. It suggests a number of amendments necessary to give effect to the provisions of the NZCPS, including amendments to the rules.
- 103 NZCPS Policy 11(a)(i) though (vi) lists six sub-sets of indigenous biodiversity in the coastal environment, which must be protected from the adverse effects of activities, by avoiding adverse effects. As

discussed earlier in my evidence, Policy 14 of the plan gives effect to NZCPS Policy 11. It appears that the rule framework intends to give effect to Policy 14 of the plan through matters of discretion and ensuring that permitted and controlled activities do not have adverse effects on species or habitats listed in Schedules 4A or 4B.

104 In giving effect to the NZCPS, Schedules 4A and 4B identify the following:

- Threatened or at-risk species;
- whether the taxa are listed by the International Union for Conservation of Nature and Natural Resources as threatened;
- naturally rare or uncommon ecosystem types; and
- sensitive marine benthic habitats.

105 However, the two schedules **do not** identify:

- Areas containing nationally significant examples of indigenous community types; and
- Habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;

106 The Minister has not submitted seeking these be included in Schedule 4A or 4B, however in my view the omission of these habitats and areas further highlights the need for more control over permitted and controlled activities, especially in Outstanding Value, and Estuaries Unmodified coastal management areas.

Rule 12 - seismic surveying and bathymetric testing

107 The Minister of Conservation sought that Rule 12 is retained as notified and supported the inclusion of the *Code of Conduct for minimising acoustic disturbance to marine mammals from seismic survey operations* (the Seismic Code). The Minister of Conservation, in her submission, also acknowledged that the Seismic Code is being reviewed, and that there are currently investigations underway into a potential whale sanctuary in the Taranaki region which, if established, may warrant this rule being reconsidered.

- 108 Officers recommend that Rule 12 be split into two rules, a permitted activity for bathymetric testing and an additional rule (Rule 12A) for seismic surveying as a Controlled Activity. This appears to be in response to the large number of submitters that oppose Rule 12 as notified who are concerned that relying on the Seismic Code may result in adverse effects on a wider range of marine species which the code cannot directly manage.
- 109 I consider that the recommended controlled activity status for seismic surveying activities is more appropriate than a permitted rule. In his evidence, Mr Lundquist states that 'the seismic Code was developed specifically to reduce risks to marine mammals' and that in general 'the seismic Code does not consider effects of the activity on species which are not marine mammals and therefore does not manage those effects'.
- 110 In my view, the potential impacts of seismic surveying activities including those on non-marine mammals would be inadequately managed through a permitted activity rule. Council would have no ability to regulate these activities, given the potentially adverse impacts of the activity as referred in Mr Lundquist's evidence, in my view it is important that Council retain this control. The recommendation for a controlled activity status is supported as Council will be able to control the method, timing, location, and impacts to protect indigenous biodiversity from adverse effects through conditions of consent.

Rule 21 – navigation aids

111. The Minister of Conservation submitted on this rule seeking that the erection of navigation aids should be a permitted activity exclusively for Council, Port Taranaki, Maritime New Zealand, or the agents of those organisations.
112. Officers recommend accepting this submission and granting the Minister of Conservation's relief.
- 113 I agree that permitting any member of the public to erect a maritime navigation aid in the coastal marine area is inappropriate. The installation of lights, buoys, and beacons should be permitted for only

those agencies which have an operational need to erect these structures. Port Taranaki, Taranaki Regional Council, and Maritime NZ all have roles and responsibilities which require owning and maintaining aids to navigation. This includes the safe and efficient operation of maritime facilities, operating the port, and ensuring maritime safety. As the officers note, the placement of maritime navigation aids provides a critical service.⁴

114. As identified in the evidence of Mr Callum Lilley, the Department of Conservation also has roles and responsibilities which require the erection and maintenance of aids to navigation on a regular basis. One of DOC's roles is to administer the Marine Reserves Act 1971 which includes administering marine reserves that fall within Taranaki coastal environment like the Tapuae, and Parininihi marine reserves. DOC also manages the Ngā Motu/Sugar Loaf Islands Marine Protected Area under the Sugar Loaf Islands Marine Protected Area Act 1991. Navigation aids are used to demarcate the boundaries of these protected areas.

115. In my opinion, the placement of navigation aids at these sites is also a critical service for both navigation safety and the protection of biodiversity in the region. I therefore consider that similar to Council, Port Taranaki, and Maritime NZ, DOC has an operational need to frequently erect and maintain navigation aids.

116. I support the officer's recommendation, and consider that a further amendment should be made to include DOC as one of the agencies under Rule 21, new clause (aa) as follows:

"(aa) the activity is undertaken by:

- (i) Taranaki Regional Council or its agents; or*
- (ii) Port Taranaki or its agents (within the port); or*
- (iii) Maritime New Zealand or its agents; or*
- (iv) The Department of Conservation*

⁴ Section 42A report on Decisions Requested, Proposed Coastal Plan for Taranaki. 28 June 2019
Page 298

Rule 22 & new rule – network utility structure erection or placement

117. The Minister of Conservation submitted requesting that the reference to the burial of pipelines is removed from the activity description and separated into a new restricted discretionary rule.
118. Officers recommend declining the relief sought. Officers agree that the burial of pipes and cables may have significantly different levels and types of effects compared with attaching them to a bridge or wharf, but consider that the standards and matters of control will allow for the sufficient management of adverse effects.
119. I acknowledge that Council can impose conditions of consent relating to the matters of control, and if the activity does not comply with the standards then it becomes either a discretionary or non-complying activity. I am concerned that there is still no ability for council to decline the activity. As identified in the evidence of Mr Don Neale, the burial of pipelines can have a range of adverse effects, particularly on benthic species. There is no standard in Rule 22 which protects the sensitive marine benthic habitats identified in Schedule 4B of the plan from the impacts of burying a pipeline.
120. NZCPS policy 11(b)(iii) requires avoidance of significant adverse effects on indigenous ecosystems and habitats that are only found in the coastal environment which are particularly vulnerable to modification. Rule 22 at present does not avoid significant impacts of pipelines on the sensitive marine benthic habitats identified in Schedule 4B. Further, for the reasons discussed earlier in my evidence the rule does not address impacts on threatened ecosystem types, or nationally significant examples of community types as directed by NZCPS Policy 11(a). The matter of control relating to location is no guarantee of avoidance of adverse effects on NZCPS 11(a) sites and values or significant adverse effects on NZCPS 11(b)(iii) sites, particularly if the pipeline has a functional need to be located within a particular alignment. I consider that without the discretion to decline such an activity, Council will not be able to avoid adverse effects as required by the NZCPS.
121. I therefore recommend that the burial of a network utility pipeline be separated from Rule 22 and become a new restricted discretionary

rule. The matters of discretion would be the same as the matters of control from Rule 22. This would provide Council the ability to avoid significant impacts on sensitive marine benthic habitats, threatened ecosystems, and nationally significant ecosystem types consistent with NZCPS Policy 11.

Rule 34 – other structure erection or placement not provided for in Rules 18 – 32

122. First Gas Ltd is seeking amendment to Rule 34 of the Plan to make network utility underground pipelines or pipelines attached to existing bridge or access structures in Outstanding Value coastal management area a Controlled Activity (rather than Non-complying).

123. The S42A Officers recommend an alternative relief by amending Rule 22 (Network utility structure erection or placement) to include Outstanding Value coastal management areas as a Controlled Activity.

124. As discussed earlier in my evidence at paras 117-121, it is not possible to manage the effects of a buried pipeline under a controlled activity status. Policy 1 of the proposed plan notes that Outstanding Value coastal management areas characteristically have exceptional biodiversity values or contain marine areas with legal protection. Given the exceptional values of these areas and the concerns I have raised above in relation to Rule 22, it is my view that it is not appropriate to include Outstanding Value areas in Rule 22. I disagree with the officer's recommendation and consider that a restricted discretionary activity status is more appropriate.

New rule 34A

125. Transpower NZ Ltd requested that a discretionary new rule be included in the plan that provides for regionally important infrastructure in coastal management areas: Outstanding Value; Estuaries Unmodified and reads as follows:

“Structure erection or placement associated with Regionally Significant Infrastructure (or the National Grid) and any associated works:

(a) occupation of space in the common marine and coastal area and does not come within or comply with Rules 18 to 32.”

126 The S42A Officers recommend declining the relief. The new rule would apply to activities with significant adverse effects that cannot comply with any other plan rules. Non-compliance with the rules is likely due to the activity creating significant adverse effects which are potentially inappropriate. As the Officers note, the Outstanding Value and Estuaries Unmodified management areas have exceptional/significant values which require a higher level of protection.

127. I support the Officer’s recommendation to decline proposed new rule 34A.

Rules 35 – structure maintenance, repair or minor alteration

128 The Minister of Conservation submitted seeking that Rules 35 and 37 include new standards which address:

- How the use of vehicles and machinery in the coastal environment will be avoided where possible, and minimised/effects mitigated where necessary (including taking the shortest and least sensitive route);
- The requirement for construction equipment including spoil, litter or equipment to be removed within 24 hours of completion of any works; and
- The prohibition of any refuelling or fuel storage occur within the coastal environment. Methods should be employed to avoid any fuel spillage.

129 Officers recommend declining this relief, commenting that these standards are unnecessary and addressed by existing standards (d) and (e) in Rule 35.

130 Maintenance, extension and alteration of structures generally requires the use vehicles and or heavy machinery on beaches, estuaries, and other coastal areas. As discussed in the evidence of Mr Neale, vehicles in the coastal environment can result in adverse effects

including crushing, compaction, tracking, vegetation destruction and surface alteration in vulnerable areas such as mudflats, shellfish/crab beds, saltmarsh and estuaries.

131 Officers consider that standard (e) addresses the effects identified above. This standard requires that *“the extent of disturbance of the foreshore and seabed is limited to the minimum required to undertake the activity”*. While this condition goes some way toward avoiding the adverse effects of vehicles, I am still concerned that there is no requirement to mitigate or remediate any disturbance. Depending on the structure, and the nature of the maintenance, the level of disturbance required to undertake the activity may be significant. In my opinion there needs to be a requirement to restore and remediate the site once works are completed, to the extent practicable.

132 I recommend a new standard is included as follows:

(j) There is no visible disturbance to the foreshore and seabed 48 hours after completion of the activity, or any disturbance to the foreshore or seabed is restored to its previous state;

133 In my opinion, the prohibition of any refuelling or fuel storage in the CMA is impracticable and onerous as any vehicle with a fuel tank would be captured by this standard. However, the storage of other fuels or chemicals ancillary to the activity in the CMA (such as the storage of fuel containers) is also permitted under this rule. The damaging or spillage of these containers is a risk with low probability but potentially significant adverse effects. I do not agree with the Officer’s statement that (d) addresses this risk.

134 In my view an additional standard is required to manage the risk of debris, fuels, or other chemicals entering the CMA as follows:

“steps are taken where practical to avoid storing fuel in the CMA, and to minimise the extent of any contaminant entering the coastal marine area”

Rule 37 – network utility structure repair, alteration or extension

135 The Minister of Conservation submitted on Rule 37 seeking an additional standard which limits the size of any extension to the structure.

136 Officers have recommended new standard (aa) in response to this submission point as follows:

“(aa) the structure envelope, including length, width and height does not increase beyond 10% of the original size within a 24 month period;”

137 In my view this new standard goes some way to ensuring that structures do not ‘creep’ into the CMA through multiple extensions. However I consider the frequency of extension allowed to be too high. I note that Mr Neale identifies that structures in the CMA can have a range of adverse effects and there is a risk of cumulative adverse effects.

138 In my view, if an existing structure requires extensions more frequently than every five years, it should be subject to a discretionary (Rule 42) or non-complying (Rule 43) consent depending on its location.

139 I support the Officer’s recommendation with the following amendment.

“(aa) the structure envelope, including length, width and height does not increase beyond 10% of the original size within a **24-month 5 year** period;”

Rule 38 – structure removal and replacement

140 The Minister of Conservation submitted on Rule 38 seeking the same amendments as those requested for Rule 35 (see paragraph 128 of my evidence) to manage the effects of vehicles in the coastal environment.

141 Officers have recommended deleting Rule 38 to ‘avoid confusion for Plan users and instead rely on Rules 44, 45 and 46 for the removal aspect of the structure, and Rules 18 to 34 for the ‘replacement’. I am not opposed to the deletion of this rule, but I still have concerns with Rule 44 as outlined below.

Rule 44 – structure removal or demolition

142. The Minister of Conservation submitted on Rule 44 seeking the same amendments as those requested for Rules 35 and 38 (see paragraph 128 of this statement) to manage the effects of vehicles in the coastal environment.
143. Similarly, officers have declined the relief and comment that it is unnecessary as the effects are managed by standards (a) and (c). I have already outlined my concerns with standard (a) at paragraph 131 of my evidence and will not repeat them here. Standard (c) requires that *“the activity does not significantly affect sediment movement or lead to increased erosion or scour”*. In my opinion this standard does not manage the risk of debris, fuel, or other chemicals entering the CMA.
144. I recommend that the standards outlined in paras 132 and 134 also be included in Rule 44.

Rule 52 – collection of benthic grab samples

145. Trans-Tasman Resources Ltd submitted seeking that Rule 44 is amended by deleting reference to the need to avoid effects on regionally distinctive species and sensitive benthic habitats.
146. I support the recommendation of officers to decline this relief and retain the recognition and protection of these indigenous biodiversity values.

Rule 54 – burial of dead animals

147. The Minister of Conservation submitted on Rule 54 seeking the following amendment:
- “(e) except for seals, where a marine mammal is buried, the relevant iwi authority is notified prior to the burial taking place”
148. As outline in the evidence of Mr Lilley, dead seals frequently turn up in the Taranaki coastal environment and require burial. My understanding of the intention of condition (e) is to provide for mātauranga and tikanga Māori, and allow tangata whenua to practice their kawa (customary practices). I consider that the above

amendment is appropriate as it allows for these practices, without placing an unnecessary burden on plan users.

149 Officers have recommended granting the above relief, and I support that recommendation.

New rule 61A

150 Transpower New Zealand Ltd submitted seeking a new discretionary rule for other disturbance, damage, destruction, removal or deposition associated with Regionally Significant Infrastructure (or the National Grid) and any associated works. These activities would be discretionary in estuaries unmodified and outstanding value coastal management areas.

151 Existing rule 61 adequately provides an appropriate level of protection for those higher value areas, and Policies 6 and 6A, when read alongside Policy 14, provide a clear framework for managing national grid and regionally significant infrastructure in these sensitive areas.

152 Officers recommend declining the submitter's relief. I support their recommendation.

SCHEDULES

Schedule 1, 4A and 4B - mapping areas of significant indigenous biodiversity

153 The Minister of Conservation submitted in request of identification and mapping of significant indigenous biodiversity areas – in particular to support Schedule 4A. Royal Forest and Bird Protection Society sought the identification of significant indigenous biodiversity areas and including them in the maps under the corresponding coastal management area in Schedule 1. The Minister of Conservation supported this point in their further submission.

154 This s42A report does not recommend mapping of significant indigenous biodiversity due to an incomplete record and data and knowledge gaps. However, officers do recommend specific layers to be included in the planning maps for significant indigenous

biodiversity where complete, including the maui dolphin sanctuary and the significant sea bird areas.

Why is it important to map indigenous biodiversity?

- 155 Identification and mapping provide certainty for those wishing to undertake activities in significant indigenous biodiversity areas, and for the management of the values of those areas. Mapping allows potential consent applicants to be aware of any potential significant indigenous biodiversity at an early stage.
- 156 Mr Donald Neale, in his evidence, addresses the topic of mapping indigenous biodiversity. He comments that there are both benefits and disadvantages of including significant indigenous biodiversity mapping information in a plan. I support his comment that a collective resource of information can have many benefits to inform planning, assessment of effects, and decision-making (while acknowledging that some information is sensitive).

What kinds of areas could be mapped and included?

- 157 I acknowledge that information gaps, which is a particular issue in the marine area, may mean it is not possible to map with confidence the full habitat of a threatened or at risk species. Attempting to do so may have perverse policy outcomes.
- 158 Mr Donald Neale discusses areas that could be mapped, which includes:
- “... bird breeding and feeding locations (eg mudflats, colonies, roosts), rocky reefs and shores, lizard habitats, islands and rock stacks, seal colonies, marine and estuarine vegetation, shellfish beds, biogenic habitats, migration routes (e.g. marine mammals, fish, birds), spawning areas, rare & threatened ecosystems, and critical habitats.”*
- 159 I request that areas of significant indigenous biodiversity are identified and mapped, where the Council has available information, and efforts should be made to fill in the knowledge gaps.

Schedule 2 – Project Reef

- 160 Trans-Tasman Resources is seeking that Project Reef is deleted from Schedule 2 and is no longer referenced as an area of outstanding value.
- 161 The evidence of Mr Lilley highlights some of the significant natural values of the reef, which is highly valued by the community. The areas are assessed as outstanding natural character and it should be recognised in the plan as such, to give effect to the NZCPS, and the RPS.
- 162 Officers recommend retaining Project Reef as an outstanding natural character area, which I support.



Graeme Silver

DATED this 12th day of July

BEFORE THE TARANAKI REGIONAL COUNCIL

Under **The Resource Management Act 1991**

And

In the matter of **The Proposed Coastal Plan for Taranaki**

**Statement of evidence of Donald Malcolm Neale
on behalf of the Minister of Conservation
Dated 12 July 2019**

Department of Conservation

P O Box 10 420

WELLINGTON

Solicitor acting: M Downing

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Introduction

1. My full name is Donald Malcolm Neale.
2. I am employed by the Department of Conservation as a Technical Advisor (Marine Ecosystems) based in Hokitika. I have worked for the Department of Conservation as a coastal and marine specialist since December 1987. I have 31 years of experience in coastal and marine management, policy and science. While much of my work during that time has been focused on the West Coast Region – Te Tai o Poutini, I have scientific diving and field survey experience in other parts of New Zealand, including the Subantarctic Islands, Rakiura/Stewart Island, Fiordland, Canterbury, Marlborough, Tasman and Northland. I have authored or co-authored more than 15 published scientific and planning reports, as well as numerous unpublished internal advice reports and statements of evidence, relating to coastal management. I have some knowledge of the Taranaki coastal environment, including a field inspection on 16-17 July 2019 of key sites along the region's coast from north to south.
3. My qualifications include a Bachelor of Science majoring in Geography and Zoology (1985), and a Master of Science (1st Class Honours) in Geography (1987) from the University of Canterbury. My M.Sc. thesis studied the coastal geomorphology of South Canterbury.
4. I am a founding member of the NZ Coastal Society and have been their Publications Co-ordinator on the executive committee since 2016, and a Regional Co-ordinator. I am a past executive committee member of the NZ Marine Sciences Society.
5. My role as a Technical Advisor (Marine) includes assessing and providing advice on aspects of marine ecology, coastal resource management, coastal physical processes, coastal hazards, marine protected areas, marine mammals and other species, wetlands and estuaries, coastal plans and permits, coastal structures and aquaculture.
6. In preparing my evidence I have read the proposed Taranaki Regional Coastal Plan and the s42A report on decisions requested and officers' recommendations. I have also reviewed relevant scientific literature on the estuarine and marine ecosystems of Taranaki, including the references listed at the end of my evidence.

Code of Conduct

7. I have read and agree to comply with the Code of Conduct for Expert Witnesses produced by the Environment Court. While this is not an Environment Court hearing, I have prepared this evidence in accordance with, and I agree to comply with, that code for this hearing. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed. I confirm that the issues addressed in this brief of evidence are within my area of expertise.

Scope of evidence

8. My evidence will deal with the following:
 - a. Coastal hazards
 - b. Biodiversity, indigenous habitats & species
 - c. Coastal environment line
 - d. Structures
 - e. Sediment & spoil deposition
 - f. Aquaculture

Coastal Hazards

9. Objective 13 of the s42A recommendations allows for coastal hazard risks to be increased up to 'acceptable levels'. In my opinion, it is unusual for an objective to allow an increase in risk. Based on my experience, the definition of what might be 'acceptable' levels of risk would add a degree of uncertainty to the decisions that need to be made. The levels of acceptable risk relating to coastal hazards and their associated activities (such as coastal rock protection works) are likely to be quite different for a landowner, a property developer, a beach user or a Council. However, I consider that the common objective of those parties should be to not increase the level of risk.
10. I note that this objective, especially if read in isolation, could overlook the need for a full prior assessment of coastal hazard risk and response options. For example, rock protection works might be seen as an immediate but perhaps inappropriate fix to prevent an increase in risk resulting from ongoing coastal erosion. As the s42A report recommends, it is important that each objective is not viewed in isolation from other plan provisions.

11. At a national level, the degree of risk from coastal hazards could be regarded as moderately high and increasing. These increasing hazard risks have largely arisen as a result of (a) past developments being allowed in what have turned out to be inappropriate places, before the more recent times when coastal hazards have become much more clearly understood, (b) increasing demand for the use of coastal land, and (c) changes in natural coastal processes in part resulting from climate change and sea level rise. The Taranaki coast is not exempt from these trends.

Biodiversity, indigenous habitats & species

12. The Minister has raised several matters in submissions relating to biodiversity, marine habitats and species.
13. Policy 1(d) of the Proposed Plan does not explicitly recognise that the open coast coastal management area provides habitat for marine species. In my opinion it is important to recognise that the open coast areas support a wide range of species and habitats specifically adapted to the exposed and high energy environments that are less of a feature of other coastal areas. Some examples of ecologically significant species that inhabit the open coast areas are dotterels, reef herons, humpback whales, Māui dolphin, and Cook's scurvy grass. I consider the s42A report's recommended change to Policy 1(d)(ii) to be appropriate from a natural heritage perspective.
14. Method 6.4 (Natural Heritage) does not propose any methods to protect wildlife from dogs. Dogs in the coastal environment can have significant effects on coastal wildlife, and are one of the major threats in New Zealand to flightless and coastal ground-nesting birds like blue penguins (<https://www.westcoastpenquintrust.org.nz>). Other wildlife such as seals, waders and coastal birds can also be disturbed, injured or killed by dogs. Even short-term effects such as scaring birds into flight or chasing seals out to sea can have the potential for longer term effects such as abandonment or reduced usage of significant wildlife habitats. The s42A report's recommended change to broaden Method 14 (under 6.4) to cover advocacy for significant indigenous biodiversity is an improvement, but adding another method relating to the protection of native wildlife from dogs and human activities would help to emphasise locally driven and species-focussed approaches.

15. Rule 52 (scientific grab samples) includes a provision to protect regionally distinctive species. While the maximum size and volume allowed by this provision means that impacts are generally well controlled, it is important that the plan protects regional distinctiveness as well as nationally significant features. Regionally distinctive species (such as those listed in Schedule 4A) add diversity to New Zealand's marine environments and play a significant part in creating the differences that occur around the country's coastline.
16. Schedules 1 to 4 list, map and describe a variety of significant areas, species and ecosystems, and the Minister has submitted in support of identifying and mapping areas of significant indigenous biodiversity in the plan.
17. In my opinion, there are both benefits and disadvantages of including such biodiversity information in a plan, but the key point should be that information is readily available and is actively used and enhanced to implement the plan. A collective resource of information can have many benefits to inform planning, assessment of effects, and decision-making (while acknowledging that some information is sensitive).
18. If mapping is done, it is important to emphasise that the information presented does not necessarily portray the full extent of the values that actually exist. Some sites might be omitted or inaccurately mapped due to environmental change or lack of knowledge. This is especially the case for underwater environments that are generally less well understood.
19. The s42A report notes the difficulties of having incomplete information about marine areas, which are difficult to access and survey. Based on my experience as a diver and with other marine surveys, I consider that this will always be a problem, and that only a limited portion of the underwater marine environment can be surveyed, mapped and described. Knowledge about the marine environment often depends on collaborative storage and open sharing of information gained by a wide range of people.
20. Consequently, it would be sensible for any schedules and maps to be regarded not as a definitive list of all significant sites, but rather as a starting point for information about the region, and a guide to the known sites and the types of

values that occur there. Mapping in a public format can also help to inform potential consent applicants at an early stage.

21. Removing the Plan's schedules and maps of the region's known significant areas could risk having those features overlooked, resulting in poor resource management decisions.
22. As well as identifying the various management areas specified in the schedules, significant values that could be mapped, as part of or in support of the plan, include bird breeding and feeding locations (eg mudflats, colonies, roosts), rocky reefs and shores, lizard habitats, islands and rock stacks, seal colonies, marine and estuarine vegetation, shellfish beds, biogenic habitats, migration routes (e.g. marine mammals, fish, birds), spawning areas, rare & threatened ecosystems, and critical habitats. To do this, the Council could draw from a range of information sources (and has done so), including national inventories, published survey reports, thematic databases and unpublished expert knowledge. Efforts should continue to be made - by everyone involved in coastal management - to fill in knowledge gaps.

Coastal environment line

23. Policy 4 describes the inland extent of the coastal environment. In my experience, the coastal-marine interface is distinctive and important in many ways, and essential to the survival of many species: it creates an environment that is dynamic and rich in resources. The coastal environment is defined by a range of criteria including water flows, physical attributes, visual landscapes and biological patterns & movements, so it can be very difficult to define the coastal environment with a single line. Nevertheless, an indicative coastal environment line can give an indication of the significance of the link between land and sea and can help to manage the effects of terrestrial activities on the sea (and vice versa).
24. I therefore concur with the Council's s42A recommendation, which agrees to map the coastal environment line but allows for consideration of areas landward of the line on a case by case basis.

Structures

25. Several Policies and Rules in the Plan address the management of structures in the coastal marine area. In my opinion, the s42A report recommendations would allow significant adverse effects to occur in some situations.
26. Policy 38 deals with the removal (and non-removal) of coastal structures, and submissions discuss the abandonment of structures in certain circumstances.
27. Abandoned structures in the coastal marine area can cause a range of impacts depending on the type and location of the structure. Examples include:
 - a. Abandoned coastal rockworks and protection structures can lead to increased scour or erosion of adjoining land
 - b. Abandoned wharves, piles, buoys, ropes and floating structures can create navigation hazards, substrates for the establishment of invasive species, and biosecurity risks
 - c. Abandoned structures made of plastics & synthetic materials can deteriorate and produce solid and chemical wastes into the marine environment
 - d. Abandoned structures that are large, or in accessible or natural locations, can have visual landscape, natural character & amenity impacts
28. If full removal is not feasible (e.g. buried anchor blocks), then even partial removal of structures can address some of the concerns. In some cases, the removal of a structure is rightly regarded as being unfeasible or unsafe (for example, due to the practical or technical difficulties of working with heavy machinery in murky or turbulent seas, or under the seabed).
29. In my experience, it is good practice to consider and provide for the eventual removal and decommissioning of structures during the initial consent stages of any coastal permit, rather than at the end of their useful life.
30. In relation to Rule 22 and Rule 34, the construction, installation or decommissioning of underground infrastructure can have significant negative impacts such as vehicle tracking, trenching, surface damage, vegetation loss and weed/pest introduction. Areas of high or outstanding value such as estuaries and marine protected areas are likely to be more vulnerable to such

effects: for example, estuarine tidal mudflats and vegetated saltmarsh areas often have high natural values that support rich biological communities, but they can suffer significant habitat disturbance from surface activities like the vehicle access and mechanical excavation required to install and bury artificial structures. Some vehicle track marks and sediment spoil on sheltered estuarine mudflats are removed only by bioturbation (e.g. worm & crab activity) and not by currents and waves, and so their visual and ecological effects can remain for a long time.

31. The burial of pipes or cables can help to mitigate some effects, but burial is seldom permanent in a dynamic coastal environment. The natural (or accelerated) processes of coastal erosion, sediment movement, bed changes and channel migration can expose an underground or buried structure over time. Once exposed, it will then function as an unburied structure laid on top of the substrate, with associated effects such as current modification and scour, navigation and entanglement issues, substrates for pest species, and changes to the natural character and visual amenity of the area.
32. Coastal structures covered by the proposed Rule 34 can come in many forms and it is not possible to predict what effects they might have without a reasonable level of investigation into their characteristics (eg size, location, materials, design and position). In my opinion, it is therefore important to provide for a proper assessment of effects for such structures, because they have the potential to adversely affect significant biodiversity, coastal dynamics and other features. It is conceivable that such assessments could identify significant adverse effects whereby it would be appropriate for a consent application to be declined.
33. Rules 35, 38 and 44 of the proposed Plan allow the minor maintenance (35) or removal and demolition (38 & 44) of structures as a permitted activity. Operations involved in such maintenance can sometimes have significant adverse effects. For example:
 - a. Vehicles can have significant adverse effects on the coastal marine area, including: wheel & track damage, compaction, crushing, vegetation destruction, weed and pest incursion, surface alteration, chemical & fuel spillage, wildlife disturbance and noise. Such effects are especially pronounced in vulnerable areas like mudflats, shellfish/crab beds, saltmarsh and estuarine vegetation.

- b. The avoidance of fuel spillage in coastal waters is almost always preferable (easier and cheaper) to a cleanup of an accidental spill. Limiting the presence and use of fuels in those areas is a very effective way to minimise the risk of fuel spillage.
 - c. Equipment and spoil remaining on site for longer than necessary can be disturbed by unexpected floods, tides or weather conditions that are typical of coastal environments. It is therefore sensible to ensure that sites are remediated as promptly as possible.
34. Rule 37 does not place any restriction on the size of an extension to a structure, so it remains possible for an extension to significantly increase or alter a structure's effects on the environment, by altering current flows or smothering seabed biota. The s42A report's recommended addition of Standard (aa) to Rule 37 (limiting extensions to 10% every 24 months) goes part of the way to alleviating this concern, but the recommended Standard (aa) could still allow the structure to grow in progressive increments, to the extent that the cumulative adverse effects become significant. In some cases, even a small (<10%) extension of a structure (for example, a bridge approach reaching into a river channel or across the shore) can impede the flow of water or sediment, or direct the flow to other locations, and so have effects on the physical stability of the channel or shore.
35. The construction and ancillary activities involved with any extension could also have adverse effects (e.g. machinery movements, excavations and discharges). Adverse effects are especially likely in sensitive or vulnerable sites such as estuarine margins and mudflats, river & stream outlets and rocky coasts.

Sediment & spoil deposition

36. Policy 44 recommendations in the s42A report to retain clause 44(f) are appropriate in my opinion, encouraging deposited materials to have a similar composition to the existing substrate.
37. The marine environment is a very effective natural sorter of sediments. For example, estuaries tend to hold mud and fine sediments, beaches have mostly medium sands to gravels and cobbles/shingle, and boulders form ramps at the base of cliffs where finer materials are swept away by wave action.

38. The artificial placement of sediment from another source can have very significant effects on the character and ecology of a site. This is especially the case if the deposited sediment is different to the materials that naturally occur there.
39. Deposition of sediment can have effects on both the physical and biological character of an area:
 - a. Plants and animals are often finely adapted living in specific types of sediments. For example, *Amphibola* mud snails will live on mud and fine silt but much less so on medium or coarse sand. Worms burrow into fine sediments. Wading birds often gather in areas that suit their flocking behaviour, feeding methods and main prey species – probing the mud and roosting on the sand flats. Different fish species likewise tend to prefer quite specific sediment and substrate types.
 - b. Marine sediment deposits are often (but not always) very well sorted, which produces large spaces between particles that enhance drainage. Alteration of sediment composition (eg by dumping spoil material from another location) can affect the hydrology of a site, including impeding the drainage and exacerbating erosion.

Aquaculture

40. New Policy 5A proposes to identify appropriate places for aquaculture and to exclude aquaculture from Outstanding Value Areas, Estuaries and areas of significant indigenous biodiversity. Such areas have a range of natural values that are vulnerable to impacts from activities and are recognised for their significant values.
41. Aquaculture can bring a range of impacts on natural character and natural resources including seabed deposition of materials and waste, occupation of space, landscape and natural character effects, altered water quality and nutrient levels, and biological changes.
42. Effects of aquaculture are often uncertain and depend on hydrological modelling and adaptive management. Adaptive management is a risky way to

manage sites that are of high or outstanding value, or vulnerable to impacts of activities, because it depends on responding to observed impacts as they occur. Frequently, a better way is to take a more precautionary approach by directing such activities away from sensitive areas to places where unanticipated impacts are less critical, and where the effects can be tested in a systematic but adaptive way.

43. In my opinion, Policy 5A would help to ensure that significant natural values are protected from aquaculture activities.

Conclusion

44. In my opinion, the s42A report recommendations are generally appropriate for the matters I have discussed in my evidence, but they would allow significant adverse effects to occur in some situations, especially related to coastal hazards, indigenous biodiversity, structures, and aquaculture.



Donald Malcolm Neale

DATED this 12th day of July 2019

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BEFORE THE TARANAKI REGIONAL COUNCIL

Under **The Resource Management Act 1991**

And

In the matter of **The Proposed Coastal Plan for Taranaki**

**Statement of evidence of Callum David Lilley
on behalf of the Minister of Conservation
Dated 12 July 2019**

Department of Conservation

P O Box 10 420

WELLINGTON

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Introduction

1. My full name is Callum David Lilley.
2. I am employed by the Department of Conservation (DOC) as Senior Ranger/Supervisor – Biodiversity in New Plymouth. I have worked for the Department of Conservation since October 2006. During this time, I have predominantly specialised in marine and coastal work in the Taranaki Region. I have experience in conservation management and survey of coastal and marine flora and fauna, marine mammals and marine reserves. I grew up in Taranaki and since my youth have spent considerable time exploring Taranaki beaches. This has been for the purpose of recreational pursuits such as fishing, surfing and snorkelling, as well as through my role as a coastal and marine DOC Ranger and as an Honorary Fisheries Officer for MPI undertaking coastal patrols.
3. I hold the degrees of Bachelor of Science majoring in Zoology and Master of Science majoring in Marine Science from the University of Otago.

Code of Conduct

4. I have read and agree to comply with the Code of Conduct for Expert Witnesses produced by the Environment Court. While this is not an Environment Court hearing, I have prepared this evidence in accordance with, and I agree to comply with, that code for this hearing. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed. I confirm that the issues addressed in this brief of evidence are within my area of expertise.

Scope of evidence

5. My evidence will deal with the following, with particular regard to my experience in the Taranaki Region:
 - a. Impact of dogs on indigenous wildlife in the coastal environment
 - b. Marine reserve marker buoys as navigation aids
 - c. Burial of marine mammals
 - d. Project Reef as an area of Outstanding Natural Character

Impact of dogs in the coastal environment

6. Policy 17 (Public access) of the Proposed Coastal Plan for Taranaki (the Proposed Plan) provides for restrictions on public access (where necessary) to protect significant natural values and threatened and at-risk indigenous

species. However, Method 6.4 (Natural Heritage) does not propose methods to protect indigenous wildlife from dogs, which in my opinion are a major threat to vulnerable coastal fauna.

7. I support the s42A report's recommended change to Method 14 to provide for advocacy to relevant agencies to protect significant indigenous biodiversity. However, given the level of threat that dogs present to protected indigenous coastal species such as penguins, shorebirds and N.Z. fur seal, I think the plan needs to more clearly emphasise means of managing the threat that dogs pose.
8. Over the years, I have observed once-isolated beaches with few visitors now experience *relatively* frequent visitation. I believe this has come about through more visitors, sprawling sub-division and because the Taranaki region is experiencing population growth. A proportion of these visitors visit with their dogs which are often not under control, either on a leash or in immediate proximity and responsive to verbal commands. Houses adjacent to once isolated coast now have resident dogs that are walked on the beaches most evenings.
9. I frequently observe dogs chasing and disturbing shorebirds. Owners are often oblivious to the impacts this has on those species. During this time birds are unable to feed or rest, and eggs in nests can be vulnerable to breakage. Adults may also abandon nests following continued harassment.
10. One of the indigenous species most threatened by dogs is blue penguins and the result of an interaction is often death. The threat status of blue penguins is "At Risk – declining"¹. The flightless seabird is most vulnerable on beaches at dawn and dusk as they move between the water (where they feed during the day) and their burrows. However, I have also followed up instances of dogs killing penguins during the day. Penguins are found along much of the Taranaki coastline in quite low numbers. However, there are sites including Port Taranaki, Urenui and Wai-iti that are considered hot-spots or colonies.

¹ Robertson, H.A.; Baird, K.; Dowding, J.E.; Elliott, G.P.; Hitchmough, R.A.; Miskelly, C.M.; McArthur, N.; O'Donnell, C.F.J.; Sagar, P.M.; Scofield, R.P.; Taylor, G.A. 2016: Conservation status of New Zealand birds, 2016. *New Zealand Threat Classification Series 19*. Department of Conservation, Wellington. 23 p.

11. Some people refuse to believe that their dog will kill a penguin, but penguins are very attractive targets to even well-trained dogs. They are small, smelly, unable to defend themselves and will run when disturbed. Dogs generally grab them by the chest, rump or neck and shake them. Attachment 1 shows some examples of blue penguins killed in this manner. Even small dogs can kill a penguin this way, and death can occur within a couple of seconds. Sometimes a smaller dog will catch a bird by the head, which can cause severe injury to an eye (Attachment 2). Even if the bird survives the attack, they will likely not survive in the wild should they need to be rehabilitated. In those instances, the penguin may need to be euthanised (see Attachment 2).
12. During my first few years working for DOC, instances of reported dog attacks on blue penguins were relatively rare. I began keeping records in 2010 following six instances of dogs killing penguins within six months. Attachment 3 shows a Taranaki Daily News article relating to the death of two of these birds. (I sent these birds to Massey University for necropsy and the pathologist's report confirmed dog attack as the likely cause of death). Since then, I have documented 47 instances of blue penguins being attacked by dogs. All but six of these have died. Those that have survived have been through long treatment and rehabilitation prior to release.
13. I suspect the number of penguins killed by dogs is considerably higher because:
 - a. Many will be killed in isolated areas and never reported. Owners of dogs that have killed penguins seldom report the attack. In Taranaki, the majority of dead or injured penguins are found where visitation is highest, generally around New Plymouth between Back Beach and Waiwhakaiho. However, the number of penguins present in some remote areas is likely higher as the birds are less exposed to domestic pets and habitat modification.
 - b. If an adult is killed in breeding season before chicks fledge, then those chicks will die. One adult being killed may result in three penguin deaths. Starved chicks are unlikely to ever be discovered.
 - c. I frequently observe dogs off-leash and running through dunes, caves, and vegetation well above the high-tide mark where there are likely to be nests. Their owners are generally walking on firm sand in

the intertidal zone. I suspect many penguins are killed without their owners ever knowing.

14. The records I have detailed are penguins that have “probably” been killed by dogs. Those are the cases where the cause of death by a dog are apparent. The attack may have been witnessed, or there may be signs consistent with dog attack. An example is that at times a dog will put its paws on the body of the penguin and pull at its head with its mouth, elongating much of the spine and stretching out the neck (see Attachment 4 for examples). Sometimes there will be puncture wounds and I will cut back the skin and find massive internal haemorrhaging (Attachment 5). At times, I may have suspected an attack as the bird had been in good condition, but the body was found in an odd or suspicious location. In these instances, I have sent the carcass off to Massey University for necropsy and the cause of death has been confirmed through a pathology report (see Attachment 6 for examples of pathologist reports).
15. In January of this year, a Taranaki Regional Council Scientific Officer was at Port Taranaki monitoring the area after a diesel spill. She found two dead penguins on the Lee breakwater with puncture wounds that she suspected were from a dog. While there, a member of the public reported that there was a third bird that they had thrown down amongst the rocks. The tide was coming in and the Officer was unable to locate this bird. She took GPS waypoints of where the birds were found (Attachment 7), photographed the birds (Attachment 8) and sent them to Massey University to investigate whether there was any link to the spill. There was no sign of oiling and the pathologist concluded the injuries were consistent with dog attack (Attachment 9). I consider the most probable cause of death of the third bird was also dog attack.
16. New Zealand fur seals are also threatened by dogs. Often dogs just bark and harass seals, but they can nip, bite and kill them too.
17. While the only fur seal breeding colony is centred around the Ngā Motu/Sugar Loaf Islands, seals haul-out to rest along much of the Taranaki coast. Seal pups are most vulnerable due to their small size, particularly un-weaned pups that can be left for several days while their mothers head out to sea to feed.

18. In my time with DOC I have followed up a number of reports of dogs attacking seals. Often seals have escaped with minor to moderate wounds. However, their fate is not always able to be determined as they will often head into the water to escape the threat and may not be sighted again. I personally have followed up three instances of pups that have been killed by dogs and one female adult. In addition, I have had to euthanise another two adult seals due to major injuries inflicted by dogs as they were suffering and not likely to survive.
19. The onus is often put on the Department of Conservation to deal with the threat of dogs on protected marine mammals (under the Marine Mammals Protection Act 1978) and indigenous wildlife (under the Wildlife Act 1953). However, besides from signage and advocacy which is often not taking on board by owners, law enforcement response by DOC is very much “the ambulance at the bottom of the cliff”. It is also challenging to use prosecution as a deterrent as information that we receive is inadequate to identify owners and follow-up action is not possible.
20. In my opinion encouraging district councils to implement and enforce dog control bylaws, and to set appropriate rules around pets and subdivision, will more appropriately help manage the threat of dogs to indigenous coastal wildlife.

Marine Reserve marker buoys as navigational aids

21. Rule 21 of the Proposed Plan allows for certain agencies to install navigational aids as a permitted activity. I consider that DOC should be included as one of those agencies.
22. The Department of Conservation administers the Marine Reserves Act 1971. This Act requires that marine reserves are administered and maintained so that they are preserved as far as possible in their natural state. They are a conservation tool, as opposed to a fisheries management tool, and their purpose is to preserve indigenous biodiversity. Scientific studies of marine reserves allow for a better understanding of marine ecosystems and subsequently, enhanced management of them. Scientists can study the behaviour and ecology of species in the absence of exploitation pressure and better understand natural population fluctuations as opposed to human induced changes.

23. Preservation of a marine reserve depends on the strict observation of a ban on taking or harvesting fish and other marine life. This depends on fishers and gatherers knowing what the no fishing/no taking rules are and where those rules apply.
24. DOC administers two marine reserves in Taranaki. Parininihi Marine Reserve is relatively isolated and is located off the Whitecliffs near Urenui, North Taranaki. Tapuae Marine Reserve is adjacent to the city of New Plymouth. It has multiple access points along the coast and is a short boat-trip from New Plymouth boat ramp which is located in Port Taranaki.
25. Both marine reserves are marked by signage at clearly visible locations near access points, and offshore boundaries are marked by marine buoys. Section 22 of the Marine Reserves Act provides for the marking of marine reserves by beacons, lights, buoys or marks that the Director-General of Conservation considers necessary, provided that concurrence has been obtained by the Secretary of Transport. DOC holds consents from Taranaki Regional Council and Maritime New Zealand for existing installed marine reserve marker buoys.
26. The buoys are special navigation markers. They are yellow, which is a legal requirement for special marks. To be safe and effective, they must be highly visible. The corner buoys of each marine reserve are fitted with lights. These have a distinctive flash sequence. The boundaries of the marine reserves and the flash sequence of the corner buoys are shown on nautical charts.
27. Construction and instalment of the marine reserve navigation buoys is similar to other marine reserves. They consist of a mooring anchor, which is a 500kg concrete block that settles into the sea floor, and a rope and chain attaching the buoy to an anchor. The blocks are placed on a sand/mud seabed. Their placement is known to kill the sessile organisms immediately below them. I have regularly inspected the marine reserve mooring blocks and have observed that over time other sessile organisms colonise them, much the same as small reefs.
28. DOC holds consent for eight marker buoys in Tapuae Marine Reserve and seven marker buoys in Parininihi Marine Reserve. Each of these 15 mooring blocks is approximately 1.8m², so the cumulative impact is less than 30m²

spread across a large distance. In my opinion the impact of these blocks should be regarded as minor and given the species displaced are common, and a fraction of the habitat is impacted, the effects are of little significance.

29. The s42A report has agreed with relief sought by the Minister of Conservation for Rule 21 (Navigation aid erection and placement) to allow for erection of navigation aids as a permitted activity for Taranaki Regional Council or its agents; or Port Taranaki or its agents; or Maritime New Zealand or its agents. In my opinion, I believe DOCs operational responsibility to erect navigational aids has been overlooked and the Department should be added to the list of agencies able to erect navigational aids as a permitted activity.

Burial of marine mammals

30. Rule 54 of the Proposed Plan requires DOC to consult iwi on the burial of marine mammals. This is done for dolphins and whales, but is generally not appropriate for seals. I consider that obligations to tangata whenua regarding marine mammals are best dealt with under DOC's own obligations under various Acts and Deed of Settlement protocols rather than under the Regional Coastal Plan.
31. The Department of Conservation administers the Marine Mammals Protection Act 1978. The Act sets out the Department's responsibilities regarding marine mammals, including their disposal.
32. When dolphins or whales strand, DOC has statutory responsibilities with respect to tangata whenua. Section 50(3) of the Marine and Coastal Area (Takutai Moana) Act 2011 states "When making decisions about managing a stranded marine mammal, a marine mammal officer must... have particular regard to the views of any affected iwi, hapū or whanau expressed to the officer". Policy 4.4(h) of Conservation General Policy acknowledges tangata whenua as kaitiaki and specifies they will be involved in the management of stranded mammals in accordance with agreed protocols. There are also marine mammal protocols in Deed of Settlement agreements between the Crown and Post Settlement Governance Entities (PSGE) that must be adhered to. While Deed of Settlement protocols may vary between settled iwi, they generally reference *stranded marine mammals*. Given that fur seals

are a marine mammal that spends part of their life on land, they do not strand. I therefore consider that DOC's statutory responsibilities are a reference to *dolphins* and *whales* as opposed to seals.

33. When dolphins and whales strand, DOC consults and works with local iwi and hapū through every step of the stranding response, including disposal. Generally, once DOC becomes aware of a stranding, the PSGE or iwi office is notified. The iwi will often hand over to the hapū who holds mana whenua/mana moana over that section of coast. The process of notification and ensuring that DOC is speaking to the right people can at times take several hours. No work is undertaken until procedures such as karakia have taken place. All decisions are made alongside tangata whenua.
34. Stranding events of dolphins and whales are relatively rare and of huge significance to tangata whenua, unlike New Zealand fur seals/kekeno, which are commonly found dead or dying on the coastline. For example, through the last calendar year (2018), the DOC New Plymouth Office received 30 reports of dead seals between Wai-iti in the north and Kaupokonui in the south. On several occasions over the years, I have received reports of as many as three dead seals in the same day.
35. In isolated areas, the preference is to leave dead seals to nature as they break down relatively quickly through natural processes. However, in many areas decomposing seals are deemed a public nuisance and disposal is required. If seals can be easily removed, the preference is to dispose of them down an offal hole. However, removing dead seals can be difficult due to factors such as poor vehicle access and due to the weight of animals. In these instances, seals need to be buried on the beach, provided the location is appropriate.
36. Due to the number of seals found dead on Taranaki beaches and the frequent need to bury them, I consider that Rule 54 (Burial of dead animals) creates an impractical obligation for DOC to notify iwi of seal burials. I also think that notification would cause practical difficulties for iwi as it may then trigger processes to notify hapū. I therefore support the relief sought in the proposed amendment in the s42A report to exempt fur seals from iwi notification when they need to be buried. If there are instances where iwi or hapū do wish to work with the DOC around fur seal burial, then I consider

there are other mechanisms that are better suited to incorporate these wishes.

Project Reef as an area of Outstanding Natural Character

37. In my opinion, Project Reef qualifies as an Area of Outstanding Natural Character under the criteria given in the proposed Plan. While I have not dived the Project Reef myself, I am very familiar with the reef through the findings of Project Reef Life. I have been in regular communication with Project Reef Life coordinator Karen Pratt since before the application to the Ministry of Business, Innovation and Employment's Participatory Science Platform (Curious Minds) fund was made. Since then, Mrs. Pratt and other Project Reef Life members have shared photos, videos and other study findings with me. The purpose at times was to seek my comment, and at other times simply for my information. I have been copied in on email correspondence about the Project Reef with fish and invertebrate experts and have discussed monitoring methods with project members. I have also attended presentations by the group on several occasions where findings were presented to the community.
38. Due to my role with DOC and familiarity with the Project Reef and wider Taranaki coastline, I was requested in 2017 to review an application by the South Taranaki Underwater Club to Taranaki Regional Council to recognise the Project Reef as an area of Outstanding Natural Character. Following this, after discussion with DOC planners and Technical Advisors, I provided an endorsement of the Club's assessment of the Project Reef to Taranaki Regional Council officers outlining some of the special features of that reef. These include:
- a. The relatively shallow depth of the reef (23m) considering its distance offshore. This makes it less prone to cliff erosion and sediment inputs from river events and other land-based activities. This leads to better water clarity and light penetration which allows kelp and other seaweed to grow a long way offshore.
 - b. The geology of the reef, being comprised of cemented concretionary shelly sandstone, compared to other papa or andesitic cobble/boulder/rock reefs that characterise much of the offshore Taranaki environment.

- c. The size of the reef in an environment that is *generally* characterised as being sandy in nature.
 - d. The complexity of habitat that the reef provides. It is high-relief with cracks, crevices, small caves and overhangs. This is valuable habitat for rock-lobster, eels, rays, carpet sharks and a range of fish species.
 - e. The geological structure is covered with a diverse range of seaweeds, sponges, hydroids and bryozoans. "Biogenic" (living) habitats are considered high-value environments as they are so biologically diverse and provide valuable refuge for juvenile fish and invertebrates.
 - f. The diversity and cover of sponge species.
39. In conclusion, I agree with the s42A report's recommendation to retain the Project Reef (ON6) as an area of Outstanding Natural Character.

Conclusion

40. In my opinion, I think the Plan needs to more clearly emphasise means of managing the threat that dogs pose to coastal wildlife; that DOC should be added to the list of agencies able to erect navigational aids as a permitted activity; that seals should be exempt from the requirement to notify iwi when buried; and that the Project Reef should be retained as an area of Outstanding Natural Character.



Callum David Lilley

DATED this 12th day of July 2019

Attachment 1 – photos taken by New Plymouth DOC Rangers of blue penguins killed by dogs biting chest, rump and neck.



Attachment 1 – continued.



Attachment 1 – continued.



Attachment 2 – photos taken by a New Plymouth DOC Ranger of damage inflicted to the head and eye of a blue penguin by a dog.





Roving dogs suspects in penguin killings

Taranaki Daily News 16/8/10
Jerad Smith
jerad.smith@dailynews.co.nz

Dog owners are being urged to keep their animals on a leash while on the beach after two little blue penguins were killed at the start of nesting season last week.

Department of Conservation ranger Callum Lilley said a roving dog was carrying one dead penguin in its mouth on Waititi Beach, while the other was found on Ngamotu Beach with puncture marks.

"The birds will be autopsied at the New Zealand Wildlife Centre of Massey University but their injuries suggest a dog attack. It's certainly not our mate the leopard seal. They tend to clamp and don't leave any ovi-

Nesting season toll Department of Conservation ranger Callum Lilley with two little blue penguins believed to have been killed by dogs last week on the Ngamotu and Waititi beaches. Photo: SUPPLIED

ence." The leopard seal swam into Port Taranaki on August 6.

Mark Meyburg, who is researching the penguins on a one-year teacher scholarship from the Royal Society of New Zealand, said Waititi had a bigger penguin colony than many Taranaki beaches.

In June, the students of Mimi Primary School launched Project Pingu to build and place protective wooden boxes for the penguins to nest.

"We are placing steel traps there, too," said Mr Meyburg.

"But roving dogs will soon bite into a dwindling population. Local residents Gwen and Ian Desley used to have penguins walking past their door but they don't see as many now."

At 35 centimetres to 40cm tall and weighing 1 kilogram, the little blues are the world's smallest penguins. Between August and November a breeding pair will usually lay one or two eggs and after about eight weeks the chicks will fend for themselves.

Attachment 4 - photos of blue penguin following dog attack provided to New Plymouth DOC by member of the public. Note the distended neck.



Attachment 4 – continued. Photo showing distended neck of blue penguin caused by a dog, provided to New Plymouth DOC by a TRC staff member. This photo also shows a tear from a bite on the lower body.



Attachment 5 - photo taken by New Plymouth DOC Ranger of mass internal haemorrhaging of blue penguin caused by crushing and tearing during dog attack.



Attachment 6 – examples of pathologist reports.

Institute of Veterinary, Animal and Biomedical Sciences

PATHOLOGY REPORT

| | | | | |
|-------------------|-----------|------------|----------------|-------|
| Submitter's Ref.: | Case Ref: | 12/08/2010 | Accession No.: | 46247 |
|-------------------|-----------|------------|----------------|-------|

TO: Colm Jiley
Department of Conservation
PO Box 462
New Plymouth

| | | | | | | | |
|----------|----------------------------|------------|------|-----------|-------------|--------|----------------|
| Species: | Avian-ML(1) | Sex: | Male | Age: | Adult (1) | Breed: | Little Penguin |
| ID: | | At Risk: | | Affected: | | Count: | 1 |
| Owner: | Department of Conservation | File Ref.: | | Type: | Post Mortem | | |

HISTORY

A egg was discovered with the penguin in its mouth, but the observer did not see the penguin being killed.

GROSS FINDINGS

The bird weighed 1.012kg and was in good body condition. The proventriculus and gizzard were empty. There were multiple fractures of the cervical thoracic spine and synsacrum, and this was associated with extensive tearing of the hypaxial and epaxial muscles, kidney, both testis, and the subcutaneous tissues over the dorsal synsacrum. There were multiple large blood clots within the coelomic cavity. No other abnormalities were noted on gross post-mortem.

DIAGNOSIS

Severe trauma to the vertebrae (cervical, thoracic and synsacrum) with multiple fractures and extensive haemorrhage.

COMMENTS

The pattern of injury is consistent with a dog attack when the penguin was alive. Whether it was the particular dog that held the penguin in its mouth that was responsible for the killing, we cannot say for certain.

File No.:

Student:

Date:

Pathologist: [REDACTED]

Copy to:

Attachment 6 – continued.

Institute of Veterinary, Animal and Biomedical Sciences

PATHOLOGY REPORT

| | | |
|-------------------|-----------------------|----------------------|
| Submitter's Ref.: | Date Sent: 24/04/2015 | Accession No.: 51966 |
|-------------------|-----------------------|----------------------|

TO: Gemma Green
Department of Conservation
65a Rimu Street
New Plymouth

| | | | |
|-----------------------------------|--------------|-------------------|----------------------------|
| Species: Avian WL (1): | Sex: Male | Age: Adult | Breed: Little Blue Penguin |
| ID: None | AI Ref. | Affected: | Dead: 1 |
| Owner: Department of Conservation | Prev. Acqn.: | Type: Post Mortem | |

HISTORY

Found dead on rocks East End Reserve on the morning of 22/04/2015. Dog attack suspected.

GROSS FINDINGS

The bird weighed 1200grams and was in good body condition. There was patchy blood staining of the feathers around the neck and a small amount of blood was present in the oral cavity. Three puncture wounds, each ~10mm in diameter were present on the left lateral aspect of the mid-neck region and near the point of both the left and right shoulders. There was corresponding haemorrhage and tearing of the underlying soft tissue, including the skeletal muscle; the cervical spine was intact but several of the ribs of the right thoracic cage were fractured. There was a ~15mm in diameter area of laceration and haemorrhage of skeletal muscle just caudal to the right scapula; this was roughly 40-60mm caudal to the puncture wound at the point of the right shoulder. There were multiple blood clots within the coelomic cavity. No other abnormalities were noted on gross post mortem.

DIAGNOSIS

Musculoskeletal trauma consistent with a dog attack.

COMMENTS

This was an adult male penguin, in good body condition with no obvious signs of any underlying disease. The pattern of damage is consistent with a dog attack.

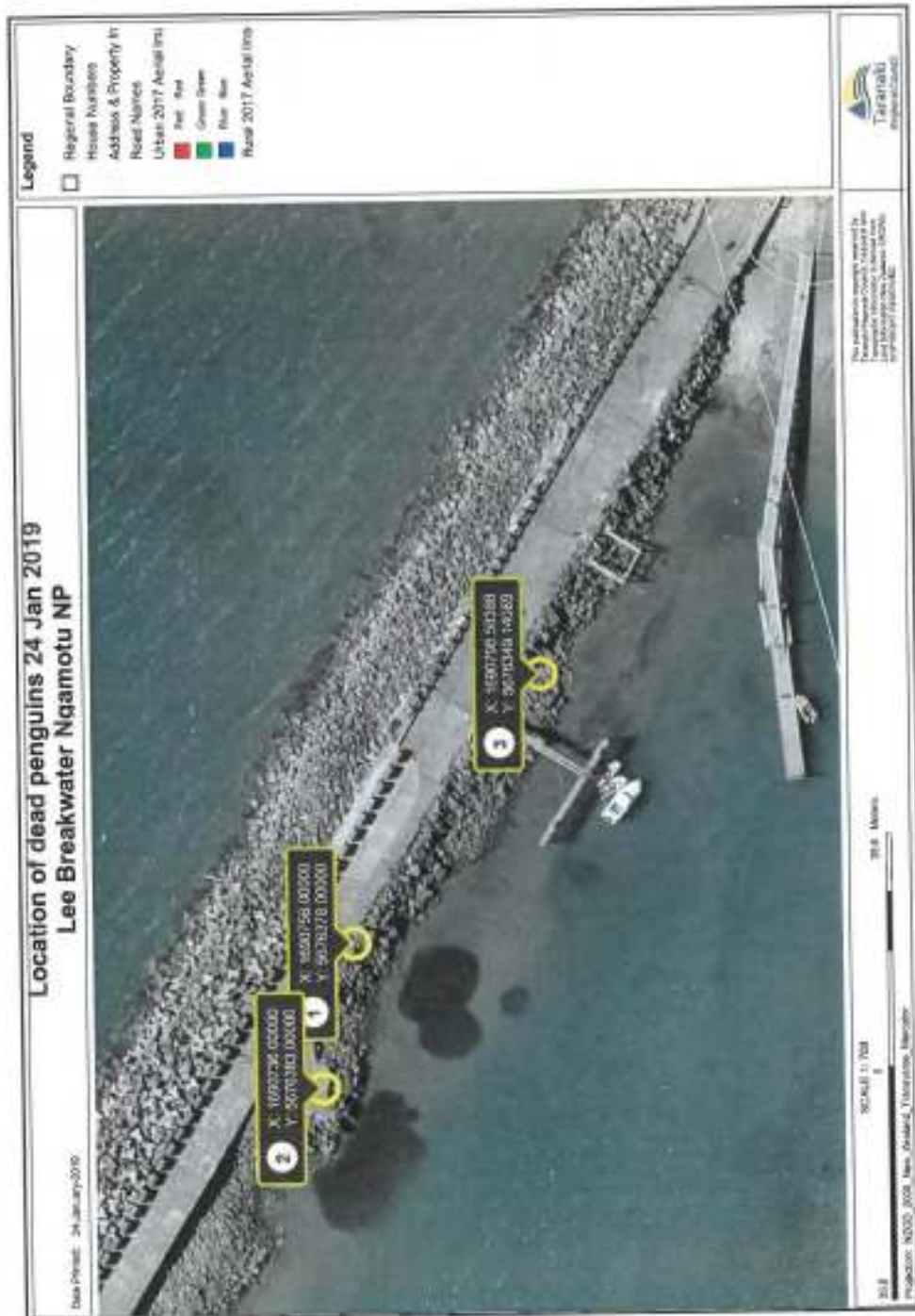
File Nos.:

Students:

Date:

Pathologist: [REDACTED]

Copy to:



Attachment 8 – Photos taken by TRC Scientific Officer of blue penguins confirmed as likely to have been killed by a dog



Attachment 9 – pathologist reports requested by TRC to investigate cause of death of blue penguins.

School of Veterinary Science

Pathology Report

| | | |
|----------------|-----------------------|----------------------|
| Submitter Ref: | Date Sent: 25/01/2019 | Accession No.: 56879 |
|----------------|-----------------------|----------------------|

To: [Redacted] Report Sent: 31/01/2019
Copy To:
Email: [Redacted]

| | | | |
|-------------------|----------------------------|-------------|---------|
| Species: Avian WL | Breed: Little Blue Penguin | | |
| Age: Juvenile | Sex: Unknown | | |
| Owner: | Type: Post Mortem | | |
| ID: PQN-1 | Prev. Accl.: 56890 | | |
| Submitted: 2 | At Risk: | Affected: 2 | Dead: 2 |

History

Found morning of 24/01/2019, Lee Breakwater, Ngamotu. X-1650758 Y-5676378. Found in vicinity of diesel spill that occurred 21/01/2019.

Gross Findings

The bird weighed 835 grams and was in moderate body condition and almost through the moult. There was extensive blood staining of the feather around the neck and ventral chest and abdomen. Over a dozen full thickness puncture wounds (up to ~10 mm in diameter) were present over the neck, lateral and dorsal thoracic and lumbar regions; many of these were associated with reddening and tearing of the surrounding soft tissues, including the subcutaneous fat and musculature. There were several rib fractures on the right side of the chest, as well as multiple chip fractures of the thoracic vertebral processes and a non displaced fracture of the left ischium. There was extensive maceration of both lungs and both kidneys, associated with clotted blood.

Diagnosis

Severe musculoskeletal trauma consistent with dog attack

Comments

Numerous puncture wounds were present externally and there was a large amount of internal damage including multiple rib fractures and extensive damage to the lungs and kidneys. The haemorrhage associated with these lesions indicates the penguin was alive when the damage was inflicted. These injuries are typical of a dog attack in which the dog will often bite multiple times and severely shake the bird. There was no evidence of any external oiling.

| | |
|----------------------|--------------------------|
| Date: 25/01/2019 | Pathologists: [Redacted] |
| Students: [Redacted] | |

School of Veterinary Science

Pathology Report

| | | |
|----------------|-----------------------|----------------------|
| Submitter Ref: | Date Sent: 25/01/2019 | Accession No.: 56880 |
|----------------|-----------------------|----------------------|

To: [REDACTED] Report Sent: 31/01/2019
Copy To:
Email: [REDACTED]

| | | | |
|-------------------|----------------------------|-------------|---------|
| Species: Avian WL | Breed: Little Blue Penguin | | |
| Age: Adult | Sex: Female | | |
| Owner: | Type: Post Mortem | | |
| ID: PQN-2 | Prev. Accl.: 56879 | | |
| Submitted: 2 | At Risk: | Affected: 2 | Dead: 2 |

History

Found morning of 24/01/2019, Lee Breakwater, Ngamotu. X-1650735 Y-567638. Found in vicinity of diesel spill that occurred 21/01/2019.

Gross Findings

The bird weighed 1.97 kg and was in good body condition and about to enter the moult.
There was extensive blood staining of the feathers over the neck and dorsal aspect of the chest and pelvis. At least 8 full thickness skin puncture wounds were present over the right lateral neck and both shoulders. The largest of these was ~30 x 20 mm in diameter and was associated with exposure of the right coracoid, right lateral thoracic wall and coelomic cavity. Much of the skeletal muscle was absent from the right coracoid and right pectoral region. Both the right sternum and scapula were fractured.
There were multiple rib fractures (bilateral) as well as transverse transection of both the cranial and caudal thoracic spine; there were extensive maceration of both lungs and the kidneys and these were associated with clotted blood.

Diagnosis

Severe musculoskeletal trauma consistent with dog attack

Comments

Multiple puncture wounds were present externally and there was a large amount of internal damage including multiple spinal and rib fractures as well as extensive damage to the lungs and kidneys. The haemorrhage associated with these lesions indicates the penguin was alive when the damage was inflicted. Some of the tissue loss was likely the result of post-mortem scavenging, likely from an avian species such as a sea gull. These injuries are typical of a dog attack in which the dog will often bite multiple times and severely shake the bird. There was no evidence of any external oiling.

| | |
|----------------------|--------------------------|
| Date: 25/01/2019 | Pathologists: [REDACTED] |
| Students: [REDACTED] | |

BEFORE THE TARANAKI REGIONAL COUNCIL

Under **The Resource Management Act 1991**

And

In the matter of **The Proposed Coastal Plan for Taranaki**

**Statement of evidence of Sarah Hucker
on behalf of the Minister of Conservation
Dated 12 July 2019**

Department of Conservation

P O Box 10 420

WELLINGTON

Solicitor acting: M Downing

Telephone: 027 564 1428

Email: mdowning@doc.govt.nz

Introduction

1. My full name is Sarah Ellen Hucker.
2. I am employed by the Department of Conservation (DOC) as a Senior National RMA Planning Advisor in the RMA Team, Operations Group in DOCs National Office. I have worked in central government for 19 years and regional government for 3 years, either as a planner, policy analyst or independent consultant with a focus on sustainable coastal management. Until May 2010 I worked as an independent consultant, from May 2010 onwards I joined the DOC permanent staff. A key focus of my work over the last decade has been the preparation of the *Regional Coastal Plan: Kermadec and Subantarctic Islands* for the Minister of Conservation, which became operative in September 2017.
3. I hold a Bachelor of Science in Geography completed in 1989, Honours in Physical Geography completed in 1990, and a Master of Science in Physical Geography completed in 1994, all from the Victoria University of Wellington. I also completed a certificate of proficiency in Resource Management Law in 1995, also from the Victoria University of Wellington.
4. My current work for DOC involves implementation of that Plan, inputting into DOC submissions on other regional coastal plans on marine biosecurity provisions with a view to ensuring they give effect to Policy 12 of the NZCPS (Harmful aquatic organisms), and other coastal issues as they arise. I provide support to DOC decision makers and the Minister of Conservation on sustainable coastal management matters as required, including marine consents under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.
5. I provided technical advice which informed the parts of the Minister of Conservation's submission relating to harmful aquatic organisms and the *Cleaning of biofouling* provisions in the Proposed Coastal Plan for Taranaki (Proposed Plan).

Code of Conduct

6. I have read and agree to comply with the Code of Conduct for Expert Witnesses produced by the Environment Court. While this is not an Environment Court hearing, I have prepared this evidence in accordance with, and I agree to comply with, that code for this hearing. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed. I confirm that the issues addressed in this brief of evidence are within my area of expertise.
7. I am authorised to give this evidence on behalf of the Minister of Conservation.

Scope of evidence

8. My evidence focuses on the *Cleaning of biofouling* provisions of the Proposed Plan. Specifically, Policy 28, Rules 9 and 10, and the definitions.
9. I have considered these provisions in: pre-statutory comments on draft provisions; the Department's submission on the notified Plan and Section 32 report; and now the Officer's section 42A Report and the accompanying track changes version of the Proposed Plan showing the Officer's Section 42A Report recommendations.
10. The Minister's submission seeks that the Proposed Plan give effect to the New Zealand Coastal Policy Statement (NZCPS) Policy 12, principally by following the guidance and recommendations of the *Anti-fouling and In-water Cleaning Guidelines* June 2013 (the Guidelines), which were jointly prepared by the Australian Department of Agriculture Fisheries and Forestry and NZ's Ministry for Primary Industries. Accordingly, my evidence discusses:
 - a. the relevant policies of the NZCPS;
 - b. key developments in approaches to the management of biofouling;
and

- c. the recommendations in the Section 42A Report.
11. Overall, I support the changes recommended by the Section 42A Report, with some clarifications.
 12. My evidence includes Appendix 1 – The Anti-fouling and In-water Cleaning Guidelines.

New Zealand Coastal Policy Statement - Policy 12: harmful aquatic organisms and other relevant policies

13. The NZCPS Policy 12 requires councils to provide for the control of activities in or near the coastal marine area that could have adverse effects on the coastal environment by causing harmful aquatic organisms to be released or otherwise spread, as follows:

“Policy 12 – Harmful aquatic organisms

1. Provide in regional policy statements and in plans, as far as practicable, for the control of activities in or near the coastal marine area that could have adverse effects on the coastal environment by causing harmful aquatic organisms¹ to be released or otherwise spread, and include conditions in resource consents, where relevant, to assist with managing the risk of such effects occurring.
2. Recognise that activities relevant to (1) include:
 - a. the introduction of structures likely to be contaminated with harmful aquatic organisms;
 - b. the discharge or disposal of organic material from dredging, or from vessels and structures, whether during maintenance, cleaning or otherwise; and whether in the coastal marine area or on land;
 - c. the provision and ongoing maintenance of moorings, marina berths, jetties and wharves; and
 - d. the establishment and relocation of equipment and stock required for or associated with aquaculture.”

¹Harmful aquatic organisms - Aquatic organisms which, if introduced into coastal water, may adversely affect the environment or biological diversity, pose a threat to human health, or interfere with legitimate use or protection of natural and physical resources in the coastal environment (Definition from NZCPS 2010 Glossary).

14. The introduction of harmful aquatic organisms into the coastal marine area can give rise to the following adverse effects, ultimately affecting natural character, life-supporting capacity and the intrinsic value of ecosystems:
 - i. Predation on local resident indigenous fauna.
 - ii. Competition with indigenous fauna species for the same food supply.
 - iii. Loss of habitat of indigenous flora and fauna.
 - iv. Destruction of habitats, which can alter coastal processes and increase the risk of erosion.
 - v. Loss of amenity and intrinsic values of ecosystems.
 - vi. Genetic pollution.
 - vii. Financial costs resulting from changes to the ecosystems and the values that are important to aquaculture and other marine based industries such as tourism, and costs to central and local government (and therefore New Zealanders) associated with eradication or containment.
15. For these reasons the risk of introduction and spread of harmful aquatic organisms to an area needs to be carefully managed.
16. Biofouling is the process of accumulation of organisms on immersed surfaces. In the initial stages of the biofouling process, organic material sticks to a surface and is rapidly colonised by bacteria, microalgae and cyanobacteria forming a microfouling layer (slime layer). The creation of a slime layer occurs rapidly on submerged surfaces. Aside from continuous cleaning, there is currently no effective technology to prevent slime layer formation, including biocidal or foul release coatings (Dobretsov et al. 2010).¹ Any further biofouling development beyond the microfouling stage is

¹ The Science underpinning the CRMS – biofouling, page 4, para 1

referred to as macrofouling. For further context on what biofouling is, why it is an issue and options for its management, refer Appendix 1.

17. Floerl et al. 2010 note that vessel biofouling is one of the main contemporary vectors for the introduction and spread of harmful or invasive species. Most of the 200 or more known marine harmful or invasive species established in New Zealand waters are thought to have arrived on the hulls of ships, a pattern reported from other locations around the world². Vessel biofouling is thought to be the mechanism behind introductions of NIS [non-indigenous species] globally to isolated high-value locations, including sub-polar and polar latitudes³.
18. Implementing practices to control and manage biofouling can greatly assist in reducing the risk of the transfer of harmful aquatic organisms. Such practices can also improve a vessel's hydrodynamic performance and can be an effective tool in enhancing energy efficiency on vessels.
19. Given the list of potential adverse effects listed above at paragraph 14, NZCPS Policy 3 is relevant to the management of risk associated with harmful aquatic organisms. NZCPS Policy 3 promotes a precautionary approach to managing activities in the coastal environment when the effects of those activities are uncertain but potentially significantly adverse. This includes managing activities that could cause harmful aquatic organisms to be released or otherwise spread.
20. A precautionary approach focussed on preventing introductions of harmful or invasive species recognises that there are significant costs involved in attempts at marine pest eradication and the limited success of marine eradications to date (unless detected very early). Examples of marine eradications and the costs involved include:
 - i. The *sabella* (Mediterranean fanworm, *Sabella spallanzanii*) programme aimed at eliminating *sabella* from Lyttelton Port (about 1 km² in area) by

² Floerl et al. 2010 page 1

³ Floerl et al. 2010 page 1

searching and removing individual worms. At the time of planning, the programme was estimated to cost \$3.5 million, but was closed about 18 months into its application because of widespread detections of *sabella* in Auckland. Despite the Auckland findings, the area of the Lyttelton programme was considered to be the limit of feasible elimination for a worm-like species such as *sabella*. The Council's Section 32 report notes that in the last 4-5 years the Council has budgeted approximately a quarter of the million dollars (more than \$1 Million in total) for the control of marine pests but mainly *sabella*⁴.

- ii. Some \$2 million was spent on *Styela clava*, not to eradicate it because it was too well established, but with a focus on education. Despite these efforts, *Styela clava* is still present in all the areas it was originally found, plus in some new areas.
- iii. The eradication programme for the brown mussel (*Perna perna*) incursion after the defouling of the Ocean Patriot oil rig in Tasman Bay cost approximately \$250,000. This was considered a 'relatively' inexpensive response. It was unique in that the incursion site was small because of the nature of the 'incursion', which was known to be recent and therefore not an established population.
- iv. An *Undaria* (*Undaria pinnatifida*) eradication programme was carried out on the Chatham Islands after the Seafresh 1 grounded. This cost the insurers of Seafresh 1—Shipowners Mutual Protection and Indemnity Association—approximately NZ\$2.5 million for salvage attempts, NZ\$380,000 for treatment, and NZ\$43,500 for monthly inspections. Eradication was achieved at only 17% of the cost of failed salvage attempts but required a long-term commitment. In this case, the restriction of *Undaria* to a confined area (i.e. a vessel's hull), the early knowledge of the incursion and rapid response increased the likelihood of eradication. The Ministry for Primary Industries (MPI) have advised, however, that *Undaria* has been detected growing on structures and

⁴ Council's Section 32 Report, page 338, section 8.10.3 second para.

substrate in the Chatham Islands in recent years since the eradication programme.

- v. In 2010, a single *Undaria* sporophyte was discovered in Sunday Cove, Breaksea Sound, Fiordland. An immediate joint-agency response between Environment Southland, MPI and DOC was initiated in an attempt to eliminate this harmful aquatic organism. Since August 2010 monthly diving surveys and control treatments have taken place. Despite this effort, occasional young *Undaria* specimens are still being found. Six and a half years into the response to *Undaria*, operational expenditure is approximately \$1 million, however *Undaria* has not been entirely eliminated from the site and regular treatment continues.
21. In a consultation document for a draft Import Health Standard for biofouling⁵, Ministry of Agriculture and Forestry Biosecurity NZ (MPI's predecessor) noted that:

“In the marine environment, it is often difficult to detect the arrival of new non-indigenous species early enough to make eradication feasible. Tools for detecting, eradicating or managing an established pest are limited, difficult to perform, and expensive⁶.”
22. Floerl et al. 2005 also stress the point that preventing the introduction and establishment of non-indigenous species is the safest and most efficient way to avoid costs and impacts associated with biological invasions⁷.
23. Policy 12 of the NZCPS refers to the introduction of structures likely to be contaminated with harmful aquatic organisms; and the establishment and relocation of equipment and stock required for or associated with aquaculture⁸ as relevant activities with the potential to introduce or spread harmful aquatic organisms. While the NZCPS recognises that aquaculture

⁵ Before the amendments to the Biosecurity Act in 2012 MPI was developing an Import Health Standard to regulate vessel biofouling of vessels coming into New Zealand Waters. After the amendments to the Act the Import Health Standard became the *Craft Risk Management Standard – Biofouling* 2014.

⁶ MAFBNZ 2010, page 5

⁷ Floerl et al. 2005, page 5

⁸ NZCPS 2010 Policy 12 (2)(a) and (d) respectively, page 17

can significantly contribute to the social, economic and cultural well-being of people and communities, the risk of the transmission of harmful aquatic organisms, including micro-organisms capable of causing diseases, can pose a significant threat to the economic value of aquaculture as well as the surrounding environment. However, some activities in the coastal marine area, such as the movement of aquaculture stock and equipment, may also hasten or exacerbate the spread of harmful aquatic organisms if not appropriately managed. Marine farms can also provide ideal habitats for some diseases or biofouling species (e.g. sea squirts such as *styela clava*) to establish. Hence it is important that the provisions of the plan manage the risks associated with harmful aquatic organisms on structures (fixed and moveable).

24. Policy 28 of the Proposed Plan recognises the risks of introducing harmful aquatic organisms associated with aquaculture activities, including the introduction of structures and the relocation of equipment and stock.
25. Policy 28 also recognises the risks associated with the introduction of any structures or installations and maintenance activities (including hull cleaning) of structures, moveable objects and ships. Policy 28 does not refer to the risks of introducing harmful aquatic organisms in discharges or disposal dredging, however, Policy 43 of the Proposed Plan, regarding Port Dredging, recognises that contaminated dredge spoil needs to be managed in terms of location of: deposition; minimising dispersal; and avoiding, remedying and mitigating adverse environmental effects.
26. Effectively managing discharges associated with biofouling cleaning also assists in giving effect to NZCPS Policy 11 (Indigenous biodiversity) and Policy 13 (Preservation of natural character). Effective management of activities that could cause the release or spread of harmful aquatic organisms is a key step in protecting New Zealand's indigenous biodiversity and reducing the risk of irreversible changes to the natural character of the coastal environment. The release or spread of harmful aquatic organisms could alter natural elements and processes and the biophysical and ecological characteristics of the coastal environment.

27. NZCPS Policy 23 – Discharge of contaminants, seeks to manage discharges to the coastal environment generally in Policy 23(1) and specifically from ports and other marine facilities in Policy 23(5). In-water cleaning of a vessel’s hull and niche areas will involve a discharge of biological material, which the *Cleaning of biofouling* rules in the Proposed Plan seek to control. In-water cleaning to manage harmful aquatic organisms could also involve the discharge of a contaminant either from the anti-fouling coating particularly if it is ablative⁹, or other debris such as anti-fouling paint flakes. Proposed Rule 9 recognises the risk of discharging both biological and chemical contaminants (such as from ablative coatings). The conditions of Rule 9, seek to manage the potential adverse effects of such discharges as follows:
- a. Condition (a) requires the cleaning method to be in accordance with the paint manufacturer recommendations, which will be methods that will not damage the anti-fouling coating.
 - b. Condition (d) limits the level of fouling that can be cleaned to Level of Fouling (LOF) 2 – this is essentially microfouling with a very small coverage of macrofouling, which can be cleaned by wiping, thereby minimising the release of chemicals from anti-fouling coatings.
 - c. Condition (e) requires capture of biological material to 50 microns and removal from the coastal marine area.

Key developments in approaches to vessel bio fouling

28. NZCPS Policy 12 has a significant cross-over with MPI’s role in marine biosecurity and the provisions of the Biosecurity Act 1993. Since the gazettal of the NZCPS in 2010 there have been a number of key developments in

⁹ Ablative coatings include a biocide which is a chemical substance (i.e. copper compounds) to prevent the settlement or survival of aquatic organisms. Ablative coatings will have a soluble matrix that slowly dissolves to release the biocide.

international, domestic and regional approaches to managing the risks from vessel biofouling. In particular:

- i. In July 2011 the International Maritime Organisation (IMO) adopted the *Guidelines for the control and management of ships' biofouling to minimize the transfer of invasive aquatic species*. The IMO guidelines 2011 are intended to provide a globally consistent approach to the management of biofouling.
 - ii. The Biosecurity Act 1993 was amended in 2012 to provide new tools for the management of biofouling, including the ability to write Craft Risk Management Standards and Pathway Management Plans. The *Craft Risk Management Standard – Biofouling* (CRMS) was released in April 2014 (at which time MPI encouraged voluntary compliance) and it took effect on the 15th of May 2018, requiring mandatory compliance.¹⁰
 - iii. The *ANZECC Code of Practice for Anti-fouling and In-water Cleaning* 1997 was jointly reviewed and replaced by MPI and the Australian Department of Agriculture Fisheries and Forestry with the *Guidelines for Anti-fouling and In-water Cleaning* June 2013 (Appendix 1).
29. All of these developments recognise the risks of introducing harmful aquatic organisms via vessel biofouling and present a shift in what is good practice to manage vessel biofouling. In brief, they recognise that anti-fouling coatings on their own are not sufficient and regular maintenance is required to keep the growth of biofouling to a minimum - ideally to microfouling only. This is a significant shift in approach to that in the 1997 ANZECC Code of Practice, which the Council would have had regard to when preparing its first regional coastal plan. The 1997 ANZECC Code of Practice discouraged in-water cleaning because of the risk of introducing harmful aquatic organisms and the potential discharge of contaminants from anti-fouling coatings. The IMO Guidelines 2011, however, state:

¹⁰ Craft Risk Management Standard – Biofouling on vessels arriving to New Zealand (15 May 2014) MPI.

“To minimize the transfer of invasive aquatic species, a ship should implement biofouling management practices, including the use of anti-fouling systems and other operational management practices to reduce the development of biofouling. The intent of such practices is to keep the ship’s submerged surfaces, and internal seawater cooling systems, as free of biofouling as possible. A ship following this guidance and minimizing macrofouling would have a reduced potential for transferring invasive aquatic species via biofouling¹¹.”

30. The Council’s Section 32 Report notes the Council’s intention to be consistent with the *Guidelines for Anti-fouling and In-water Cleaning June 2013* (Appendix 1). Further to a pre-hearing meeting between DOC, MPI and the Council, the Section 42A Report recommends further changes to Policy 28 and Rules 9 and 10 achieve better consistency with those Guidelines. I am very supportive of those changes but seek some further minor changes as set out below in my response to the Section 42A report.

Guidelines for Anti-Fouling and In-Water Cleaning June 2013

31. The purpose of the June 2013 Guidelines (Appendix 1), which were jointly prepared by Australia’s Department of Agriculture Fisheries and Forestry and New Zealand’s Ministry for Primary Industries, and are endorsed by MPI as best practice, is to:

“...provide guidance on best-practice approaches for the application, maintenance, removal and disposal of anti-fouling coatings and the management of biofouling and invasive aquatic species on vessels and movable structures in Australia and New Zealand. These guidelines are also intended to assist authorities to decide on the appropriateness of in-water cleaning operations in general and on a case-by-case basis. In achieving this purpose, it is the aim of the guidelines to minimise contamination and biosecurity risks associated with shore-based and in-water maintenance of vessels and movable structures¹².”

32. The Guidelines are divided into two parts¹³:

“Part 1: Best practice guidance for the application, maintenance, removal and disposal of anti-fouling coatings at shore-based maintenance facilities to minimise environmental risk.

¹¹ IMO Guidelines 2011, paragraph 4.2, page 5.

¹² The Guidelines, page 7

¹³ The Guidelines, page 2

Part 2: Best practice guidance for in-water cleaning and maintenance of vessels and movable structures to minimise environmental risk.”

33. Part 2 of the Guidelines is of most relevance to regional councils and unitary authorities with respect to the coastal marine area. Part 2 consists of two sections:
- a. Section A: Information on the factors that determine the environmental risk of in-water cleaning.
 - b. Section B: Specific guidance on situations where in-water cleaning may be acceptable and any conditions that may apply¹⁴.
34. The Guidelines also include the following appendices of relevant supporting information:
- i. **Appendix 1:** A decision support tool to determine the appropriateness of in-water cleaning in specific circumstances.
 - ii. **Appendix 2:** Information on the types of anti-fouling coating commercially available and the means by which they prevent biofouling growth.
 - iii. **Appendix 3:** Information on currently available in-water cleaning techniques.
 - iv. **Appendix 4:** A template for a Biofouling Management Plan and a Biofouling Record Book developed by the International Maritime Organization.
 - v. **Appendix 5:** Information on how to identify different biofouling types on vessels and movable structures.

How adopting the guidelines is consistent with NZCPS Policy 12

¹⁴ The Guidelines, page 10

35. The aim of the Guidelines is to minimise contamination and biosecurity risks associated with shore-based and in-water maintenance of vessels and movable structures, which aligns with NZCPS Policy 12. Consistency with the Guidelines in regional coastal plan provisions to manage harmful aquatic organisms is, in my opinion, a way to adequately give effect to NZCPS Policy 12.
36. The Guidelines are not a statutory document. They are, however, current best practice and are endorsed as such by the Australian and New Zealand Governments. They are also aligned with international conventions intended to protect the aquatic environment from invasive aquatic species and contaminants from shipping¹⁵ and align with New Zealand’s national biofouling management approach.
37. I consider that the Proposed Plan provisions in Policy 28 and Rules 9 and 10, amended as recommended by the Section 42A Report, give effect to NZCPS Policy 12. I am appearing in support of the recommendations in the Section 42A Report. However, I recommend a small number of further changes to the rule as set out next.

Comment on Section 42A Report – Cleaning of biofouling

38. The following paragraphs outline where I support the Officers Section 42A recommended amendments and where I seek further changes, in relation to: Policy 28; Rules 9 and 10, and two definitions.

Policy 28

39. I support the Officers recommended changes to Policy 28. This includes the relief sought by the Minister of Conservation that the words “and scraping” be

¹⁵ The International convention on the control of harmful anti-fouling systems on ships
The 1996 protocol to the Convention on the prevention of marine pollution by dumping of wastes and other matter, 1972
The 2011 Guidelines for the control and management of ships’ biofouling to minimize the transfer of invasive aquatic species.
The Guidelines, page 1

deleted from Policy 28(a). Scraping is a method that should not be used with many types of anti-fouling coatings. I also support the change requested by other submitters that the word “will” be changed to “must”.

Rule 9

40. While I strongly support the Officer’s recommended changes to Rule 9, I question the adequacy of condition (c) and the appropriateness of having rule requirements in a footnote (Footnote 4). The relief requested by both DOC and MPI for this condition is for condition (c) to be worded as follows:

“if any person undertaking or responsible for the cleaning, suspects that harmful or unusual aquatic species (including species designated as unwanted organisms or pest species under the Biosecurity Act 1993) are present on the ship, structure or navigational aid, that person shall take the following steps:

- i. any cleaning activities commenced shall cease immediately, and
- ii. the Taranaki District Council and the Ministry for Primary Industries shall be notified without unreasonable delay: and
- iii. the cleaning may not recommence until notified by the Council to do so, or in the event a designated unwanted organisms or pest species is found, notified to do so by the Ministry for Primary Industries.”

41. I seek that condition (c) be amended to include all elements as sought by DOC and MPI, as set out above in the body of the rule rather than in a footnote, for clarity and enforceability. The condition as recommended in the Section 42A Report does not give the Council ability to take any action if a suspected harmful or unusual aquatic organism is found. For example, require that a suspected harmful or unusual aquatic species be identified by a taxonomic expert.

Rule 10

42. I support Rule 10 recommended by the Section 42A Report, specifically the removal of the words “Sampling, scraping and/or” from the activity description.

Definitions: Microfoul and Macrofoul

43. Both DOC and MPI submissions sought the inclusion of the terms “Microfouling” and “Macrofouling” in the definitions section of the Proposed Plan. While these terms have been included and with the definitions sought by both agencies, the Section 42A report has changed the terms to “Microfoul” and “Macrofoul”.
44. The terms “microfoul” and “macrofoul” are not used in any of the Guidelines or research papers referenced. A google search of the terms “microfoul” or “macrofoul” does not find anything of relevance. Most importantly, Rule 9 refers to “microfouling” and “macrofouling”, not “microfoul” or “macrofoul”.
45. While this could be considered a minor detail, I recommend the terms “microfoul” and “macrofoul” be changed to “Microfouling” and “Macrofouling”. This is a minor correction but would achieve consistency with the terms in Rule 9, in the guidelines and relevant research papers, and minimise the risk of any interpretation errors.

Conclusion

46. As discussed in my evidence above, there has been a shift in international and domestic approaches (statutory and non-statutory) for reducing the risks of introducing and/or spreading harmful aquatic organisms.
47. The Guidelines 2013 produced by the Australian and New Zealand Governments present current best practice. I believe that Policy 28 and Rules 9 and 10 as amended in the Section 42A Report largely give effect to the recommendations in those Guidelines, and in doing so give effect to the NZCPS, particularly Policy 12.
48. However, I do consider the further amendments to condition (c) and the terms “microfoul” and “macrofoul” in the definitions, as set out above, are necessary for certainty and enforceability of the Rule 9.

A handwritten signature in blue ink, appearing to be 'Sarah Hucker', with a long horizontal flourish extending to the right.

Sarah Hucker

DATED this 12 day of July 2019

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Appendix 2: Anti-Fouling and In-Water Cleaning Guidelines (June 2013)



Australian Government
**Department of Agriculture,
Fisheries and Forestry**
**Department of Sustainability,
Environment, Water, Population
and Communities**

ANTI-FOULING AND IN-WATER CLEANING GUIDELINES

June 2013



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ANTI-FOULING AND IN-WATER CLEANING GUIDELINES

June 2013

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Anti-fouling and in-water cleaning guidelines

Introduction

The growth and accumulation of aquatic organisms (biofouling) on vessels and other movable submerged structures affects their performance and can lead to the spread of invasive aquatic species. Anti-fouling coatings are commonly used to protect submerged surfaces and prevent biofouling accumulation. Application, maintenance and removal of anti-fouling coatings on vessels and movable structures in maintenance facilities or in-water can result in contamination of the aquatic environment. Accidental release of biofouling organisms during cleaning operations can facilitate the spread of invasive aquatic species threatening human health, the aquatic environment, and social, cultural and economic values.

Purpose and principles

These guidelines provide guidance on best-practice approaches for the application, maintenance, removal and disposal of anti-fouling coatings and the management of biofouling and invasive aquatic species on vessels and movable structures in Australia and New Zealand. These guidelines are also intended to assist authorities to decide on the appropriateness of in-water cleaning operations in general and on a case-by-case basis. In achieving this purpose, it is the aim of the guidelines to minimise contamination and biosecurity risks associated with shore-based and in-water maintenance of vessels and movable structures.

These guidelines are based upon the following principles:

- The risks posed by biofouling management measures should be balanced with the risks of failing to manage biofouling.
- There is an operational need to manage biofouling on vessels and movable structures.
- It is preferable to minimise the accumulation of biofouling on vessels and movable structures.
- It is preferable for biofouling to be removed in the location where it was acquired before departing or moving to a new location.
- Release of potentially toxic chemicals and invasive aquatic species into the environment should be minimised.
- Where operationally and economically practicable, vessels and movable structures should be removed from the water for cleaning and maintenance, in preference to in-water operations.

Scope

These guidelines apply to all vessels and other movable structures in aquatic (marine, estuarine and freshwater) environments, regardless of whether they are coated in an anti-fouling coating. These guidelines should be used by resource managers, owners and operators of vessels and movable structures, operators and customers of maintenance facilities and contractors providing vessel maintenance services.

These guidelines replace the *ANZECC Code of practice for anti-fouling and in-water hull cleaning and maintenance* (1997).

The practices described in these guidelines have been aligned with international conventions intended to protect the aquatic environment from invasive aquatic species and contaminants from shipping. These include:

- the *International convention on the control of harmful anti-fouling systems on ships*
- the *1996 protocol to the Convention on the prevention of marine pollution by dumping of wastes and other matter, 1972*
- the *2011 Guidelines for the control and management of ships' biofouling to minimize the transfer of invasive aquatic species*.

These guidelines are consistent with both countries' developing national biofouling management approaches.

Occupational health and safety should always be a principal concern in vessel maintenance. These guidelines do not specify detailed occupational health and safety requirements. Such information can be found on relevant government websites as linked in the section on Application of the Guidelines.

Structure of these guidelines

These guidelines are divided into two main parts:

- **Part 1:** Best practice guidance for the application, maintenance, removal and disposal of anti-fouling coatings at shore-based maintenance facilities to minimise environmental risk.
- **Part 2:** Best practice guidance for in-water cleaning and maintenance of vessels and movable structures to minimise environmental risk.

Relevant supporting information is provided in:

- **Appendix 1:** A decision support tool to determine the appropriateness of in-water cleaning in specific circumstances.
- **Appendix 2:** Information on the types of anti-fouling coating commercially available and the means by which they prevent biofouling growth.
- **Appendix 3:** Information on currently available in-water cleaning techniques.
- **Appendix 4:** A template for a Biofouling Management Plan and a Biofouling Record Book developed by the International Maritime Organization.
- **Appendix 5:** Information on how to identify different biofouling types on vessels and movable structures.

Definitions

For the purposes of these guidelines the following definitions apply.

| | |
|------------------------------------|---|
| Adequate documentation | Records of the recent history of anti-fouling installation and hull maintenance undertaken on a vessel or movable structure. |
| Anti-fouling coating | A coating applied to submerged surfaces to prevent or reduce accumulation of biofouling. Common types of anti-fouling coating are described in Appendix 2. |
| Anti-fouling coating system | The combination of all component coatings, surface treatments (including primer, sealer, binder, anti-corrosive and anti-fouling coatings) or other surface treatments, used on a ship to control or prevent attachment of unwanted aquatic organisms. |
| AFS Convention, 2001 | International Convention on Control of Harmful Anti-Fouling Systems on Ships, 2001. |
| AFS Certificate | An International Anti-Fouling System Certificate that vessels greater than 400 gross tonnes and registered to a Flag State that is a Party to the <i>International convention on the control of harmful anti-fouling systems on ships</i> are required to carry. This certificate indicates that the vessel's anti-fouling system complies with the convention. |
| Australian or New Zealand waters | Internal waters, the Territorial Sea and the Exclusive Economic Zone (EEZ) of Australia or New Zealand. |
| Biocide | A chemical substance incorporated into anti-fouling coatings to prevent settlement or survival of aquatic organisms. |
| Biofouling | Accumulation of aquatic organisms (micro-organisms, plants and animals) on surfaces and structures immersed in or exposed to the aquatic environment. |
| Biofouling type | The level and composition of biofouling that accumulates on submerged surfaces over time. These guidelines distinguish between two types of biofouling (see Appendix 5). |
| Biogeography | The association of species or species assemblages with location. The combination of physical features, such as rocky reefs, and constraints on species dispersal can generate assemblages that can be identified as characteristic of a specific location. |
| Biosecurity | The exclusion, eradication or effective management of pests and diseases that threaten the economy, environment, human health, social and cultural values. |
| Biosecurity risk | The potential harm to the economy, environment, human health and social and cultural values posed by pests and diseases entering, emerging, establishing or spreading in Australia and/or New Zealand. |
| Contaminant | Any undesirable substance occurring in the environment as a result of human activities, even without adverse effects being observed. |
| Contamination | The presence of a contaminant in the environment, or the process whereby a contaminant is introduced into the environment. |
| Controlled waste | Material or liquid waste that is regulated because of its toxicity or imminent hazardous nature. |
| Declaration on Anti-fouling System | The declaration required to be carried by vessels of less than 400 gross tonnes but greater than 24 metres, and registered to a Flag State that is Party to the <i>International convention on the control of harmful anti-fouling systems on ships</i> . This declaration ensures their anti-fouling coating system complies with the convention. |

| | |
|--|--|
| Exclusive Economic Zone | Those waters beyond the limits of the Territorial Sea out to 200 nautical miles. |
| Emergency situation | An event, actual or imminent, which endangers or threatens to endanger life, property or the environment and which requires a significant coordinated response. |
| In-water cleaning | The physical removal of biofouling and/or anti-fouling coating surface deposits from submerged surfaces. For the purposes of these guidelines, 'in-water' refers to the parts of a vessel or movable structure that are either below the load line or normally submerged and/or are coated in anti-fouling coating. |
| Local water quality standards | The concentrations or discharge of contaminants (such as those arising from hull maintenance operations) regarded as acceptable by the relevant authority. |
| Maintenance facility | Any location or facility where on-shore maintenance of vessels or other movable structures is carried out. This includes maintenance, removal and application of anti-fouling coatings and removal of biofouling organisms. |
| Marine Growth Prevention System (MGPS) | An anti-fouling system used to prevent biofouling accumulation in internal seawater systems and sea chests; can include use of anodes, injection systems and electrolysis. |
| Movable structure | A structure or installation deployed in aquatic environments that can be moved between locations. Movable structures include (but are not limited to) oil and other exploration rigs, floating dry-docks, pontoons, aquaculture installations, navigational structures. The cleaning and movement of aquaculture stock falls outside the scope of these guidelines and should be covered in industry codes of practice or similar documents. |
| Niche areas | Areas on a vessel or movable structure more susceptible to biofouling accumulation due to different hydrodynamic forces, susceptibility to anti-fouling coating wear or damage or absence of anti-fouling coatings. They include, but are not limited to, waterline, sea chests, bow thrusters, propeller shafts, inlet gratings, jack-up legs, moon pools, bollards, braces and dry-docking support strips. |
| Planned in-service period | The intended interval (decided at the time of anti-fouling coating application) until the next scheduled application of anti-fouling coating on a vessel or movable structure |
| Relevant authority | The authority responsible for managing the environmental effects of activities. Refer to section on Application of these Guidelines for further information. |
| Service life | The period of time an anti-fouling coating system is expected to protect a treated surface from biofouling and/or corrosion if the coatings are applied in accordance with the manufacturer's specifications. |
| Statement of compliance | A document (and associated evidence) issued by a classification society to vessels greater than 400 gross tonnes that are registered in Flag States not Party to the <i>International convention on the control of harmful anti-fouling systems on ships</i> . |
| Vessel | Any craft that operates in an aquatic environment be it to transport people or commodities, to carry out maintenance or provide a platform for other activities (such as recreational, fishing, cruise, merchant, exploration, research or naval vessels and barges and other vessel types). |

Part 1: Shore-based application, maintenance, removal and disposal of anti-fouling coatings

A. Anti-fouling coating types

A wide range of anti-fouling coatings are available for owners and operators of vessels and movable structures. For simplicity, these guidelines group anti-fouling coatings into two main categories, based on whether they rely on release of biocidal (toxic) compounds to prevent biofouling (see Appendix 2).

- **Biocidal coatings** release chemicals such as copper compounds that aim to prevent settlement or survival of aquatic organisms.
- **Biocide-free coatings** do not depend on chemicals or pesticides for their anti-fouling properties, instead relying on their physical nature.

Both biocidal and biocide-free anti-fouling coatings may contain harmful substances that pose a contamination risk if released into the environment.

All biocidal anti-fouling coatings must be registered and permitted for use as an 'anti-foulant' by the Australian Pesticides and Veterinary Medicines Authority in Australia or the Environmental Protection Authority in New Zealand before they can be applied in that country. Sale and application of unregistered biocidal coatings is prohibited in Australia and New Zealand, as is the addition of any biocidal additive to an anti-fouling coating.

The sale and application of anti-fouling coatings containing tributyltin are prohibited in Australia and New Zealand. However, Australian and New Zealand maintenance facilities may still carry out maintenance on vessels and movable structures that have tributyltin-based anti-fouling coatings beneath barrier coats and compliant anti-fouling coatings, provided the facilities are able to contain waste produced during maintenance and minimise release of contaminants.

Material Safety Data Sheets and relevant product descriptions should be consulted for advice and information on correct storage, handling and emergency treatment procedures for all anti-fouling coatings and chemicals.

Application, maintenance, removal and disposal of anti-fouling coatings should only be carried out at maintenance facilities that have adopted measures to ensure all biofouling, coatings and other physical contaminants removed from vessels and structures are retained and treated in a manner that is compliant with relevant local regulations. It is the responsibility of the person carrying out the maintenance to check all necessary approvals are in place and that they are familiar with all conditions specified in such approvals.

B. Choosing the correct anti-fouling coating

Different anti-fouling coatings are designed and developed with different uses in mind. It is essential, therefore, that the person buying and/or applying a coating obtains appropriate technical advice, generally from the coating manufacturer or supplier, before choosing an anti-fouling coating. Application of an inappropriate anti-fouling coating may result in increased and unnecessary accumulation of biofouling, increased loadings of biocide in the environment, or a requirement for more frequent maintenance.

The following factors should be considered when choosing an anti-fouling coating system:

- The activity profile of the vessel or movable structure—different anti-fouling coatings are designed to optimise anti-fouling performance for specific speeds, aquatic environments or levels of activity.
- Planned in-service periods before coating system renewal—different coating types and film thicknesses have different service lives that must be matched with planned maintenance and reapplication.
- Design and construction of the vessel or movable structure—the coating must be compatible with construction materials and use of specific coatings in niche or high and low water flow areas should be considered.
- Any legal requirements for the sale and use of anti-fouling coatings.

Planned in-service period

The anti-fouling coating manufacturer and/or commercial applicator should be consulted when choosing an anti-fouling coating to ensure it is capable of meeting or exceeding the planned in-service period. Anti-fouling coatings that are older than the planned in-service period may not provide adequate protection from biofouling.

For commercial vessels and structures, the type and thickness of anti-fouling coatings (in particular for self-polishing systems) are generally determined by the planned in-service period and operational profile. The planned in-service period is determined by logistic and economic factors, and should be recorded in the vessel's Biofouling Management Plan.

For recreational vessels, the maintenance schedule is not usually determined by operational forecasts and logistical constraints, and anti-fouling coatings are chosen according to other factors. Based on recommended service lives of currently available anti-fouling coatings, the following in-service periods are recommended: 12 months for biocidal anti-fouling coatings and 24 months for biocide-free coatings.

Record-keeping

Records should be kept of anti-fouling coatings chosen and applied.

For **commercial vessels and structures**, the preferred form of documentation of anti-fouling coating type and age is:

- a biofouling record book and/or biofouling management plan (see Appendix 4), or
- an anti-fouling system certificate or declaration on anti-fouling system, or
- original receipts or invoices stating the coating type and the volume purchased; vessel name and date of application, where the former documents are not held.

For **recreational vessels**, the preferred form of documentation is:

- a biofouling record book and/or biofouling management plan (see Appendix 4), or
- original receipts or invoices stating the coating type and the volume purchased, vessel name (if possible) and date of application, where the former document(s) are not held.

C. Requirements for shore-based maintenance facilities

Operators of shore-based maintenance facilities should:

- be familiar with best-practice recommendations set out in these guidelines for application, maintenance and removal of anti-fouling coatings and ensure that all customers are similarly informed.
- adopt measures to ensure biofouling waste, coating waste and other contaminants arising during maintenance activities are captured and retained in a manner that minimises their release into the terrestrial and aquatic environment.

Shore-based maintenance facilities should have:

- Clearly designated areas where maintenance activities producing debris are isolated from the environment. Facilities that enable customers to undertake maintenance on their own vessel or movable structure (that is, non-professional maintenance) should ensure sufficient information on how to prevent any discharges is provided.
- Clear operational rules that facility operators should ensure are followed, by supervising non-professional maintenance activities, as appropriate.

Coating and biofouling waste should be disposed of as controlled waste and the method of disposal should comply with relevant local regulations.

D. Application of Anti-fouling Coatings

General guidance

The manner in which an anti-fouling coating is applied influences its performance. Reduced performance will result in a need for more frequent maintenance. To achieve optimum performance, the following is strongly recommended:

- Technical advice regarding the correct surface preparation, application and curing time required for maximum performance of the anti-fouling coating should be sought from the manufacturer prior to

applying the coating. All elements vary according to the type and brand of coating used and will affect performance.

- All anodes, sensitive fittings and sensors should be removed or heavily taped before application to avoid physical damage.
- Any primers and/or anti-corrosive coatings used must be compatible with the type of anti-fouling coating and appropriately applied to ensure optimal coating adhesion and distribution. Specialist or manufacturer's advice should be sought before new anti-fouling coating is applied over existing anti-fouling coating to ensure the coatings are compatible or that appropriate barrier coatings are used.
- It is important that the manufacturer's recommended coating film thickness be achieved to help ensure that the coating provides the expected service life.
- The manufacturer's recommended method of application must be followed to achieve optimal results. Use of non-approved techniques will compromise the anti-fouling and corrosion protection, and the service life of the coating system. Spray application of anti-fouling coatings achieves the best coating adhesion, surface consistency and smoothness. Where spray application is not possible, practical specialist advice should be sought about other application methods.
- Hull locations prone to high water flow and wear (e.g. exposed edges around bilge keels, intake grates and weld joints) should be coated with suitably durable anti-fouling coatings to the specified coating thickness. Housings, recesses and retractable fittings such as stabilizers, thruster bodies and guards should all be coated with a suitable anti-fouling coating.
- The position of docking blocks, slings, and other structures used to support vessels or movable structures during out of water maintenance should, where possible, be varied each time new coatings are applied. This ensures that areas under the docking blocks are coated with anti-fouling, at least at alternate dockings.

Specific guidance for professionals

- A work area should be used that is designed to minimise discharge of any contaminant into the environment, whether through run-off or aerosol distribution. This should include full bunding and screening of the work area, where appropriate.
- To prevent aerosols from drifting into neighbouring environments, all work should take place in an area that is protected from windy conditions.
- Clean, appropriate, efficient and well-maintained spray equipment must be used for application to ensure optimal coating thickness and distribution.
- Dedicated spray equipment must be used for silicone-based coatings to prevent silicone cross-contamination.
- All application equipment and containers should be cleaned immediately after use and left-over coatings disposed of in a manner that minimises contamination of the environment and follows local regulations for disposal of controlled waste.
- The relevant occupational health and safety requirements should be adhered to at all times.

Specific guidance for non-professionals

- Wherever possible, anti-fouling coatings should be applied by experienced professionals. However, non-professional application of anti-fouling coatings is common for small vessels, such as recreational yachts and launches or small fishing vessels. Non-professionals should follow manufacturer's recommendations when determining how they intend to apply the anti-fouling coating. The anti-fouling coating industry emphasises that spray application is the preferred method and will achieve the best coating performance. However, spray equipment should only be operated by professionals, or under the supervision of professionals, to ensure optimal application. Spray equipment should never be used outside of screening or other containment to prevent spray drift and contamination of nearby environments and structures.
- Anti-fouling coatings should be mixed (if necessary) in designated areas that are sealed, banded and well ventilated. Preparation and mixing of anti-fouling coatings must never be carried out in intertidal areas.
- Spills should be cleaned up using absorbent material and any residues should be allowed to dry rather than being washed into the wastewater collection system or aquatic environment.
- Any excess coating, empty coating and thinner containers and other material contaminated with primer, anti-corrosive or anti-fouling coatings should be disposed of as controlled waste. Empty

coating and thinner containers should be allowed to air dry in a well-ventilated area prior to this. Coatings should not be allowed to enter water drains, gutters, sewers or the aquatic environment.

- Contaminants should be captured out of run-off water using permeable tarpaulins, screens or filter cloths.
- The area around maintenance areas should be swept or vacuumed frequently to minimise distribution of debris by wind.
- Contaminants such as coatings, pesticides, thinners, oils, detergents, paint strippers, etc. should be stored in accordance with Material Safety Data Sheets and in a manner that complies with any relevant local regulations.
- Relevant information on handling of, or exposure to coatings, thinners and other materials used during the application process should be obtained from the product label, the manufacturers' websites (such as Material Safety Data Sheets) or the retailer, and adhered to at all times.
- The recommended drying time of the primer and anti-fouling coatings must be observed to achieve optimal adhesion and coating performance. Premature over-coating or submersion will compromise coating adhesion and/or anti-fouling and anti-corrosion performance.

E. Maintenance and removal of anti-fouling coatings

Maintenance by professionals

Various methods are available for removal and maintenance of anti-fouling coatings. Each requires consideration of different factors. In all cases, disposal of removed material should follow the recommendations set out in Section F of these guidelines.

Hydroblasting (also known as hydrojetting, water jetting and water blasting) uses water propelled at high or ultrahigh pressure onto a surface to clean surfaces and remove old coatings. Abrasives are not used. Factors to consider:

- Spray drift created during hydroblasting contains anti-fouling residues. The dispersal of spray drift beyond the working area should be minimised by the use of screening and by avoiding spraying during windy conditions.
- Anti-fouling coatings are toxic and hazardous both to people and the environment. The work area where cleaning is carried out should be isolated and people engaged in the blasting should be completely protected from contact with all wastewater and spray drift.

Abrasive blasting (also known as grit blasting) uses air pressure, water pressure or centrifugal force to propel an abrasive material onto a surface to remove contamination, rust and old paint, and to create surface profile. Common abrasive materials used include sand, steel shot, steel grit, iron grit, copper slag, garnet and aluminium oxide. Dry abrasive blasting uses compressed air to propel the abrasive material. Wet abrasive blasting (slurry blasting) uses a slurry of water and abrasive material (rather than dry abrasive alone) to suppress dust generation. Vacuum blasting has vacuum technology added to dry abrasive blasting to capture used abrasive material and cleaning debris. Factors to consider:

- All anodes, sensitive fittings and sensors should be removed or heavily taped before blasting to avoid physical damage.
- Vacuum blasting is recommended over all other abrasive blasting methods.
- Wet abrasive blasting is preferred over dry blasting, as it creates less toxic dust.
- In the absence of vacuum blasting equipment, abrasive blasting operations should be conducted using one of the following options
 - an abrasive blasting chamber vented to the atmosphere via an effective dust collector or fabric filter, or
 - Ensure that the screening material for outdoor/open-air blasting is tear-resistant, UV-resistant, fire retardant and of suitable material and construction (preferably fully enclosed) to minimise escape of fine dust.
- Dry abrasive blasting should only be carried out in enclosed areas. Water or a proprietary suppressant agent should be used to minimise dust emissions from the work area.

Spot repair or maintenance

If coating removal or maintenance is carried out using small power tools or manual methods, the recommendations for non-professionals (below) should be followed.

Maintenance by non-professionals

These guidelines recognise that maintenance tools available to non-professionals may be different to those available to professionals. Therefore, some additional advice is provided here for non-professionals. In all cases, disposal of removed material should follow the recommendations set out in section F. In addition:

- Wherever feasible, mechanical or manual buffing and scraping should be used as they create debris that are more easily collected particularly when using wet techniques that further reduce the potential for aerial distribution.
- Pressure water blasting and abrasive grit blasting should only be conducted if appropriate screening and containment is available.
- All waste and debris should be collected using tarpaulins or drop-sheets and by avoiding work during windy conditions.
- Removal of coatings by wet sanding or scraping is preferred to chemical paint stripping as it creates less toxic waste material. The use of a heat gun can make coating removal easier on some surfaces. If chemical paint strippers must be used, consider soy-based or water-based products that are less hazardous. In all cases it is recommended that manufacturer's instructions are sought to determine the safest and most appropriate method for removing coatings.

F. Disposal of residues and wastes

To manage biosecurity and contaminant risks associated with shore-based maintenance activities, the following recommendations should be adhered to:

- Any removed material or liquid should not be allowed to enter any body of water or stormwater; and should not come into contact with any land that is below the high-water mark of any tidal body of water.
- All residues, solid coatings, liquid or any other form of waste, including removed biological material and used product containers should be collected and stored for disposal in line with the requirements of the relevant authority.
- Anti-fouling coatings should not be incinerated as this may generate toxic fumes, smoke and gases.

G. Emergency response

It is recommended that all maintenance facilities have an Emergency Response Plan, whether required by regulation or not. This plan should cover responses to spills of coatings and other hazardous substances, release of organisms, and other incidents with potential contamination and/or occupational health and safety risks. If such an emergency occurs, the relevant authority should be notified.

Any coating spillages should be assumed to contain hazardous substances and be disposed of as controlled waste and in accordance with the requirements of the relevant authority.

Spill clean-up equipment, such as absorbent materials, non-toxic dispersants, and booms (physical barriers for containing liquids) should be available for facility users and maintained in good condition. The relevant authority should be contacted for further information on decontamination procedures.

Part 2: In-water cleaning and maintenance

In-water cleaning can manage biofouling to optimise the performance of vessels and other movable structures and to minimise biosecurity risks. However, in-water cleaning can physically damage some anti-fouling coatings, shorten coating service life and release a pulse of biocide into the environment. In-water cleaning can also facilitate release of invasive aquatic pests into the surrounding environment. In-water cleaning should therefore only be undertaken when removal of biofouling does not harm the coating and presents an acceptable biosecurity or contaminant risk.

Although these guidelines recommend the use of in-water cleaning in some circumstances, vessels and movable structures should be removed from the water for cleaning and maintenance in preference to in-water operations, where this is operationally and economically practicable.

In-water cleaning should not be considered a replacement for coating maintenance and renewal at shore-based maintenance facilities.

Part 2 of these guidelines is divided into two sections:

- Section A: Information on the factors that determine the environmental risk of in-water cleaning.
- Section B: Specific guidance on situations where in-water cleaning may be acceptable and any conditions that may apply.

A. Determinants of contamination and biosecurity risk of in-water cleaning

The recommendations about in-water cleaning in these guidelines are made on the basis of the associated contamination and biosecurity risks. Several factors determine these risks and are described below.

Anti-fouling coating type

These guidelines distinguish between anti-fouling coatings that contain toxic biocides and those that do not (see Appendix 2). All types of anti-fouling coating pose a contamination risk during in-water cleaning. This risk is attributed on the basis of the toxicity and/or longevity of many approved biocides and other compounds found in coatings, including those that are biocide-free.

Not all anti-fouling coatings are suitable for in-water cleaning. For some coatings, specific methods need to be used to prevent damage to the coating and its future performance. Information on the suitability of an anti-fouling coating for in-water cleaning and the appropriate cleaning methods should be obtained from the coating manufacturer or retailer at the time of purchase. Cleaning technologies are outlined in Appendix 3.

Record-keeping

Documentation of coating type, date of application, and the planned in-service period of a vessel or movable structure should be kept on record as the relevant authority may need it when considering requests for in-water cleaning. If this information is not available the relevant authority may not be able to grant permission for in-water cleaning.

Examples of suitable systems for keeping and maintaining information on coatings and hull maintenance are the Biofouling Management Plan and the Biofouling Record Book recommended in the *Guidelines for the control and management of ships' biofouling to minimize the transfer of invasive aquatic species*. Templates for these documents are in Appendix 4.

Alternatively, the type and age of anti-fouling coatings can be provided using the documents required to demonstrate compliance with the *International convention on control of harmful anti-fouling systems on ships*; or other relevant documents, such as receipts or invoices that state the anti-fouling coating type and application date.

Biofouling origin

The geographic origin of biofouling organisms on a vessel or movable structure contributes to its biosecurity risk. If all biofouling was acquired in the same location where in-water cleaning is intended, cleaning may not pose a biosecurity risk as all biofouling species on the vessel or movable structure are already present in that area. However, biofouling acquired from distant locations may contain invasive aquatic species that pose a biosecurity risk. To aid in assessing the risk, three origin categories are defined:

- **Regional biofouling:** biofouling acquired in the same location where in-water cleaning is proposed. 'Regional' is as specified by the relevant state or territory government in Australia and local government in New Zealand. This category may be defined on the basis of biogeography, such as the distribution of (or specific pest management programs for) an invasive aquatic species or the location of high-value environments. Such delineation is the responsibility and prerogative of the state or territory government or local government in conjunction with other governments or agencies, as appropriate.
- **Domestic biofouling:** biofouling acquired from outside the region where in-water cleaning is proposed, but within the respective country's waters. Examples of this would be in-water cleaning of a vessel or movable structure in Sydney (New South Wales) whose biofouling may have been acquired in Fremantle (Western Australia); or cleaning of a vessel in Nelson, South Island, whose biofouling may have been acquired from Auckland, North Island.
- **International biofouling:** biofouling acquired from outside the waters of the country where in-water cleaning is proposed.

Log books that detail the voyage history (geographic locations visited and dates of each visit) of a vessel since its last cleaning or full anti-fouling coating renewal should be kept on board. Similar details should be maintained for movable structures, as appropriate. This provides the relevant authority with information on possible origins of the biofouling on the vessel or movable structure when in-water cleaning is proposed.

Biofouling type

These guidelines divide biofouling into two categories: microfouling and macrofouling (see Appendix 5 for images of examples of both types). Each represents biofouling assemblages of differing diversity, age and abundance.

- **Microfouling** refers to a layer of microscopic organisms including bacteria and diatoms and the slimy substances they produce. It is often referred to as a 'slime layer' and can be easily removed by gently passing a finger over the surface.
- **Macrofouling** refers to large, distinct multicellular organisms visible to the human eye, such as barnacles, tubeworms, mussels, fronds of algae and other large attached or mobile organisms.

Macrofouling growths represent a greater biosecurity risk as they may contain a diverse range of organisms, and are more difficult to effectively remove and contain. The type of biofouling on a vessel or movable structure can be determined by inspection (either by divers or remotely-operated cameras). Documentation of an inspection, such as an entry in a Biofouling Record Book, may be adequate evidence of the type of biofouling on a vessel or movable structure.

B. Guidance on in-water cleaning

This section describes situations where in-water cleaning may be appropriate and the conditions that may apply. This section should be used together with the decision-support tool in Appendix 1.

General guidance

1. If used regularly, in-water cleaning is an effective measure to limit development of biofouling. Regular (i.e. 6–12 monthly) in-water cleaning is recommended for all submerged surfaces, particularly propellers and other niche areas on vessels and movable structures.
2. In-water cleaning to routinely remove mature and extensive macrofouling as a substitute for earlier and/or better maintenance practices is not recommended.
3. In-water cleaning is only acceptable where contaminant discharges from the cleaning activity meet any standards or requirements set by the relevant authority.
4. In-water cleaning of vessels or movable structures should ideally be carried out before departing to new destinations, not after arriving at those destinations.
5. In-water cleaning should only be carried out on anti-fouling coatings that are suitable for in-water cleaning. Information on the suitability and ability of a coating to withstand in-water cleaning without damage and effects on service life, and on appropriate cleaning methods, should be obtained from the coating manufacturer.
6. In-water cleaning should not be performed on vessels or movable structures that have reached or exceeded their planned in-service period. When the anti-fouling coating has reached the end of its service life the vessel or movable structure should be removed from the water and a new anti-fouling coating applied.
7. In-water cleaning or treatment of biofouling should only be carried out using technology that does not harm the underlying coating or result in excessive release of contaminants. The capabilities of new technologies should be verified independently. Information on the suitability of particular cleaning or treatment methods can be obtained from coating manufacturers.
8. When in-water cleaning involves removal of macrofouling of domestic or international origin, methods to ensure minimal release of biological material into the water should be used. In-water cleaning technologies should aim to, at least, capture debris greater than 50 micrometres (μm) in diameter, which will minimise release of viable adult, juvenile and larval stages of macrofouling organisms. Any cleaning debris collected must be disposed of on land and in compliance with the waste disposal requirements of the relevant authority.

9. If suspected invasive or non-indigenous aquatic species are encountered during in-water cleaning or other vessel maintenance activities, the relevant authority should immediately be notified and the cleaning or maintenance activity ceased.

Recommendations for decision making on in-water cleaning

- Microfouling, regardless of origin, may be removed without the need for full containment of biofouling waste, provided the cleaning method is consistent with the coating manufacturer's recommendations. Where microfouling is removed using a gentle, non-abrasive cleaning technique, the contamination risk is likely to be acceptable.
- Macrofouling of regional origin (as defined by the relevant authority) may be removed without the need for full containment of biofouling waste provided the cleaning method is consistent with the coating manufacturer's recommendations and the contaminant discharges meet any local standards or requirements.
- Macrofouling of domestic origin may be removed without the need for full containment of biofouling waste following risk assessment by the relevant authority. If the relevant authority determines containment of biofouling waste is required, the guidance provided in point 8 (above) should be used. In either case, the cleaning method must be consistent with the coating manufacturer's recommendations and contaminant discharges must meet any local standards or requirements.
- Macrofouling derived from international locations should only be removed using cleaning methods that minimise release of all organisms, or parts of organisms, and anti-fouling coating debris, using the guidance described in point 8 (above). The cleaning method must be consistent with the coating manufacturer's recommendations and contaminant discharges must meet any local standards or requirements.

Appendix 1 provides a decision support tool to aid decision making on in-water cleaning based on these recommendations.

Exceptions to these recommendations

- The recommendations on in-water cleaning may not apply in locations where biosecurity controls have been implemented for invasive aquatic species management purposes.
- A need for in-water cleaning may arise during an emergency, to address an operational, health and safety or biosecurity hazard. Identification and handling of such situations is the responsibility of the relevant authority.
- Situations not covered by the decision support tool are solely at the discretion of the relevant authority.

Appendix 1: Decision support tool for in-water cleaning

This tool for in-water cleaning is designed to help relevant authorities make decisions about in-water cleaning practices in their jurisdictions. It will also help owners or operators of vessels and other movable structures determine the types of information and documentation that relevant authorities may require of them to make decisions on in-water cleaning. Relevant authorities may require additional information for their risk-assessment and decision-making processes.

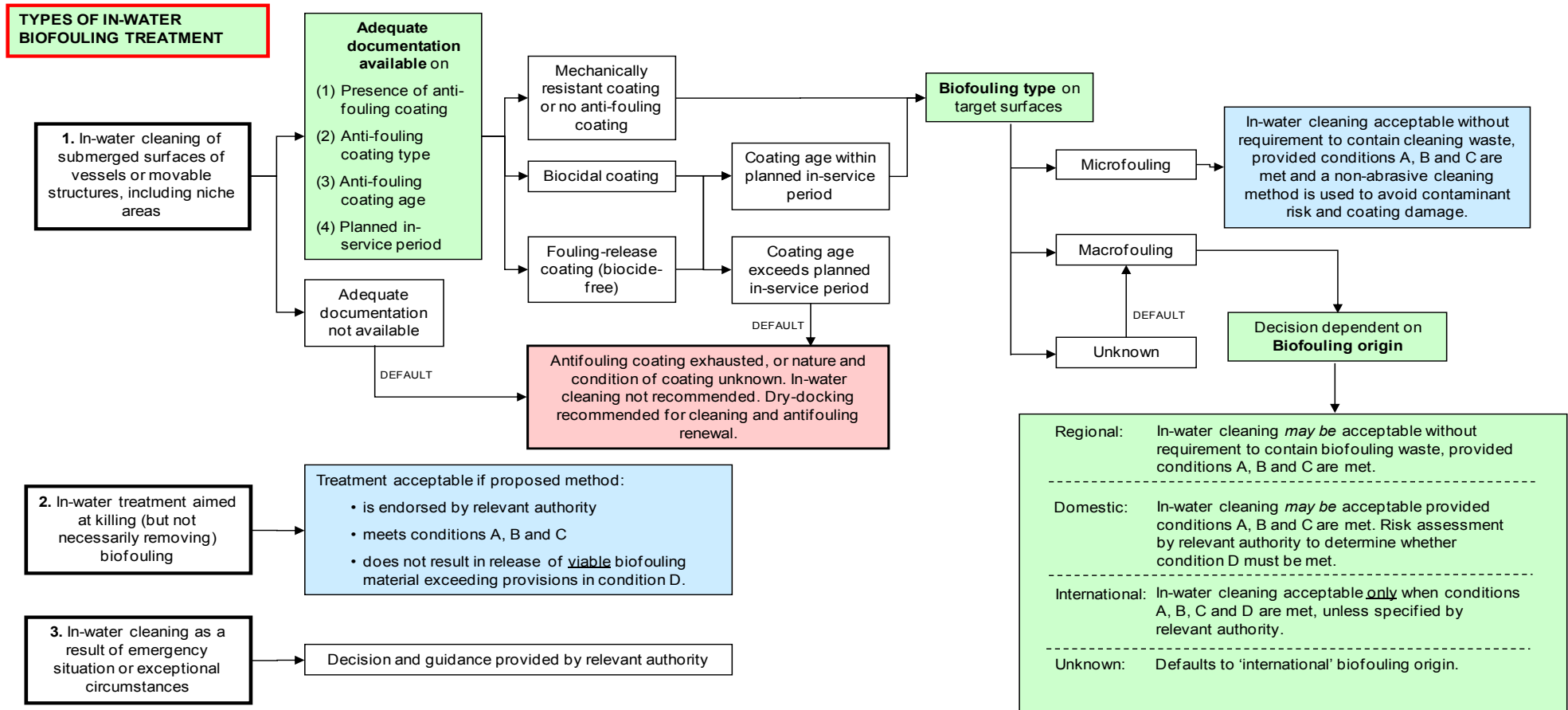
When information and/or documentation required for making decisions on in-water cleaning is not available, the following default assumptions apply:

- If the type of a coating (e.g. biocidal; biocide-free) cannot be reliably determined, then it should be assumed that the coating contains biocides.
- If the age of a coating cannot be reliably determined, then it should be assumed that the coating has reached the end of its service life.
- Where the type of biofouling on a vessel or structure is unknown, it should be assumed that macrofouling is present.
- If the origin of the biofouling on a vessel or movable structure is unknown, then it should be assumed that it is of international origin. If the biofouling is likely to be from more than one origin category (e.g. regional and international) then decisions on in-water cleaning should be based on the furthest likely origin (i.e. international).

The decision support tool should be used in conjunction with the main text of the *Anti-fouling and in-water cleaning guidelines*.

Decision-Support Tool for in-water cleaning

This tool is designed to assist relevant authorities with making decisions about in-water cleaning practices in their jurisdictions. The tool is a part of, and must be used in conjunction with, the main text of the *Anti-fouling and in-water cleaning guidelines*. The terms used in this tool are defined in the guidelines.



Conditions for removal and/or treatment of biofouling:

A: Antifouling coating is suitable for cleaning/treatment.

B: Cleaning/treatment method does not damage coating surface.

C: Discharges meet local standards or requirements.

D: Cleaning/treatment method ensures that release of biological material into the water column is minimised through the capture and containment of biofouling waste. Cleaning methods should aim to, at least, capture debris greater than 50 µm in diameter which will minimise the release of viable adult, juvenile and larval stages of macrofouling.

Appendix 2: Types of anti-fouling coatings

Biocidal coatings are coatings that release chemicals such as copper compounds or other pesticides that aim to deter biofouling organisms. There are four general types of biocidal coatings:

- **Soluble matrix** controlled depletion polymer or ablative anti-fouling coatings contain a binder that is slightly soluble in seawater. Hydration causes the coating surface to slowly dissolve, releasing the freely associated biocide.
- **Insoluble matrix**, contact leaching, long-life or diffusion anti-fouling coatings use an insoluble binder that contains a high concentration of biocide released from the coating through a diffusion process.
- **Self-polishing copolymer** anti-fouling coatings release biocides as a result of hydrolysis causing the coating to 'erode' when a vessel is moving.
- **Metallic** anti-fouling coatings use copper or copper nickel alloy as either metal sheathing or metal particles mixed into a coating.

Biocide-free coatings do not depend on chemicals for their anti-fouling properties, instead relying on their physical nature. They are split into two subcategories:

- **Fouling release coatings** rely on non-stick, low surface energy compounds, such as silicone or fluoropolymers, to impair the adhesive attachment of biofouling.
- **Mechanically resistant coatings** (epoxy, ceramic/epoxy and epoxy/glass) are tough, highly durable coatings without specific anti-fouling properties. They allow biofouling organisms to accumulate and are designed to withstand regular in-water cleaning (including abrasive methods).

Appendix 3: In-water cleaning technology

The most commonly available in-water cleaning technologies are brushing/scraping, use of soft cleaning tools, and water or air jet systems. These methods vary in their effectiveness in removing and containing biofouling organisms, and in their suitability for use on different anti-fouling coating types.

- **Brush systems**—Brushes are a widely used method for in-water hull cleaning because of their ability to remove surface deposits and low levels of biofouling from biocidal coatings. They can have a rejuvenating effect on the performance of some coating types. Existing brush systems are not able to remove all biofouling from a surface or contain all of the removed material. Use of abrasive brushes can also result in exacerbated release of biocidal coating material. Use of brushes on fouling-release coatings can damage the coating surface and is not recommended unless the brushes are sufficiently soft and will not harm the integrity of the coating. Advice should be sought from the coating manufacturer or supplier before using any brush system on an anti-fouling coating.
- **Soft tools**—Fouling release coatings prevent firm attachment of biofouling organisms. Soft cleaning tools, such as cloths, squeegees and wiping tools can be used to remove microfouling and macrofouling effectively from surfaces coated in fouling release coatings without harming the integrity of the coating. These coatings are delicate and scratching of the surface should be avoided. If cloths are used for cleaning, it is necessary to ensure no shell fragments or other hard objects are trapped beneath the cloths that could scratch and damage the coatings.
- **Water jet and air jet (blast) systems**—Water and air jet cleaning systems are versatile tools because their operating pressure (and jet pattern) can be varied according to coating type and biofouling extent. The effects of water jet technology on biocidal coatings are not fully understood. At the time of writing, available water jet systems are not able to contain all removed biofouling or coating material. Water pressures that do not harm the integrity of the anti-fouling coating should be used.

Other technologies:

- **Technologies that kill, but not necessarily remove biofouling**—Several types of biofouling treatment are available that kill biofouling organisms but do not actively remove them from a surface. These include heat (in the form of steam or heated water) or enveloping technologies (wrapping of a vessel or movable structure in plastic sheets or canvas sleeves to suffocate biofouling). These are generally developing technologies and their effectiveness and effects on anti-fouling coatings have not been evaluated.
- **Developing technologies**—A number of technologies that collect biofouling and coating material are under development but were not commercially available in either Australia or New Zealand at the time these guidelines were developed. Any novel technology should aspire to achieve the standards set out in Part 2 Section B of these guidelines.

Appendix 4: Biofouling Management Plan and Biofouling Record Book template

This template was prepared by the International Maritime Organization.

A. Format and content of Biofouling Management Plan

Introduction

This section should contain a brief introduction for the ship's crew, explaining the need for biofouling management, and the importance of accurate record keeping. The plan should state that it is to be available for viewing on request by a port state authority and should be written in the working language of the crew.

Ship particulars

At least the following details should be included:

- Ship's name
- Flag
- Port of registry
- Gross tonnage
- Registration number (i.e. IMO number and/or other registration numbers, if applicable)
- Regulation length
- Beam
- Ship type (as classified by Lloyd's Register)
- International call sign and Maritime Mobile Service Identity (MMSI).

Index

A table of contents should be included.

Purpose

The purpose of the plan is to outline measures for control and management of ships' biofouling in accordance with the *2011 Guidelines for the control and management of ships' biofouling to minimize the transfer of invasive aquatic species*. It provides operational guidance for planning and actions needed for ships' biofouling management.

Description of anti-fouling systems

The plan should describe the anti-fouling systems in place for different parts of the ship, including:

- type(s) of anti-fouling coating systems applied
- details of where anti-fouling systems are and are not applied or installed
- manufacturer and product names of all coatings or products used in the anti-fouling coating systems

- anti-fouling system specifications (including dry film thickness for coatings, dosing and frequency for Marine Growth Prevention System (MGPS)) together with the expected effective life, operating conditions required for coatings to be effective, cleaning requirements and any other specifications relevant for paint performance.

Previous reports on the performance of the ship's anti-fouling systems should be included, if applicable, and the anti-fouling system certificate or statement of compliance or other documentation should also be referenced, as appropriate.

Description of operating profile

The plan should describe the ship's operating profile that has determined the performance specifications of the ship's anti-fouling systems and operational practices, including:

- typical operating speeds
- periods underway at sea compared with periods berthed, anchored or moored
- typical operating areas or trading routes
- planned duration between dry-dockings/slippings.

Description of areas on the ship susceptible to biofouling

The plan should identify the hull areas, niche areas and seawater cooling systems on the ship that are particularly susceptible to biofouling and describe the management actions required for each area. It should describe the actions to be taken if the ship is operating outside the desired operating profile, or if excessive unexpected biofouling is observed, and any other actions that can be taken to minimise accumulation of biofouling on the ship.

A diagram of the ship should be included in the plan to identify the location of those areas of the ship that are particularly susceptible to biofouling (including access points in the internal seawater cooling systems). If necessary these should show both side and bottom views of the ship.

Operation and maintenance of the anti-fouling system

This section should contain a detailed description of the operation and maintenance of the anti-fouling system(s) used, including schedule(s) of activities and step-by-step operational procedures.

Timing of operational and maintenance activities

This section should stipulate the schedule of planned inspections, repairs, maintenance and renewal of the anti-fouling systems.

In-water cleaning and maintenance procedures

This section should set out planned maintenance procedures (other than for on-board treatment processes) that need to be completed between dry-docking events to minimise biofouling. This should include routine cleaning or other treatments. Details should be provided on the treatment/cleaning to be conducted, specification of any equipment required, details of the areas to which each specific treatment/cleaning is to be applied, step-by-step operational procedures where relevant and any other details relevant to the processes (such as chemicals required for treatment and any discharge standards).

Operation of onboard treatment processes

This section should provide specific advice about MGPS fitted, internal seawater cooling systems covered by the system and any not covered, and the associated maintenance and inspection schedule and procedures. This would include information such as when each MGPS is run, for how long and any cleaning/maintenance requirements of the system once use is finished. This section should also include advice for ship operators on procedures for biofouling management if the MGPS is temporarily out of operation.

Safety procedures for the ship and the crew

Details of specific operational or safety restrictions, including those associated with the management system that affects the ship and/or the crew. Details of specific safety procedures to be followed during ship inspections.

Disposal of biological waste

This section should contain procedures for disposal of biological waste generated by treatment or cleaning processes when the cleaning is conducted by, or under the direct supervision of, the ship owner, master or crew.

Recording requirements

This section should contain details of the types of documentation to be kept to verify the operations and treatments to be recorded in the Biofouling Record Book, as outlined below.

Crew training and familiarisation

This section should contain information on provision of crew training and familiarisation.

B. Format and content of the Biofouling Record Book

Period From: To:

Name of ship

Registration number*

Gross tonnage

Flag

* Registration number = IMO number and /or other registration numbers.

The ship is provided with a Biofouling Management Plan Y/N

A diagram of the ship indicating underwater hull form (showing both side and bottom views of the ship, if necessary) and recognised biofouling niches.

1 Introduction

The guidelines recommend that a Biofouling Record Book be maintained for each ship, in which should be recorded the details of all inspections and biofouling management measures undertaken on the ship.

2 Entries in the Biofouling Record Book

The following information should be recorded in the Biofouling Record Book:

2.1 After each dry-docking:

- a. Date and location that the ship was dry-docked.
- b. Date that ship was re-floated.
- c. Any hull cleaning that was performed while dry-docked, including areas cleaned, method used for cleaning and the location of dry-dock support blocks.
- d. Any anti-fouling coating system, including patch repairs, that was applied while dry-docked. Detail the type of anti-fouling coating system, the area and locations to which it was applied, the coating thickness achieved and any surface preparation work undertaken (e.g. complete removal of underlying anti-fouling coating system or application of new anti-fouling coating system over the top of existing anti-fouling coating system).
- e. Name, position and signature of the person in charge of the activity for the ship.

2.2 When the hull area, fittings, niches and voids below the waterline have been inspected by divers:

- a. Date and location of ship when dive surveyed and reason for survey.
- b. Area or side of the ship surveyed.
- c. General observations with regard to biofouling (i.e. extent of biofouling and predominant biofouling types, e.g. mussels, barnacles, tubeworms, algae and/or slime).
- d. The action taken, if any, to remove or otherwise treat biofouling.
- e. Any supporting evidence of the actions taken (e.g. report from the classification society or contractor, photographs and receipts).
- f. Name, position, signature of the person in charge of the activity.

- 2.3 When the hull area, fittings, niches and voids below the waterline have been cleaned by divers:
- a. Date and location of ship when cleaning/treatment occurred.
 - b. Hull areas, fittings, niches and voids cleaned/treated.
 - c. Methods of cleaning or treatment used.
 - d. General observations about the biofouling (i.e. extent of biofouling and predominant biofouling types; e.g. mussels, barnacles, tubeworms, algae and/or slime).
 - e. Any supporting evidence of the actions taken (e.g. report from the classification society or contractor, photographs and receipts).
 - f. Records of permits required to undertake in-water cleaning, if applicable.
 - g. Name, position and signature of the person in charge of the activity.
- 2.4 When the internal seawater cooling systems have been inspected and cleaned or treated:
- a. Date and location of ship when inspection and/or cleaning occurred.
 - b. General observations about biofouling of internal seawater cooling systems (i.e. extent of biofouling and predominant biofouling types; e.g. mussels, barnacles, tubeworms, algae and/or slime).
 - c. Any cleaning or treatment undertaken.
 - d. Methods of cleaning or treatment used.
 - e. Any supporting evidence of the actions taken (e.g. report from the classification society or contractor, photographs and receipts).
 - f. Name, position and signature of the person in charge of the activity.
- 2.5 For ships with a MGPS fitted:
- a. Records of operation and maintenance (such as regularly monitoring the electrical and mechanical functions of the systems).
 - b. Any instances when the system was not operating in accordance with the biofouling management plan.
- 2.6 Periods of time when the ship was laid up/inactive for an extended period:
- a. Date and location where ship was laid up.
 - b. Date when ship returned to normal operations.
 - c. Maintenance action taken before and after the period laid up.
 - d. Precautions taken to prevent biofouling accumulation (e.g. sea chests blanked off).
- 2.7 Periods of time when ship operating outside its normal operating profile:
- a. Duration and dates when ship not operating in accordance with its normal operating profile.
 - b. Reason for departure from normal operating profile (e.g. unexpected maintenance required).
- 2.8 Details of official inspection or review of ship biofouling risk (for ships arriving internationally, if applicable):
- a. Date and location of ship when inspection or review occurred.
 - b. Port state authority conducting the inspection/review and details of procedures followed or protocol adhered to and inspector/s involved.
 - c. Result of inspection/review.
 - d. Name, position, signature of the person in charge of the activity for the ship.
- 2.9 Any additional observations and general remarks:

- a. Since the ship was last cleaned, has the ship spent periods of time in locations that may significantly affect biofouling accumulation (e.g. fresh water, high latitude—Arctic and Antarctic—or tropical ports)?

Record of Biofouling Management Actions

SAMPLE BIOFOULING RECORD BOOK PAGE

Name of Ship:

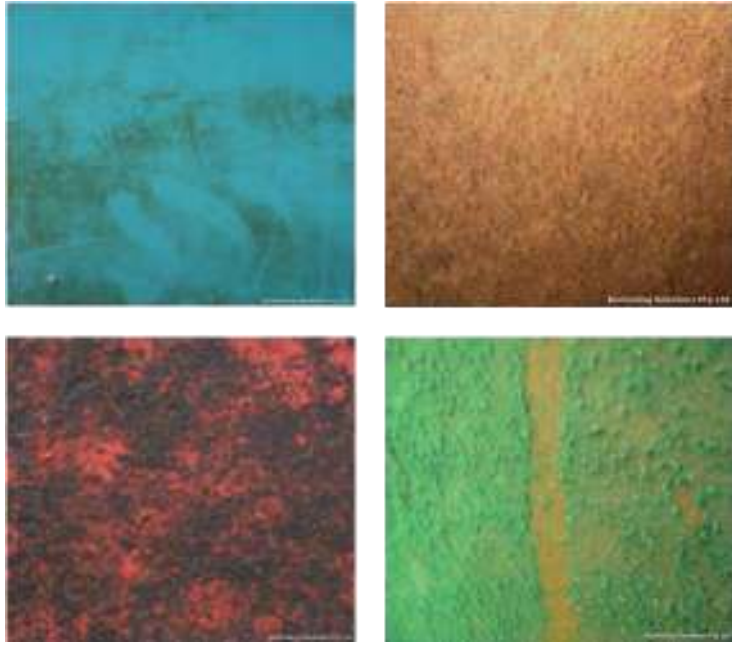
Registration number:

| Date | Item (number) | Record of management actions | Signature of officers in charge |
|------|---------------|------------------------------|---------------------------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

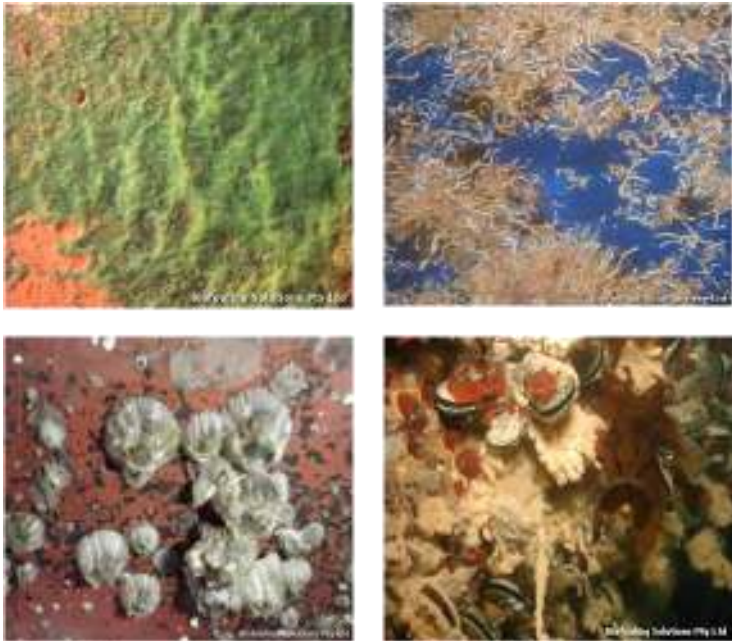
Signature of master

Appendix 5: Microfouling and macrofouling images

Microfouling: a layer of microscopic organisms including bacteria and diatoms and the slimy substances they produce. Often referred to as a 'slime layer', microfouling can usually be removed by gently passing a finger over the surface.



Macrofouling: large, distinct multicellular organisms visible to the human eye, such as barnacles, tubeworms, mussels, fronds of algae and other large attached or mobile organisms.



BEFORE THE TARANAKI REGIONAL COUNCIL

Under **The Resource Management Act 1991**

And

In the matter of **The Proposed Coastal Plan for Taranaki**

**Statement of evidence of David Jeffrey Lundquist
on behalf of the Minister of Conservation
Dated 12 July 2019**

Department of Conservation

P O Box 10 420

WELLINGTON

Solicitor acting: M Downing

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INTRODUCTION

1. My full name is David Jeffrey Lundquist.
2. I am employed by the Department of Conservation in Wellington as a Technical Advisor, Marine Species and Threats. I have worked for the Department of Conservation since October 2012. Before this I was completing my PhD at the University of Otago focused on evaluating the effects of human activities on marine mammals.
3. My qualifications are a PhD in Environment Science received from the University of Otago in 2012, an MSc in Fisheries and Wildlife Sciences received from Texas A&M University in 2007, and a BS in Chemical Engineering from the University of Iowa in 1995. My Master's thesis and PhD dissertation focused on assessing the effects of tourism operations on southern right whales in Argentina and dusky dolphins at Kaikoura, respectively.
4. When I joined the Department of Conservation in 2012, I was given responsibility of implementing the *Code of Conduct for minimising acoustic disturbance to marine mammals from seismic survey operations* (the seismic Code). For the last 6 years I have led the Department's efforts to implement the seismic Code, including reviewing and approving observer training materials and observer statuses, communicating with operators about the requirements of the seismic Code, reviewing and assessing marine mammal impact assessments for compliance with the seismic Code, receiving and processing all data and reports from surveys, and coordinating with the Environmental Protection Authority on compliance and enforcement activities associated with the seismic Code.
5. In addition, I represent New Zealand at a range of international meetings and fora which deal with effects of human activities on marine mammals. These include the Scientific Committee of the International Whaling Commission (which deals with marine noise issues through its Environment Concerns sub-committee and various noise workshops), the Marine Sound Working Group of the International Offshore Petroleum Environmental Regulators forum, and technical working groups of the International Maritime Organisation dealing with shipping noise.

Code of Conduct

6. I have read and agree to comply with the Code of Conduct for Expert Witnesses produced by the Environment Court. While this is not an Environment Court hearing, I have prepared this evidence in accordance with, and I agree to comply with, that code for this hearing. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed. I confirm that the issues addressed in this brief of evidence are within my area of expertise.

Scope of evidence

7. My evidence will deal with the following:
- Marine mammals found in the Taranaki coastal marine area
 - Known or potential impacts of seismic surveying on marine mammals;
 - How the seismic Code manages effects on marine mammals;
 - Effects on marine mammals which are not managed by the seismic Code;
 - How the seismic Code addresses impacts on marine life other than marine mammals; and
 - Seismic surveying and the Māui dolphins Threat Management Plan.

Marine mammals found in the Taranaki coastal marine area

8. A list of marine mammals potentially found in the Taranaki coastal area is included in Appendix A, along with their New Zealand and IUCN threat classification status.
9. The species most likely to be found in the Taranaki coastal marine area are:

| Common Name | NZ threat status (Baker <i>et al.</i> , 2019) | IUCN conservation status www.redlist.org |
|-------------------------|--|---|
| Bottlenose dolphin | Nationally endangered | Least concern |
| Common dolphin | Not threatened | Vulnerable |
| Hector's dolphin | Nationally vulnerable | Endangered |
| Long-finned pilot whale | Not threatened | Least concern |
| Māui dolphin | Nationally critical | Critically endangered |
| New Zealand fur seal | Not threatened | Least concern |
| Pygmy blue whale | Data deficient | Data deficient |
| Sperm whale | Data deficient | Vulnerable |

Known or potential impacts of seismic surveying on marine mammals

10. Marine seismic surveying consists of using an acoustic source, usually an array of devices which release highly compressed air in a controlled manner. The air bubbles expand and collapse rapidly and generate a sound wave which travels through the seabed. Reflections of the sound wave are picked up by sensors as the wave bounces off sub-surface formations, generating an image of sub-surface geological structures. These images can then be used for a variety of purposes, including to assess for petroleum and mineral deposits and to study geological fault lines.
11. The loudness of the sound wave is the primary mechanism by which marine mammals are affected by seismic surveying activities. Large surveys generally produce sounds in excess of 220 decibels re $1\mu\text{Pa}^2\cdot\text{s}$ (Richardson et al. 1995)¹;
12. Sound is transmitted very efficiently in liquid (Ketten 2014), and marine mammals have evolved to use sound for a range of purposes. They generate sounds to communicate with other animals, navigate by listening for 'echoes' of their vocalisations, and find food by echolocation.
13. These noises produced by seismic surveying are loud enough that they pose risks to marine life, and because marine mammals use sound frequently, they are particularly sensitive to effects from noise (Richardson et al. 1995). Noise-induced effects may range from mere perception, to acoustic masking (reduced ability to communicate) and stress, through to behavioural or physical effects (e.g. temporary or permanent hearing loss; Southall et al. 2007).
14. There is a growing body of literature demonstrating that exposure to such noise may disturb important marine mammal behaviours, including breeding, feeding, and resting (Lücke et al 2019, Nowacek et al. 2007, Shannon et al 2015, Southall et al. 2019). Indirect effects may also result from changes in the distribution and abundance of their prey (McCauley et al. 2017, Richardson et al. 2017).
15. The likelihood of animals experiencing biologically meaningful effects due to exposure to seismic surveying noise is driven by a number of factors: how

¹ Examples of predicted sound levels can be found in the sound modelling portions of the impact assessment documents for seismic surveys in New Zealand: <https://www.doc.govt.nz/our-work/seismic-surveys-code-of-conduct/marine-mammal-impact-assessments/>.

loud the noise is, whether the animal has been exposed to similar noises previously, what the animal is doing when exposed to the noise, how sensitive the individual is to noise, and so forth (Lücke et al 2019).

16. There is very little data available on marine mammal hearing, and scientists who have attempted to develop noise threshold guidelines have focused their efforts on measuring and quantifying permanent and temporary physical impacts on animals (i.e. measurable changes in the animal's hearing abilities) due to exposure to sound (Southall et al. 2007, Southall et al. 2019).
17. There is general consensus among marine mammal scientists that behavioural effects are more likely to occur than physical effects, simply because the sound levels at which behavioural effects occur are much lower and therefore many more animals will be exposed (Southall et al. 2007, Southall et al. 2019). That is, physical effects are only likely in the immediate vicinity of the sound source, whereas behavioural effects may occur many kilometres away.
18. Establishing (or disproving) a direct link between seismic surveying and population-level effects on marine mammals is hampered by the difficulty of undertaking research on long-lived, slowly reproducing animals, as such effects might take decades or more to be seen. Marine mammals are also exposed to a variety of human activities and environmental variables over the course of their lives, which makes it difficult to attribute effects to a single activity.
19. In the absence of conclusive evidence of direct effects on particular populations of marine mammals, most management regimes use a cautious approach to managing seismic surveying with monitoring and mitigation measures designed to reduce the potential for harmful effects.

How the seismic Code manages effects on marine mammals

20. The seismic Code was developed by the Department of Conservation in collaboration with a range of stakeholders. It provides national guidance and practical mitigation measures to manage the most significant effects of seismic surveying on marine mammals.
21. The Code includes requirements for the survey company to submit a marine mammal impact assessment to the Director-General of Conservation which

includes a description of the survey activities, identifies the species likely or potentially present in the survey area, describes potential effects on these species, and outlines a mitigation plan to reduce those effects.

22. In my view, the most important of the standard mitigation requirements of the seismic Code is the requirement to use trained and qualified observers to look and listen for marine mammals in a monitoring zone around the seismic source. The observers are required to be on duty at all times the seismic source is in the water. Acoustic observers are required to listen for marine mammal vocalisations 24 hours a day and visual observers are required to watch for marine mammals from dawn to dusk.
23. The seismic Code requires the observers to delay the start-up of the seismic source if marine mammals are near or to shut the seismic source down if 'Species of Concern' (New Zealand sea lions, whales, and dolphins except common and dusky dolphins) are observed in the monitoring zone.
24. The seismic Code defines standard monitoring zones, which may be expanded if pre-survey sound modelling indicates they are not sufficient to protect marine mammals from noise levels likely to cause permanent or temporary hearing changes. Threshold criteria were developed by researchers in the United States in 2007 (Southall et al. 2007; subsequently revised to be more conservative by Southall et al. 2019) at which marine mammals are likely to incur permanent or temporary changes in hearing, and the two most conservative of these noise criteria are used to validate whether the standard monitoring zones are sufficient or should be expanded.
25. In addition, the seismic Code requires use of 'ramp up' procedures to gradually increase the seismic source sound levels from low levels to full power over 20-40 minutes. This is intended to allow any marine mammals present in the area time to detect the sound and move away from it before it becomes loud enough to injure them.
26. Almost all surveys lasting more than a few days undertaken thus far using the seismic Code have had repeated instances where the observers required the seismic source to be shut down or start-up delayed due to the presence of marine mammals in the monitoring zone (Blue Planet Marine 2016). Each instance has avoided potential impacts on marine mammals.
27. In my opinion, the seismic Code is effective in managing the risks that it is designed to address. Observer training programmes are being reviewed and held to a high standard, resulting in a pool of observers who are

appropriately qualified to implement the seismic Code. The requirements for numbers of observers (four in total for most surveys) and restrictions on working hours per day are sufficient to ensure the observers can maintain focus on their responsibilities at all times. The result is that they are able to implement an effective monitoring scheme to reduce the likelihood of marine mammals being exposed to noise that is likely to injure them.

28. Overall, it is my view that the seismic Code significantly reduces the largest risks to individual marine mammals.

Effects on marine mammals which are not managed by the seismic Code

29. There are some situations in which the seismic Code is unable to minimise risks to marine mammals, either because the seismic Code was not designed to minimise the risks (e.g. behavioural disturbance) or because the ability to detect all animals at all times is limited.

Behavioural disturbance

30. As mentioned in paragraph 17, the most likely effect of seismic surveying on marine mammals is behavioural disturbance. This is implicit in the 'ramp up' procedures used when the seismic source is started up; they assume that animals will move away from the noise before it becomes loud enough to injure them. Such movements are a form of behavioural disturbance and may be significant if the animal stops doing something biologically significant (i.e. feeding, breeding, nursing offspring) in order to move away.
31. The form of disturbance which is likely to be experienced over the greatest area is 'masking' of communications. Masking occurs when sound overlaps with the same frequency used by animals to communicate and is loud enough to cover up vocalisations and reduce or prevent effective communication (e.g. not being able to talk to your neighbour when at a rock concert). Low-frequency noise from seismic surveying overlaps significantly with frequencies used by marine mammals and is transmitted efficiently in water.
32. The result is that a seismic survey may expose a large area, and therefore many marine mammals, to elevated noise levels and consequently reduced ability to communicate. This may adversely affect their ability to communicate critical information to and from other animals in their

environment (e.g. location of food, availability to mate, presence of predators).

33. The mitigation measures of the seismic Code are designed to reduce the likelihood of exposure of marine mammals to noise loud enough to cause injury, but do not address behavioural effects occurring outside the monitoring zones. The only options to address these behavioural effects are to reduce the volume of noise being produced by the acoustic source, move the survey to a different location, or to survey at a time of year when marine mammals are not present (Lücke et al. 2019).
34. Reducing the size of the acoustic source is often not an option given the objectives of the individual survey, and it is generally not plausible for petroleum surveys focused on particular permit areas to move locations. Surveying at a different time of year is considered less desirable by surveyors in most cases due to on-water conditions being less suitable for surveying in winter versus summer and would also not reduce the risk to resident marine mammals.
35. Therefore, it is my view that there are limited options to manage the risks associated with behavioural disturbance of marine mammals under the Code, other than simply prohibiting surveying. If surveying is to be undertaken these effects must be accepted as likely to occur, with unknown consequences.

Inability to detect all marine mammals

36. Detecting marine mammals requires that they either be at the surface and visible or underwater and vocalising. For species which are small and therefore difficult to see, deep divers, or infrequently vocalise, the risk of being near the seismic source but undetected by the observers is greater. For example, Māui dolphins, sperm whales, and beaked whales fit into one or more of these categories.
37. Analysis of the data submitted by observers indicates that even species which are expected to be more visible are often not detected until they are hundreds of metres inside the monitoring zone (Blue Planet Marine 2016). These animals, therefore, may have been exposed to noises loud enough to cause hearing damage.
38. Allowing surveys to proceed at night when visual observers are unable to undertake monitoring is another situation which increases risks to marine mammals. Visual observation has proven to be much more effective at

detecting marine mammals, with roughly only 20% of animals detected by acoustic monitoring (Blue Planet Marine 2016). Therefore, it is almost certain that marine mammals have been present but undetected near the seismic source at night and have been exposed to noises loud enough to cause hearing damage.

39. Some of these risks could be mitigated by applying controls on survey operations. Surveying could be restricted or prohibited at night in areas where marine mammals are deemed likely to be sighted. Monitoring zones could be expanded to include a 'buffer' zone or additional observers could be deployed on other vessels in the area to increase the likelihood of detecting animals before they are close to the acoustic source.
40. Restrictions at night, however, may make surveys prohibitively expensive and buffer zones or additional observers may still be ineffective for animals which are underwater and silent.
41. Therefore, I consider that while there are options to reduce some of the risk associated with the inability to detect all marine mammals, it is uncertain whether the controls necessary to do so could be imposed on operators using the seismic Code.

How the seismic Code addresses impacts on marine life other than marine mammals

42. My expertise is in marine mammals, but as a consequence of my involvement with the seismic Code, I am aware of a broad range of literature describing the effects of noise on other marine species.
43. In addition to the literature on marine mammals, there are published scientific papers describing impacts of seismic surveying on other taxa, including fish, invertebrates, and penguins (Carroll et al. 2017, Day et al. 2016, Edmonds et al. 2016, Fewtrell and McCauley 2012, McCauley et al. 2017, Pichegru et al. 2017).
44. Observed effects range from no response (some fish and invertebrates) to significant avoidance of the survey area (penguins and some fish) to developmental anomalies in larval stages of some species (invertebrates). The most significant effects described included complete mortality of all larval krill within 1.2 kilometres of the survey line.

45. The seismic Code was developed specifically to reduce risks to marine mammals. The impact assessment produced for each survey is required to provide a general description of marine species likely to be present in the survey area, but no monitoring or mitigation is required for species other than marine mammals.
46. Some of the mitigation measures required under the Code (such as the 'ramp up') may also be effective for other species which are mobile and capable of moving away from the seismic source as it gets louder.
47. In general, however, the seismic Code does not consider effects of the activity on species which are not marine mammals and therefore do not manage those effects. Any reduction in adverse effects on these species is incidental to implementation of the seismic Code.

Seismic surveying and the Māui dolphins Threat Management Plan

48. As part of the review of the Hector's and Māui dolphins Threat Management Plan, options have been developed to reduce potential effects of seismic surveying on Māui dolphins, including in Taranaki. The options include 1) requiring compliance with the seismic Code; 2) requiring a permit under the Marine Mammals Protection Act 1978 which could impose additional conditions on surveying operations; or 3) prohibiting seismic surveying in the range of the dolphins, with exceptions for existing permits.
49. Public consultation on these options (and others unrelated to seismic surveying) is currently being undertaken by the Department of Conservation and Fisheries New Zealand, with the aim of providing advice to Ministers later this year.

Conclusion

50. Seismic surveying has the potential to affect a range of species due to the high levels of sound produced during surveying. Marine mammals are particularly sensitive to effects of noise, but a range of other taxa may also be affected.
51. The seismic Code is designed to manage the most significant effects of seismic surveying noise on marine mammals and is effective in substantially

reducing those effects. Other effects of seismic surveying noise on marine mammals may remain and there are limited options to reduce these effects using the seismic Code.

52. Taxa other than marine mammals may receive some incidental protection from implementation of the seismic Code, but in general it is not designed to reduce effects on those species.



David Jeffrey Lundquist

DATED this 12th day of July 2019

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Appendix A – Marine mammals most likely to be found in the Taranaki coastal marine area

| Common Name | Scientific Name | NZ threat status (Baker <i>et al.</i> , 2019) | IUCN conservation status www.redlist.org (July 2019) | Species of Concern (DOC 2013) |
|-------------------------------------|---|--|--|----------------------------------|
| Species Likely to be present | | | | |
| Bottlenose dolphin | <i>Tursiops truncatus</i> | Nationally endangered | Least concern | Yes |
| Common dolphin | <i>Delphinus delphis</i> | Not threatened | Vulnerable | No |
| Hector's dolphin | <i>Cephalorhynchus hectori hectori</i> | Nationally vulnerable | Endangered | Yes |
| Long-finned pilot whale | <i>Globicephala melas</i> | Not threatened | Least concern | Yes |
| Māui dolphin | <i>Cephalorhynchus hectori maui</i> | Nationally critical | Critically endangered | Yes |
| New Zealand fur seal | <i>Arctocephalus forsteri</i> | Not threatened | Least concern | No |
| Pygmy blue whale | <i>Balaenoptera musculus breviceuda</i> | Data deficient | Data deficient | Yes |
| Sperm whale | <i>Physeter macrocephalus</i> | Data deficient | Vulnerable | Yes |
| Species possibly present | | | | |
| Antarctic minke whale | <i>Balaenoptera bonaerensis</i> | Data deficient | Near threatened | Yes |
| Bryde's whale | <i>Balaenoptera edeni</i> | Nationally critical | Least concern | Yes |
| Cuvier's beaked whale | <i>Ziphius cavirostris</i> | Data deficient | Least concern | Yes |
| Dusky dolphin | <i>Lagenorhynchus obscurus</i> | Not threatened | Least concern | No |
| Dwarf minke whale | <i>Balaenoptera acutorostrata</i> | Data deficient | Least concern | Yes |
| False killer whale | <i>Pseudorca crassidens</i> | Naturally uncommon | Near threatened | Yes |
| Gray's beaked whale | <i>Mesoplodon grayi</i> | Not threatened | Data deficient | Yes |
| Humpback whale | <i>Megaptera novaeangliae</i> | Migrant | Endangered (Oceania sub-population) | Yes |
| Pygmy right whale | <i>Caperea marginata</i> | Data deficient | Least concern | Yes |
| Pygmy sperm whale | <i>Kogia breviceps</i> | Data deficient | Data deficient | Yes |

| | | | | |
|---|---|----------------------|-----------------------|-----|
| Southern right whale | <i>Eubalaena australis</i> | At risk - Recovering | Least concern | Yes |
| Strap-toothed whale | <i>Mesoplodon layardii</i> | Data deficient | Data deficient | Yes |
| Species occasionally or rarely present | | | | |
| Andrew's beaked whale | <i>Mesoplodon bowdoini</i> | Data deficient | Data deficient | Yes |
| Antarctic blue whale | <i>Balaenoptera musculus intermedia</i> | Data deficient | Critically endangered | Yes |
| Arnoux's beaked whale | <i>Berardius arnuxii</i> | Data deficient | Data deficient | Yes |
| Fin whale | <i>Balaenoptera physalus</i> | Data deficient | Vulnerable | Yes |
| Gingko-toothed whale | <i>Mesoplodon ginkgodens</i> | Data deficient | Data deficient | Yes |
| Risso's dolphin | <i>Grampus griseus</i> | Data deficient | Least concern | No |
| Sei whale | <i>Balaenoptera borealis</i> | Data deficient | Endangered | Yes |
| Shepherd's beaked whale | <i>Tasmacetus shepherdi</i> | Data deficient | Data deficient | Yes |
| Short-finned pilot whale | <i>Globicephala macrorhynchus</i> | Data deficient | Least concern | Yes |
| Southern bottlenose whale | <i>Hyperoodon planifrons</i> | Data deficient | Least concern | Yes |
| Southern elephant seal | <i>Mirounga leonina</i> | Nationally critical | Least concern | No |
| Southern right whale dolphin | <i>Lissodelphis peronii</i> | Data deficient | Least concern | Yes |
| Spectacled porpoise | <i>Phocoena dioptrica</i> | Data deficient | Least concern | No |
| Striped dolphin | <i>Stenella coeruleoalba</i> | Data deficient | Least concern | No |

Before a Hearings Panel for the Proposed Coastal Plan for Taranaki

Under the Resource Management Act 1991

In the matter of submissions and further submissions of Powerco Limited to the Proposed Taranaki Coastal Plan

STATEMENT OF SIMON ROCHE ON BEHALF OF POWERCO LIMITED (SUBMITTER 45)

17 July 2019

INTRODUCTION

1. My name is Simon Roche. I am currently employed as an Environmental Planner at Powerco, a role I have held for two years. Prior to working at Powerco I worked as a consents and open space planner at Auckland Council for 10 years. I have prepared this statement on behalf of Powerco to provide the Hearings Panel with information regarding Powerco's activities and how these are addressed under the Proposed coastal Plan (PCP).
2. This statement is a company statement on behalf of Powerco. It is not expert evidence.

THE INTERESTS OF POWERCO

3. Powerco Limited (Powerco) is New Zealand's largest electricity and second largest gas distributor in terms of network length and has been involved in energy distribution in New Zealand for more than a century. The Powerco network spreads across the upper and lower central North Island servicing over 400,000 consumers. This represents 46 percent of the gas connections and 16 percent of the electricity connections in New Zealand. These consumers are served through Powerco assets including over 30,000 kilometres of electricity lines (including overhead lines and underground cables) and over 6,200 kilometres of gas pipelines.
4. Powerco has electricity sub-transmission and distribution networks as well as gas distribution within the Taranaki Region. It supplies a range of users along the coast, including those in major urban areas such as New Plymouth, as well as smaller settlements.
5. Under the RMA, Powerco's electricity and gas infrastructure is a significant physical resource that must be sustainably managed and any adverse effects on it must be avoided, remedied or mitigated.
6. Powerco's gas and electricity networks are recognised in the Taranaki Regional Policy Statement (RPS) as regionally significant infrastructure. It is appropriate that their management is comprehensively addressed in the PCP.
7. Powerco's assets are primarily, but not exclusively, located outside the Coastal Marine Area (CMA). In particular, Powerco's overhead lines span the CMA at several points along the coast. Powerco also has a range of assets in the wider coastal environment.
8. Powerco has inherited its electrical assets from previous power boards with many assets being over 50 years old. As these assets age they need to be replaced or upgraded to ensure power is efficiently supplied to the coastal areas of Taranaki. Replacing and repairing Powerco's ageing asset fleets, including those in the Taranaki coastal area, support economic growth of communities and provide for stable network operation in an evolving energy environment.

POWERCO'S ASSETS IN THE CMA AND COASTAL ENVIRONMENT

9. This statement focuses on Powerco's assets and activities in the CMA as these are subject of the rules in the PCP. Maps showing Powerco's assets in the CMA were attached to Powerco's submission and are attached at Appendix 3 to the evidence of Mr Laurensen. Additional plans

showing these assets in relation to the CMA and the coastal management areas will be provided in advance of the hearing.

10. Powerco has no current plans to install new assets in the CMA but needs to ensure that existing assets can be maintained, upgraded and replaced. Powerco also needs to be able to serve new development that may occur in the CMA, if any.
11. Maintenance may include replacing or upgrading electricity poles and lines. Upgrading lines may also include adding more wires or equipment on poles. Recognition of this is required in the PCP. For instance, in the last five years, Powerco replaced existing poles at Urenui, in the coastal area, but not the CMA, with taller poles to achieve required separation distances. This was necessitated by development in the area reducing clearance distances to existing lines.
12. Powerco therefore supports the intent of the s42A recommendations and in particular Rules 35, 37 and 37A, which allow for alterations and extensions to existing assets as permitted, controlled or restricted discretionary activities, and Rule 22 which provides for new assets as a controlled activity. Subject to the amendments set out in the evidence of Mr Laurenson, I consider these rules will provide for the key activities Powerco is likely to undertake in the CMA.
13. It is understood that the PCP rules apply in the CMA but that the objectives and policies also apply in the wider coastal environment. Powerco supports the indicative line of the coastal environment now proposed through s42A recommendations. In particular, it helps provide a degree of certainty as to when the PCP objectives and policies may need to be considered, noting that Powerco has a range of assets in the wider coastal environment

Signing on Behalf of Powerco

Regards



Simon Roche

Environmental Planner

Before a Hearings Panel for the Proposed Coastal Plan for Taranaki

Under the Resource Management Act 1991

In the matter of submissions and further submissions of Z Energy Limited, BP Oil New Zealand Limited, Mobil Oil New Zealand Limited and Powerco Limited to the Proposed Taranaki Coastal Plan

STATEMENT OF EVIDENCE (PLANNING) OF MARK LAURENSEN ON BEHALF OF POWERCO LIMITED (SUBMITTER 45) AND Z ENERGY LIMITED, BP OIL NZ LIMITED, MOBIL OIL NZ LIMITED (THE OIL COMPANIES, SUBMITTER 46)

16 July 2019

1. QUALIFICATIONS AND EXPERIENCE

- 1.1 My full name is Mark Laurenson. I hold a Bachelor of Arts degree (Geography) from the University of Auckland and I am a full member of the New Zealand Planning Institute. I have practiced resource management for over 10 years. I have worked in local government and consultancy roles in New Zealand and the United Kingdom, including two years as a consents officer with the Otago Regional Council and more than five years in consents and policy roles with Northamptonshire County Council. From October 2014 to October 2018, I was employed as a Senior Planner at Burton Planning Consultants Limited, a specialist planning consultancy practice based in Auckland. Burton Planning Consultants Limited is now part of 4Sight Consulting Limited where I am employed as Senior Planning and Policy Consultant.
- 1.2 I have provided planning advice to a range of clients since returning to New Zealand in 2014. This has included preparation of resource consent applications, preparation of evidence, policy analysis, provision of strategic policy advice, and provision of policy advice on various regional and district planning documents, preparation of submissions and attendance at hearings and mediation on behalf of a range of corporate and private clients in relation to district and regional plans throughout New Zealand, including on behalf of the Oil Companies and Powerco.
- 1.3 My previous planning experience includes processing planning applications for small to large scale land use development, including applications for quarries, landfills and significant waste recycling and advanced treatment operations. I have also assessed land use consent applications for a range of small to large developments at educational facilities and processed a range of regional resource consent applications, including water takes and discharges. I also have experience preparing minerals and waste planning policy, including assessments of potential quarry and waste treatment and disposal sites, and with undertaking policy performance monitoring.

2. CODE OF CONDUCT

2.1 My qualifications as an expert are set out above. I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2014. I have complied with the Code of Conduct in preparing this evidence. Except where I state that I am relying on the evidence of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

3. THE INTERESTS OF POWERCO LIMITED (SUBMITTER 45)

3.1 The interests of Powerco addressed in the statement of Mr Roche on behalf of Powerco. I rely on them.

4. THE INTERESTS OF THE OIL COMPANIES (SUBMITTER 46)

4.1 Z Energy Limited, BP Oil New Zealand Limited and Mobil Oil New Zealand Limited (*the Oil Companies*) receive, store and distribute refined petroleum products. The core business of the Oil Companies is the operation and management of their individual service station networks, commercial refuelling facilities and bulk storage (*terminal*) facilities. The Oil Companies also supply petroleum products to individually owned businesses.

4.2 There are two operational terminals in New Plymouth. The BP Oil New Zealand Limited Terminal at Omata is operated by New Zealand Oil Services Limited. The Z Energy Limited terminal is located at 8-22 Ngamotu Road. Both are located a short distance landward of the coastal environment line proposed through the s42A recommendations.

4.3 Fuel is primarily transported to the Port by wharflines on the Newton King Wharf. Pipelines (located largely in the road reserve) in turn transport fuel to the terminals. These pipelines are predominantly underground. Bunkering is available via pipeline at several berths at the Port. These assets are at least partly in the coastal marine area (*CMA*).

4.4 Under the Resource Management Act (*RMA*), terminals and pipelines are a significant physical resource that should be sustainably managed

and any adverse effects on that infrastructure must be avoided, remedied or mitigated. The terminals are recognised in the Taranaki Regional Policy Statement (*RPS*) as regionally significant infrastructure. It is important that their management is appropriately addressed in the Proposed Coastal Plan for Taranaki (*PCP*).

5. SCOPE OF EVIDENCE

- 5.1 I am broadly supportive of the s42A recommendations. My evidence focuses on a small number of what I consider to be minor but important amendments and clarifications to ensure that existing regionally important infrastructure, particularly that of the Oil Companies and Powerco, can continue to fulfill its function and operate without unnecessary restriction.
- 5.2 Through my evidence I highlight particular changes I consider to be necessary to:
- Provide for the continued operation of regionally important infrastructure, including in sensitive coastal management areas;
 - Clarify that maintenance and upgrading is a subset of operation; and
 - Ensure the approach to coastal hazard risk is consistent and appropriate.
- 5.3 I prepared the submissions and further submissions on behalf of both Powerco and the Oil Companies and am broadly familiar with the PCP.
- 5.4 In preparing this evidence I have reviewed the s42A report and the tracked change version of the PCP prepared on behalf of the Council, including the updated maps. To assist the Hearing Panel I have attached at Appendix 1 and 2 tables showing the submissions of Powerco and the Oil Companies and the corresponding s42A recommendations, highlighting where I accept the recommendations.

6. SENSITIVE COASTAL MANAGEMENT AREAS

6.1 The PCP divides the coast into five coastal management areas:

- Outstanding Value;
- Estuaries Unmodified;
- Estuaries Modified;
- Port; and
- Open Coast

6.2 These areas are mapped on the proposed plans. I understand the extent of the areas of outstanding value and estuaries (modified and unmodified) generally align with mapped areas in the corresponding district plans.¹ I also consider these areas can be generally categorised as more sensitive than the Port and Open Coast management areas.

6.3 Both Powerco and the Oil Companies sought explicit recognition of existing regionally important infrastructure in the defined coastal management areas² and that mapping of sensitive coastal management areas be revisited.³ I consider these matters to be particularly important to Powerco given it has existing assets in sensitive coastal management areas, including within the CMA (where the PCP rules apply). Powerco's assets in these areas were identified in Powerco's submission and include above ground electrical assets in sensitive areas, for example:

- Onaero Estuary (unmodified estuary) – includes two river crossings seaward of the State Highway 3 bridge and electricity lines spanning the estuary;
- Urenui Estuary (unmodified estuary) – includes existing overhead lines crossing part of the estuary; and
- Patea (modified estuary) – includes remnants of a bridge and overhead lines.

¹ s42A Report, page 124

² Including submission points 45-52, 45-206, 46-53, 46-207

³ Including submission points 46-330, 46-345, 45-329, 45-344

- 6.4 These assets are identified in the plans at Appendix 3. Additional plans showing these assets and the coastal management areas will be provided in advance of the hearing.
- 6.5 The s42A recommendations are to decline relief sought in relation to explicit recognition of existing regionally important infrastructure in sensitive coastal management areas. The s42A report records that *a number of submitters sought to have their uses, values or particular interests explicitly identified in the coastal management areas, **despite such uses being common to most if not all coastal management areas** (my emphasis).*⁴ In terms of mapping the s42A report states that the mapping was based on values and attributes of the area rather than the presence (or otherwise) of particular use and development.⁵
- 6.6 While I can accept a reluctance to revisit mapping that aligns with district plan maps, I consider that there needs to be clear recognition in the PCP that there is existing infrastructure in these sensitive areas. I do not accept the view that these uses are common to most if not all coastal management areas, certainly not the mapped estuaries and outstanding areas. I consider explicit recognition of this regionally important infrastructure is important to establish that the mapped areas are high value, irrespective of these existing assets. By recognising that these areas are of high value regardless of these assets, I consider the PCP will better allow for the continued operation of them, including where resource consent is required for such activities. In the absence of relief to this effect, I consider it will likely be unnecessarily difficult to obtain resource consent to operate existing infrastructure in these areas where such activities are not permitted.
- 6.7 My concerns regarding the above are reinforced by a lack of certainty regarding the policy hierarchy. While I note the s42A report records that all policies must be read together, where some policies are more directive, I anticipate they will be afforded greater weight. That raises the potential for works in these areas to be considered contrary to at least some of the objectives and policies of the PCP, for instance in relation to natural character. For example, Objective 6 addresses natural character

⁴ s42A Report, page 27

⁵ s42A Report, page 76

and is proposed through the s42A report to read as follows (my emphasis in bold):

*The **natural character** of the coastal environment is preserved and protected from inappropriate subdivision, use and development and is **enhanced where degraded**.*

6.8 In the event that consent was required for an alteration to an existing asset in a sensitive coastal management area, it would be difficult for an applicant to demonstrate necessary works enhanced natural character as required by the second part to this objective, particularly in the absence of guidance in the PCP as to what constitutes degraded. Relevant to this is my view is that all areas where these above ground assets exist could be argued to have degraded natural character to some extent.

6.9 My concerns in this regard are reinforced by Policy 9 as proposed in the s42A report:

Policy 9: Natural character and natural features and landscapes
Protect the natural character, features and landscapes of the coastal environment not addressed in Policy 8 by:

- (a) *avoiding significant adverse effects, and avoiding, remedying and mitigating other adverse effects on natural character and natural features and landscapes by having regard to the extent to which the activity:*
 - (i) *maintains, enhances or restores natural character;*
 - (ii) *is compatible with the existing level of modification to the environment, including by having particular regard to Policy 1;*
 - (iii) *is appropriate within the surrounding landscape, its representativeness and ability to accommodate change;*
 - (iv) *is of an appropriate form, scale and design to minimise adverse effects on values of the existing landforms, features and vegetation (excluding high visibility markers required for safety or conservation purposes)*

or is of a temporary nature and any adverse effects are of a short duration and are reversible;

(v) maintains the integrity of significant areas of indigenous vegetation protects significant indigenous biodiversity and maintains or enhances indigenous biodiversity;

(vi) maintains the integrity of historic and cultural heritage;

(vii) maintains physical, visual (including seascapes) and experiential attributes that significantly contribute to the scenic, wild or other aesthetic values of the area; and

(viii) alters the integrity of landforms and features, or disrupts the natural processes and ecosystems.

6.10 In particular I am concerned that clause a(ii), which seeks to recognise the existing environment, requires particular regard to Policy 1, a policy which does not make reference to existing infrastructure in these areas. To address this matter, Powerco and the Oil Companies sought to amend policies 1(a), 1(b) and 1(c) to include the following:

*These areas may contain regionally important infrastructure.*⁶

6.11 I support this relief as a means of clearly recognising these assets are an existing element of these sensitive areas. I also consider that corresponding amendments are required at Section 1.7.2 and 1.7.3. These changes seek to give effect to relief sought by Powerco and the Oil Companies.⁷

1.7.2 Estuaries Unmodified

These are estuaries identified in Schedule 1 that have not been significantly modified, are surrounded by minimal urban development and exist in generally unmodified environments, although in some instances they contain existing regionally important infrastructure. These estuaries have significantly different and more complex natural processes than the open coast. They provide important habitats for

⁶ Submission points 45-206 and 46-207

⁷ Submission points 45-52 and 46-53

marine and bird life and, in many cases, have significant indigenous biodiversity value and high amenity value.

1.7.3 Estuaries Modified

The Pātea, Waiwhakaiho and Waitara estuaries are highly modified and are surrounded by urban and extensively modified environments. Although modified, including by existing regionally important infrastructure, these estuaries still contain significant habitats and may have significant indigenous biodiversity value. They are also areas with high amenity value.

- 6.12 Powerco also has existing assets in identified areas of outstanding value, albeit outside the CMA. Operation of these assets is therefore not affected by the PCP rules but is potentially affected by the objectives and policies, for instance Policy 8. In this regard I consider it would be helpful to explicitly recognise that minor and transitory effects may be acceptable under Policy 8, as sought by Trans-Tasman Resources Limited.⁸ The s42A report recommends declining this relief citing a preference to rely on case law when determining the extent of adverse effects to be avoided.⁹ I oppose this approach. In my opinion, case law post-dating the New Zealand Coastal Policy Statement (NZCPS) has strongly influenced the interpretation of the NZCPS and highlighted the importance of RMA plans like the PCP clearly articulating what they mean.

7. MAINTENANCE AND ALTERATION

- 7.1 The submitters sought amendments to the PCP to provide for maintenance and alteration, in addition to operations. For instance, in relation to Objective 3, the following changes were sought:

The use and ongoing operation, maintenance, and upgrading of nationally and regionally important infrastructure and other existing lawfully established activities is protected from new or inappropriate use and development in the coastal environment.¹⁰

⁸ Submission point 6-323 (Trans-Tasman Resources Ltd), supported by Powerco and the Oil Companies

⁹ S42A Report, page 115

¹⁰ Submission points 45-121 and 46-122

- 7.2 The s42A author considers the phrase “the use and ongoing operation” includes maintenance and upgrading.¹¹ I consider this to be a pragmatic view and one I support. However, it is an important matter for interpretation of the PCP and I seek to provide certainty for plan users in this regard.
- 7.3 Potential for misinterpretation of the s42A author’s intent is reflected in the drafting of other provisions in the PCP where operation is referred to alongside maintenance, alteration and extending. For instance, Policy 5(aa) refers to operation, maintenance and alteration while Policy 41(g) refers to operating, maintaining, altering or extending
- 7.4 Noting that definitions of maintenance and alteration are proposed, I consider this matter would be simply clarified by a note to each definition simply stating that Maintenance/Alteration is a subset of operation.

Alteration, in relation to a structure, means any modification to a structure that does not increase its external dimensions. Alteration is a subset of operation.

Maintenance, in relation to a structure, means the ongoing and regular activities that aid in the preservation of a structure and includes repair works conducted for the purpose of keeping the structure in good condition and/or working efficiently and where the character, intensity and scale of the structure remains the same. Maintenance is a subset of operation.

- 7.5 Alternatively, a note to the same effect to the relevant rules would suffice.
- 7.6 As a consequential amendment and to ensure consistency in the PCP, I consider that references to maintaining, altering and extending, for instance at Policy 5(aa) and Policy 41(g), should be deleted with reliance placed on the term operation.

¹¹ S42A, page 47

8. PETROLEUM PRODUCTION / PETROLEUM PRODUCTION INSTALLATIONS

8.1 The Oil Companies' submissions were prepared on the basis that there was a definition of petroleum production. However, while petroleum is defined, petroleum production is in fact not.

8.2 The interests of the Oil Companies do not relate to petroleum production but rather to the storage, transfer and distribution of refined petroleum products. I consider this is an important distinction when considering potentially relevant rules that would apply to, for instance, pipelines at the port which distribute fuel to and from the terminals.

8.3 This matter was been discussed with Council representatives following the release of the draft s42A recommendations and has more recently been revisited in correspondence with Ms Marcroft (for Council) following the release of the s42A recommendations. Ms Marcroft has advised her view that rules relating to petroleum production / petroleum production installations do not capture downstream petroleum pipelines and that this has been clarified by reference at rules 29 and 30 to **associated** pipelines to ensure non-production pipelines are not inadvertently caught. I support the view of Ms Marcroft in this regard.

9. POLICY 20

9.1 The Oil Companies provided detailed submissions in relation to the notified coastal hazard provisions. The Oil Companies sought to recognise that any activity in the CMA may increase the risk of coastal hazards and that what is paramount is that any increase in risk is acceptable. I support the intent of those submissions.

9.2 The s42A report is generally supportive of the submissions of the Oil Companies on this topic. However, there is some inconsistency regarding how they have been applied to Policy 20.

9.3 The Oil Companies sought that Policy 20 be amended as follows:

Policy 20: Avoidance of increasing coastal hazard or public safety risks

Avoid unacceptable ~~increase~~ing in the risk of social, environmental and economic harm from coastal hazards or posing a threat to public health and safety, or aircraft or navigation safety including by [...]

9.4 The s42A recommendation is to amend Policy 20 as follows:

Policy 20: Avoidance of increasing coastal hazard or public safety risks

*Avoid increasing the risk of social, environmental and economic harm from coastal hazards ~~or posing a threat~~ and avoid increased risks to public health and safety, or aircraft or navigation safety including by:
[...]*

9.5 The reason given in the s42A report for declining the relief sought by the Oil Companies is that the policy aligns with Policy 25(a) of the NZCPS and that the term unacceptable would be ambiguous thereby reducing the certainty and clarity of the policy.¹²

9.6 As proposed by the s42A author, I consider any increase in risk of social, environmental or economic harm would be contrary to this directive policy. The proposed wording effectively sets a zero-effect threshold for development in the CMA. To consider the appropriateness of this approach, I think it is important to look at the NZCPS in its entirety, including Policy 25.

Policy 25 Subdivision, use, and development in areas of coastal hazard risk

In areas potentially affected by coastal hazards over at least the next 100 years:

- (a) avoid increasing the risk of social, environmental and economic harm from coastal hazards;*
- (b) avoid redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards;*

¹² S42A, page 171

(c) encourage redevelopment, or change in land use, where that would reduce the risk of adverse effects from coastal hazards, including managed retreat by relocation or removal of existing structures or their abandonment in extreme circumstances, and designing for relocatability or recoverability from hazard events;

(d) encourage the location of infrastructure away from areas of hazard risk where practicable;

(e) discourage hard protection structures and promote the use of alternatives to them, including natural defences; and

(f) consider the potential effects of tsunamis and how to avoid or mitigate them.

9.7 While clauses (a) to (c) seek to avoid increasing risk of harm, clauses (d) and (f) temper that intent. In particular clause (d), in seeking to **encourage infrastructure away from areas of hazard risk where practicable**, clearly recognises that some infrastructure will be affected by natural hazards. Clause (f) similarly recognises that it will not necessarily be possible to avoid effects of tsunamis.

9.8 I also think it is important to look beyond Policy 25, for instance to Policy 6 (activities in the coastal environment) and Policy 9 (ports). These policies clearly recognise the importance of infrastructure at the coast, particularly where it has a functional need to be located there and also where it is necessary for the safe and efficient operation of ports. In my view, the position of the s42A author regarding with Policy 20 does not recognise this.

9.9 I also consider the approach at Policy 20 to be inconsistent with direction provided elsewhere in the PCP. For instance, the following references to unacceptable risk in relation to coastal hazards (my emphasis in bold):

Section 3.1 – *It is important that use and development of the coastal marine area does not increase coastal risk to people or property to **unacceptable levels**.*

Section 3.2 – *Ensuring use and development of the coastal marine area does not increase coastal hazard risk to **unacceptable levels** or pose a threat to the health and safety of people or property.*

Policy 5: Appropriate use and development

Determine whether subdivision and use and development of the coastal environment is an appropriate location and form, and within appropriate limits, by having regard to: ...

*(e) the degree to which the activity will be subject to **unacceptable risks** or exacerbate coastal hazards or public health and safety with particular reference to Policy 20; ...*

- 9.10 Further, I consider Policy 20 is inconsistent with Objective 2 which sets out that activities that have a functional or operational need to be in the coastal environment are provided for in appropriate locations. Development in these locations will often increase risk of coastal hazards, for instance new development at the Port, at least to some extent. In my opinion, what is important is that any increase in risk is acceptable.
- 9.11 I acknowledge that there is a degree of uncertainty with a policy which seeks to manage risk to acceptable levels. However, this allows matters to be considered on a case by case basis. In my opinion, the alternative is for Council to better quantify the risks it seeks to control and seek to provide quantitative limits around the degree of risk that is acceptable. I do not consider that avoiding all risk is a reasonable or justified position.
- 9.12 I consider Policy 20 should be amended as follows (changes to s42A recommendation in grey shading):

Policy 20: Avoidance of unacceptable increases in coastal hazard or public safety risks

Avoid unacceptable increases in the risk of social, environmental and economic harm from coastal hazards ~~or posing a threat~~ and avoid increased risks to public health and safety, or aircraft or navigation safety including by: [...]

10. RULES

- 10.1 I am generally supportive of the simplified rule suite. I consider that several important amendments and clarifications are required.

Rule 22 and Rule 37

- 10.2 Rule 22 provides a controlled activity pathway for the placement or erection of network utility structures. I support the intent of rule 22 but consider clarity is required to ensure that it is clear that reference to cables encompasses electricity lines. The same clarity is required at Rule 37 (which relates to maintenance, alteration or extension of network utility structures).

- 10.3 In both instances I think clarity would be achieved by referring to both cables and lines, not just cables. This would also be consistent with the draft national planning standards for network utilities which I understand from Mr Roche refer to both cables and lines. It would also help ensure consistency within the PCP, noting that at other points in the PCP, for instance in the standards in relation to Rule 35, cables and lines are referred to separately.

Rule 35 and Rule 37

- 10.4 Rule 35 provides for the maintenance, minor alteration or minor extension of an existing lawfully established structure as a permitted activity subject to standards.

- 10.5 I am concerned that the requirement for materials used to match the existing materials in form and appearance may have unintended consequences, for instance not allowing the upgrade of a support structure from timber to concrete or a composite material as a permitted activity. I consider that standard (b) to rule 35 should allow for the upgrade to the modern equivalent, with reliance to be placed on the balance of standards to appropriately address effects. This could be achieved by amending the standard as follows:

(b) materials used match the existing materials in form and appearance, unless otherwise required to facilitate maintenance or alteration of an existing structure to its modern equivalent.

10.6 I also consider that the standards in both rules 35 and 37 relating to the increase in height by 5 and 10 percent respectively are restrictive and are not likely to provide for increased pole height where required by Australian/New Zealand Standard for Overhead line design (AS/NZS 7000:2016) and the Electricity (Safety) Regulations 2010. To support extensions and alteration to poles necessary to provide appropriate separation distances, I consider it would be appropriate to amend Rule 37 to provide for these increases, irrespective of the percentage increase. To address this matter, I seek that standard (aa) to rule 37 is amended as follows:

(aa) the structure envelope, including length, width and height does not increase beyond 10% of the original size within a 24 month period, unless required to meet the Australian/New Zealand Standard for Overhead line design (AS/NZS 7000:2016) or the Electricity (Safety) Regulations 2010.

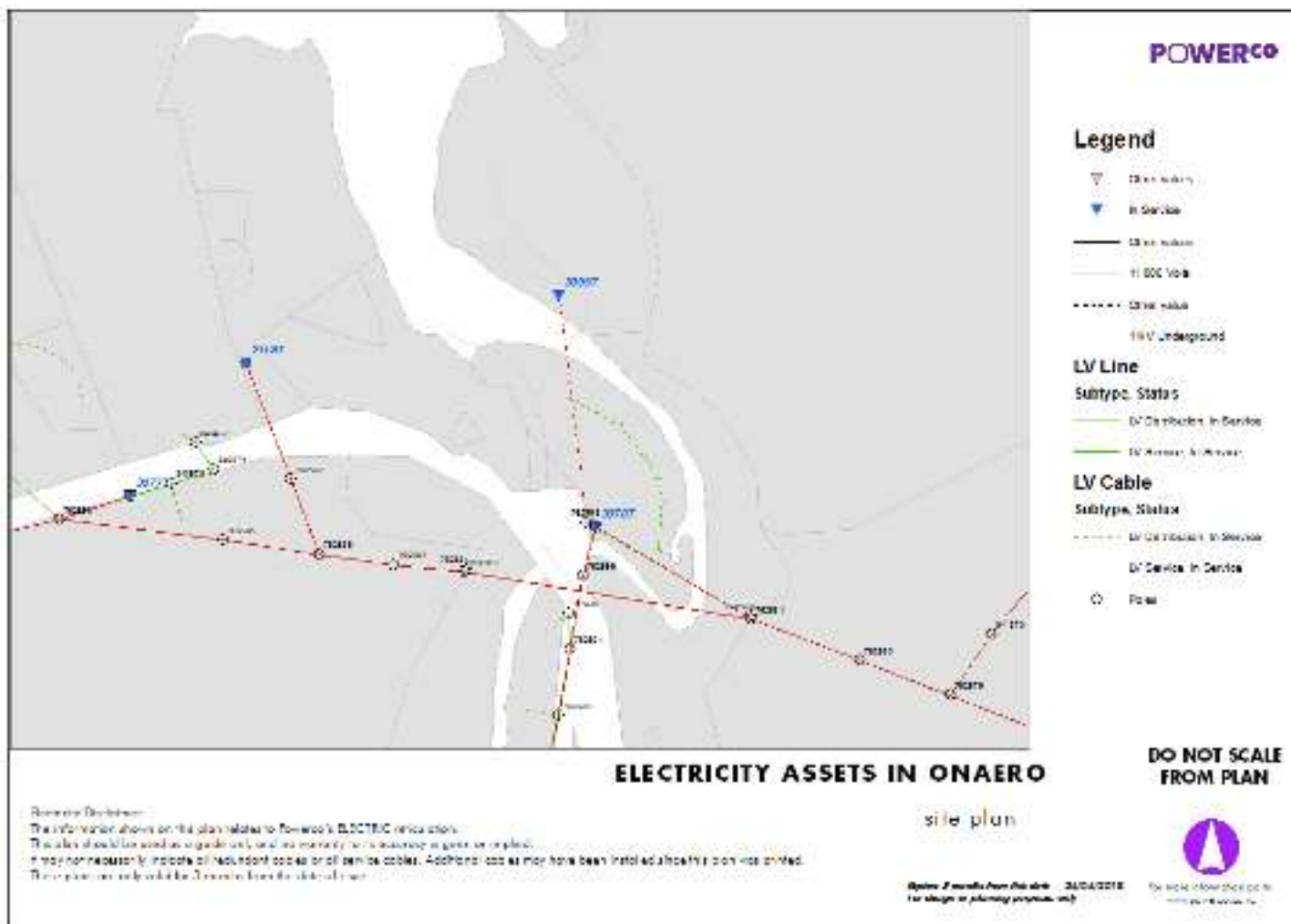
Mark Laurenson

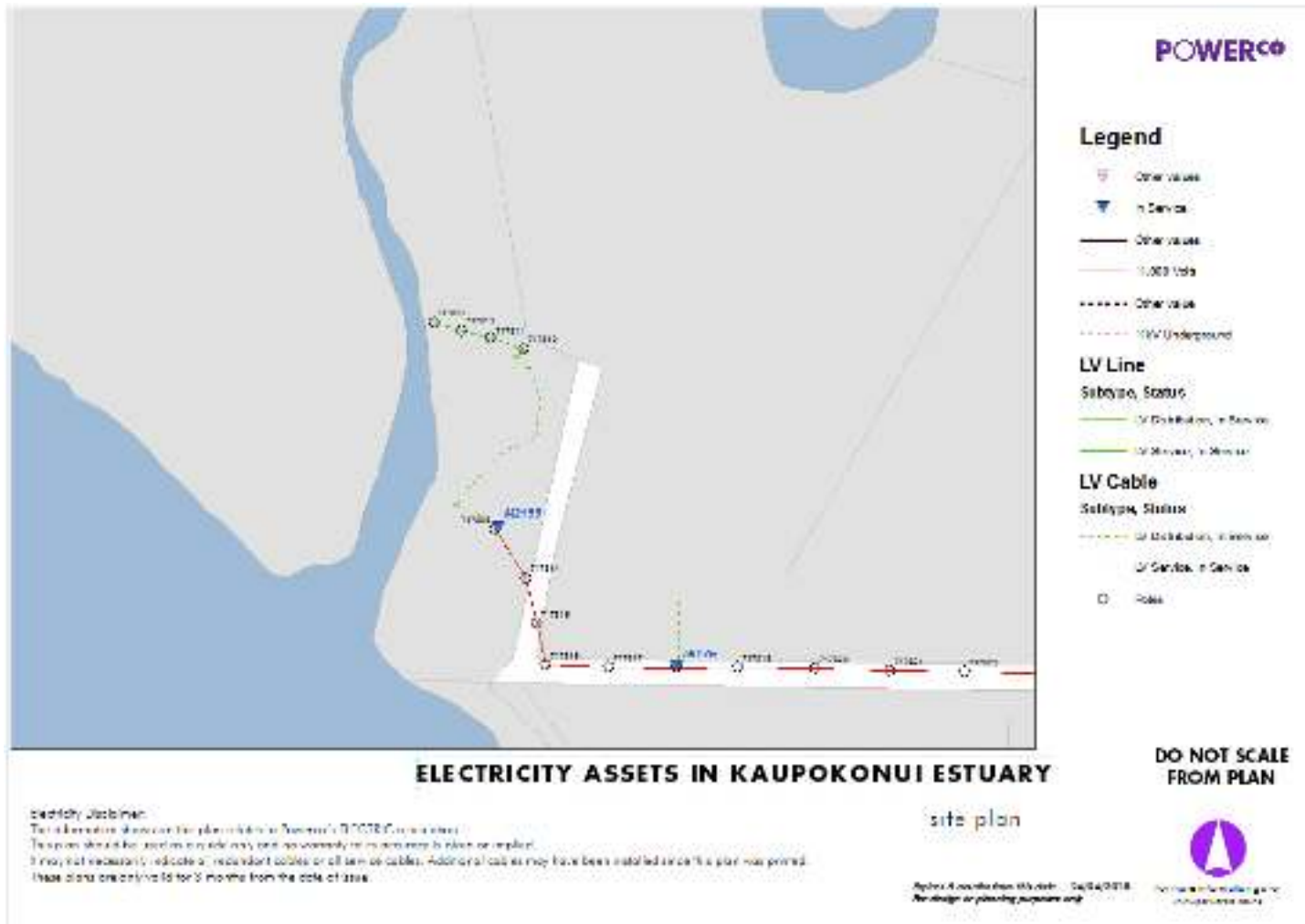
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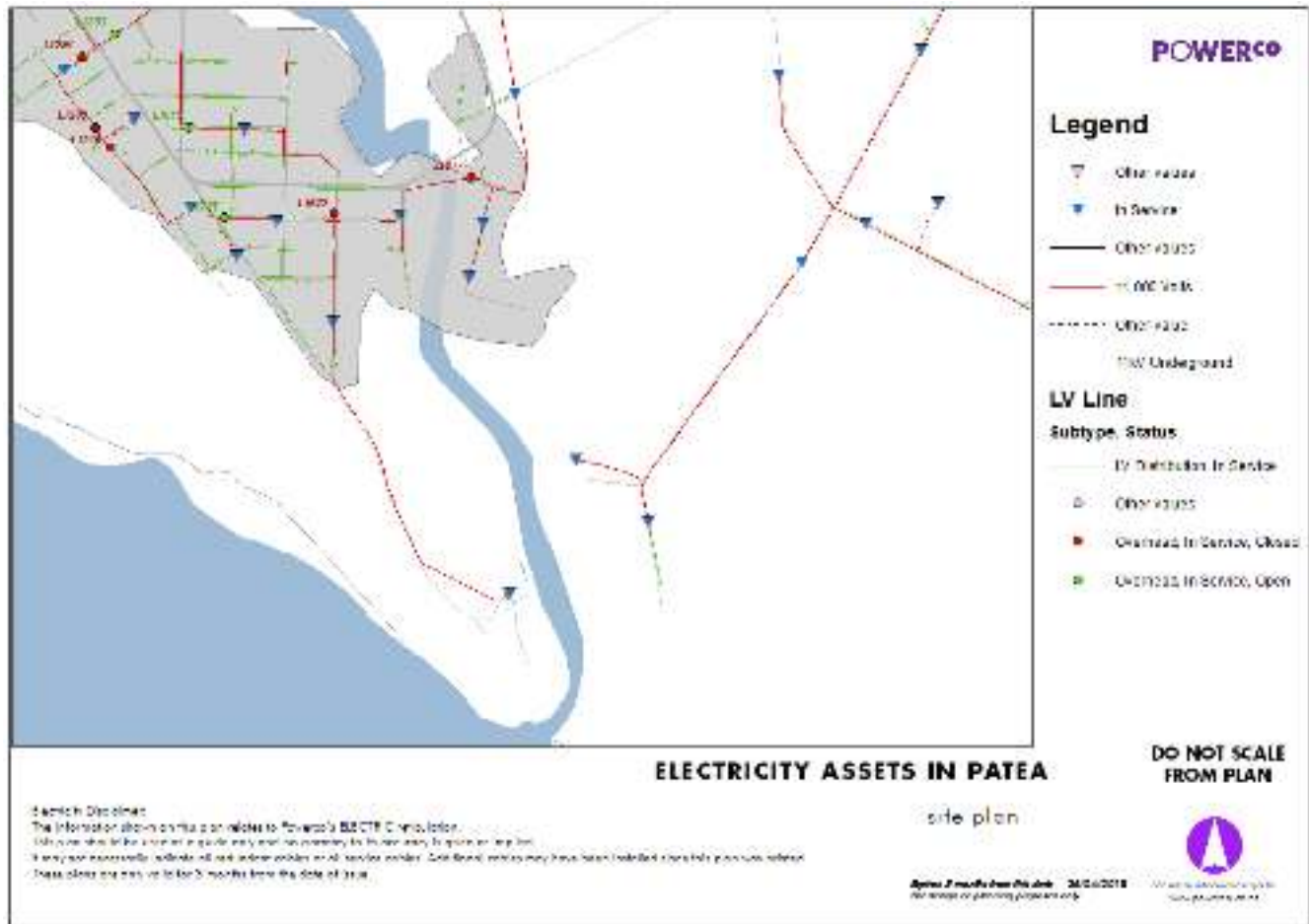
Appendix 1 – S42A Recommendations on the submissions and further submissions of Powerco

Appendix 2 - S42A Recommendations on the submissions and further submissions of the Oil Companies

Appendix 3 - Powerco Assets within sensitive coastal management areas







Appendix 1: Staff Recommendations on the Submissions and Further Submissions of Powerco on Proposed Coastal Plan for Taranaki

| Submitter Name | Support/Oppose Provision | Decision Requested (highlight indicates amendments) | Powerco's | Staff Recommendation and Comment (red text indicates Staff recommendations) | Comment |
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| SECTION 1.4 – PLAN APPLICATION | | | | | |
| Powerco (45-40) | Support Section 1.4.1 and 1.4.2 | Retain Sections 1.4.1 and 1.4.2 of the Plan as notified. | | <p>ACCEPT Officers recommend amendment to Section 1.4.1 to include a new sentence stating that while the rules in this Plan apply only to activities in the coastal marine area, nevertheless they include activities that can have an adverse effect on values and uses outside of the coastal marine area.]</p> <p><u>While the rules in this Plan apply only to activities in the coastal marine area, nevertheless they include activities that can have an adverse effect on values and uses outside of the coastal marine area.</u> (43) For the purposes of integrated management, Plan objectives, general policies and methods (excluding rules) address not only the coastal marine area but the wider coastal environment. The wider coastal environment comprises the coastal marine area, together with land dominated by the coast where coastal processes, influences or qualities predominate.</p> | Accept the s42A recommendation. |
| SECTION 1.7 – COASTAL MANAGEMENT AREAS | | | | | |
| Royal Forest and Bird Protection Society (43-51) | Support Amend Section 1.7.5 of the Plan to clarify whether the Open Coast coastal management area refers to the remaining area of the coastal marine area of the wider coastal environment | Powerco supports the submission. Powerco has an interest in clarification of the extent of the open coast and the applicable provisions in these areas. Powerco's submissions were prepared on the basis that the open coast is all areas within the CMA not otherwise mapped as another coastal management area and if required, changes to support and clarify that interpretation are supported. | | <p>No relief is considered necessary. The first sentence of Section 1.7.5 already state that the Open Coast coastal management area is that are of the coastal marine area not covered by the other management areas.</p> <p>In relation to the submitter seeking clarification on how values and characteristic of the Open Coast are to be protected in accordance with Policies 11 [Indigenous biodiversity], 13[Preservation of natural character] and 15[Natural features and landscapes] of the New Zealand Coastal Policy Statement, the submitter is referred to Policies 8, 9, 10, 11, 12, 13 and 14 of the Plan and the relevant rules. All General Policies in the Plan need to be considered together.</p> | Accept the s42A recommendation. |
| Powerco (45-52) | Support in part Section 1.7.1 to 1.7.3 | <p>Retain Section 1.7 of the Plan and the inclusion of the five coastal management areas but amend paragraphs 1.7.1 to 1.7.3 to ensure that the presence of existing infrastructure in all of these areas is appropriately recognised by including a sentence, as follows:</p> <p><u>These areas may contain regionally important infrastructure.</u></p> | | <p>ACCEPT IN PART A number of submitters sought to have their uses, values or particular interests explicitly identified in the coastal management areas, despite such uses and values being common to most if not all coastal management areas.</p> <p>Officers recommend minor and inconsequential changes to the first paragraph of Section 1.7 of the Plan to clarify that coastal management areas are areas or zones dividing the coastal marine area for management purposes and for which specific rules apply. This will avoid the need for unnecessary and potentially redundant commentary in the Plan that attempts to describe common attributes, characteristics and values that in all likelihood apply across all coastal management areas such as the presence of regionally important infrastructure (plus other uses and values).</p> <p>Section 1.7 Coastal Management Areas The coastal marine area has been divided into five management areas. This division recognises that some areas have values, characteristics or uses that are more vulnerable or sensitive to the effects of some activities, or have different management needs than other areas. These areas have been mapped in Schedule 1 and <u>specific rules apply. The coastal management areas</u> are as follows: [...]</p> | Evidence As set out in submissions, Powerco has existing assets in these areas and is concerned that if the existence of the assets is not clearly recognised as being part of these areas, it may be unnecessarily difficult to operate, maintain, upgrade and extend them, if such activities are not permitted. |
| SECTION 2.2 – NEW ZEALAND COASTAL POLICY STATEMENT | | | | | |
| Powerco (45-60) | Support in part Section 2.2 | <p>Amend Section 2.2 [New Zealand Coastal Policy Statement] of the Plan to specifically recognise and provide for infrastructure. This could be achieved by adding an additional bullet point, as follows:</p> <p><u>Recognising and providing for infrastructure.</u></p> | | <p>DECLINE The submitter wishes to extend the scope of Section 2.2 of the Plan to include infrastructure.</p> <p>A number of submitters sought to have their areas of interests explicitly identified in the commentary on the <i>New Zealand Coastal Policy Statement</i>, in this case recognition and provision for infrastructure.</p> <p>Officers note the commentary is deliberately high level that infrastructure is already adequately</p> | Accept the s42A recommendation. |

Appendix 1: Staff Recommendations on the Submissions and Further Submissions of Powerco on Proposed Coastal Plan for Taranaki

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| | | | covered under references to development. Officers suggest that the Plan objectives, policies and rules adequately recognise and provide for infrastructure. | |
| SECTION 3.1 - TARANAKI COASTAL ENVIRONMENT | | | | |
| Trustpower Ltd (26-72) | Supported, in part by Powerco Section 3.1 Amend as follows: Some activities rely upon a location in or near the coastal marine area, are dependent on the use of coastal resource, <u>or have technical, operational or locational constraints that mean they require a coastal marine area location</u> . Taranaki's coastal resource and developments play a crucial role in both the regional and national economy [...] | Powerco supports the submission, in part. The intent of the submission is supported. It may be possible to more succinctly achieve the same intent by adopting a comprehensive definition of functional need, as sought by Powerco. | The submitter seeks amendments to the commentary to make it clear within the Plan that there are also technical, locational and/or operational reasons why an activity requires a coastal location which are not based solely on the use of the coastal resource itself. Officers agree that there are a number of instances where the location of infrastructure or activities in the coastal marine area is appropriate taking into account technical, operational or locational requirements. Officers recommend amending the relevant paragraph to refer to "functional need" and "operational need" and note that these terms are defined in the National Planning Standards and include locational considerations. Appropriate use and development Some activities rely upon a location in or near the coastal marine area, or are dependent on the use of coastal resources, <u>due to a technical need or operational need</u> . | Clarification Given functional need and operational need are defined it would be more appropriate to refer to the same here. |
| SECTION 4 – OBJECTIVES | | | | |
| Powerco (45-92) | Support Objective 1 | Retain Objective 1 of the Plan as notified. | ACCEPT Objective 1 is retained subject to the amendments below: Objective 1: Integrated Management Management of the coastal environment, including the effects of <i>subdivision</i> , use and development on land, air and fresh water, is carried out in an integrated manner, <i>including between regional and district council functions</i> . | Accept the s42A recommendation. |
| Transpower NZ Ltd (26-101) | Supported, in part by Powerco Objective 2 Natural and physical resource of the coastal environment are used efficiently, and activities that depend on the use and development of these resource, <u>or have technical, operational and/or locational requirements</u> , are provided for in appropriate locations. | Powerco support the submission, in part. The intent of the submission is supported. It may be possible to more succinctly achieve the same intent by adopting a comprehensive definition of functional need, as sought by Powerco. | Objective 2: Appropriate Use and development Natural and physical resource of the coastal environment are used efficiently, and activities <u>that have a functional need or an operational need</u> that depend on the use and development of these resource, are provided for in appropriate locations. | Accept the s42A recommendation. |
| Port Taranaki (32-103) | Supported, in part by Powerco Objective 2 Amend Objective of the Plan (or add a new Objective) to specifically address provision for ongoing development of strategically significant regional and national infrastructure, including Port Taranaki. | Powerco support the submission, in part. The intent of the submission is supported, although it is noted that Rule 35 already provides a permitted activity pathway for maintenance, repair or minor alteration, except at the Port. Powerco reserves judgement on the specific provisions of the proposed permitted activity rule and how this will sit alongside the existing cascade, particularly Rule 35. | | |
| Powerco (45-103) | Support Objective 2 | Retain Objective 2 of the Plan as notified. | | |
| Powerco (45-121) | Support in part Objective 3 | Amend Objective 3 of the Plan, as follows: <u>The use and ongoing operation, maintenance, and upgrading</u> of nationally and regionally important infrastructure and other existing lawfully established activities is protected from new or inappropriate use and development in the coastal environment. | NO RELIEF REQUIRED Officers consider maintenance and upgrading to already being captured in the phrase "the use and ongoing operation" of nationally and regionally important infrastructure. The introduction of added terms is not only unnecessary but potentially confusing in that it uses terms not used in the Plan policies or rules relating to structures. | Evidence The principle that operation encompasses maintenance and upgrading is supported. However, consistency is required, for instance Policy 5 refers to operation and maintenance separately and |

Appendix 1: Staff Recommendations on the Submissions and Further Submissions of Powerco on Proposed Coastal Plan for Taranaki

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| | | | | introduces uncertainty regarding what is an operation. |
| Powerco (45-138) | Support Objective 6 | Retain Objective 6 of the Plan as notified | ACCEPT Support noted. Objective 6 is retained subject to minor amendments as requested by other submitters. Objective 6: Natural character The natural character of the coastal environment is preserved and protected from inappropriate <u>subdivision</u> , use and development and is <u>restored/enhanced</u> where <u>appropriately degraded</u> . | Accept the recommendation |
| Powerco (45-146) | Support Objective 7 | Retain Objective 7 of the Plan as notified. | ACCEPT Objective 7: Natural features and landscapes The natural features and landscapes of the coastal environment are protected from inappropriate <u>subdivision</u> , use and development. | Accept the s42A recommendation. |
| Powerco (45-151) | Support in part Objective 8 | Amend Objective 8 (and corresponding policies and rules) to provide appropriately for the operation, maintenance and upgrade of existing regionally important infrastructure. | NO RELIEF NECESSARY No precise details of amendments sought to Objective 8 have been provided. However, officers note that Section 4 of the Plan provides a suite of objectives that together provide for a broad range of values and uses, including nationally and regionally important infrastructure. Objectives relating to regionally important infrastructure are separately addressed in Objectives 2 and 3 of the Plan. In determining the weighting or priority given to particular values the Plan policies also apply. Officers do not believe any amendments to Objective 8 are therefore necessary. Notwithstanding the above, in response to relief sought elsewhere by the submitter (and others), consequential amendments have been made in other Plan provisions that further recognise and provide for the operation, maintenance and alteration (upgrade) of existing regionally important infrastructure. Objective 8: Indigenous biodiversity Indigenous biodiversity in the coastal environment is maintained and enhanced and areas of significant indigenous biodiversity in the coastal environment are protected. | Accept the s42A recommendation. |
| SECTION 5.1 – PREAMBLE | | | | |
| Royal Forest and Bird Protection Society (43-179) | Supported, in part by Powerco Section 5.1 Amend, as follows: <i>This section provides the overall direction for achieving integrated management for the <u>production of significant and outstanding values and matters in the coastal environment (i.e. both the coastal marine area and areas <u>landward</u> where coastal processes, influences or qualities are significant) in order to achieve the objectives of this Plan.</u></i> <i>The policies apply to all activities in the coastal environment, regardless of which coastal management area the activity may fall within (coastal management areas are identified in Schedule 1 and their characteristics are described in Policy 1).</i> | <i>Powerco supports the submission, in part. Powerco supports the amendments, particularly the mapping of the coastal environment (as set out in primary submissions).</i> | <i>Officers agree to amend the introduction of Section 5.1 but note that the Plan policies cover use, development and protection of all coastal values not just “the protection of significant and outstanding values.” Officers recommend an alternative relief that takes into account relief sought in other submissions.</i> <i>This section provides the overall direction for achieving integrated management in the coastal environment (i.e. both the coastal marine area and areas <u>landward</u> where coastal processes, influences or qualities are significant <u>and as indicatively shown on the planning maps</u>) in order to achieve the objectives of this Plan.</i> <i>The policies apply to all activities in the coastal <u>marine area but include consideration of uses values and relationships across the wider coastal environment. The Policies set out a coastal management framework, providing for use and development, protect, maintain and enhance significant and outstanding values, and manage coastal hazards and risks to public health and safety.</u></i> | Accept the s42A recommendation |
| SECTION 5.1.1 – MANAGEMENT OF THE COASTAL ENVIRONMENT (POLICIES) | | | | |
| Royal Forest and Bird | Support in part, oppose in part by Powerco | <i>Powerco supports the submission, in part. Clarification regarding the landward extent of</i> | <i>Officers recommend amendments to Policy 1 that gives partial effect to the relief sought by the submitter, but which also addresses issues/matters raised by other submitters.</i> | Accept the s42A recommendation. |

Appendix 1: Staff Recommendations on the Submissions and Further Submissions of Powerco on Proposed Coastal Plan for Taranaki

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| <p>Protection Society (43-198)</p> | <p>Policy 1 Delete Policy 1 of the Plan OR Amend Policy 1 by: -setting out an area based management approach based on mapped and schedule areas. Refer to relevant policies to identify characteristics in those areas which are not already for those areas in a schedule. -including a statement that explains that Policy 1 does not provide direction for subdivision, use or development activities within the management areas.</p> | <p><i>the management area is supported. Powerco's submissions were prepared on the basis that these areas apply as mapped, including beyond the CMA. As the Open Coast is not mapped beyond the indicative CMA boundary. It was understood that the Open Coast only applied in the CMA</i></p> <p><i>Powerco opposes the submission in part. Powerco is not necessarily opposed to the intent of the relief sought by the submitter but reserve judgement pending specific wording of the amendments.</i></p> | <p><i>The submitter's concerns with the coastal management area approach are noted. However, officers note that the approach has been in place since 1997 and to date no issues have been identified in relation to its application. The current Coastal Plan, which includes the same zonal approach and has an equivalent policy, has been demonstrated to be efficient and effective in managing adverse effects in the coastal marine area through interim reviews and state of the environment monitoring. Officers do not believe it necessary nor appropriate to delete Policy 1.</i></p> <p><i>Notwithstanding the above, officers note recommendations that give partial relief to other reliefs sought by the submitter. These include amendments to the Policy 1 plus other inconsequential changes in Section 1.7 of the Plan to clarify that the application of the coastal management areas apply only to the coastal marine area.</i></p> | |
| <p>Powerco (45-206)</p> | <p>Support in part Policy 1</p> | <p>Retain Policy 1 of the Plan subject to an amendment that recognises the existence of existing infrastructure in areas of Outstanding Values, Estuaries Unmodified and Estuaries Modified, unless the mapping is amended such that this is not the case. Seek amendment to Policies 1(a), 1(b), and 1(c) to read as follows:</p> <p><u>these areas may contain regionally important infrastructure.</u></p> | <p>DECLINE Officers recommend declining the relief sought by the submitter in that the suggested amendments are for a value or attribute that is not a distinguishing feature of the coastal management area.</p> <p>Policy 1 sets out a zonal approach for the application of rules in the coastal marine area. The coastal marine area has been divided into five coastal management areas based upon shared values, characteristics, uses, vulnerability or sensitivity, and different management needs. The zones allow rules to 'bundle' compatible activities or effects of these activities together and restrict activities or effects which are incompatible. The coastal management areas enable some activities, and restrict other activities.</p> <p>As noted in Policy 1(a), (b) and (c) the listed matters refer to attributes and values characteristic of the area. There is no value in identifying values and attributes (already recognised and provided for by policies elsewhere) and which can occur anywhere in the coastal marine area.</p> | <p>Evidence Address in conjunction with evidence re Section 1.7.</p> |
| <p>Fonterra (47-208)</p> | <p>Supported by Powerco Policy 1 Amend Policy 1, as follows: (d) Open Coast: Areas of the open coast not identified in (a), (b), (c) and (e) of this Policy characteristically: [...] (v) <u>may contain infrastructure, structures and activities that enable people and communities to provide for their economic and social well being.</u></p> | <p><i>Powerco supports the submission. Powerco sought similar recognition of infrastructure in other management areas and considers it would be appropriate to similarly recognise the presence of this infrastructure in the Open Coast.</i></p> | | |

Appendix 1: Staff Recommendations on the Submissions and Further Submissions of Powerco on Proposed Coastal Plan for Taranaki

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| Powerco (45-237) | Support in part Policy 2(f) | Amend Policy 2(f) of the Plan, as follows: <i>Provide for the integrated management of the coastal environment by: [...]</i> <i>(f) managing natural and physical coastal resource in a manner that has regard to the social, economic and cultural objectives and well-being of the community and the functional need and/or location constraints of nationally or regionally important infrastructure, and [...]</i> | ACCEPT Officers agree with the submitter that reference to “ <i>functional need</i> ” provides more clarity to Plan users noting that this has been defined in the Plan. Further to this, the Plan also defines “operational needs: which encompasses locational constraints which is recommended to be included following functional needs in Policy 2(f). Policy 2(f) would read as follows: (f) managing natural and physical resources in a manner that recognises and provides for the social, economic and cultural objectives and well-being of the community and the functional needs and/or operational needs of regionally important infrastructure, and industry [...] | Accept the s42A recommendation. |
| Powerco (45-263) | Oppose Policy 4 | Delete Policy 4 as currently worded and replace it with comprehensive mapping of the coastal environment (not just the coastal marine area). | GRANT IN KIND The reader is referred to the Department of Conservation’s guidance on the <i>New Zealand Coastal Policy Statement</i> . The guidance notes that the term ‘coastal environment’ is an environment in which the coast is a significant part or element, However, the guidance notes the difficulties in setting out an abstract definition which is capable of simple and ready application to any given situation. What constitutes the coastal environment will vary from place to place and according to the position from which a place is viewed. Officers do not recommend amending Policy 4(a) in the manner suggested by the submitter but do agree with amending the Plan to provide more certainty in relation to where the coastal environment lies. It is recommended that the Plan (and associated GIS layers and planning maps) be amended to include an indicative extent of the coastal environment that is aligned with the coastal environment lines (or their equivalent) identified in the South Taranaki and New Plymouth district plans. The revised Policy would read as follows Determine the inland extent of the coastal environment for the purposes of policies under Section 5.1 of the Plan by: <ul style="list-style-type: none"> (a) having particular regard to areas identified in a district plan or proposed district plan as being the coastal environment or equivalent (map link); and (b) on a case by case, basis, recognising: <ul style="list-style-type: none"> (i) areas landward of the coastal environment line where coastal processes, influences or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetland and the margins of these areas; and (ii) the geographic extent to which activities within the coastal marine area may cause adverse effects on significant values and characteristics landward of the coastal marine area | Accept the s42A recommendation. |
| SECTION 5.1.2 – USE AND DEVELOPMENT OF RESOURCES (POLICIES) | | | | |
| Trans-Tasman Resources Ltd (6-265) | Supported by Powerco Policies 5(b), (e), (f) and (g) Amend as follows: (b) the benefits to be derived from the activity at a local, regional and national level, including the potential contribution of aquaculture and marine based renewable energy or mineral resources. (e) the degree to which the activity will be threatened by, or contribute to, coastal hazard risk, or pose a threat to public health and safety risks | Powerco supports the submission. The relief proposed by the submitter improves the clarity of the policy and is consistent with the requirements of the RMA in relation to alternatives and the BPO. | Officers consider the inclusion of “renewable energy” within Policy 5(b) to be in line with the requirements of Policy 6(1)(g) [Activities in the coastal environment] of the <i>New Zealand Coastal Policy Statement</i> to take into account the potential for renewable resources. However, officers consider the addition of mineral resources within the Policy to be in line with Policy 6(2)(a) of the <i>New Zealand Coastal Policy Statement</i> whereby contributions to social, economic and cultural wellbeing of people and communities from use and development, including (but not limited to) the potential for renewable marine energy are recognised. Therefore, officers recommend granting the relief in part whereby the scope of Policy 5(b) is broadened to explicitly recognise mineral resources alongside aquaculture, renewable energy and other marine based energy plus other consequential changes to the Policy as requested by other submitters | Accept the s42A recommendation. |

Appendix 1: Staff Recommendations on the Submissions and Further Submissions of Powerco on Proposed Coastal Plan for Taranaki

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| | <p>with particular reference to Policy 20;</p> <p>(f) the degree to which the activity contributes to the <u>maintenance</u> enhancement or restoration of natural or historic heritage including by buffering areas and sites of historical heritage value;</p> <p>(g) the degree to which the activity contributes to the <u>maintenance</u>, enhancement or restoration of public access or public use of the coast including for recreation;</p> <p>[...]</p> | | <p>(b) the benefits to be derived from the other activities at a local, regional and national level, including the existing and potential contribution of petroleum and mineral resources, and the potential contribution of aquaculture, and renewable energy resources; ^{(b) (2)}</p> <p>(c) the appropriateness of the proposed design, methodology, whether it is the best practicable option, location or route of the activity in the context of the receiving environment and any possible alternatives, including best practicable options for preventing or minimising adverse effects on the environment; ^(c)</p> <p>(d) the degree to which the activity will recognise and provide for the relationships, uses and practices of Māori and their culture and traditions with their lands, water, sites, wāhi tapu, and other taonga in the coastal environment such as mahinga kai, tauranga waka (canoe landing sites), nga toka (rocks) and tauranga ika (fishing grounds);</p> <p>(e) the degree to which the activity will be threatened by, or contribute to, subject to unacceptable risks or exacerbate coastal hazards, risk, or pose a threat to public health and safety with particular reference to Policy 20;</p> <p>(f) the degree to which the activity contributes to the <u>maintenance</u>, ^(f) enhancement or restoration of natural or historic heritage including by buffering areas and sites of historical heritage value;</p> <p>(g) the degree to which the activity contributes to the <u>maintenance</u>, ^(g) enhancement or restoration of <u>appropriate</u> ^(g) public access or public use of the coast including for recreation;</p> | |
| <p>Trans-Tasman Resources Ltd (6-268)</p> | <p>Supported, in part by Powerco</p> <p>Policy 5(c)</p> <p>Amend Policy 5(c) to recognise that an alternative assessment, and the need for an activity to be the best practicable option is not always required, particularly where there are no significant adverse effects.</p> | <p>Powerco supports, in part the submission. The relief proposed by the submitter improves the clarity of the policy and is consistent with the requirements of the RMA in relation to alternatives and the BPO.</p> | <p>Officers recommend amending Policy 5(c) to state that having regard to possible alternative may include consideration of best practicable options for preventing or minimising adverse effects on the environment.</p> <p>(b) the appropriateness of the proposed design, methodology, location or route of the activity in the context of the receiving environment and any possible alternatives, <u>including best practicable options for preventing or minimising adverse effects on the environment</u> [...]</p> | <p>Accept the s42A recommendation.</p> |
| <p>Radio New Zealand Ltd (35-277)</p> | <p>Supported by Powerco</p> <p>Policy 5(a)</p> <p>Amend Policy 5(a) of the Plan as follows:</p> <p>(a) the functional need for the activity to be located in the coastal marine area <u>or the coastal environment</u>. Conversely, activities that do not have a functional need to be located in the coastal marine area <u>or the coastal environment</u> generally should not be located there [...]</p> | <p>Powerco support the submission, in part. Powerco similarly seeks that functional need applies to both the CMA and Coastal Environment and seeks to ensure that the policy does not narrow the definition of functional need sought in its submission.</p> | <p>Officers recommend declining the relief sought by the submitter.</p> <p>Officers note that Policy 5(a) is deliberately confined to activities being located in the coastal marine area because they have a functional need or operational need. This reflects the coastal marine area being a public space. Officers do not believe that such restrictions are necessary or appropriate on the landward part of the coastal environment.</p> | <p>Accept the s42A recommendation.</p> |
| <p>Powerco (45-283)</p> | <p>Support in part</p> <p>Policy 5(a) and (c)</p> | <p>Amend Policy 5(a) and (c) of the Plan to read:</p> <p>Determine whether use and development of the coastal environment is in an appropriate place and form, and within appropriate limits, by having regard to:</p> <p>(a) the functional need for the activity to be located in the coastal marine area. Conversely activities that do not have a functional need to be located in the coastal marine area generally should not be located there (unless the non-marine related activity complements the indeed use and function of the area).</p> | <p>ACCEPT IN PART</p> <p>Officers recommend amending Policy 5(a) as sought by the submitter but note consequential changes made to Clause (c) and (e) in response to other submitters.</p> <p>Determine whether use and development of the coastal environment is in an appropriate place location and form, and within appropriate limits, by having regard to:</p> <p>(a) the functional need <u>or operational need</u> for the activity to be located in the coastal marine area. <u>Activities that do not have a functional need or operational need to be located in the coastal marine area generally should not be located there (unless the non-marine related activity complements the intended use and function of the area);</u></p> <p>[...]</p> <p>(c) the appropriateness of the proposed design, methodology, location or route of the activity in the context of the receiving environment and any possible alternatives, <u>including best practicable options for preventing or minimising adverse effect on the environment</u> [...]</p> | <p>Accept the s42A recommendation.</p> |

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| | | <p>[...]</p> <p>(c) the appropriateness of the proposed design and methodology, and whether it is the best practicable option, location or route of the activity in the context of the receiving environment and any possible alternatives;</p> <p>[...]</p> | [...] | |
| <p>Transpower NZ Ltd (26-297)</p> | <p>Supported, in part by Powerco</p> <p>Policy 5 and Policy 6</p> <p>Retain Policy 5 but include explicit recognition of the benefits of a reliable and secure supply of electricity.</p> <p>Amend Policy 6) of the Plan as follows: Recognise and provide for new and existing infrastructure of national or regional importance or of significance to the social, economic and cultural well-being of people and communities in Taranaki, including recognition of the benefits of a reliable, secure and efficient supply of electricity, subject to appropriate management of adverse environmental effects; [...]</p> <p>OR</p> <p>Amend the Plan to include a standalone policy which recognises and provides for the benefits of a reliable, secure and efficient supply of electricity.</p> | <p>Powerco supports, in part the submission. Specific recognition of the importance of electricity supply (including both transmission and distribution) is supported and will help ensure that Powerco's electrical assets are appropriately provided for.</p> | <p>Of note the definition of "regionally important infrastructure" states that it includes infrastructure of regional and national importance and includes the national electricity grid. Officers do not recommend granting the relief in the manner sought by the submitter and note that inconsequential amendments are recommended to the Plan to remove reference to "nationally important infrastructure" where it is used to promote consistency in the use of terminology throughout the Plan.</p> <p>Determine whether use and development of the coastal environment is in an appropriate place location and form, and within appropriate limits, by having regard to:</p> <p>[...]</p> <p><u>(aa) whether the activity relates to the use, operation, maintenance and alteration of regionally important infrastructure [...]</u></p> <p>And the amendment of the heading and content of Policy 6 to include reference to the safe and efficient operation of regionally important infrastructure to read (officers note additional amendments as sought by other submitters are also included):</p> <p>Policy 6: Benefits of regionally important infrastructure Recognise the benefits of new and existing regionally important infrastructure to the social, economic and cultural well-being of people and communities in Taranaki, and provide for the safe and efficient operation of regionally important infrastructure subject to appropriate avoidance, remediation or mitigation of adverse environmental effects.</p> <p>A new Policy 6A [Management of adverse effects of the National Grid] is also proposed.</p> | <p>Accept the s42A recommendation.</p> |
| <p>Powerco (45-306)</p> | <p>Support in part</p> <p>Policy 6</p> | <p>Amend Policy 6 of the Plan, as follows:</p> <p>Recognise and provide for the safe and efficient operation of new and existing infrastructure of regional importance or of significance to the social, economic and cultural well-being of people and communities in Taranaki, subject to appropriate management of adverse environmental effects.</p> | <p>ACCEPT</p> <p>Accept the amendment to Policy 6 to provide for the safe and efficient operation of infrastructure.</p> <p>Policy 6: Benefits of regionally important infrastructure Recognise the benefits of new and existing regionally important infrastructure to the social, economic and cultural well-being of people and communities in Taranaki, and provide for the safe and efficient operation of regionally important infrastructure subject to appropriate avoidance, remediation or mitigation of adverse environmental effects.</p> | <p>Accept the s42A recommendation.</p> |
| <p>Powerco (45-316)</p> | <p>Oppose</p> <p>Policy 7</p> | <p>Amend Policy 7, as follows:</p> <p>Avoid remedy or mitigate the adverse effects of activities, including reverse sensitivity impacts, on existing lawfully established activities. Restricting the establishment or intensification of activities that may result in reverse sensitivity effects by:</p> <p>(a) avoiding significant adverse effects on infrastructure of national or regional importance;</p> <p>(b) avoiding, remedying or mitigating other adverse effects on infrastructure of national or regional importance;</p> <p>(c) avoiding, remedying or mitigating</p> | <p>ACCEPT</p> <p>Officers agree to amend Policy 7 in line with the relief sought by the submitter (noting some minor changes are made to align the reading of the policy with other policies in the Plan).</p> <p>Protect existing lawfully established activities from reverse sensitivity effects that may arise from the establishment of new activities or the intensification of existing activities by:</p> <p>(a) avoiding significant adverse effects on regionally important infrastructure;</p> <p>(b) avoiding, remedying or mitigating other adverse effects on regionally important infrastructure; and other activities.</p> | <p>Accept the s42A recommendation.</p> |

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| | | adverse effects on other activities | | |
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| SECTION 5.1.3 – NATURAL FORM AND FUNCTIONING (POLICIES) | | | | |
| Federated Farmers (2-322) | Supported, in part by Powerco Amend Policy 8 as follows: Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 1 from inappropriate use and development by: (a) avoiding adverse effects of activities on the values and characteristic identified in Schedule 2 that contribute to areas: (i) having outstanding natural character; and/or (ii) being outstanding natural features and landscape; Within or adjoining coastal management area – Outstanding Values; and; (b) maintaining significant seascapes and visual corridors associated with outstanding natural features and landscapes, including views from within the landscape or features, and views of the landscapes and features. | Powerco supports, in part the submission. The changes sought provide improved clarity with regard to the effect of the policy on areas in proximity to scheduled areas of outstanding value. While it is recognised and accepted that the Coastal Plan has effect over both the CMA and the coastal environment, the extent to which the Policy applies should be clearly and appropriately identified, and activities adjacent to such areas should not be unnecessarily constrained or subject to more than one regulatory approach (e.g.: regional and district), unless those approaches clearly have different intent. This is important to the ongoing operation, maintenance, development and upgrade of Powerco’s network. | Officers recommend declining the relief sought. Officers note that activities undertaken adjoining Outstanding Value areas can, over time, adversely affect the values associated with an outstanding area. Seascapes and visual corridors are important values associated with natural features and landscapes and therefore require protection as per Policy 15 of the New Zealand Coastal Policy Statement. Accordingly, for the purposes of integrated coastal management, it would be inappropriate to exclude consideration of the wider landscape and would derogate from Council’s efforts seeking to give effect to Policies 13 and 15 of the New Zealand Coastal Policy Statement. | Accept the recommendation |
| Trans-Tasman Resources Ltd (6-323) | Supported by Powerco Policy 8 Amend to read: Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 1 from inappropriate use and development by: (a) avoiding adverse effects of activities (<i>other than minor or transitory effects</i>) on the values and characteristics identified in Schedule 2 that contribute to areas: [...] | Powerco support the submission. The principle of introducing wording to specifically recognise that it may be appropriate to allow minor or transitory effects is in keeping with case law and is supported. | Officers agree that minor or transitory effects are not necessarily required to be avoided within Policy 8. In the recent King Salmon case law, the Supreme Court ruled that avoidance policies do not necessarily rule out minor and transitory effects. Notwithstanding that, officers do not consider it necessary to include explicit recognition of this within Plan policies. Indeed there are risks in doing so. Officers believe that it is more appropriate for the interpretation of Plan policies to rely on case law when determining the extent of effects which are necessary to be avoided. The current wording reflects the wording of the New Zealand Coastal Policy Statement and will ensure that any evolution of case law can be taken into consideration during the consenting process. | Evidence Clarity re policy hierarchy, especially given directiveness of policies like Policy 8. The Plan should say what it means to ensure that case law does not significantly alter the direction in the PCP. |
| Powerco (45-329) | Support in part Policy 8 | Seek that the Council revisit mapping of areas of outstanding natural features and landscapes OR Amend Policy 8, as follows: <u>(c) recognising the need to provide for the ongoing operation, maintenance, and upgrade of existing infrastructure.</u> | DECLINE Officers recommend declining the relief sought by the submitter. Of note, the Council has worked closely with the New Plymouth and South Taranaki district councils in identifying and mapping coastal areas of outstanding natural character and outstanding natural features and landscapes and there is alignment between the plans in relation to the areas identified. Mapping was appropriately based on values and attributes of the area rather than the presence (or otherwise) of particular use and development. In relation to the alternative relief of amending Policy 8, officers do not believe any relief is necessary. Officers note all General Policies must be read together. Policies 5, 6 and 7 already recognise the need to provide for the ongoing operation, maintenance, and upgrade of existing infrastructure. | |
| Powerco (45-344) | Support in part Policy 9 | Revisit whether regionally important infrastructure falls within areas of natural character and natural features and landscapes, or for Policy 9 to recognise the presence of regionally important infrastructure within areas of outstanding natural features and landscapes. | DECLINE Officers do not believe the requested amendment is necessary. Of note, the Council has worked closely with the New Plymouth and South Taranaki district councils in identifying, mapping and describing natural character, features and landscapes along the Taranaki coastline. Much of this work was addressed in a separate report <i>Regional Landscape Study of the Taranaki Coastal Environment</i> , which was prepared and consulted on as part of the Coastal Plan review. Officers do not believe it is necessary | |

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| | | <p>The submitter seeks that mapping of areas of natural character and natural features and landscapes be revisited.</p> <p>OR</p> <p>Amend Policy 9, as follows:</p> <p><i>Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 1 from inappropriate use and development by:</i></p> <p><i>(a) avoiding significant adverse effects, and avoiding, remedying or mitigating other adverse effects on natural character and natural features and landscapes by having regard to the extent to which the activity:</i> [...] <i>(ix) is necessary to provide for the safe and efficient operation, maintenance, upgrade and development of regionally important infrastructure.</i></p> | <p>to revisit this work. Mapping was appropriately based on values and attributes of the area rather than the presence (or otherwise) of particular use and development.</p> <p>In relation to the alternative relief of amending Policy 9, officers do not believe any relief is necessary. Officers note all General Policies must be read together. Policies 5, 6 and 7 already recognise the need to provide for the ongoing operation, maintenance, and upgrade of existing infrastructure.</p> | |
| Royal Forest and Bird Protection Society (43-348) | <p>Opposed, in part by Powerco</p> <p>New Policies that:</p> <ul style="list-style-type: none"> - determines/identifies areas outstanding Natural Character - to preserve areas of High Natural Character - for other natural character in all areas of the coastal environment - to provide a basis for determining outstanding natural features and landscapes - other natural features and landscapes in all areas of the coastal environment | <p>Powerco oppose the submission, in part. Powerco is not necessarily opposed to the intent of the relief sought by the submitter but reserves judgement pending specific wording of the amendments.</p> | <p>Officers do not believe the requested amendment is necessary. Of note, the Council has worked closely with the New Plymouth and South Taranaki district councils in identifying, mapping and describing natural character, features and landscapes along the Taranaki coastline. Much of this work was addressed in a separate report Regional Landscape Study of the Taranaki Coastal Environment, which was prepared and consulted on as part of the Coastal Plan review. It was this work, which was used for determining and identifying outstanding natural features and landscapes but also examined natural character across the entirety of the Taranaki coastline.</p> <p>Officers further note that the Plan already contains policies addressing the protection of natural character, features and landscapes (Policies 8, 9 and 10) and do not believe additional policies are necessary or appropriate. All General Policies apply to any use and development activities in the coastal marine area and must be read together.</p> | Accept the s42A recommendation. |
| Powerco (45-351) | <p>Support</p> <p>Policy 10</p> | <p>Retain Policy 10 of the Plan as notified.</p> | <p>ACCEPT</p> <p>Supported noted. Policy 10 is retained as notified.</p> <p>Policy 10: Restoration of natural character</p> <p>Promote the restoration of natural character of the coastal environment particularly in relation to dunes, estuaries, coastal wetlands, coastal indigenous vegetation cover and habitats, ecological corridors, coastal water quality, and land stability where human induced soil or coastal erosion is an issue.</p> | Accept the s42A recommendation. |
| SECTION 5.1.3A – INDIGENOUS BIODIVERSITY (POLICIES) | | | | |
| Royal Forest and Bird Protection Society (43-380) | <p>Opposed, in part by Powerco</p> <p>Policy 14</p> <p>Amend Policy 14 by removing reference to “maintaining and enhancing indigenous biodiversity” so that it sets out the characteristics and values to be protected under Policy 11 of the New Zealand Coastal Policy Statement</p> | <p>Powerco oppose the submission, in part. Powerco is not necessarily opposed to the intent of the relief sought by the submitter but reserve judgement pending specific wording of the amendments.</p> | <p>Policy 14 is directly aligned with Policy 11 [Indigenous biodiversity] of the New Zealand Coastal Policy Statement. Although the matters covered in Policy 14 cover most aspects of indigenous biodiversity, the submitter, quite rightly, points out that indigenous biodiversity is much broader than those aspects highlighted in Policy 14. Officers therefore recommend amending the Plan to include a separate stand-alone policy to address the remaining aspects of indigenous biodiversity not otherwise covered by Policy 14. The new Policy 14A would read as follows</p> <p style="text-align: center;"><u>Policy 14A: Indigenous biodiversity</u></p> | Accept the s42A recommendation. |

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| | <p>AND Include a separate policy for the maintenance and enhancement of indigenous biodiversity in the coastal environment</p> <p>AND Include guidance on relevant habitats under Clause (a)(iv)</p> | | <p><u>Maintain or enhance indigenous biodiversity generally in the coastal environment by:</u></p> <p>(a) <u>as far as is practicable, avoiding, remedying and mitigating the adverse effects of activities on indigenous biodiversity; and</u></p> <p>(b) <u>when assessing adverse effects on indigenous biodiversity, having regard to the extent of effects, including consideration of:</u></p> <p>(i) <u>the association of the ecological site and values with other interrelated, but not necessarily contiguous, ecological sites and values;</u></p> <p>(ii) <u>the nature, location, extent and design of the proposed development and the effects of these factors on indigenous biodiversity;</u></p> <p>(iii) <u>the degree to which indigenous biodiversity values will be lost, damaged, destroyed, or enhanced, recognising that:</u></p> <p>i. <u>the scale of the effect of an activity is proportional to the size and sensitivity of the ecological area and associated indigenous biodiversity values;</u></p> <p>ii. <u>discrete, localised or otherwise minor effects not impacting on the ecological area may be acceptable; and</u></p> <p>iii. <u>activities with transitory effects may be acceptable, where they can demonstrate the effects are not long-term and/or irreversible.</u></p> <p>In relation to adding guidance in the Plan on relevant habitats under clause (a)(iv), habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare. Officers do not believe this level of specificity is necessary or appropriate for a regulatory plan. While the Council contains some information on the distribution and abundance of some indigenous biodiversity species, currently such information is generally fragmented and incomplete. Officers suggest that such guidance more appropriately sits outside a Plan so that it can be easily developed and amended over time as better information is gathered.</p> <p>In relation to adding guidance in the Plan on relevant habitats under clause (a)(iv), habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare. Officers do not believe this level of specificity is necessary or appropriate for a regulatory plan. While the Council contains some information on the distribution and abundance of some indigenous biodiversity species, such information is generally fragmented and incomplete.</p> | |
| SECTION 5.1.3B – HISTORIC HERITAGE (POLICIES) | | | | |
| Powerco (45-394) | <p>Support Policy 15</p> | Retain Policy 15 of the Plan as notified. | <p>ACCEPT Supported noted. Policy 15 is retained as notified, except for the addition of reference to subdivision.</p> <p>Recommendation: Policy 15: Historic heritage Protect historic heritage in the coastal environment from inappropriate subdivision, use and development by:</p> <p>(a) avoiding adverse effects on the values associated with Category A archaeological sites of significance and historic areas identified in Schedule 5A;</p> <p>(b) avoiding significant adverse effects, and avoiding, remedying and mitigating other adverse effects on the values associated with sites of significance to Māori identified in Schedules 5A and 5B;</p> <p>(c) avoiding, remedying or mitigating adverse effects on the values associated with all other historic heritage sites, including those identified in Schedule 5 and those identified by New Zealand Archaeological Association’s ArchSite (Archaeological Site Recording Scheme);</p> <p>(d) when assessing adverse effects on historic heritage, giving regard to the extent of effects, including consideration of:</p> <p>(i) the association of the site with other interrelated, but not necessarily contiguous, historic heritage sites and their collective significance in the context of historic landscapes and areas;</p> <p>(ii) the degree to which historic heritage values will be lost, damaged, destroyed, or enhanced; the nature, location, extent, design and appearance of the proposed development and the effects of these factors on historic heritage values;</p> | <p>Accept the s42A recommendation.</p> |

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| | | | <ul style="list-style-type: none"> (iii) the classification given to the historic heritage, as set out in Schedule 5A and the reasons for which it has been scheduled; (iv) the extent to which the historic heritage has been damaged by natural events, weather, or environmental factors and any subsequent risk to public safety; (v) the importance (if any) of land surrounding the historic heritage; the degree of compliance with Heritage New Zealand’s Pohere Taonga Archaeological requirements; (vi) any investigation and documentation of the site to provide a historical record; and (vii) the outcome of any consultation with any relevant body or individual, such as Heritage New Zealand Pohere Taonga, the Department of Conservation, or local iwi and/or hapū; and <p>(e) allowing the maintenance, repair or restoration of identified historic heritage where it is based on a clear understanding of the heritage values of the place, and undertaken in accordance with good practice conservation principles and methods.</p> | |
| SECTION 5.1.4 – PUBLIC USE AND ENJOYMENT (POLICIES) | | | | |
| Powerco (45-426) | Support Policy 17 | Retain Policy 17 of the Plan as notified. | <p>ACCEPT Supported noted. Policy 17 is retained subject to amendments made to offer relief to other submitters’ concerns where appropriate.</p> <p>Recommendation: Policy 17: Public access Maintain and enhance public access to, along and adjacent to the coastal environment <u>marine area</u> by:</p> <ul style="list-style-type: none"> (a) avoiding, remedying or mitigating any adverse effects of activities on public access; (b) promoting the enhancement or restoration of public access, <u>where a demand exists</u>, including for the connection of areas of public open space, access to mahinga kai, access to sites of historical and/or cultural importance, improving outdoor recreation opportunities, access to surf breaks and providing access for people with disabilities; and (c) only imposing a restriction on public access, including vehicles, where such a restriction is necessary to: <ul style="list-style-type: none"> (i) protect significant natural or historic heritage values; (ii) protect dunes, estuaries and other sensitive natural areas or habitats; (iii) protect sites and activities of cultural value to Māori; (iv) protect threatened or at risk indigenous species and rare and uncommon ecosystem types as identified in Schedule 4A; (v) protect public health or safety, including where the safety of other coastal or beach users is threatened by inappropriate use of vehicles on beaches and vessels offshore; (vi) provide for defence purposes in accordance with the <i>Defence Act 1990</i> or port or airport purposes; (vii) avoid or reduce conflict between public uses of the coastal marine area and its margins; (viii) provide for temporary activities or special events; (ix) ensure a level of security <u>for lawfully established activities</u> consistent with the activity, including protection of equipment; or (x) provide for other exceptional circumstances where restriction to public access is justifiable; <p>and alternative access routes for the public have been considered and provided where practicable.</p> | Accept the s42A recommendation. |
| Powerco (45-440) | Support Policy 18 | Retain Policy 18 of the Plan as notified. | <p>ACCEPT Support noted. Policy 18 is retained subject to amendments made to offer relief to other submitters’ concerns where appropriate.</p> | Accept the s42A recommendation. |

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| | | | <p>Policy 18: Amenity values Maintain and enhance significant amenity values by avoiding, remedying or mitigating adverse effects on <u>those qualities and characteristics that contribute to amenity values in:</u></p> <ul style="list-style-type: none"> (a) coastal areas of outstanding value identified in Schedules <u>1 and 2</u>; (b) coastal sites with significant amenity values identified in Schedule 6 including: <ul style="list-style-type: none"> (i) beaches; (ii) reefs; and (iii) estuaries and river mouths; (c) surf breaks identified in Schedule 7; and (d) <u>coastal sites with significant indigenous biodiversity identified in Schedule 4, taonga species identified in Schedule 4CC, or historic heritage sites-including-these</u> identified in Schedule <u>5A and B and Appendix 2</u> (e) <u>other areas of the coastal environment with significant amenity values not identified in the Schedules referred to in (a), (b), (c) and (d).</u> | |
| <p>Federated Farmers (2-446)</p> | <p>Supported, in part by Powerco Policy 19(b) and (d)</p> <p>Amend Policy 19(b) and (d) as follows: Protect surf breaks and their use and enjoyment from the adverse effects of other activities in the coastal environment <u>Coastal Marine Area</u> by: [...] (b) avoiding adverse effects on all regionally significant surf breaks, identified in Schedule 7, that are outside of the Significant Surfing Area unless the activity is necessary for the provision of regionally important infrastructure <u>or farming activities</u>, avoidance of effects is not possible and adverse effects are remedied or mitigated; [...] (d) within the Significant Surfing Area, avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects on seascape, including development <u>within the Coastal Marine Area</u> which would have an adverse effect on the remote feel of the area; and [...]</p> | <p>Powerco supports the submission, in part. The focus on the CMA is supported as it is activities in this location that have the greatest potential to affect surf breaks and significant surfing areas.</p> <p>Powerco seeks to ensure that the provisions do not unduly restrict the provision of electricity infrastructure in the coastal environment where it falls within significant surfing areas.</p> | <p>Officers note that references to the “coastal environment” in Policy 19 (rather than “coastal marine area”) is intentional. It ensures that when managing adverse effects of use and development in the coastal marine area, there is wider consideration (through Policy 19) of effects on the wider coastal environment. Policy 19 and its application to the coastal environment promotes the integrated management of the wider area across environmental domains and local authority jurisdictional boundaries. This is consistent with Policy 4 of the New Zealand Coastal Policy Statement and contributes to meeting Objective 1 [Integrated management] of the Plan.</p> <p>Provisions for (b) is limited to regionally important infrastructure and officers do not agree that it should extend to include farming activities. However, officers note that the application of the Policy is through rules which pertain to activities in the coastal marine area. As such, land based farming activities are highly unlikely to create the types of effects outlined in (e).</p> <p>Clause (d) relates to development within the Significant Surfing area, it is not necessary or appropriate to refer to the coastal marine area. Officers do not believe farming activities are particularly affected by this Policy. Notwithstanding that, officers suggest some of the submitter’s concerns may be partially addressed by granting relief sought by other submitters whereby the landward extent of the Significant Surfing Area has been amended to be the mean high water springs.</p> <p>Within Clause (e)(ii), officers recommend granting the relief in part by removing reference to “access to”. Access to surf breaks is one of many important considerations for managing adverse effects and it is suggested that this clause focus on other qualities of surf breaks. The revised Clause would read as follows:</p> <p>(ii) effects on other qualities and characteristics that contribute to use and enjoyment of surf breaks.</p> | <p>Accept the s42A recommendation.</p> |
| <p>South Taranaki District Council (19-449)</p> | <p>Supported, in part by Powerco Policy 19</p> <p>Amend Policy 19 as follows: Protect surf breaks and their use and enjoyment from the adverse effects of other activities to <u>by</u>: (a) <u>avoid, remedy or mitigate</u> significant adverse effects on: [...]</p> <p>OR</p> <p>Remove reference to ‘natural character’ and ‘amenity values’ from Policy 19(e)(ii).</p> | <p>Powerco supports the submission, in part. Powerco supports further consideration of the inland extent of the Significant Surfing Area to ensure the provisions do not unduly restrict the provision of gas and electricity infrastructure in the coastal environment.</p> | <p>The submitter notes that the Taranaki Regional Council is wishing to provide a higher level of protection for a higher number of surf breaks than required by the New Zealand Coastal Policy Statement, The submitter suggests that under Policy 19 it would be very difficult for any activity that gives rise to any adverse effects on amenity or natural character to find support because the policy does not refer to an acceptable level of effects or provide for effects to be remedied or mitigated.</p> <p>Officers note the concerns of the submitter and recommend granting the relief sought by the submitter by amending Policy 19(e)(ii) to delete reference to “natural character” and “amenity values”.</p> | <p>Accept the s42A recommendation.</p> |

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| Powerco (45-453) | Support Policy 19 | Retain Policy 19 of the Plan as notified. | <p>ACCEPT Supported noted. Policy 19 is retained subject to amendments made to offer relief to other submitters' concerns where appropriate.</p> <p>Policy 19: Surf breaks and Significant Surfing Area Protect surf breaks and their use and enjoyment from the adverse effects of other activities by:</p> <p>(a) avoiding adverse effects on:</p> <p>(i) all nationally significant surf breaks as identified in Schedule 7; and</p> <p>(ii) all surf breaks within the designated Significant Surfing Area as identified in Schedule 7;</p> <p>(b) avoiding significant adverse effects on all regionally significant surf breaks, identified in Schedule 7, that are outside of the Significant Surfing Area unless the activity is necessary for the provision of regionally important infrastructure, avoidance of effects is not possible practicable and effects are remedied or mitigated <u>to the extent reasonably practicable</u>;</p> <p>(c) avoiding, remedying or mitigating adverse effects on all locally significant surf breaks listed in Schedule 7;</p> <p>(d) within the Significant Surfing Area, avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects on seascape, including development which would have an adverse effect on the remote feel of the area; and</p> <p>(e) in managing adverse effects in accordance with clauses (a), (b) and (c), having regard to:</p> <p>(i) effects on the quality or consistency of the surf break by considering the extent to which the activity may: change or interrupt coastal sediment dynamics; change or interrupt swell within the swell corridor including through the reflection, refraction or diffraction of wave energy; or change the morphology of the foreshore or seabed; and</p> <p>(ii) the effects on access to surf breaks and other qualities and characteristics that contribute to use and enjoyment of surf breaks, including natural character, water quality, and amenity values.</p> | Accept the s42A recommendation. |
| SECTION 5.2.2 – COASTAL STRUCTURES AND OCCUPATION OF SPACE IN THE COASTAL MARINE AREA (POLICIES) | | | | |
| Powerco (45-528) | Support Policy 31 | Retain Policy 31 of the Plan as notified. | <p>ACCEPT Support noted. Policy 31 is retained subject to minor amendments.</p> <p>Policy 31: Structures that support safe public access and use, or public or environmental benefit Allow structures in appropriate locations will be allowed for, subject to the appropriate management of adverse effects, where the structure is to provide for:</p> <p>(a) public access and use of the coastal marine area, including for traditional uses and cultural or recreational activities (excluding whitebait stands);</p> <p>(b) public health and safety, including navigational aids;</p> <p>(c) scientific or educational study or research;</p> <p>(d) and the efficient operation of nationally and regionally important infrastructure.</p> | Accept the s42A recommendation. |
| Powerco (45-541) | Support Policy 32 | Retain Policy 32 of the Plan as notified. | <p>ACCEPT Support noted. Policy 32 is retained subject to minor amendments.</p> <p>Policy 32: Placement of structures Structures placed in the coastal marine area:</p> <p>(a) must generally be limited to those that have a functional need <u>or operational need</u> to be located in the coastal marine area and that do not cause duplication of a function for which existing structures or facilities are adequate;</p> <p>(b) must not be located in Parininihi Marine Reserve, Ngā Motu/Sugar Loaf Islands Marine Protected Area and Tapuae Marine Reserve identified in Schedule 1 apart from boundary</p> | Accept the s42A recommendation. |

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| | | | <p>marker buoys or temporary structures associated with scientific or educational study or research;</p> <p>(c) should be placed in an appropriate location with consideration given to the sensitivity of the environment;</p> <p>(d) must be designed, located and managed so as to avoid, remedy or mitigate:</p> <ul style="list-style-type: none"> (i) any increase in coastal hazard risk including increased rates of erosion or accretion; (ii) settlement or loss of foundation material; (iii) movement or dislodgement of individual structural elements; and (iv) adverse effects on the environment and associated uses and values, including cumulative effects; <p>(e) should be made available for public or multiple use where it will not conflict with operational or safety requirements; and</p> <p>(f) where appropriate, should be made of, or finished with, materials that are visually and aesthetically compatible with <u>minimise effects on the natural character and visual amenity of</u> the adjoining coast.</p> | |
| Powerco (45-556) | Support Policy 36 | Retain Policy 36 of the Plan as notified. | <p>ACCEPT Support noted. Policy 36 is retained subject to minor amendments.</p> <p>Policy 36: Maintenance, repair, replacement and minor alteration or minor extension of existing structures Maintenance, repair, replacement and minor alteration or minor extension of existing lawful structures and reclamations will be allowed in order to:</p> <p>(a) <u>in order to:</u></p> <ul style="list-style-type: none"> (i) enable compliance with applicable standards and codes; (ii) ensure structural integrity; (iii) maintain or improve efficiency; or (iv) address health and safety or navigational safety issues; <u>and</u> <p>(b) <u>where it does not increase the scale or significance of the adverse effects of the activity or structure;</u> <u>subject</u> to the appropriate management of adverse effects.</p> | Accept the s42A recommendation. |
| Powerco (45-564) | Support in part Policy 37 | Amend Policy 37 of the Plan, as follows: Major <u>Alteration or extension of existing lawful structures, including major alterations or extensions, will be allowed in locations where the activity will not have significant adverse effects on other uses and values and will [...]</u> | <p>DECLINE The submitter wishes to extend the scope of the policy to cover all alterations or extensions of structures in the coastal marine area, not just major alterations or extensions. Officers recommends declining the relief sought. Officers consider that the current wording is appropriate as it provides for two types of alterations or extension. These being minor alterations and extensions that are managed through Policy 36 as a Permitted Activity. Other alteration or extension activities are addressed under Policy 37 will generally require a consent. Officers prefer to keep this distinction simple for Plan users as notified.</p> | Accept the s42A recommendation |
| Powerco (45-576) | Support Policy 38 | Retain Policy 38 of the Plan as notified. | <p>ACCEPT Support noted. Policy 38 is retained subject to minor amendments.</p> <p>Policy 38: Removal of coastal structures Decommissioning and removal of any new structure will must <u>be considered planned for</u> as part of the initial design and installation <u>and removal will generally be required.</u> Structures will be removed from the coastal marine area at the expiry of their authorisations or at the end of their useful lives, unless When assessing the appropriateness of allowing a structure, a part of a structure, or material associated with a structure to be left in situ or elsewhere in the coastal marine area, at least one of the following must apply one or more of the following applies:</p> <ul style="list-style-type: none"> (a) removal of the structure would cause greater adverse effects on the environment than leaving it in place; (b) the structure is an integral part of an historic heritage site or landscape; or | Accept the s42A recommendation. |

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| | | | <p>(c) <u>the structure, or part of the structure, is permanent or has reuse value that is considered appropriate in accordance with Policy 5;</u></p> <p>(d) <u>the removal of the structure is technically unfeasible;</u></p> <p>(e) <u>the removal of the structure poses unreasonable risk on human health and safety</u></p> | |
| Powerco (45-581) | Support Policy 39 | Retain Policy 39 of the Plan as notified. | <p>ACCEPT Support noted. Policy 39 is retained as notified.</p> <p>Policy 39: Occupation Structures and activities occupying space within the common marine and coastal area should be established and operated in a manner that does not unreasonably restrict or prevent other users of the coastal marine area.</p> <p>Occupation should be avoided in areas where it will have significant adverse effects on public use.</p> | Accept the s42A recommendation. |
| SECTION 5.2.3 – DISTURBANCE, DEPOSITION AND EXTRACTION (POLICIES) | | | | |
| Powerco (45-589) | Support Policy 41 | Retain Policy 41 of the Plan as notified. | <p>ACCEPT Support noted. Policy 41 is retained subject to minor amendments</p> <p>Policy 41: Disturbance, deposition or extraction activities that provide public or environmental benefits Allow disturbance, deposition or extraction that is necessary to protect, or maintain the safe and efficient operation of nationally and regionally significant infrastructure or provide for public or environment benefit, <u>including protecting or maintaining the safe and efficient operation of nationally and regionally important infrastructure, will be allowed,</u> subject to appropriate management of adverse effects, include:</p> <p>(a) maintaining existing navigation channels and access to structures, including maintaining safe navigational depth within Port Taranaki;</p> <p>(b) clearing, cutting or realigning stream or river mouths for flood or erosion control purposes;</p> <p>(c) restoring, enhancing or protecting natural or historic heritage values;</p> <p>(d) deposition of material, including dredging spoil, for beach replenishment;</p> <p>(e) clearing the outlet of any lawful stormwater outfall or pipe;</p> <p>(f) removal or control of harmful aquatic organisms, pest plants or other exotic plants;</p> <p>(g) operating, maintaining, repairing, altering or extending or upgrading lawful structures or infrastructure;</p> <p>(h) removing hazards to navigation or public health and safety, or installing navigational aids;</p> <p>(i) recreational activities, scientific or educational study, or research; and</p> <p>(j) small scale extraction that results in a less than minor level of disturbance.</p> | Accept the s42A recommendation. |
| SECTION 6.1 – GENERAL (METHODS) | | | | |
| Royal Forest and Bird Protection Society (43-675) | Opposed, in part by Powerco General – Rules Amend permitted activity rules of the Plan by replacing references to avoiding adverse effects on Policy 11 of the New Zealand Coastal Policy Statement matters with permitted activities that limit the activity type, scale and location to the extent that the activity will not have an adverse effect which is inconsistent with achieving Policy 11 of the New Zealand Coastal Policy Statement | <i>Powerco is not necessarily opposed to the intent of the relief sought by the submitter but reserves judgement pending specific wording of the amendments.</i> | <p><i>No precise details of amendments sought to the Plan have been provided and officers are unclear as to what is sought in this relief. However, officers note that it is their view that all rules give effect to Policy 11 [Indigenous biological diversity (biodiversity)] of the New Zealand Coastal Policy Statement.</i></p> <p><i>Permitted activity rules are already proposed that are believed to be of a scale, type and location that any adverse effects on biodiversity will be less than minor and is consistent with community expectations set out in the Plan policies – particularly Policies 14, 14A and 14B the Plan, which, in turn give effect to Policy 11 of the New Zealand Coastal Policy Statement.</i></p> <p><i>Notwithstanding any permitted activity classification, undertaking such activities is still subject to compliance with the standards, terms and conditions of the rule, which will ensure that such activities are carried out in a manner that will avoid, remedy or mitigate effects on indigenous biological diversity.</i></p> | Accept the s42A recommendation. |

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| <p>Royal Forest and Bird Protection Society (43-676)</p> | <p>Opposed, in part by Powerco</p> <p>General – Rules Amend rules to avoid adverse effect on natural character as required by Policies 13 and 15 of the New Zealand Coastal Policy Statement</p> | <p>Powerco is not necessarily opposed to the intent of the relief sought by the submitter but reserves judgment pending specific wording of the amendments.</p> | <p>No precise details of amendments sought to the Plan have been provided. However, officers note that it is their view that all rules give effect to Policies 13 [Preservation of natural character] and 15 [Natural features and natural landscapes] of the New Zealand Coastal Policy Statement.</p> <p>Permitted activity rules are believed to be of a scale, type and location that any adverse effects on natural character and natural features and landscapes will be less than minor and is consistent with community expectations set out in the Plan policies – particularly Policies 8 to 13 of the Plan, which, in turn give effect to Policies 13 and 15 of the New Zealand Coastal Policy Statement. Any permitted activity is subject to compliance with the standards, terms and conditions of the rule, which will ensure permitted activities are carried out in a manner that will avoid, remedy or mitigate effects on natural character and natural features and landscapes.</p> <p>Where activities are of a scale, type and location that any adverse effects on natural character and natural features and landscapes will likely to be more than minor a resource consent is required. Through the consenting process, all General Policies are considered, including Policies 8 to 13, when determining whether the activity will be allowed and, in the event that it is consented, what conditions will be imposed to avoid, remedy or mitigate effects on natural character and natural features and landscapes.</p> <p>Where activities are of a scale, type and location that any adverse effects on natural character and natural features and landscapes will likely to be more than minor a resource consent is required. Through the consenting process, all General Policies are considered, including Policies 8 to 13, when determining whether the activity will be allowed and, in the event that it is consented, what conditions will be imposed to avoid, remedy or mitigate effects on natural character and natural features and landscapes.</p> | <p>Accept the s42A recommendation.</p> |
| SECTION 8.2 – STRUCTURES AND OCCUPATION (RULES) | | | | |
| <p>Transpower NZ Ltd (26-828)</p> | <p>Supported by Powerco</p> <p>Rule 22 Seek clarification whether Activity Description (d) refers to the cable only and is not the actual support.</p> | <p>Powerco supports clarity as to whether the reference to cable include support structures. The industry interpretation of lines/cables is that it does include support structures. This reflects the definition of 'line' under the Electricity Act 1992 which is as follows: 'lines means works that are used or intended to be used for conveyance of electricity'. A similar definition of cable or line could be incorporated into the proposed Coastal Plan.</p> | <p>NO RELIEF NECESSARY Support noted. Officers note that Condition (d) refer to the cable and constituent parts.</p> | <p>Evidence. Clause d only refers to cable, not constituent parts. Clarity is required that cable includes lines.</p> |
| <p>Department of Conservation (29-829)</p> | <p>Opposed, in part by Powerco</p> <p>Rule 22 Delete "pipeline that is buried" and "a communication or electricity cable that is buried" from the Controlled Activity description and insert a new Restricted Discretionary rule.</p> | <p>Powerco oppose, in part the submission. Powerco is not necessarily opposed to a Restricted Discretionary Activity status for buried cables in the CMA but in the absence of proposed wording of the rule and related matters of discretion the rule is opposed.</p> | <p>The submitter suggests the burial of pipes and cables may have significantly different levels and types of effects compared with attaching a pipe to a bridge.</p> <p>Officers agree with that assessment but are confident that subject to the standards, terms and conditions of this Controlled Activity rule, any adverse environmental effects are reasonably foreseeable and can be appropriately avoided, remedied or mitigated via conditions of a resource consent. Activities that cannot comply with the standards, terms and conditions are more appropriately managed through Rules 33 [Discretionary Activity] and 34 [Non-complying Activity] of the Plan.</p> | <p>Accept the s42A recommendation.</p> |
| <p>Royal Forest and Bird Protection Society (43-833)</p> | <p>Opposed, in part by Powerco</p> <p>Rule 22 Amend the rule classification to make the erection or placement of network utility structures within the CMA a Restricted Discretionary Activity (rather than a Controlled Activity).</p> | <p>Powerco oppose, in part the submission. Powerco consider that the matters raised can properly be addressed by appropriate matters of control.</p> | <p>DECLINE Officers note that Rule 22 seeks to provide for the placement of important network utilities that might transsect the coastal marine area pursuant to Policy 6 of the Plan and subject to the appropriate management of adverse effects. Through the consenting process, relevant environmental effects on historic heritage, indigenous biodiversity and use and enjoyment of the coast will be appropriately considered and managed having reference to the General Policies of the Plan plus relevant Activity-specific Policies. Other adverse effects within the coastal marine area, e.g. water quality are likely to be less than minor and temporary. Some certainty for these uses is considered appropriate, which would not be the case if the activity was made a Discretionary Activity (with the ability to decline a resource</p> | <p>Accept the s42A recommendation.</p> |

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| | | | <p>consent application).</p> <p>The Council has not encountered significant issues with the placement of utility structures in the coastal marine area under the current Plan and therefore do not consider it appropriate or necessary to require the placement of network utility structures to be made a Restricted Discretionary Activity. However, officers also note that if proposed activity is unable to meet all of the standards, terms and conditions of the Controlled Activity Rule, then the activity would need to be addressed under Rules 33 (Discretionary) and 34 (Non-complying) depending on the coastal management area.</p> | |
| Royal Forest and Bird Protection Society (43-834) | <p>Opposed, in part by Powerco</p> <p>Rule 22 Include a condition for a 100m setback from Outstanding Value Management areas.</p> | <p>Powerco oppose, in part the submission. Powerco opposes the proposed 100m setback from Outstanding Value Management areas, which is arbitrary and not justified in terms of effects.</p> | <p>No precise details of the rationale for the relief sought has been provided, or indeed what the proposed setback distance would achieve.</p> <p>Officers recommend declining the relief sought by the submitter noting that the rule excludes the Outstanding Value coastal management area and given that most of the activities covered by this rule require the structure to be buried or are small scale. Of note, in the event that this activity is of a type or scale that it could have an impact on Outstanding Values, the Rule reserves control over the location of the work.</p> | <p>Accept the s42A recommendation.</p> |
| Royal Forest and Bird Protection Society (43-835) | <p>Opposed, in part by Powerco</p> <p>Rule 22 Include the following matters of discretion: (x) effect on indigenous biological diversity (y) effects on natural character and natural features and landscape (z) effects on any areas of Outstanding Value.</p> | <p>Powerco oppose, in part the submission. Powerco considers that the matters raised can properly be addressed by appropriate matters of control.</p> | <p>Officers agree in part to the relief sought by the submitter by amending the following matters of discretion in Rule 22 (plus consequential changes to equivalent rules elsewhere in the Plan).</p> <p>Rule 22: Network utility structure erection or placement (f) effects on ecological ecological-natural character, features and landscapes values (fa) effects on indigenous biodiversity values [...]</p> <p>Officers recommend that this amendment also be included in additional Rules where appropriate to maintain consistency. Officers note the amendments to term “ecological” better aligns with the wording adopted in the General Policies, which refers to “natural character, features and landscapes” and “indigenous biodiversity”. Officers did not believe it necessary to specify in the matters of discretion areas of outstanding values as this is a subset of natural character, features and landscapes (and therefore already provided for).</p> | <p>Accept the s42A recommendation.</p> |
| Powerco (45-843) | <p>Support Rule 22</p> | <p>Retain Rule 22 of the Plan as notified.</p> | <p>ACCEPT Support noted.</p> <p>Recommendation: Rule 22: Network utility structure erection or placement Placement or erection of a network utility structure erection or placement where the structure is: (a) A pipeline that is buried or attached to a bridge, wharf, or access structure; (b) an outfall structure which does not come within or comply with Rule 18; (c) an intake structure; (d) a communication or electricity cable that is buried or attached to a bridge, access structure or pole; or (e) marine communications equipment and any associated: (a) occupation of space in the common marine and coastal area; (b) disturbance of the foreshore or seabed; (c) deposition in, on or under the foreshore or seabed; and (d) discharge of sediment excluding activities regulated by the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (Appendix 6).</p> | <p>Evidence.</p> <p>As per 26-828</p> |
| Powerco (45-842) | <p>Support in part [Proposed Rule 22A]</p> | <p>Include a new rule or amend rule to provide a permitted activity pathway for new network utility structures attached to existing road bridges in the coastal marine area.</p> | <p>DECLINE Officers note that the majority of bridges that occur within the coastal marine area (and addressed through the Coastal Plan) are within estuaries and may be sensitive to activities of this nature. Officers consider that the activity may be uncertain in terms of scale and effects and consider it appropriate to</p> | <p>Accept the s42A recommendation.</p> |

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| | | | be addressed through the consenting process to ensure that any environmental effects are appropriately managed. The controlled pathway provided under Rule 22 offers the Plan user certainty of being able to undertake the necessary works provided the standards, terms and conditions are met. | | | | | | | | | |
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| Powerco (45-934) | Support Rule 33 | Retain Rule 33 of the Plan as notified. | <p>ACCEPT Support noted. Rule 33 is retained subject to minor amendments.</p> <table border="1"> <thead> <tr> <th>Activity</th> <th>Rule</th> <th>Coastal management area</th> <th>Classification</th> </tr> </thead> <tbody> <tr> <td>Other drilling, structure placement or erection or placement temporary military training activities (29) and any associated: (e) occupation of space in the common marine and coastal area (f) noise; (g) disturbance of the foreshore or seabed; (h) deposition in, on or under the foreshore or seabed; and (i) discharge of sediment and does not come within or comply with Rules 18 to 32, or any other Rule in this Plan or the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (Appendix 6). (28)</td> <td>33</td> <td>Estuaries Modified Open Coast Port</td> <td>Discretionary</td> </tr> </tbody> </table> | Activity | Rule | Coastal management area | Classification | Other drilling, structure placement or erection or placement temporary military training activities (29) and any associated: (e) occupation of space in the common marine and coastal area (f) noise; (g) disturbance of the foreshore or seabed; (h) deposition in, on or under the foreshore or seabed; and (i) discharge of sediment and does not come within or comply with Rules 18 to 32, or any other Rule in this Plan or the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (Appendix 6). (28) | 33 | Estuaries Modified Open Coast Port | Discretionary | Accept the s42A recommendation. |
| Activity | Rule | Coastal management area | Classification | | | | | | | | | |
| Other drilling, structure placement or erection or placement temporary military training activities (29) and any associated: (e) occupation of space in the common marine and coastal area (f) noise; (g) disturbance of the foreshore or seabed; (h) deposition in, on or under the foreshore or seabed; and (i) discharge of sediment and does not come within or comply with Rules 18 to 32, or any other Rule in this Plan or the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (Appendix 6). (28) | 33 | Estuaries Modified Open Coast Port | Discretionary | | | | | | | | | |
| First Gas Ltd (30-941) | Supported, in part by Powerco Rule 34 Amend to make network utility underground pipelines or pipelines attached to existing bridge or access structures in Outstanding Value coastal management area a Controlled Activity (rather than Non-Complying). | Powerco oppose the submission. While Powerco seeks amendments to mapping such that none of its assets would be included within areas of Outstanding Value or Estuaries Unmodified, there remains potential for electrical and gas assets to be required in these areas to serve development. Powerco supports an alternative activity status that focuses the decision on pertinent matters. Powerco does not consider the rule need to be restricted to pipelines, noting that a range of other network utility structures may be appropriate in these areas. | Officers recommend granting an alternative relief to that sought by the submitter that provides a similar outcome to that which has been requested. Officers recommend amending Rule 22 [Network utility structure erection or placement] to include Outstanding Value coastal management areas as a Controlled Activity. | Accept the s42A recommendation. | | | | | | | | |
| Powerco (45-944) | Support Rule 34 | Retain Rule 34 of the Plan as notified. | <p>ACCEPT Support noted. Rule 33 is retained subject to minor amendments.</p> | Accept the s42A recommendation. | | | | | | | | |

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| | | | <p>Other drilling, structure placement, erection, or placement temporary military training activities (29) and any associated:</p> <p>(a) occupation of space in the common marine and coastal area</p> <p>(b) noise;</p> <p>(c) disturbance of the foreshore or seabed;</p> <p>(d) deposition in, on or under the foreshore or seabed; and</p> <p>(e) discharge of sediment</p> <p>and does not come within or comply with Rules 18 to 32, any other Rule in this Plan or the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2000 (Appendix 6). (28)</p> | |
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| <p>Transpower NZ Ltd (26-946)</p> | <p>Supported, in part by Powerco</p> <p>[Proposed Rule] Include a new rule: <u>Structure erection or placement associated with Regionally Significant Infrastructure (or the National Grid) and any associated works:</u> <u>(a) occupation of space in the common marine and coastal area and does not come within or comply with Rules 18 to 32.</u></p> | <p>Powerco supports, in part the submission. While Powerco seeks amendments to mapping such that none of its assets would be included within areas of Outstanding Value or Estuaries Unmodified, there remains potential for electrical and gas assets to be required in these areas to serve development. Powerco supports a discretionary pathway for development (including associated works such as maintenance and/or upgrading) of this nature and considers it should not be limited solely to the National Grid.</p> | <p>Officers recommend declining the relief sought by the submitter.</p> <p>Officers do not believe it necessary to have a new Rule addressing the placement of Regionally Important Infrastructure in Outstanding Value and Estuaries Unmodified coastal management areas. Officers do not consider it appropriate in such circumstances to differentiate between the Regional Important Infrastructure in such areas and other activities. Outstanding Value and Estuaries Unmodified have exceptional/significant values and it is appropriate that they have high levels of protection under the Plan.</p> <p>Officers note that applications for a resource consent for Regionally Important Infrastructure may still be considered under Rule 34 as a Non-complying Activity. While officers recognise that Non-complying Activities represent a very high level of regulatory protection it is noted that a resource consent can still be granted where the effects of the activity are less than minor and the activity is not contrary to the objectives and policies of the Plan.</p> | <p>Accept the recommendation</p> |
| <p>Department of Conservation (29-949)</p> | <p>Opposed by Powerco</p> <p>Rule 35 Amend to include new conditions addressing;</p> <ul style="list-style-type: none"> - how the use of vehicles and machinery in the coastal environment will be avoided where possible, and minimised/effects mitigated where necessary (including taking the shortest and least sensitive route) - the requirement for construction equipment including spoil, litter or equipment to be removed within 24 hours of completion of any works - the prohibition of any refuelling or fuel storage occur within the coastal environment and that | <p>Powerco opposes the submission. The proposed wording of standards addressing the matters raised has not been provided. In the absence of specific wording, the nature and effect of the standards is unclear and they are opposed. For instance, the submission seeks machinery takes the shortest and least sensitive route. There would seem to be potential that these two matters are contradictory, and it is not clear why there is a need to include a requirement beyond "least sensitive".</p> | <p>Officers recommend declining the relief sought by the submitter.</p> <p>Similar type conditions have been considered as part of the Plan review process and were not deemed to be necessary. Most of the proposed conditions seem to relate to avoiding, remedying or mitigating adverse effects already addressed by the standard, terms and conditions, particularly Conditions (d) and (e). For example refuelling or fuel storage is not allowed, under Condition (d)(i), to result in any conspicuous oil or grease films. Similarly, Condition (e) addresses disturbances to the foreshore and seabed which could be caused by vehicles.</p> <p>In relation to other matters raised by the submitter, officers are concerned that the specificity sought is unnecessarily restrictive and imposes operational constraints on those using it. For example, the requirement to remove spoil within 24 hours.</p> | <p>Accept the s42A recommendation.</p> |

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| | <i>methods should be employed to avoid any fuel spillage.</i> | | | |
| Powerco (45-954) | Support in part Rule 35(a) | Amend Rule 35(a), as follows: <i>(a) size of the structure, including length, width and height, does not increase beyond original size (except for existing communications, cables or electricity transmission or distribution lines where these activities do not result in an increase in the design voltage and the new or altered cables or lines are not lower in height above the foreshore or seabed)</i> OR <i>(a) size of the structure, including length, width and height, does not increase beyond original size (except for existing communications, cables or electricity transmission or distribution lines where these activities do not result in an increase in the design voltage above 33kV and the new or altered cables or lines are not lower in height above the foreshore or seabed)</i> | GRANT IN KIND Officers recommend granting the relief sought by the submitter, however, recommend an alternative relief that takes into account other amendments sought by other submitters to Condition (a). The recommended alternative amendment splits the existing condition into two separate conditions to improve readability and reads as follows: <i>(a) size of minor extensions are incidental to maintenance or alteration activities and the structure, including length, width and height, does not increase beyond 5% of the original size. (a2)</i> <i>(aa) except for existing communications cables, or electricity transmission or distribution lines where these activities does not result cause in an increase in the design voltage above 33kV (a3)</i> and the new or altered cables or lines are not lower in height above the foreshore or seabed; | Evidence Clarity re requirement for materials to match the existing in form and appearance and how this relates to upgrade from timber to composite support structures. |
| Department of Conservation (29-966) | Opposed by Powerco Rule 37 Amend to include a provision about limiting the size of any extension of the structure. | Powerco oppose the submission. Matters of control such as the design and the size of any extension would reasonably be considered a design matter, which is already included as a matter of control. An amendment to this effect sought by the submitter is therefore considered unnecessary. | ACCEPT Officers recommend accepting the amendments requested relating to an extension limit. Officers have considered other similar conditions in other regional coastal plans and consider a 10% extension limit to be appropriate provided other environmental concerns are addressed. The new standard, term and condition reads as follows: <i>(aa) the structure envelope, including length, width and height does not increase beyond 10% of the original size within a 24 month period; [...]</i> Officers also recommend that, for the purposes of consistency, a similar condition be included in Rule 40 (Controlled). | Accept the s42A recommendation. |
| Powerco (45-970) | Support in part Rule 37 | Amend Rule 37, as follows: <i>Lawfully established network utility structure maintenance, repair, alteration or extension where the structure is:</i> <i>(a) a pipeline that is buried or attached to a bridge or access structure;</i> <i>[..]</i> <i>(d) a communication or electricity cable that is buried or attached to a bridge or access structure or pole; or</i> <i>[..]</i> <i>(d) discharge of sediment</i> And does not come within or comply with Rule 35 [..] | ACCEPT IN PART Officers note that there are multiple aspects to the submitter's request. Each is addressed in turn. • In relation to the inclusion of 'maintenance' officers recommend amending the Rule and note that there may be instances where a maintenance activity may not meet all of the standards, terms and conditions. In these instances, the activity may be addressed as a Controlled Activity under Rule 37. • Officers recommend an alternative the relief to the amendment sought in relation to amending the Activity Description (d) to read as follows: <i>(d) a communication or electricity cable; or [...]</i> • Regarding compliance with Rule 35, officers recommend declining the request and note that there may be instances where an activity does not come within the activity description of that Rule. Maintaining the current wording will ensure consistency with the rest of the Plan. | Evidence Related to clarity around lines/cables and percentage increases to comply with required separation distances. |
| First Gas Ltd (30-967) | Supported, in part by Powerco Rule 37 Amend to make network utility pipeline repair, alteration or extension a Permitted Activity (rather than a Non-complying activity) | Powerco supports, in part the submission. The intent of the submission is supported, although it is noted that Rule 35 already provides a permitted activity pathway for maintenance, repair or minor alteration, except at the Port. | <i>In response to submitters, the rules relating to maintenance, alteration and extension of structures have been reframed to more clearly delineate between the respective activities.</i> Officers recommend granting the relief in kind by including a new Restricted Discretionary Rule addressing network utilities, including those in Outstanding Value areas, not covered by Rule 35 and 37. | Accept the s42A recommendation. |

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| | <p>AND Extend the Rule to include Outstanding Value coastal management areas.</p> | <p>Powerco reserves judgment on the specific provisions of the proposed permitted activity rule and how this will sit alongside the existing cascade, particularly Rule 35.</p> | <p>Officers note that most maintenance and minor alteration activities associated with network utilities can be addressed as a Permitted Activity under Rule 35. Other alteration and extension activities associated with network utilities can be addressed under Rule 37.</p> <p>Officers note that, for those activities not covered by Rule 35 and 37, would be addressed under a new rule, Rule 37A, whereby alteration and extension of network utilities can be addressed as a Restricted Discretionary Activity. This is part of a framework that better recognises and provides for regionally important network utilities.</p> | |
| <p>Chorus New Zealand Limited (12-976)</p> <p>Spark New Zealand Trading Limited (13-975)</p> <p>Vodafone New Zealand Trading Limited (14-976)</p> | <p>Supported, in part by Powerco</p> <p>Rule 38 Amend as follows:</p> <p>f) the replacement structure is built in the same <u>or similar location</u> as the original structure; (g) the existing structure is removed completely with no waste being placed into the coastal marine area, <u>unless the removal of the structure is considered by a Suitably Experienced and Qualified Coastal Professional, in collaboration with the Regional Council, to have greater adverse effects on the environment than leaving it in place;</u> OR The standards/terms/conditions are amended to read: (f) the replacement structure, <u>except for submarine cables or lines</u>, is built in the same location as the original structure. <u>A replacement submarine cable or line must be laid or suspended within a horizontal distance of no more than three times the depth of water from the cable or line which is being replaced;</u> (g) the existing structure is removed completely with no waste being placed into the coastal marine area, <u>unless the removal of the structure is considered by an independent suitably qualified and experienced coastal practitioner, to have greater adverse effects on the environment than leaving it in place. The reasoning for this must be provided to Taranaki Regional Council; [...]</u></p> | <p>Powerco supports, in part the submission. Like telecommunications infrastructure, gas and electrical upgrades are typically undertaken with existing infrastructure remaining operational until the replacement structure is commissioned. Powerco therefore supports provisions which enable new structures to be replaced in similar locations, recognising the limited potential for adverse effects on a replacement basis.</p> <p>However, while Powerco recognises the addition of the term “similar” to identify an appropriate replacement location does not have absolute clarity, it considers that a more certain terminology may be “in the same, or as close as is reasonably practicable to the same, location”. That phraseology has a greater degree of certainty and can be tested.</p> <p>Furthermore, Powerco considers that if it is adopted, the term “collaboration” should be replaced with consultation, to make it clear that the opinion is that of the SEQCP in consultation with TRC, rather than TRCS approval effectively being required as a “third party”.</p> | <p>In response to other submitters, officers consider that Rule 38 is unnecessary as it addresses matters already covered through a different Rule pathway. Officers recommend deleting Rule 38 to avoid confusion for Plan users and instead rely on Rules 44, 45 and 46 for the removal aspect of the structure, and Rules 18 to 34 for the ‘replacement’ aspects of the structure.</p> | <p>Accept the s42A recommendation.</p> |
| <p>Department of Conservation (29-981)</p> | <p>Opposed by Powerco</p> <p>Rule 38 Amend to include new standards, terms and conditions addressing:</p> <ul style="list-style-type: none"> - how the use of vehicles and machinery in the coastal environment will be avoided where possible, and minimised/effects mitigated where necessary (including taking the shortest and least sensitive route) - the requirement for construction equipment including spoil, litter or equipment to be removed within 24 hours of completion of any works - the prohibition of any refuelling or fuel storage | <p>Powerco oppose the submission. The proposed wording of standards addressing the matters raised has not been provided. In the absence of specific wording, the nature and effect of the standards is unclear and they are opposed. For instance, the submission seeks machinery takes the shortest and least sensitive route. There would seem to be potential that these two matters are contradictory, and is not clear why there is a need to include a requirement beyond “least sensitive”.</p> | <p>Officers recommend declining the relief sought by the submitter. Similar type conditions have been considered as part of the Plan review process and were not deemed to be necessary with the effects of those activities being addressed in the standards, terms and conditions of the Rule. Notwithstanding the above, in response to other submitters’ requests, officers consider that Rule 38 is unnecessary as it addresses matters already covered through a different Rule pathway. Officers recommend deleting Rule 38 to avoid confusion for Plan users and for resource users to instead rely on Rules 44, 45 and 46 for the removal aspect of the structure, and Rules 18 to 34 for the ‘replacement’ aspects of the structure.</p> | <p>Accept the s42A recommendation.</p> |

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| | <i>occur within the coastal marine environment and that methods should be employed to avoid any fuel spillage</i> | | | |
| First Gas Ltd (30-982) | Neutral Rule 38 Amend so that network utility pipeline removal and replacement within coastal management areas: Outstanding Value and Estuaries Unmodified, Estuaries Modified and Port be classified as a Permitted Activity and be included under Rule 38 (or a separate rule). | Powerco is neutral to the submission. Powerco consider its gas transmission pipelines are addressed under Rule 38, not in the rules relating to petroleum production. On this basis Powerco is neutral with regard to the changes sought by the submitter to Rule 38. However, if there is some uncertainty that gas transmission pipelines are addressed under Rule 38, then this should be clarified to avoid later misinterpretation. This could be achieved through a consequential amendment, perhaps an advice note, a clarification to the wording of the rule or a definition. | Officers recommend declining the relief sought by the submitter. Officers note that the Activity Description of Rule 38 deliberately excludes petroleum production installations and pipelines because of the higher environmental risks involved. Officers further note that Rules relating to maintenance, alterations, extensions and removal are recommended to be reframed to more clearly differentiate between the respective activities. In response to other submitters, officers consider that Rule 38 is unnecessary as it addresses matters already covered through a different Rule pathway. Officers recommend deleting Rule 38 to avoid confusion for Plan users and for resource users to instead rely on Rules 44, 45 and 46 for the removal aspect of the structure, and Rules 18 to 34 for the 'replacement' aspects of the structure. | Accept the s42A recommendation. |
| Powerco (45-1003) | Support Rule 42 | Retain Rule 42 of the Plan as notified. | ACCEPT Support noted. Rule 42 is retained subject to amendments. Rule 42: Structure maintenance, repair-alteration, extension or removal and replacement not provided for in Rules 35 to 41 Structure maintenance, repair , alteration, extension or removal and replacement and any related occupation of the common marine and coastal area <u>and any associated:</u> (a) <u>occupation of space in the common marine and coastal area;</u> (b) <u>disturbance of the foreshore or seabed;</u> (c) <u>deposition in, on or under the foreshore or seabed; and</u> (d) <u>discharge of sediment</u> and the activity or structure does not come within or comply with any of Rules 35 to 41 or the Resource Management (National Environmental Standards for Electricity transmission Activities) Regulations 2009 (Appendix 6). | Accept the s42A recommendation. |
| Powerco (45-1010) | Support Rule 43 | Retain Rule 43 of the Plan as notified. | ACCEPT Support noted. Rule 43 is retained subject to amendments. Recommendation: Rule 43: Other structure maintenance, repair-alteration, extension or removal and replacement not provided for in Rules 35 to 41 Structure maintenance, repair , alteration, extension or removal and replacement and any related occupation of the common marine and coastal area <u>and any associated:</u> (a) <u>occupation of space in the common marine and coastal area;</u> (b) <u>disturbance of the foreshore or seabed;</u> (c) <u>deposition in, on or under the foreshore or seabed; and</u> (d) <u>discharge of sediment</u> and the activity or structure does not come within or comply with any of Rules 35 to 41 or the Resource Management (National Environmental Standards for Electricity transmission Activities) Regulations 2009 (Appendix 6). | Accept the s42A recommendation. |
| Department of Conservation (29-1014) | Opposed by Powerco Rule 44 Amend to: - how the use of vehicles and machinery in the | Powerco oppose the submission. The proposed wording of standards addressing the matters raised has not been provided. In the absence of specific wording, the nature and effect of the standards is unclear and they are opposed. For | Officers recommend declining the relief sought. Similar type conditions have been considered as part of the Plan review process and were not deemed to be necessary. Most of the proposed conditions seem to relate to avoiding, remedying or mitigating adverse effects already addressed by the standard, terms and conditions, particularly Conditions (a) and | Accept the s42A recommendation. |

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| | <p>coastal environment will be avoided where possible, and minimised/effects mitigated where necessary (including taking the shortest and least sensitive route)</p> <ul style="list-style-type: none"> - the requirement for construction equipment including spoil, litter or equipment to be removed within 24 hours of completion of any works - the prohibition of any refuelling or fuel storage occur within the coastal environment and that methods should be employed to avoid any fuel spillage. | <p>instance, the submission seeks machinery takes the shortest and least sensitive route. There would seem to be potential that these two matters are contradictory, and it is not clear why there is a need to include a requirement beyond “least sensitive”.</p> | <p>(c). For example Condition (a) addresses disturbances to the foreshore and seabed which could be caused by vehicles. In relation to other matters raised by the submitter, officers are concerned that the specificity sought is unnecessarily restrictive and imposes operational constraints on those using it. For example, the requirement to remove spoil within 24 hours.</p> | |
| Powerco (45-1044) | Support Rule 48 | Retain Rule 48 of the Plan as notified. | <p>ACCEPT Support noted. Rule 48 is retained subject to amendments to the corresponding standard.</p> <p>Rule 48: Continued occupation <i>Continued occupation of the common marine and coastal area, with an existing lawfully established structure, where the occupation was a permitted activity at the time of placement or erection.</i></p> | Accept the s42A recommendation. |
| Powerco (45-1053) | Support Rule 49 | Retain Rule 49 of the Plan as notified. | <p>ACCEPT Support noted. Rule 49 is retained subject to amendments to the matters of discretion.</p> <p>Recommendation: Rule 49: Continued occupation <i>Continued occupation of the common marine and coastal area, with an existing lawfully established structure, where the occupation was a permitted activity at the time of placement or erection.</i></p> | Accept the s42A recommendation. |
| Powerco (45-1060) | Support Rule 50 | Retain Rule 50 of the Plan as notified. | <p>ACCEPT Support noted. Rule 50 is retained subject to minor amendments</p> <p>Rule 50: Continued occupation <i>Occupation of the common marine and coastal area and the activity does not come with or comply with Rules 47 to 50 49 or any other Rule in this Plan-or the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 1998 (Appendix 5).</i></p> | Accept the s42A recommendation. |
| SECTION 3.7 – DEFINITIONS | | | | |
| Heritage New Zealand (57-1182) | <p>Opposed by Powerco</p> <p>Definition – “Alteration” Amend as follows: <u>Alteration, in relation to buildings, means any changes to the fabric or characteristics of a structure involving, but not limited to, the removal and replacement of walls, windows, ceilings, floors or roofs, either internally or externally and includes any sign attached to the structure. In relation to structures, means any changes to function, layout, or appearance of a structure without changing its physical dimensions.</u></p> | <p>Powerco oppose the submission. The narrow definition of alteration is opposed, particularly the exclusion of any changes to the physical dimensions of a structure.</p> | <p>ACCEPT IN PART Officers agree that the interpretation and application of the Plan, particularly in relation to rules addressing structures in the coastal marine area, would be improved by defining the term “alteration”. Officers note that alteration may apply to many types of structures and is not restricted to buildings, therefore, for the purpose of the Plan, reads as follows. <u>Alteration in relation to a structure, means any modification to a structure that does not increase its external dimensions</u></p> <p>Officers note that change to the external dimensions of a structure is defined through the term “extension” which officers suggest should also be included within the definitions section for consistency. <u>Extension in relation to a structure, means any modification to the external dimensions of a structure, including length, width and height.</u></p> | Accept the s42A recommendation. |

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| <p>Powerco (45-1187)</p> | <p>Support in part Definitions: "Coastal environment"</p> | <p>Amend the definition of "coastal environment", as follows:</p> <p><i>Coastal environment means the areas where coastal processes, influences or qualities are significant, including lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of these and includes all of the coastal marine areas, land inland to the point defined on the maps at Schedule X, the natural and physical resources within it, and the atmosphere above it.</i></p> | <p>ACCEPT Officers recommend including an indicative coastal environment line into the coastal mapping layers to help establish the extent of the coastal environment and to amend the definition of "coastal environment". However, officers note that this line is only an indicative line and the range of coastal processes captured in the original definition may still apply and may be relevant for determining on a case-by-case basis, whether or not an activity affects the coastal environment. The amended definition reads:</p> <p><i>Coastal environment means</i></p> <ul style="list-style-type: none"> (a) <i>all of the coastal marine area;</i> (b) <i>areas landward of the coastal marine area and identified in a district plan or proposed district plan as being the coastal environment or equivalent (map link), however described; and</i> (c) <i>any other areas landward of the coastal environment line where coastal processes, influences or qualities are significant.</i> <p>Officers also recommend additional consequential amendments to the Plan, including amendments to associated planning maps to identify the indicative coastal environment line, including amendments to associated planning maps to identify the coastal environment line that are aligned with the coastal environment line identified in a district plan or proposed district plan (or their equivalent).</p> | <p>Accept the s42A recommendation.</p> |
| <p>Transpower NZ (26-1197)</p> | <p>Supported, in part by Powerco [Proposed definition] Definition – "Functional need" <u>The locational, operational, practical or technical needs of an activity, including development and upgrades.</u></p> | <p>Powerco support, in part the submission. The intent of the submission is supported. A similar definition, explicitly referencing the coastal environment, was sought by Powerco, as follows:</p> <p><i>Functional need means a requirement for a proposal or activity to traverse, locate or operate in the coastal environment.</i></p> <p>Powerco accept that the 'requirement' could be further clarified with reference to "<u>locational, operational, practical or technical needs</u>".</p> | <p>Officers recommend including a definition for "functional need" but noting that the definition must be aligned with the National Planning Standards 2019. The definition reads:</p> <p><i>Functional need means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.</i></p> | <p>Accept the s42A recommendation.</p> |
| <p>Powerco (45-1196)</p> | <p>Support [Proposed definition] Definition – "Functional need"</p> | <p>Include a new definition, as follows:</p> <p><i>Functional need means a requirement for a proposal or activity to traverse, locate or operate in the coastal environment.</i></p> | | |
| <p>Fonterra (47-1200)</p> | <p>Opposed, in part by Powerco [Proposed definition] Definition – "Functional need" <u>Functional need means the need for a proposal or activity to traverse, locate or operate in a particular environment because it can only occur in that environment.</u></p> | <p>Powerco oppose, in part the submission. The principle of a definition for functional need is supported but Powerco prefer the definition proposed in its primary submissions which appropriately recognises that these assets don't necessarily have to be in the CMA and which may avoid the need for the definition of operational requirement as also proposed by the submitter.</p> <p>Powerco sought the following definition be included:</p> <p><i>Functional need means a requirement for a proposal or activity to traverse, locate or operate in the coastal environment.</i></p> | | |

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| <p>Powerco (45-1214)</p> | <p>Support in part Definition – “Maintenance”</p> | <p>Amend the definition of “maintenance”, as follows:</p> <p>Maintenance in relation to structures, includes <u>replacement, repair, or renewal, activities for the purpose of keeping a structure in good condition and/or working efficiently which restore a structure or asset to its original authorised standard and purpose</u>, and where the character, intensity and scale of the structure <u>or asset or site</u> remains the same or similar. It excludes the extension. It excludes the extension <u>or repair</u> of structures or assets, or change in location.</p> <p>OR</p> <p>Maintenance in relation to structures, includes <u>replacement, repair, or renewal, activities for the purpose of keeping a structure in good condition and/or working efficiently which restore a structure or asset to its original authorised standard and purpose</u>, and where the character, intensity and scale of the structure <u>or asset or site</u> remains the same or similar. <u>In relation to network utilities it includes the addition of extra lines</u> It excludes the extension. It excludes the extension <u>or repair</u> of structures or assets or change in location.</p> | <p>GRANT IN KIND</p> <p>Officers note that the distinction between a maintenance activities and alteration activities may overlap in some instances, however, do not recommend including alteration within the definition of maintenance. Officers recommend that definitions differentiate between ‘maintenance’ and ‘alteration’. These definitions align with relevant rules, particularly Rules 35 to 43. Officers recommend the definition for “maintenance” read as follows:</p> <p>Maintenance in relation to a structure, means the ongoing and regular activities that aid in the preservation of a structure and includes repair works conducted for the purpose of keeping the structure in good condition and/or working efficiently and where the character, intensity and scale of the structure remains the same.</p> <p>Officers further note that alterations may not be restricted to alterations completed in order to bring a piece of equipment up to a new standard and there may be other reasons for altering a structure and may include other modifications for other purposes. Officers consider that it is appropriate to leave the definition broad so that it can be applied to other scenarios. For the purpose of the Plan officers recommend that the definition of alteration read as follows:</p> <p>Alteration, in relation to a structure, means any modification to a structure that does not increase its external dimensions.</p> | <p>Accept the s42A recommendation</p> |
| <p>Heritage New Zealand (57-1216)</p> | <p>Opposed by Powerco Definition – “Maintenance” Amend definition as follows: <u>Maintenance means the ongoing protective care of a place.</u></p> | <p>Powerco oppose the submission. In applying only to a place, the definition is particularly narrow and does not encompass the range of activities that may constitute maintenance. The definition of maintenance in the proposed plan, subject to amendments set out in Powerco submission, is preferred.</p> | <p>Officers do not consider the relief suggested by the submitter to be sufficient for the Plan as it does not provide enough direction or clarification as to what activities can be considered “maintenance” due to the use of the term “protective care”. This term is broad and has potential to be misinterpreted or distorted to fit a user’s requirements irrespective of the intent of the Plan. Officers recommend amending the definition of maintenance to read as follows:</p> <p>Maintenance in relation to a structure, means the ongoing and regular activities that aid in the preservation of a structure and includes repair works conducted for the purpose of keeping the structure in good condition and/or working efficiently and where the character, intensity and scale of the structure remains the same.</p> | <p>Accept the s42A recommendation.</p> |
| <p>Royal Forest and Bird Protection Society (43-1218)</p> | <p>Opposed by Powerco Definition – “Major alteration or extension” as follows: <u>Major alteration or extension means any alteration or extension of a structure which does not meet the definition of a minor alteration or extension.</u></p> | <p>Powerco oppose the submission. Powerco is not necessarily opposed to the intent of the relief sought by the submitter subject to appropriate wording of the corresponding definition of minor alteration or extension, and to it being able to be demonstrated that such a definition is necessary (i.e. that the policy provisions and/or rules specifically recognise the presence of this infrastructure in the Open Coast.</p> | <p>Officers recommend giving partial relief to the request sought by the submitter involving reframing the maintenance, alterations, extensions and removal rules (to more clearly differentiate between the respective activities based upon changes in their external dimensions). Consequential changes are also proposed to the Plan definition for ‘maintenance’ and with new definitions for ‘alteration’ and ‘extension’ also proposed. However, officers do not believe it is necessary to include a definition for “major alteration”. Officers suggest that the distinction between major and minor alterations is determinable through the individual reading of relevant rules. Officers recommend that the following new definitions of “alteration” and “extension” be included in the Plan to read as follows:</p> <p>Extension in relation to a structure, means any modification to the external dimensions of a structure, including length, width and height.</p> <p>Alteration in relation to a structure, means any modification to a structure that does not increase its external dimensions.</p> | <p>Accept the s42A recommendation.</p> |
| <p>Royal Forest and Bird Protection</p> | <p>Opposed, in part by Powerco Definition – “Minor alteration or extension” as</p> | <p>Powerco oppose, in part the submission. Powerco is not necessarily opposed to the intent of the relief sought by the submitter but</p> | <p>Officers recommend giving partial relief to the request sought by the submitter involving reframing the maintenance, alterations, extensions and removal rules (to more clearly differentiate between the respective activities based upon changes in their external dimensions). Consequential changes are also</p> | <p>Accept the s42A recommendation.</p> |

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| Society (43-1223) | follows: <u>Minor alteration or extension means the alteration or extension of a structure where the alteration or extension is within the same footprint, does not result in an increase in adverse effects over effects generated from the operational and maintenance of the structure.</u> | opposes the proposed wording, particularly the requirement that the structure is within the same footprint. Furthermore the need for the definition is questioned because the matters addressed in it are, or can be, addressed in the rule. Alterations and extensions to gas and electricity assets are often undertaken within existing infrastructure remaining operational while new assets are commissioned. Powerco therefore supports provisions which enable these alterations, for instance replacement support structure, to be established in similar locations, recognising the limited potential for adverse effects on a replacement basis. | proposed to the Plan definition for “maintenance” and with new definitions for “alteration” and “extension” also proposed. However, officers do not believe it is necessary to include a definition. Use of the term minor alteration is only used within Rule 35 of the Plan. This rule includes a number of standards, terms and conditions that establish the parameters for what would be considered ‘minor’. Officers note that activities that do not fit these standards, terms and conditions would not be considered to be ‘minor’ and would be considered under another rule. Officers recommend that the following new definitions of “alteration” and “extension” be included in the Plan to read as follows: Extension in relation to a structure, means any modification to the external dimensions of a structure, including length, width and height. Alteration in relation to a structure, means any modification to a structure that does not increase its external dimensions. | |
| Department of Conservation (29-1225) | Opposed by Powerco Definition – “Natural character” Amend definition to have regard to specific provisions of the NZCPS. Amend definition to better reflect Policy 15 of the NZCPS | Powerco oppose the submission. In the absence of proposed wording, the amendments sought and their potential implications are unclear. | Officers recommend declining the relief sought by the submitter. Officers note that the proposed definition of natural character would encompass all of the qualities identified in Policy 13 of the New Zealand Coastal Policy Statement and that Policy 13 is not an exhaustive list but merely identifies some characteristics that may (emphasis added) be recognised as natural character. For this reason, officers consider that a more generic and broader definition than that sought by the submitter is required in order to avoid a verbose Plan and the inclusion of an unnecessarily lengthy definition that do not capture all of the possible characteristics. Officers note that all of the characteristics listed in Policy 13 of the New Zealand Coastal Policy Statement are either natural elements, patterns or process or are the experiential perceptions of those processes | Accept the s42A recommendation. |
| Department of Conservation (29-1227) | Opposed by Powerco Definition – “Natural feature” Amend definition to have regard to better reflect Policy 15(c) of the New Zealand Coastal Policy Statement | Powerco oppose the submission. In the absence of proposed wording, the amendments sought and their potential implications are unclear. | Officers recommend declining the relief sought by the submitter and note that the definition of “natural feature” encompasses those elements and characteristic identified in Policy 15 of the New Zealand Coastal Policy Statement. Officers note that Policy 15 of the New Zealand Coastal Policy Statement includes a list of features, characteristics and values that are components of a natural landscape which are either part of the physical character of the area (such as natural science factors, presence of water, vegetation and presence of wildlife), the perceptions of that character or associations with that area (such as the legibility or expressiveness of those characters, their aesthetic values, memorability and wild or scenic values), and cultural spiritual, historical and heritage associations (such as values of tangata whenua and historic heritage associations). | Accept the s42A recommendation. |
| Powerco (45-1235) | Support Definition – “Network utility” | Retain the definition of “Network utility” as notified. | ACCEPT Definition of “network utility” is retained as notified, however, a minor and inconsequential amendment is recommended to include a footnote that references Section 166 of the RMA to assist Plan users. | Accept the s42A recommendation. |
| Fonterra (47-1239) | Opposed, in part by Powerco [Proposed definition] Definition – “Operational requirement” <u>Operational requirement means the requirement for a proposal or activity to traverse, locate or operate in a particular environment because of technical or operational characteristics or constraints.</u> | Powerco oppose, in part the submission. The principle of a definition of operational need is supported if that term is used in or relevant to the Plan but Powerco prefer the simplicity of a broader definition of functional need. | Submitter requests amendment to the Plan to include a definition for “operational requirement” as a consequential amendment as a result of amendments requested for Policy 5 [Appropriate use and development of the coastal environment] of the Plan. Officers recommend granting the relief sought by the submitter to include a definition of “operational requirement”, however, recommend aligning with the definition for “operational need” within the National Planning Standards 2019, which reads as follows: Operational need means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical or operational characteristics or constraints. | Accept the s42A recommendation. |
| Powerco (45-1245) | Support Definition – “Pipeline” | Retain the definition of “Pipeline” as notified. | ACCEPT Definition of “Pipeline” is retained as notified. | Accept the s42A recommendation. |
| Powerco (45-1263) | Support in part Definition – “Regionally important infrastructure” | Retain the definition of “Regionally important infrastructure” but adopt the term “regionally significant infrastructure” to ensure consistency between the Plan and other planning | DECLINE Officers recommend declining the relief sought to amend the Plan to refer to “regionally significant infrastructure” rather than “regionally important infrastructure” in the interests of aligning terminology with other regions (noting that similar terminology has been adopted in other recent second | Accept the s42A recommendation. |

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| | | documents such as the Regional Policy Statement. | generation plans). | |
| Powerco (45-1267) | Oppose Definition – “Repair” | Delete the definition of “Repair”, as follows: Repair means reconstruction. | ACCEPT The submitter suggests that repair is a type of maintenance activity and that the standalone definition should be deleted. Officers recommend granting the relief sought. Consequential amendments are also necessary to the definition of maintenance and associated rules. | Accept the s42A recommendation. |
| Powerco (45-1272) | Support in part Definition – “Reverse sensitivity” | Amend the definition of “Reverse sensitivity”, as follows: Reverse sensitivity refer to the potential for the operation of an existing effect of sensitive activities on other lawfully established activities to be constrained or curtailed by the more recent establishment or intensification of other activities which are sensitive to the proposed activity in their vicinity. | ACCEPT A range of activities may be susceptible to reverse sensitivity effects. As drafted, the submitter believes that the definition could be interpreted that only sensitive activities, for instance residential activities, care facilities, and the like could be affected in this way. This does not recognise that other activities may also be affected. The submitter has suggested amendments to the definition that retain its intent but provides added clarity and minimises potential for misinterpretation. Officers agree that the definition for “reverse sensitivity” is ambiguous and potentially confusing. Officers recommend amending the definition. Reverse sensitivity refers to <u>the potential for the operation of an existing lawfully established activity to be constrained or curtailed by the more recent establishment or intensification of other activities which are sensitive to the exiting activity-</u> | Accept the s42A recommendation. |
| Powerco (45-1282) | Support Definition – “Structure” | Retain the definition of “Structure” as notified. | ACCEPT Definition of “structure” retained as notified. | Accept the s42A recommendation. |
| SCHEDULE 1 (COASTAL MANAGEMENT AREAS) & SCHEDULE 2 (COASTAL AREAS OF OUTSTANDING VALUE) | | | | |
| Powerco (45-1301) | Support in part Schedule 1 and Schedule 2 | Amend Schedules 1 and 2, as follows: - mapping the coastal environment line - ensuring that the extent of sensitive coastal management areas are appropriate having particular regard to existing infrastructure, particularly the landward edge of Nga Motu and Tapuae areas of outstanding value - amending the corresponding descriptions of the coastal management areas throughout the Plan to recognise existing infrastructure in these sensitive areas to ensure it can be operated, maintained, and upgraded as appropriate. | ACCEPT IN PART A number of submitters have requested to have the coastal environment defined by a line that recognises its extent. Officers recommend granting the relief sought by referencing an “indicative coastal environment line” in the Plan and identifying the coastal environment on relevant planning maps. The indicative nature of this line is to recognise that the coastal environment is a dynamic environment where process of can occur rapidly and induce change to the nature and character of the area and as such the coastal environment line may become redundant or inaccurate in the future due to these changes. The indicative line is useful for identifying whether a particular activity is likely to fall within the coastal environment, however, proper assessment of the location with regards to coastal features and processes will still be necessary to consider the nature of that location, including the relative significance of any coastal features and characteristics (such matters to be considered on a case-by-case basis through the consenting process). With regards to existing infrastructure, the location of infrastructure has been considered, however, the values associated with these locations are considered to be high enough to afford the protections provided for within the Plan despite any infrastructure that may exist in their vicinity. Further, officers consider it unnecessary and inappropriate to retrospectively amend the extent of any sensitive management areas or their descriptions to simply provide for existing infrastructure. Officers further note that areas of Outstanding Value are consistent with the extents of outstanding natural feature and landscapes identified by the New Plymouth District Council in the Draft District Plan and South Taranaki District Council. Officers seek, as far as is practicable, alignment and consistency with other Plans within the region. | Accept the s42A recommendation. |
| Taranaki Regional Council (53-1316) | Supported, in part by Powerco Schedule 2 Amend to align the mapping of Outstanding | Powerco supports, in part the submission. Powerco has not analysed the differences between the mapped ONC in the proposed plan with those in the South Taranaki District Plan | Mapping of Outstanding Natural Character Areas have been done to align the mapped extents to those mapped by the South Taranaki District Council with the exception of Waitotara (ONC8). Officers recommend aligning the extent of this site to match the extents of Outstanding Natural Character sites identified by the South Taranaki District Council. | Accept the s42A recommendation. |

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| | <i>Natural Character Areas with those mapped by the South Taranaki District Council through their district plan review.</i> | <i>but supports the intent of aligning them.</i> | | |
| <i>Royal Forest and Bird Protection Society (53-1319)</i> | Opposed, in part by Powerco <i>Schedule 4 Amend to identify areas of significant indigenous biodiversity in the coastal marine area, including the values and characteristics that contribute to the significance of each area. Areas identified are to include the 'significant coastal areas' identified in the New Plymouth District Plan and the relevant Important Bird Areas for New Zealand Seabirds (as shown in Appendix 3 of the submission).</i> | <i>Powerco opposes, in part the submission. Powerco is not necessarily opposed to the intent of the relief sought by the submitter but reserves judgement pending full detail of the schedule.</i> | As noted in the Section 32 Evaluation Report, the Council does not believe any organisation has the required datasets to accurately map all aspects of significant indigenous biodiversity with any certainty. Agencies with monitoring roles for biodiversity include the Department of Conservation, regional councils, district councils, Ministry for Primary Industries, Environmental Protection Authority, and Maritime New Zealand. However, data and knowledge gaps make biodiversity mapping especially challenging. There is no accurate national or regional dataset. One of the challenges for accurately mapping biodiversity is accessing data of sufficient quality and breadth to be confident that all aspects of biodiversity can be adequately mapped. Officers are concerned that Taranaki, as with the rest of New Zealand, has incomplete information and that mapping sites based upon information we currently have (such as SNAs, KNEs) would have a perverse outcome in that it provides less protection for those aspects of biodiversity that were not mapped. The situation is even worse when it comes to species information and/or the marine environment. The Council's preferred approach is to clearly identify those aspects of biodiversity (through Policy 14) that require a higher level of protection by avoiding the adverse effects of activities. Officers believe the current protections give effect to Policy 11 [Indigenous biological diversity (biodiversity)] of the New Zealand Coastal Policy Statement. Notwithstanding the above, officers have reviewed spatial information to ascertain whether any additional biodiversity mapping overlays can be provided. As a result it is recommended that the Important Bird Areas for New Zealand that occur within the Taranaki region be included as a planning layer alongside the Maui dolphin sanctuary and that appropriate policy linkages be made as a consequential amendment. | Accept the s42A recommendation. |
| <i>Department of Conservation (29-1323)</i> | Supported, in part by Powerco <i>Schedule 4A Amend to include maps of areas, ecosystems, and habitats that have significant indigenous biodiversity values.</i> | <i>Powerco supports, in part the submission. The principle of mapping areas, ecosystems and habitats that have significant indigenous biodiversity values is appropriate and supported, however Powerco reserves judgement on the nature and extent of the mapped areas and considers that any such relief should be introduced by way of variation to the Plan.</i> | Agencies with monitoring roles for biodiversity include the Department of Conservation, regional councils, district councils, Ministry for Primary Industries, Environmental Protection Authority, and Maritime New Zealand. Officers do not believe any of these agencies are in a position to supply a complete and accurate record of significant indigenous biodiversity in Taranaki. It is officers' view that data and knowledge gaps make biodiversity mapping especially challenging. There is no accurate national or regional dataset. One of the challenges for accurately mapping biodiversity is accessing data of sufficient quality and breadth to be confident that all aspects of biodiversity can be adequately mapped. Officers are concerned that Taranaki, as with the rest of New Zealand, has incomplete information and that mapping sites based upon information we currently have (such as SNAs, KNEs) would have a perverse outcome in that it provides less protection for those aspects of biodiversity that were not mapped. The situation is even worse when it comes to species information. | Accept the s42A recommendation. |
| <i>South Taranaki District Council (19-1350)</i> | Supported, in part by Powerco <i>Designated Surfing Area Align the inland edge of 'Significant Surfing Area' with the coastline. The Significant Surfing Area should be restricted to areas where surfing can take place.</i> | <i>Powerco supports, in part the submission. Powerco supports further consideration of the inland extent of the Significant Surfing Area to ensure the provisions do not unduly restrict the provision of gas and electricity infrastructure in the coastal environment.</i> | <i>Officers note the submitter's concern and recommend amending the landward extent of the significant surf break area to align with the indicative coastal marine area line so as to not capture private land. Officers also recommend amending the extent of the Significant Surfing area and confining it to the coastal marine area.</i> | Accept the s42A recommendation. |

Appendix 2: Staff Recommendations on the Submissions and Further Submissions of the Oil Companies on Proposed Coastal Plan for Taranaki

| Submitter Name | Support/Oppose Provision | Decision Requested (highlight indicates Oil Companies amendments) | Staff Recommendation and Comment (red text indicates Staff recommendations) | Comment |
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| PETROLEUM RELATED PLAN PROVISIONS | | | | |
| Taranaki Energy Watch (51-15) | Opposed by the Oil Companies Objectives, policies and rules within the coastal marine area should reflect a precautionary regime for effects of activities that are uncertain, unknown or little understood. Policies that should incorporate a precautionary approach include but are not limited to: (i) Policy 5(j) (ii) Policy 22, and (iii) Policy 29 | The Oil Companies oppose the submission. The Oil Companies consider that the plan must be read as a whole and therefore the precautionary principle already applies as requested by the submitter. A consistent approach should be adopted in the Plan. | The submitter is concerned that areas of the Plan relating to petroleum provisions do not reflect a precautionary approach, which, in their view, is required by the New Zealand Coastal Policy Statement. Officers suggest that no relief is necessary given that a precautionary approach is already adequately provided for via Policy 3 [Precautionary approach] of the Plan. Policy 3 is a General Policy that applies to all activities, including oil and gas industries, within the coastal environment and regardless of which coastal management area the activity may fall within. Officers further note that the potential risks associated with oil and gas exploration and production activities are well understood. In the main oil and gas exploration and production activities in the coastal marine area are largely a Discretionary Activity or a Non-complying Activity. Therefore, through the consenting process, Policy 3 and other relevant policies will be considered and applied as appropriate on a case-by-case basis. | Accept the s42A recommendation. |
| SECTION 1.4 – PLAN APPLICATION | | | | |
| The Oil Companies (46-41) | Support Section 1.4.1 and 1.4.2 | Retain Sections 1.4.1 and 1.4.2 of the Plan as notified. | ACCEPT Officers recommend amendment to Section 1.4.1 to include a new sentence stating that while the rules in this Plan apply only to activities in the coastal marine area, nevertheless they include activities that can have an adverse effect on values and uses outside of the coastal marine area.] <u>While the rules in this Plan apply only to activities in the coastal marine area, nevertheless they include activities that can have an adverse effect on values and uses outside of the coastal marine area.</u> ⁽⁴²⁾ For the purposes of integrated management, Plan objectives, general policies and methods (excluding rules) address not only the coastal marine area but the wider coastal environment. The wider coastal environment comprises the coastal marine area, together with land dominated by the coast where coastal processes, influences or qualities predominate. | Accept the s42A recommendation. |
| SECTION 1.7 – COASTAL MANAGEMENT AREAS | | | | |
| Royal Forest and Bird Protection Society (43-51) | Support Amend Section 1.7.5 of the Plan to clarify whether the Open Coast coastal management area refers to the remaining area of the coastal marine area of the wider coastal environment | The Oil Companies support the submission. The Oil Companies have an interest in clarification of the extent of the open coast and the applicable provisions in these areas. The Oil Companies submissions were prepared on the basis that the open coast is all areas within the CMA not otherwise mapped as another coastal management area and if required, changes to support and clarify that interpretation are supported. | No relief is considered necessary. The first sentence of Section 1.7.5 already state that the Open Coast coastal management area is that area of the coastal marine area not covered by the other management areas. In relation to the submitter seeking clarification on how values and characteristic of the Open Coast are to be protected in accordance with Policies 11 [Indigenous biodiversity], 13[Preservation of natural character] and 15[Natural features and landscapes] of the New Zealand Coastal Policy Statement, the submitter is referred to Policies 8, 9, 10, 11, 12, 13 and 14 of the Plan and the relevant rules. All General Policies in the Plan need to be considered together. | Accept the s42A recommendation. |
| The Oil Companies (46-53) | Support in part Section 1.7.1 to 1.7.3 | Retain Section 1.7 of the Plan and the inclusion of the five coastal management areas but amend paragraphs 1.7.1 to 1.7.3 to ensure that the presence of existing infrastructure in all of these areas is appropriately recognised by including a sentence, as follows: | ACCEPT IN PART A number of submitters sought to have their uses, values or particular interests explicitly identified in the coastal management areas, despite such uses and values being common to most if not all coastal management areas. | Evidence |

Appendix 2: Staff Recommendations on the Submissions and Further Submissions of the Oil Companies on Proposed Coastal Plan for Taranaki

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| | | <u>These areas may contain regionally important infrastructure.</u> | <p>Officers recommend minor and inconsequential changes to the first paragraph of Section 1.7 of the Plan to clarify that coastal management areas are areas or zones dividing the coastal marine area for management purposes and for which specific rules apply. This will avoid the need for unnecessary and potentially redundant commentary in the Plan that attempts to describe common attributes, characteristics and values that in all likelihood apply across all coastal management areas such as the presence of regionally important infrastructure (plus other uses and values).</p> <p>Section 1.7 Coastal Management Areas <i>The coastal marine area has been divided into five management areas. This division recognises that some areas have values, characteristics or uses that are more vulnerable or sensitive to the effects of some activities, or have different management needs than other areas. These areas have been mapped in Schedule 1 and <u>specific rules apply. The coastal management areas are as follows: [...]</u></i></p> | |
| SECTION 2.2 – NEW ZEALAND COASTAL POLICY STATEMENT | | | | |
| The Oil Companies (46-61) | Support in part Section 2.2 | <p>Amend Section 2.2 [New Zealand Coastal Policy Statement] of the Plan to specifically recognise and provide for infrastructure. This could be achieved by adding an additional bullet point, as follows:</p> <p><u>Recognising and providing for infrastructure.</u></p> | <p>DECLINE The submitter wishes to extend the scope of Section 2.2 of the Plan to include infrastructure.</p> <p>A number of submitters sought to have their areas of interests explicitly identified in the commentary on the <i>New Zealand Coastal Policy Statement</i>, in this case recognition and provision for infrastructure.</p> <p>Officers note the commentary is deliberately high level that infrastructure is already adequately covered under references to development. Officers suggest that the Plan objectives, policies and rules adequately recognise and provide for infrastructure.</p> | Accept the s42A recommendation. |
| SECTION 2.3 - MARINE AND COASTAL AREA (TAKUTAI MOANA) ACT 2011 | | | | |
| The Oil Companies (46-63) | Support Section 2.3 | Retain Section 2.3 of the Plan as notified. | <p>ACCEPT IN PART The submitters support is noted. However, officers note that in response to relief sought by another submitter, minor amendments have been made to Section 2.3 [<i>Marine and Coastal Area (Takutai Moana) Act 2011</i>] to further explain that the iwi of Taranaki have claims before the Crown for both customary marine title and protected customary rights.</p> | Accept the s42A recommendation. |
| SECTION 3.1 - TARANAKI COASTAL ENVIRONMENT | | | | |
| Trustpower Ltd (26-72) | Supported, in part by the Oil Companies Section 3.1 Amend as follows: Some activities reply upon a location in or near the coastal marine area, are dependent on the use of coastal resource, <u>or have technical, operational or locational constraints that mean they require a coastal marine area location.</u> Taranaki's coastal resource and developments play a crucial role in both the regional and national economy [...] | <i>The Oil Companies support the submission in part. The intent of the submission is supported. It may be possible to more succinctly achieve the same intent by adopting a comprehensive definition of functional need, as sought by the Oil Companies.</i> | <p><i>The submitter seeks amendments to the commentary to make it clear within the Plan that there are also technical, locational and/or operational reasons why an activity requires a coastal location which are not based solely on the use of the coastal resource itself.</i></p> <p><i>Officers agree that there are a number of instances where the location of infrastructure or activities in the coastal marine area is appropriate taking into account technical, operational or locational requirements. Officers recommend amending the relevant paragraph to refer to "functional need" and "operational need" and note that these terms are defined in the National Planning Standards and include locational considerations.</i></p> <p>Appropriate use and development <i>Some activities rely upon a location in or near the coastal marine area, or are dependent on the use of coastal resources, <u>due to a technical need or operational need.</u></i></p> | Clarification Given functional need and operational need are defined it would be more appropriate to refer to the same here. |
| The Oil Companies | Support in part Section 3.1 | Amend the coastal hazards commentary in Section 3.1 of the Plan, as follows: | <p>ACCEPT Officers recommend granting the relief sought in addition to the relief sought by other submitters.</p> | Accept the s42A recommendation. |

Appendix 2: Staff Recommendations on the Submissions and Further Submissions of the Oil Companies on Proposed Coastal Plan for Taranaki

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| (46-78) | | <p>The coastal environment is at high risk of coastal hazards area. Risks include tornados, coastal erosion, tsunami, storm surges, and cliff rock falls and slumps. The risk of, or and vulnerability to, coastal hazards may increase over time, for instance due to climate change and sea level rise.</p> <p>Although most natural processes that cause coastal hazards originate at sea, the major effects of these processes are nearly always felt on land. The Taranaki coastline is continually influenced by the natural forces of wind and waves. This, coupled with soft geology found in some localities around the coastline, means that the most significant coastal hazard in Taranaki is coastal erosion. Although coastal erosion and other hazards are generally a natural phenomenon, human activity in the coastal marine area may influence the susceptibility of people, property and the environment to loss or damage on account of coastal hazards. It is important that use and development of the coastal marine area does not increase coastal hazard risk to people or property to unacceptable levels.</p> <p>Similarly, activities in the coastal marine area may also impact on the health or safety of people or property, including aircraft or navigational safety. It is important that these activities do not use and development of the coastal marine area does not increase coastal hazard risk or pose a threat to the health and safety of people or property (refer 7 below).</p> | <p>The coastal environment is at high risk of coastal hazards. Risks include tornados, coastal erosion, tsunami, storm surges, and cliff rock falls and slumps. The risk of, and vulnerability to, coastal hazards will increase over time, for instance due to climate change and sea level rise.</p> <p>Although most natural processes that cause coastal hazards originate at sea, the major effects of these processes are nearly always felt on land. The Taranaki coastline is continually influenced by the natural forces of wind and waves. This, coupled with the soft geology found in some localities around the coastline, means that the most significant coastal hazard in Taranaki is coastal erosion. Although coastal erosion and other hazards are generally a natural phenomenon, human activity in the coastal marine area may influence the susceptibility of people, property and the environment to loss or damage on account of coastal hazards. It is important that use and development of the coastal marine area does not increase coastal hazard risk to people or property to unacceptable levels.</p> <p>Similarly, activities in the coastal marine area may also impact on the health or safety of people or property, including aircraft or navigational safety. It is important that these activities do not pose a threat to the health and safety of people or property (refer 7 below).</p> | |
| SECTION 3.2 - MANAGING THE TARANAKI COASTAL ENVIRONMENT | | | | |
| The Oil Companies (46-83) | Support in part Section 3.2.7 | <p>Retain Section 3.2 [Matters to be addressed] of the Plan subject to amending bullet point 7, as follows:</p> <p>7. Ensuring use and development of the coastal marine area does not increase coastal hazard risk to unacceptable levels or pose a threat to the health and safety of people and property.</p> | ACCEPT | Accept the s42A recommendation. |
| SECTION 4 - OBJECTIVES | | | | |
| The Oil Companies (46-93) | Support Objective 1 | Retain Objective 1 of the Plan as notified. | <p>ACCEPT</p> <p>Objective 1 is retained subject to the amendments below:</p> <p>Objective 1: Integrated Management</p> <p>Management of the coastal environment, including the effects of subdivision, use and development on land, air and fresh water, is carried out in an integrated manner, including between regional and</p> | Accept the s42A recommendation. |

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| <p>Transpower NZ Ltd (26-101)</p> | <p>Supported, in part by the Oil Companies</p> <p>Objective 2 Natural and physical resource of the coastal environment are used efficiently, and activities that depend on the use and development of these resource, <u>or have technical, operational and/or locational requirements</u>, are provided for in appropriate locations.</p> | <p>The Oil Companies support the submission, in part. The intent of the submission is supported. It may be possible to more succinctly achieve the same intent by adopting a comprehensive definition of functional need, as sought by the Oil Companies.</p> | <p><i>district council functions.</i></p> <p>Objective 2: Appropriate Use and development Natural and physical resource of the coastal environment are used efficiently, and activities <u>that have a functional need or an operational need</u> that depend on the use and development of these resource, are provided for in appropriate locations.</p> | <p>Accept the s42A recommendation.</p> |
| <p>Port Taranaki (32-103)</p> | <p>Supported, in part by the Oil Companies</p> <p>Objective 2 Amend Objective of the Plan (or add a new Objective) to specifically address provision for ongoing development of strategically significant regional and national infrastructure, including Port Taranaki.</p> | <p>The Oil Companies support the submission, in part. The intent of the submission is supported, although it is noted that Rule 35 already provides a permitted activity pathway for maintenance, repair or minor alteration, except at the Port.</p> <p>The Oil Companies reserve judgement on the specific provisions of the proposed permitted activity rule and how this will sit alongside the existing cascade, particularly Rule 35.</p> | | |
| <p>The Oil Companies (46-107)</p> | <p>Support Objective 2</p> | <p>Retain Objective 2 of the Plan as notified.</p> | | |
| <p>The Oil Companies (46-122)</p> | <p>Support in part Objective 3</p> | <p>Amend Objective 3 of the Plan, as follows: <i>The use and ongoing operation, maintenance, and upgrading of nationally and regionally important infrastructure and other existing lawfully established activities is protected from new or inappropriate use and development in the coastal environment.</i></p> | <p>NO RELIEF REQUIRED Officers consider maintenance and upgrading to already being captured in the phrase “the use and ongoing operation” of nationally and regionally important infrastructure. The introduction of added terms is not only unnecessary but potentially confusing in that it uses terms not used in the Plan policies or rules relating to structures.</p> | <p>Evidence The principle that operation encompasses maintenance and upgrading is supported. However, consistency is required, for instance Policy 5 refers to operation and maintenance separately and introduces uncertainty regarding what is an operation.</p> |
| <p>The Oil Companies (46-126)</p> | <p>Support Objective 4</p> | <p>Retain Objective 4 of the Plan as notified</p> | <p>ACCEPT Support noted. Objective 4 is retained.</p> <p>Recommendation: Objective 4: Life-supporting capacity and mouri The life supporting capacity and muri of coastal water, land and air are safeguarded from the adverse effects, including cumulative effects, of use and development of the coastal environment.</p> | <p>Accept the s42A recommendation.</p> |
| <p>The Oil Companies</p> | <p>Support Objective 5</p> | <p>Retain Objective 5 of the Plan as notified</p> | <p>ACCEPT Support noted. Objective 5 is retained subject to minor amendments.</p> | <p>Accept the s42A recommendation.</p> |

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| (46-129) | | | <p>Objective 5: Coastal water quality Water quality in the coastal environment is maintained <u>where it is good</u> and enhanced <u>where it is degraded</u>.</p> | |
| The Oil Companies (46-139) | Support Objective 6 | Retain Objective 6 of the Plan as notified | <p>ACCEPT Support noted. Objective 6 is retained subject to minor amendments as requested by other submitters.</p> <p>Objective 6: Natural character The natural character of the coastal environment is preserved and protected from inappropriate <u>subdivision</u>, use and development and is <u>restored/enhanced</u> where <u>appropriately degraded</u>.</p> | Accept the recommendation |
| The Oil Companies (46-147) | Support Objective 7 | Retain Objective 7 of the Plan as notified. | <p>ACCEPT Objective 7: Natural features and landscapes The natural features and landscapes of the coastal environment are protected from inappropriate <u>subdivision</u>, use and development.</p> | Accept the s42A recommendation. |
| The Oil Companies (46-153) | Support in part Objective 8 | Amend Objective 8 (and corresponding policies and rules) to provide appropriately for the operation, maintenance and upgrade of existing regionally important infrastructure. | <p>NO RELIEF NECESSARY No precise details of amendments sought to Objective 8 have been provided. However, officers note that Section 4 of the Plan provides a suite of objectives that together provide for a broad range of values and uses, including nationally and regionally important infrastructure. Objectives relating to regionally important infrastructure are separately addressed in Objectives 2 and 3 of the Plan. In determining the weighting or priority given to particular values the Plan policies also apply. Officers do not believe any amendments to Objective 8 are therefore necessary.</p> <p>Notwithstanding the above, in response to relief sought elsewhere by the submitter (and others), consequential amendments have been made in other Plan provisions that further recognise and provide for the operation, maintenance and alteration (upgrade) of existing regionally important infrastructure.</p> <p>Objective 8: Indigenous biodiversity Indigenous biodiversity in the coastal environment is maintained and enhanced and areas of significant indigenous biodiversity in the coastal environment are protected.</p> | Accept the s42A recommendation. |
| The Oil Companies (46-175) | Support in part Objective 13 | Amend Objective 13 of the Plan, as follows: <i>The risk of social, cultural, environmental, and economic harm from coastal hazards is not increased <u>to unacceptable levels</u> and public health, safety and property is not compromised by use and development of the coastal marine area.</i> | <p>ACCEPT Officers agree to the sought amendment as it allows minor risks deemed acceptable while continuing to protect the region from coastal hazards.</p> <p>Objective 13: Coastal hazard risk and public health and safety The risk of social, cultural, environmental, and economic harm <u>in the coastal environment</u> from coastal hazards is not increased <u>beyond acceptable levels</u> and public health, safety and property is not compromised by use and development of the coastal marine area.</p> | Accept the s42A recommendation. |
| SECTION 5.1 – PREAMBLE | | | | |
| Royal Forest and Bird Protection Society (43-179) | Supported, in part by the Oil Companies Section 5.1 Amend, as follows: <i>This section provides the overall direction for achieving integrated management for the <u>protection</u> of significant and outstanding values</i> | <i>The Oil Companies support the submission, in part. Clarification regarding the landward extent of the management area is supported. The Oil Companies submissions were prepared on the basis that these areas apply as mapped, including beyond the CMA. As the Open Coast is not mapped beyond the indicative CMA boundary. It was understood that the Open Coast only applied in the CMA.</i> | <p>Officers agree to amend the introduction of Section 5.1 but note that the Plan policies cover use, development and protection of all coastal values not just “the protection of significant and outstanding values.” Officers recommend an alternative relief that takes into account relief sought in other submissions.</p> <p><i>This section provides the overall direction for achieving integrated management in the coastal environment (i.e. both the coastal marine area and areas <u>landward</u> where coastal processes, influences or qualities are significant <u>and as indicatively shown on the planning maps</u>) in order to achieve the objectives of this Plan.</i></p> <p><i>The policies apply to all activities in the coastal <u>marine area but include consideration of uses values</u></i></p> | Accept the s42A recommendation. |

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| | <p>and matters in the coastal environment (i.e. both the coastal marine area and areas <u>landward</u> where coastal processes, influences or qualities are significant) in order to achieve the objectives of this Plan.</p> <p>The policies apply to all activities in the coastal environment, regardless of which coastal management area the activity may fall within (coastal management areas are identified in Schedule 1 and their characteristics are described in Policy 1).</p> | | <p><u>and relationships across the wider coastal environment. The Policies set out a coastal management framework, providing for use and development, protect, maintain and enhance significant and outstanding values, and manage coastal hazards and risks to public health and safety.</u></p> | |
| SECTION 5.1.1 – MANAGEMENT OF THE COASTAL ENVIRONMENT (POLICIES) | | | | |
| <p>Royal Forest and Bird Protection Society (43-198)</p> | <p>Support, in part, Opposed, in part by the Oil Companies</p> <p>Policy 1 Delete Policy 1 of the Plan OR Amend Policy 1 by: -setting out an area based management approach based on mapped and scheduled areas. Refer to relevant policies to identify characteristics in those areas which are not already for those areas in a schedule. -including a statement that explains that Policy 1 does not provide direction for subdivision, use or development activities within the management areas.</p> | <p>The Oil Companies oppose the submission in part. The Oil Companies are not necessarily opposed to the intent of the relief sought by the submitter but reserve judgement pending specific wording of the amendments.</p> | <p>Officers recommend amendments to Policy 1 that gives partial effect to the relief sought by the submitter, but which also addresses issues/matters raised by other submitters.</p> <p>The submitter’s concerns with the coastal management area approach are noted. However, officers note that the approach has been in place since 1997 and to date no issues have been identified in relation to its application. The current Coastal Plan, which includes the same zonal approach and has an equivalent policy, has been demonstrated to be efficient and effective in managing adverse effects in the coastal marine area through interim reviews and state of the environment monitoring. Officers do not believe it necessary nor appropriate to delete Policy 1.</p> <p>Notwithstanding the above, officers note recommendations that give partial relief to other reliefs sought by the submitter. These include amendments to the Policy 1 plus other inconsequential changes in Section 1.7 of the Plan to clarify that the application of the coastal management areas apply only to the coastal marine area.</p> | <p>Accept the s42A recommendation.</p> |

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| <p>Royal Forest and Bird Protection Society (43-205)</p> | <p>Supported, in part by the Oil Companies</p> <p>[Proposed Policy] Include a new Policy specific to the Port of Taranaki and consistent with Policy 9 [Port] of the New Zealand Coastal Policy Statement.</p> | <p>The Oil Companies support the submission, in part. The Oil Companies have significant assets at the Port that are regionally significant infrastructure and consider that a standalone port policy would be appropriate. The Oil Companies support the intent of the submission but reserve judgement pending specific wording of the policy sought.</p> | <p>Officers do not believe it is appropriate or necessary to include a new policy specific to the Port to give effect to Policy 9 of the New Zealand Coastal Policy Statement. Officers note the introductory sentence to Section 5 on page 19 that “...when assessing an activity, regard will be had to all relevant general and activity-based policies are to be considered and no individual policy viewed in isolation.” It is therefore unnecessary to include a new policy specific to the Port when matters outlined in Policy 9 of the New Zealand Coastal Policy Statement have been more fully covered and addressed via Policy 1 [Coastal management areas], Policy 5 [Use and development], Policy 6 [Regionally important infrastructure] and Policy 7 [Reverse sensitivity]. These and the other General Policies and relevant Activity Policies will contribute to the efficient and safe operation of Port Taranaki.</p> | <p>Accept the s42A recommendation.</p> |
| <p>The Oil Companies (46-207)</p> | <p>Support in part Policy 1</p> | <p>Retain Policy 1 of the Plan subject to an amendment that recognises the existence of existing infrastructure in areas of Outstanding Values, Estuaries Unmodified and Estuaries Modified, unless the mapping is amended such that this is not the case. Seek amendment to Policies 1(a), 1(b), and 1(c) to read as follows:</p> <p>these areas may contain regionally important infrastructure.</p> | <p>DECLINE</p> <p>Officers recommend declining the relief sought by the submitter in that the suggested amendments are for a value or attribute that is not a distinguishing feature of the coastal management area. Policy 1 sets out a zonal approach for the application of rules in the coastal marine area. The coastal marine area has been divided into five coastal management areas based upon shared values, characteristics, uses, vulnerability or sensitivity, and different management needs. The zones allow rules to ‘bundle’ compatible activities or effects of these activities together and restrict activities or effects which are incompatible. The coastal management areas enable some activities, and restrict other activities. As noted in Policy 1(a), (b) and (c) the listed matters refer to attributes and values characteristic of the area. There is no value in identifying values and attributes (already recognised and provided for by policies elsewhere) and which can occur anywhere in the coastal marine area.</p> | <p>Evidence Address in conjunction with evidence re Section 1.7.</p> |
| <p>The Oil Companies (46-238)</p> | <p>Support in part Policy 2(f)</p> | <p>Amend Policy 2(f) of the Plan, as follows:</p> <p><i>Provide for the integrated management of the coastal environment by: [...]</i></p> <p><i>(f) managing natural and physical—coastal resource in a manner that has regard to the social, economic and cultural objectives and well-being of the community and the functional need and/or location constraints of nationally or regionally important infrastructure, and [...]</i></p> | <p>ACCEPT</p> <p>Officers agree with the submitter that reference to “functional need” provides more clarity to Plan users noting that this has been defined in the Plan. Further to this, the Plan also defines “operational needs: which encompasses locational constraints which is recommended to be included following functional needs in Policy 2(f). Policy 2(f) would read as follows:</p> <p>(f) managing natural and physical resources in a manner that recognises and provides for the social, economic and cultural objectives and well-being of the community and the functional needs and/or operational needs of regionally important infrastructure, and industry [...]</p> | <p>Accept the s42A recommendation.</p> |
| <p>The Oil Companies (46-252)</p> | <p>Support Policy 3</p> | <p>Retain Policy 3 of the Plan as notified.</p> | <p>ACCEPT</p> <p>Policy 3 is retained subject to minor amendments.</p> <p>Policy 3: Precautionary approach Adopt a precautionary approach, which may include using an adaptive management approach, where the effects of any activity on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse.</p> | <p>Accept the s42A recommendation.</p> |
| <p>The Oil Companies (46-264)</p> | <p>Oppose Policy 4</p> | <p>Delete Policy 4 as currently worded and replacing it with comprehensive mapping of the coastal environment (not just the coastal marine area).</p> | <p>GRANT IN KIND</p> <p>The reader is referred to the Department of Conservation’s guidance on the <i>New Zealand Coastal Policy Statement</i>. The guidance notes that the term ‘coastal environment’ is an environment in which the coast is a significant part or element, However, the guidance notes the difficulties in setting out an abstract definition which is capable of simple and ready application to any given</p> | <p>Accept the s42A recommendation.</p> |

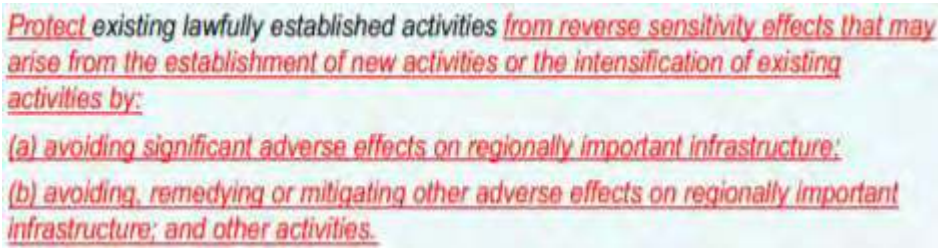
Appendix 2: Staff Recommendations on the Submissions and Further Submissions of the Oil Companies on Proposed Coastal Plan for Taranaki

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| | | | <p>situation. What constitutes the coastal environment will vary from place to place and according to the position from which a place is viewed.</p> <p>Officers do not recommend amending Policy 4(a) in the manner suggested by the submitter but do agree with amending the Plan to provide more certainty in relation to where the coastal environment lies. It is recommended that the Plan (and associated GIS layers and planning maps) be amended to include an indicative extent of the coastal environment that is aligned with the coastal environment lines (or their equivalent) identified in the South Taranaki and New Plymouth district plans.</p> <p>The revised Policy would read as follows</p> <p>Determine the inland extent of the coastal environment for the purposes of policies under Section 5.1 of the Plan by:</p> <ul style="list-style-type: none"> (a) having particular regard to areas identified in a district plan or proposed district plan as being the coastal environment or equivalent (map link); and (b) on a case by case, basis, recognising: <ul style="list-style-type: none"> (i) areas landward of the coastal environment line where coastal processes, influences or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetland and the margins of these areas; and (ii) the geographic extent to which activities within the coastal marine area may cause adverse effects on significant values and characteristics landward of the coastal marine area | |
| SECTION 5.1.2 – USE AND DEVELOPMENT OF RESOURCES (POLICIES) | | | | |
| <p>Trans-Tasman Resources Ltd (6-265)</p> | <p>Supported by the Oil Companies</p> <p>Policies 5(b), (e), (f) and (g) Amend as follows:</p> <p>(b) the benefits to be derived from the activity at a local, regional and national level, including the potential contribution of aquaculture and marine based renewable energy or mineral resources.</p> <p>(e) the degree to which the activity will be threatened by, or contribute to, coastal hazard risk, or pose a threat to public health and safety <u>risks</u> with particular reference to Policy 20;</p> <p>(f) the degree to which the activity contributes to the <u>maintenance</u> enhancement or restoration of natural or historic heritage including by buffering areas and sites of historical heritage value;</p> | <p>The Oil companies supports the submission. The relief proposed by the submitter improves the clarity of the policy and is consistent with the requirements of the RMA in relation to alternatives and the BPO.</p> | <p>Officers consider the inclusion of “renewable energy” within Policy 5(b) to be in line with the requirements of Policy 6(1)(g) [Activities in the coastal environment] of the New Zealand Coastal Policy Statement to take into account the potential for renewable resources.</p> <p>However, officers consider the addition of mineral resources within the Policy to be in line with Policy 6(2)(a) of the New Zealand Coastal Policy Statement whereby contributions to social, economic and cultural wellbeing of people and communities from use and development, including (but not limited to) the potential for renewable marine energy are recognised. Therefore, officers recommend granting the relief in part whereby the scope of Policy 5(b) is broadened to explicitly recognise mineral resources alongside aquaculture, renewable energy and other marine based energy plus other consequential changes to the Policy as requested by other submitters</p> | <p>Accept the s42A recommendation.</p> |

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| | <p>(g) the degree to which the activity contributes to the <u>maintenance, enhancement or restoration of public access or public use of the coast including for recreation;</u> [...]</p> | | <p>(b) the benefits to be derived from the other activities at a local, regional and national level, including <u>the existing and potential contribution of petroleum and mineral resources</u>, and the potential contribution of aquaculture, and renewable energy resources; ⁽¹⁶⁾⁽¹⁷⁾</p> <p>(c) the appropriateness of the proposed design, methodology, <u>whether it is the best practicable option</u>, location or route of the activity in the context of the receiving environment and any possible alternatives, <u>including best practicable options for preventing or minimising adverse effects on the environment;</u> ⁽¹⁸⁾</p> <p>(d) the degree to which the activity will recognise and provide for the relationships, uses and practices of Māori and their culture and traditions with their lands, water, sites, wāhi tapu, and other taonga in the coastal environment such as mahinga kai, tauranga waka (canoe landing sites), nga toka (rocks) and tauranga ika (fishing grounds);</p> <p>(e) the degree to which the activity will be <u>threatened by, or contribute to, subject to unacceptable risks or exacerbate</u> ⁽¹⁹⁾ coastal hazard, risk, or pose a threat to public health and safety with particular reference to Policy 20;</p> <p>(f) the degree to which the activity contributes to the <u>maintenance,</u> ⁽²⁰⁾ enhancement or restoration of natural or historic heritage including by buffering areas and sites of historical heritage value;</p> <p>(g) the degree to which the activity contributes to the <u>maintenance,</u> ⁽²¹⁾ enhancement or restoration of <u>appropriate</u> ⁽²²⁾ public access or public use of the coast including for recreation;</p> | |
| <p>Port Taranaki (32-276)</p> | <p>Supported by the Oil Companies</p> <p>Policy 5(g) Amend as follows: (g) the degree to which the activity contributes to the enhancement or restoration of public access or public use of the coast including for recreation or restoration of public access or public use of the coast including for recreation, <u>unless the type of activity, and the need to maintain public safety, makes enhancement or restoration of public access inappropriate;</u> [...]</p> | <p>The Oil Companies support the submission. The Oil Companies activities at the Port include the storage and use of petroleum products. These products are hazardous substances and unfettered access is not appropriate. This is appropriately recognised in the proposed amendment to clause (g) sought by the submitter.</p> | <p>Officers note that Policy 5 contains a suite of considerations and must be read in conjunction with the other General Policies and relevant Activity-specific Policies. Policy 5(e) already addresses public health and safety risks while Policy 17 [Public access] sets out circumstances where public access would not be appropriate. Accordingly, Officers do not believe it necessary or appropriate to paraphrase other Plan provisions. Indeed there are risks in creating legal uncertainty in doing so.</p> <p>Officers recommend alternative relief whereby Policy 5(g) is amended to refer to “appropriate” public access or use. Policy 17 would then apply and provides the guidance and direction on what constitutes appropriate public access and use in the coastal environment.</p> <p>Policy 5: Appropriate use and development of the coastal environment Determine whether <u>subdivision and use and development of the coastal environment is in an appropriate place-location</u> and form, and within appropriate limits, by having regard to: [...] (g) the degree to which the activity contributes to the <u>maintenance,</u> enhancement or restoration of <u>appropriate</u> public access or public use of the coast including for recreation.</p> | <p>Accept s42A recommendation.</p> |
| <p>Radio New Zealand Ltd (35-277)</p> | <p>Supported by the Oil Companies</p> <p>Policy 5(a) Amend Policy 5(a) of the Plan as follows: (a) the functional need for the activity to be located in the coastal marine area <u>or the coastal environment.</u> Conversely, activities that do not have a functional need to be located in the coastal</p> | <p>The Oil Companies support the submission, in part. The Oil Companies similarly seeks that functional need applies to both the CMA and Coastal Environment and seeks to ensure that the policy does not narrow the definition of functional need sought in its submission.</p> | <p>Officers recommend declining the relief sought by the submitter.</p> <p>Officers note that Policy 5(a) is deliberately confined to activities being located in the coastal marine area because they have a functional need or operational need. This reflects the coastal marine area being a public space. Officers do not believe that such restrictions are necessary or appropriate on the landward part of the coastal environment.</p> | <p>Accept the s42A recommendation.</p> |

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| | <i>marine area or the coastal environment generally should not be located there [...]</i> | | | |
| The Oil Companies (46-284) | Support in part Policy 5(a), (c) and (e) | Amend Policy 5(a), (c) and (e) of the Plan to read: <i>Determine whether use and development of the coastal environment is in an appropriate place and form, and within appropriate limits, by having regard to:</i> <i>(a) the functional need for the activity to be located in the coastal marine area. Conversley a Activities that do not have a functional need to be located in the coastal marine area generally should not be located there (unless the non-marine related activity complements the indeed use and function of the area).</i> [...] <i>(c) the appropriateness of the proposed design and methodology, and whether it is the best practicable option, location or route of the activity in the context of the receiving environment and any possible alternatives;</i> [...] <i>(e) the degree to which the activity will be threatened by, or contribute to, subject to unacceptable risks or exacerbate adverse effect arising from coastal hazards risk, or pose a threat to public health and safety with particular reference to Policy 20;</i> [...] | ACCEPT IN PART Officers recommend amending Policy 5(a) as sought by the submitter but recommend alternative relief to that proposed with additional changes made to clauses (c) and (e) in response to other submitters and to reflect that often little can be done to control the coastal hazard risk. Policy 5: Appropriate use and development of the coastal environment <i>Determine whether subdivision and use and development of the coastal environment is in an appropriate place-location and form, and within appropriate limits, by having regard to:</i> [...] <i>(c) the appropriateness of the proposed design, methodology, location or route of the activity in the context of the receiving environment and any possible alternatives, including best practicable options for preventing or minimising adverse effect on the environment [...]</i> <i>(e) the degree to which the activity will be subject to unacceptable risks or exacerbated coastal hazards risks, or public health and safety with particular reference to Policy 20;</i> [...] | Accept the s42A recommendation. |
| The Oil Companies (46-307) | Support in part Policy 6 | Amend Policy 6 of the Plan, as follows: <i>Recognise and provide for the safe and efficient operation of new and existing infrastructure of regional importance or of significance to the social, economic and cultural well-being of people and communities in Taranaki, subject to appropriate management of adverse environmental effects.</i> | ACCEPT Accept the amendment to Policy 6 to provide for the safe and efficient operation of infrastructure. Policy 6: Benefits of regionally important infrastructure <i>Recognise the benefits of new and existing regionally important infrastructure to the social, economic and cultural well-being of people and communities in Taranaki, and provide for the safe and efficient operation of regionally important infrastructure subject to appropriate avoidance, remediation or mitigation of adverse environmental effects.</i> | Accept the s42A recommendation. |
| The Oil Companies (46-319) | Oppose Policy 7 | Amend Policy 7, as follows: <i>Avoid remedy or mitigate the adverse effects of activities, including reverse sensitivity impacts, on existing lawfully established activities. Restricting the establishment or intensification of activities that may result in reverse sensitivity effects by:</i> <i>(a) avoiding significant adverse effects on infrastructure of national or regional importance;</i> <i>(b) avoiding, remedying or mitigating other adverse effects on infrastructure of national or regional importance;</i> <i>(c) avoiding, remedying or mitigating adverse effects on other activities</i> | ACCEPT Officers agree to amend Policy 7 in line with the relief sought by the submitter (noting some minor changes are made to align the reading of the policy with other policies in the Plan).  | Clarification Clause (b) would be more clearly split into two clauses for clarity, rather than by a semi colon. |
| SECTION 5.1.3 – NATURAL FORM AND FUNCTIONING (POLICIES) | | | | |

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| Federated Farmers (2-322) | Supported, in part by the Oil Companies Policy 8 Amend as follows: [...] (a) avoiding adverse effects of activities on the values and characteristics identified in Schedule 2 that contribute to areas: (i) having outstanding natural character, and/or (ii) being outstanding natural features and landscape; within or adjoining coastal management area – Outstanding Values; and (b) maintaining significant seascapes and visual corridors associated with outstanding natural features and landscapes, including views from within the landscapes or features, and views of the landscapes and features. | <i>The Oil Companies support the submission, in part. The changes sought provide improved clarity with regard to the effect of the policy on areas in proximity to scheduled areas of outstanding value. While it is recognised and accepted that the Coastal Plan has effect over both the CMA and the coastal environment, the extent to which the Policy applies should be clearly and appropriately identified, and activities adjacent to such areas should not be unnecessarily constrained or subject to more than one regulatory approach (eg: regional and district), unless those approaches clearly have different intent.</i> <i>This is particularly relevant to the Oil Companies' Omata Terminal which is regionally significant infrastructure in close proximity to areas of Outstanding Value. For instance the terminal is clearly visible from Paritutu Rock. As drafted, clause (b) of Policy 8 could unreasonably restrict further development at the terminal.</i> | <i>Officers recommend declining the relief sought.</i> <i>Officers note that activities undertaken adjoining Outstanding Value areas can, over time, adversely affect the values associated with an outstanding area. Seascapes and visual corridors are important values associated with natural features and landscapes and therefore require protection as per Policy 15 of the New Zealand Coastal Policy Statement. Accordingly, for the purposes of integrated coastal management, it would be inappropriate to exclude consideration of the wider landscape and would derogate from Council's efforts seeking to give effect to Policies 13 and 15 of the New Zealand Coastal Policy Statement.</i> | Accept the recommendation |
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| Trans-Tasman Resources Ltd (6-323) | Supported by the Oil Companies Policy 8 Amend to read: Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 1 from inappropriate use and development by: (a) avoiding adverse effects of activities (other than minor or transitory effects) on the values and characteristics identified in Schedule 2 that contribute to areas: [...] | <i>The Oil Companies support the submission. The principle of introducing wording to specifically recognise that it may be appropriate to allow minor or transitory effects is in keeping with case law and is supported.</i> | <i>Officers agree that minor or transitory effects are not necessarily required to be avoided within Policy 8. In the recent King Salmon case law, the Supreme Court ruled that avoidance policies do not necessarily rule out minor and transitory effects.</i> <i>Notwithstanding that, officers do not consider it necessary to include explicit recognition of this within Plan policies. Indeed there are risks in doing so. Officers believe that it is more appropriate for the interpretation of Plan policies to rely on case law when determining the extent of effects which are necessary to be avoided. The current wording reflects the wording of the New Zealand Coastal Policy Statement and will ensure that any evolution of case law can be taken into consideration during the consenting process.</i> | Evidence Clarity re policy hierarchy, especially given directiveness of policies like Policy 8. The Plan should say what it means to ensure that case law does not significantly alter the direction in the PCP. |
| The Oil | Support | Seek that the Council revisit mapping of areas of outstanding | DECLINE | |

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| Companies (46-330) | Policy 8 | <p>natural features and landscapes</p> <p>OR</p> <p>Amend Policy 8, as follows:</p> <p><i>(c) recognising the need to provide for the ongoing operation, maintenance, and upgrade of existing infrastructure.</i></p> | <p>Officers recommend declining the relief sought by the submitter. Of note, the Council has worked closely with the New Plymouth and South Taranaki district councils in identifying and mapping coastal areas of outstanding natural character and outstanding natural features and landscapes and there is alignment between the plans in relation to the areas identified. Mapping was appropriately based on values and attributes of the area rather than the presence (or otherwise) of particular use and development.</p> <p>In relation to the alternative relief of amending Policy 8, officers do not believe any relief is necessary. Officers note all General Policies must be read together. Policies 5, 6 and 7 already recognise the need to provide for the ongoing operation, maintenance, and upgrade of existing infrastructure.</p> | |
| The Oil Companies (46-345) | Support in part Policy 9 | <p>Revisit whether regionally important infrastructure falls within areas of natural character and natural features and landscapes,</p> <p>OR</p> <p>Amend Policy 9, as follows:</p> <p><i>Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 1 from inappropriate use and development by:</i></p> <p><i>(a) avoiding significant adverse effects, and avoiding, remedying or mitigating other adverse effects on natural character and natural features and landscapes by having regard to the extent to which the activity:</i></p> <p><i>[...]</i></p> <p><i>(ix) is necessary to provide for the safe and efficient operation, maintenance, upgrade and development of regionally important infrastructure.</i></p> | <p>DECLINE</p> <p>Officers do not believe the requested amendment is necessary. Of note, the Council has worked closely with the New Plymouth and South Taranaki district councils in identifying, mapping and describing natural character, features and landscapes along the Taranaki coastline. Much of this work was addressed in a separate report <i>Regional Landscape Study of the Taranaki Coastal Environment</i>, which was prepared and consulted on as part of the Coastal Plan review. Officers do not believe it is necessary to revisit this work. Mapping was appropriately based on values and attributes of the area rather than the presence (or otherwise) of particular use and development.</p> <p>In relation to the alternative relief of amending Policy 9, officers do not believe any relief is necessary. Officers note all General Policies must be read together. Policies 5, 6 and 7 already recognise the need to provide for the ongoing operation, maintenance, and upgrade of existing infrastructure.</p> | Accept the recommendation |
| Royal Forest and Bird Protection Society (43-348) | Opposed, in part by the Oil Companies New Policies that: - determines/identifies areas outstanding Natural Character - to preserve areas of High Natural Character - for other natural character in all areas of the coastal environment - to provide a basis for determining outstanding natural features and landscapes - other natural features and landscapes in all areas of the coastal environment | <i>The Oil Companies oppose the submission, in part. The Oil Companies are not necessarily opposed to the intent of the relief sought by the submitter but reserve judgement pending specific wording of the amendments.</i> | <p><i>Officers do not believe the requested amendment is necessary. Of note, the Council has worked closely with the New Plymouth and South Taranaki district councils in identifying, mapping and describing natural character, features and landscapes along the Taranaki coastline. Much of this work was addressed in a separate report Regional Landscape Study of the Taranaki Coastal Environment, which was prepared and consulted on as part of the Coastal Plan review. It was this work, which was used for determining and identifying outstanding natural features and landscapes but also examined natural character across the entirety of the Taranaki coastline.</i></p> <p><i>Officers further note that the Plan already contains policies addressing the protection of natural character, features and landscapes (Policies 8, 9 and 10) and do not believe additional policies are necessary or appropriate. All General Policies apply to any use and development activities in the coastal marine area and must be read together.</i></p> | Accept the s42A recommendation. |
| The Oil Companies (46-352) | Support Policy 10 | Retain Policy 10 of the Plan as notified. | ACCEPT Supported noted. Policy 10 is retained as notified. | Accept the s42A recommendation. |

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| | | | <p>Policy 10: Restoration of natural character Promote the restoration of natural character of the coastal environment particularly in relation to dunes, estuaries, coastal wetlands, coastal indigenous vegetation cover and habitats, ecological corridors, coastal water quality, and land stability where human induced soil or coastal erosion is an issue.</p> | |
| The Oil Companies (46-358) | Support Policy 11 | Retain Policy 11 of the Plan as notified. | <p>ACCEPT Supported noted. Policy 11 is retained subject to minor amendments”</p> <p>Policy 11: Coastal water quality Maintain <u>coastal water quality where it is good</u> ⁽⁴⁷⁾ and or ⁽⁶⁾ enhance coastal water quality <u>where it is degraded</u> ⁽⁴⁷⁾ by avoiding, remedying and mitigating the adverse effects of activities on:</p> <p>(a) the life-supporting capacity of coastal water; (b) the mauri and wairua of coastal water; (c) the integrity and functioning of natural coastal processes; and (d) the ability of coastal water to provide for existing and anticipated future use by the community.</p> | Accept the s42A recommendation. |
| Royal Forest and Bird Protection Society (43-364) | Oppose in part Policy 11A [Proposed Policy] The new policy would set water quality targets and standards for freshwater and coastal water in the coastal environment to ensure that upstream water quality does not result in adverse effects in the coastal environment. | <i>The Oil Companies oppose the submission, in part. The Oil Companies are not necessarily opposed to the intent of the relief sought by the submitter but reserve judgement pending specific wording of the amendments. Further, the setting of water quality standards and targets is a matter that should be properly justified and debated, and may need to be introduced by way of variation.</i> | <i>The submitter does not specify what attributes and numerics would be acceptable for coastal water quality and marine health. Officers have concerns that the adoption of standardised and universal water quality targets and standards would have a perverse outcome in that such targets are likely to be too high or too low depending upon uses and values in the locality. Such matters are best dealt with through the consenting process where the type, scale and significance of the activity and the vulnerability and sensitivities of the receiving environment (including cultural interests), and an appropriate mixing zone may be considered on a case-by-case basis. The Council’s approach involves taking into account recognised national/international guideline values as appropriate. Officers note Taranaki only has seven major municipal and/or industrial discharges to the coastal marine area and that coastal water quality is generally good. In localities where that is not the case, a new Policy 12 has been included in the Plan seeking the restoration of local coastal water quality.</i> | Accept the s42A recommendation. |
| The Oil Companies (46-366) | Support Policy 12 | Retain Policy 12 of the Plan as notified. | <p>ACCEPT Supported noted. Policy 12 is retained subject to minor amendments</p> <p>Policy 12: Restoration of coastal water quality Promote the restoration of coastal water quality where deterioration degradation is having a significant adverse effect on ecosystems, natural habitats or water based recreational activities, or is restricting existing uses such as shellfish gathering and cultural activities, as identified in Schedule 3.</p> | Accept the s42A recommendation. |
| The Oil Companies (46-369) | Support Policy 13 | Retain Policy 13 of the Plan as notified. | <p>ACCEPT Supported noted. Policy 13 is retained subject to amendments made to offer relief to other submitters’ concerns where appropriate.</p> <p>Policy 13: Coastal air quality Maintain and enhance coastal air quality by avoiding, remedying and mitigating the adverse effects of activities on the life-supporting capacity of coastal air.</p> | Accept the s42A recommendation. |
| SECTION 5.1.3A – INDIGENOUS BIODIVERSITY (POLICIES) | | | | |
| The Oil Companies (46-384) | Support in part Policy 14 | It is unclear how clause (a) (avoiding adverse effect of activities on: [...]) and clause (b) (avoiding significant adverse effects and avoiding, remedying and mitigating other adverse effects of activities on: [...]) will be achieved to give effect to the New Zealand Coastal Policy Statement. | <p>NO RELIEF NECESSARY Comments noted. Officers note that all the General Policies (and relevant Activity specific Policies) need to be read together, which includes considering Policies 5 [Use and development] and 6 [Regionally important infrastructure] of the Plan alongside biodiversity considerations set out in Policy 14.</p> | Accept the s42A recommendation. |

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| SECTION 5.1.3B – HISTORIC HERITAGE (POLICIES) | | | | |
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| The Oil Companies (46-395) | Support Policy 15 | Retain Policy 15 of the Plan as notified. | <p>ACCEPT Supported noted. Policy 15 is retained subject to minor amendments</p> <p>Policy 15: Historic heritage Protect historic heritage in the coastal environment from inappropriate subdivision use and development by:</p> <ul style="list-style-type: none"> (a) avoiding adverse effects on the values associated with Category A archaeological sites of significance and historic areas identified in Schedule 5A; (b) avoiding significant adverse effects, and avoiding, remedying and mitigating other adverse effects on the values associated with sites of significance to Māori identified in Schedules 5A and 5B; (c) avoiding, remedying or mitigating adverse effects on the values associated with all other historic heritage sites, including those identified in Schedule 5 and those identified by New Zealand Archaeological Association’s ArchSite (Archaeological Site Recording Scheme); (d) when assessing adverse effects on historic heritage, giving regard to the extent of effects, including consideration of: <ul style="list-style-type: none"> (i) the association of the site with other interrelated, but not necessarily contiguous, historic heritage sites and their collective significance in the context of historic landscapes and areas; (ii) the degree to which historic heritage values will be lost, damaged, destroyed, or enhanced; the nature, location, extent, design and appearance of the proposed development and the effects of these factors on historic heritage values; (iii) the classification given to the historic heritage, as set out in Schedule 5A and the reasons for which it has been scheduled; (iv) the extent to which the historic heritage has been damaged by natural events, weather, or environmental factors and any subsequent risk to public safety; (v) the importance (if any) of land surrounding the historic heritage; the degree of compliance with Heritage New Zealand’s Pohere Taonga Archaeological requirements; (vi) any investigation and documentation of the site to provide a historical record; and (vii) the outcome of any consultation with any relevant body or individual, such as Heritage New Zealand Pohere Taonga, the Department of Conservation, or local iwi and/or hapū; and (e) allowing the maintenance, repair or restoration of identified historic heritage where it is based on a clear understanding of the heritage values of the place, and undertaken in accordance with good practice conservation principles and methods. | Accept the s42A recommendation. |
| SECTION 5.1.4 – PUBLIC USE AND ENJOYMENT (POLICIES) | | | | |
| The Oil Companies (46-427) | Support Policy 17 | Retain Policy 17 of the Plan as notified. | <p>ACCEPT Supported noted. Policy 17 is retained subject to amendments made to offer relief to other submitters’ concerns where appropriate.</p> <p>Recommendation: Policy 17: Public access Maintain and enhance public access to, along and adjacent to the coastal environment marine area by:</p> <ul style="list-style-type: none"> (a) avoiding, remedying or mitigating any adverse effects of activities on public access; (b) promoting the enhancement or restoration of public access, where a demand exists, including for the connection of areas of public open space, access to mahinga kai, | Accept the s42A recommendation. |

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| | | | <p>access to sites of historical and/or cultural importance, improving outdoor recreation opportunities, access to surf breaks and providing access for people with disabilities; and</p> <p>(c) only imposing a restriction on public access, including vehicles, where such a restriction is necessary to:</p> <ul style="list-style-type: none"> (i) protect significant natural or historic heritage values; (ii) protect dunes, estuaries and other sensitive natural areas or habitats; (iii) protect sites and activities of cultural value to Māori; (iv) protect threatened or at risk indigenous species and rare and uncommon ecosystem types as identified in Schedule 4A; (v) protect public health or safety, including where the safety of other coastal or beach users is threatened by inappropriate use of vehicles on beaches and vessels offshore; (vi) provide for defence purposes in accordance with the <i>Defence Act 1990</i> or port or airport purposes; (vii) avoid or reduce conflict between public uses of the coastal marine area and its margins; (viii) provide for temporary activities or special events; (ix) ensure a level of security <u>for lawfully established activities</u> consistent with the activity, including protection of equipment; or (x) provide for other exceptional circumstances where restriction to public access is justifiable; <p>and alternative access routes for the public have been considered and provided where practicable.</p> | |
| The Oil Companies (46-441) | Support Policy 18 | Retain Policy 18 of the Plan as notified. | <p>ACCEPT Support noted. Policy 18 is retained subject to amendments made to offer relief to other submitters' concerns where appropriate.</p> <p>Policy 18: Amenity values Maintain and enhance significant amenity values by avoiding, remedying or mitigating adverse effects on <u>those qualities and characteristics that contribute to amenity values in:</u></p> <ul style="list-style-type: none"> (a) coastal areas of outstanding value identified in Schedules <u>1 and 2</u>; (b) coastal sites with significant amenity values identified in Schedule 6 including: <ul style="list-style-type: none"> (i) beaches; (ii) reefs; and (iii) estuaries and river mouths; (c) surf breaks identified in Schedule 7; and (d) <u>coastal sites with significant indigenous biodiversity identified in Schedule 4, taonga species identified in Schedule 4CC, or historic heritage sites including those identified in Schedule 5A and B and Appendix 2</u> (e) <u>other areas of the coastal environment with significant amenity values not identified in the Schedules referred to in (a), (b), (c) and (d).</u> | Accept the s42A recommendation. |
| SECTION 5.1.5 – COASTAL HAZARDS AND PUBLIC HEALTH AND SAFETY (POLICIES) | | | | |
| Trans-Tasman Resources Ltd (6-457) | Support in part by the Oil Companies Policy 20 Amend as follows: Avoid increasing the risk of social, environmental and economic harm from coastal hazards or posing a threat and avoid | <i>The Oil Companies support the submission, in part. The Oil Companies support the intent of the submission insofar as a threat does not equate to a risk, and is an unnecessarily low threshold, however, in line with its own submissions, the Oil Companies also seek to ensure that the policy does not exclude any increase in risk.</i> | <p>ACCEPT Officers agree and recommend amending Policy 20.</p> <p><i>Recommendation:</i> Policy 20: Avoidance of increasing coastal hazard or public safety risks Avoid increasing the risk of social, environmental and economic harm from coastal hazards or posing a threat and avoid increased risks to public health and safety, or aircraft or navigation safety including by: [...]</p> | Evidence In conjunction with 46-460 below. |

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| | <i>increased risks to public health and safety, or aircraft or navigation safety including by: [...]</i> | | | |
| The Oil Companies (46-460) | Support in part Policy 20 | Amend Policy 20, as follows: <i>Avoid unacceptable increases in the risk of social, environmental and economic harm from coastal hazards or posing a threat to public health and safety, or aircraft or navigation safety including by [...]</i> | GRANT IN KIND The submitter's concern that the Policy might be interpreted to "excluding any increase in [natural hazard] risk" is noted. However, officers note that the current Policy is aligned with Policy 25(a) of the New Zealand Coastal Policy Statement and the use of the term "unacceptable" would be ambiguous thereby reducing the certainty and clarity to those applying the policy. To address the submitter's concerns an alternative relief is proposed (based upon a relief sought by another submitter) that amends Policy 20 to read as follows: Policy 20: Avoidance of increasing coastal hazard or public safety risks <i>Avoid increasing the risk of social, environmental and economic harm from coastal hazards or posing a threat and avoid increased risks to public health and safety, or aircraft or navigation safety including by: [...]</i> | Evidence Inconsistent with approach elsewhere. Focus should be on avoiding unacceptable risk. All development at the port for instance will increase risk to some extent. |
| SECTION 5.2.1 – DISCHARGES TO THE COASTAL MARINE AREA (POLICIES) | | | | |
| The Oil Companies (46-471) | Support in part Policy 22 | Amend Policy 22, as follows: <i>Discharges of water or contaminants to water in the coastal marine area will:</i> (a) be of an acceptable quality with regard to: (i) the sensitivity of the receiving environment; (ii) the nature and concentration of the contaminants to be discharged and the efficacy of waste contaminant reduction, treatment and disposal measures [...] | ACCEPT IN PART The submitter wishes to amend the policy to provide greater clarity for Plan users regarding Policy 22(a)(ii). Officers agree that there is no need to focus on "waste" when referring to reduction, treatment and disposal measures in the Policy and recommend an alternative relief that deletes the term. The revised Policy 22(a)(ii) would read as follows: (ii) the nature and concentration of the contaminants to be discharged and the efficacy of reduction, treatment and disposal measures; [...] | Accept the s42A recommendation. |
| The Oil Companies (46-502) | Support Policy 27 | Retain Policy 27 of the Plan as notified. | ACCEPT Support noted. Policy 27 is retained subject to minor amendments | Accept the s42A recommendation. |

Appendix 2: Staff Recommendations on the Submissions and Further Submissions of the Oil Companies on Proposed Coastal Plan for Taranaki

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| | | | <p>Policy 27: Discharge of stormwater Discharges of stormwater to the coastal marine area must ^{(47) (48) (58)} be appropriately managed by:</p> <p>(a) adequate consideration of:</p> <ul style="list-style-type: none"> (i) the nature of the activities undertaken, and substances stored or used, within the contributing catchment; (ii) the use of source controls to avoid the contamination of stormwater; (iii) the use of measures (which may include) ^{(47) (58)} treatment to prevent or minimise contamination of the receiving environment; (iiiA) the location of the discharge in relation to avoiding, remedying or mitigating any adverse environmental effects; ^{(48) (49) (52)} (iv) the use of design options to reduce the overall volume of stormwater requiring disposal to the coastal marine area, including discharging into or onto land; and (v) integrated management of whole stormwater catchments and stormwater networks where appropriate; <p>(b) avoiding, where practicable, and otherwise remedying cross contamination of sewage and stormwater systems; and</p> <p>(c) ensuring discharge rates and volumes, and outlet structures are designed and managed to avoid, remedy or mitigate erosion and scour; and</p> <p>(d) the adoption of the best practicable option for the treatment and discharge of stormwater to the coastal marine area to minimise adverse effects; ⁽⁴⁷⁾</p> | |
| The Oil Companies (46-521) | Support Policy 30 | Retain Policy 30 of the Plan as notified. | <p>ACCEPT Support noted. Policy 30 is retained as notified.</p> <p>Policy 30: Discharge of contaminants to air Discharges of contaminants to air in the coastal marine area must:</p> <ul style="list-style-type: none"> (a) not occur at a volume, concentration or rate, or in such a manner that causes or is likely to cause a hazardous, noxious, dangerous, toxic, offensive or objectionable effect on the environment including human or animal health or the significant restriction of visibility or soiling of property; (b) not cause odours that are offensive or objectionable to people on private property or public places of assembly or on their use and enjoyment of the coast; and (c) adopt the best practicable option to prevent or minimise adverse effects on the environment by giving consideration to the following: <ul style="list-style-type: none"> (i) the nature of the discharge; (ii) the sensitivity of the receiving environment; (iii) the capital, operating and maintenance costs of relative technical options to reduce the effects of the discharge, the effectiveness and reliability of each option, and the relative benefits to the receiving environment offered by each option; and (iv) the weighting of costs in proportion to any benefits to the receiving environment offered by each option. | Accept the s42A recommendation. |
| SECTION 5.2.2 – COASTAL STRUCTURES AND OCCUPATION OF SPACE IN THE COASTAL MARINE AREA (POLICIES) | | | | |
| The Oil Companies (46-529) | Support Policy 31 | Retain Policy 31 of the Plan as notified. | <p>ACCEPT Support noted. Policy 31 is retained subject to minor amendments</p> <p>Policy 31: Structures that support safe public access and use, or public or environmental benefit Allow structures in appropriate locations will be allowed for, subject to the appropriate management of adverse effects, where the structure is to provide for:</p> | Accept s42A recommendation. |

Appendix 2: Staff Recommendations on the Submissions and Further Submissions of the Oil Companies on Proposed Coastal Plan for Taranaki

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| | | | <ul style="list-style-type: none"> (a) public access and use of the coastal marine area, including for traditional uses and cultural or recreational activities (excluding whitebait stands); (b) public health and safety, including navigational aids; (c) scientific or educational study or research; (d) and the efficient operation of nationally and regionally important infrastructure. | |
| The Oil Companies (46-542) | Support Policy 32 | Retain Policy 32 of the Plan as notified. | <p>ACCEPT Support noted. Policy 32 is retained subject to minor amendments.</p> <p>Policy 32: Placement of structures Structures placed in the coastal marine area:</p> <ul style="list-style-type: none"> (a) must generally be limited to those that have a functional need <u>or operational need</u> to be located in the coastal marine area and that do not cause duplication of a function for which existing structures or facilities are adequate; (b) must not be located in Parininihi Marine Reserve, Ngā Motu/Sugar Loaf Islands Marine Protected Area and Tapuae Marine Reserve identified in Schedule 1 apart from boundary marker buoys or temporary structures associated with scientific or educational study or research; (c) should be placed in an appropriate location with consideration given to the sensitivity of the environment; (d) must be designed, located and managed so as to avoid, remedy or mitigate: <ul style="list-style-type: none"> (i) any increase in coastal hazard risk including increased rates of erosion or accretion; (ii) settlement or loss of foundation material; (iii) movement or dislodgement of individual structural elements; and (iv) adverse effects on the environment and associated uses and values, including cumulative effects; (e) should be made available for public or multiple use where it will not conflict with operational or safety requirements; and (f) where appropriate, should be made of, or finished with, materials that are visually and aesthetically compatible with <u>minimise effects on the natural character and visual amenity of</u> the adjoining coast. | Accept the s42A recommendation. |
| The Oil Companies (46-557) | Support Policy 36 | Retain Policy 36 of the Plan as notified. | <p>ACCEPT Support noted. Policy 36 is retained subject to minor amendments.</p> <p>Policy 36: Maintenance, repair, replacement and minor alteration or minor extension of existing structures Maintenance, repair, replacement and minor alteration or minor extension of existing lawful structures and reclamations will be allowed in order to:</p> <ul style="list-style-type: none"> (a) <u>in order to:</u> <ul style="list-style-type: none"> (i) enable compliance with applicable standards and codes; (ii) ensure structural integrity; (iii) maintain or improve efficiency; or (iv) address health and safety or navigational safety issues; <u>and</u> (b) <u>where it does not increase the scale or significance of the adverse effects of the activity or structure;</u> <u>subject</u> to the appropriate management of adverse effects. | Accept the s42A recommendation. |
| The Oil Companies (46-565) | Support in part Policy 37 | Amend Policy 37 of the Plan, as follows: Major alteration or extension of existing lawful structures, including major alterations or extensions, will be allowed in locations where the activity will not have significant adverse effects on other uses and values and will [...] | <p>DECLINE The submitter wishes to extend the scope of the policy to cover all alterations or extensions of structures in the coastal marine area, not just major alterations or extensions. Officers recommends declining the relief sought. Officers consider that the current wording is appropriate as it provides for two types of alterations or extension. These being minor alterations and extensions that are managed through Policy 36 as a Permitted Activity. Other alteration or extension activities are addressed under Policy 37 will generally require a consent. Officers prefer to keep this distinction</p> | Accept the recommendation |

Appendix 2: Staff Recommendations on the Submissions and Further Submissions of the Oil Companies on Proposed Coastal Plan for Taranaki

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| | | | simple for Plan users as notified. | |
| The Oil Companies (46-577) | Support Policy 38 | Retain Policy 38 of the Plan as notified. | <p>ACCEPT Support noted. Policy 38 is retained subject to minor amendments.</p> <p>Policy 38: Removal of coastal structures Decommissioning and removal of any new structure will <u>must</u> be considered planned for as part of the initial design and installation and removal will generally be required. Structures will be removed from the coastal marine area at the expiry of their authorisations or at the end of their useful lives, unless When assessing the appropriateness of allowing a structure, a part of a structure, or material associated with a structure to be left in situ or elsewhere in the coastal marine area, at least one of the following must apply one or more of the following applies:</p> <ul style="list-style-type: none"> (a) removal of the structure would cause greater adverse effects on the environment than leaving it in place; (b) the structure is an integral part of an historic heritage site or landscape; or (c) <u>the structure, or part of the structure, is permanent or has reuse value that is considered appropriate in accordance with Policy 5;</u> (d) <u>the removal of the structure is technically unfeasible;</u> (e) <u>the removal of the structure poses unreasonable risk on human health and safety</u> | Accept the s42A recommendation. |
| The Oil Companies (46-582) | Support Policy 39 | Retain Policy 39 of the Plan as notified. | <p>ACCEPT Support noted. Policy 39 is retained as notified.</p> <p>Policy 39: Occupation Structures and activities occupying space within the common marine and coastal area should be established and operated in a manner that does not unreasonably restrict or prevent other users of the coastal marine area.</p> <p>Occupation should be avoided in areas where it will have significant adverse effects on public use.</p> | Accept the s42A recommendation. |
| SECTION 8.1 – DISCHARGES (RULES) | | | | |
| The Oil Companies (46-690) | Support Rule 1 | Retain Rule 1 of the Plan as notified. | <p>ACCEPT Support noted. Rule 1 is maintained subject to minor amendments</p> | Accept the s42A recommendation PA rule won't apply to industry sites based on hazardous storage thresholds at Schedule 8AA. However, as set out in the submissions, the Oil Companies have no discharges to the CMA and therefore support the rules based on the notes that recognise that discharges to the reticulated stormwater network will be considered as discharges to land and assessed under the Regional Fresh Water Plan. |

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| | | | <p><u>Stormwater discharge of stormwater</u> into water or onto land in the coastal marine area that either:</p> <ul style="list-style-type: none"> (a) does not convey stormwater from any industrial or trade premises, or (b) conveys stormwater from industrial or trade premises that: <ul style="list-style-type: none"> (i) cover a total area of 2 ha or less; and (ii) do not use or store hazardous substances <u>in quantities or of a type that exceed any of the hazardous property threshold values identified in Schedule 8A</u> ⁽¹⁾ <p><u>and any associated disturbance of the foreshore or seabed.</u></p> <p>Note (1): Discharge of stormwater into a district council managed stormwater system is a discharge to land outside the CMA and an assessment for consent requirement should be made under the Freshwater Plan not this Rule.</p> <p>Note (2): If the activity does not <u>come within or</u> meet the standards, terms and conditions in this Rule refer to Rule 2 or Rule 3 depending on the coastal management area involved.</p> | |
| <p>Taranaki Regional Council (53-692)</p> | <p>Supported, in part by the Oil Companies</p> <p>Rule 1 Amend the Activity Classification of Rule 1 of the Plan to include a schedule of hazardous substances, the type and quantity of which would warrant regulating through the resource consent process. Refer to thresholds values that</p> | <p>The Oil Companies support, in part the submission. The Oil Companies do not have any discharges directly to the CMA in Taranaki but recognise the issue raised by the submitter and consider that an exclusion for high risk industrial or trade premises may be a more appropriate means of capturing premises that have potential to adversely affect water quality. An appropriate definition would recognise that mitigation, for instance containment and treatment in accordance with established industry good practice guidance (for instance the Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand, MfE, 1998)</p> | <p>ACCEPT</p> <p>The definition of hazardous substances is very broad and includes many normal day-to-day items and products such as detergents, household cleaners etc. As a result, Rule 1 is likely to unnecessarily capture all industrial or trade premises regardless of quantities and risk to the environment.</p> <p>Officers recommend granting the relief sought by the submitter to include a schedule of hazardous substances limits (setting out for the reader’s information hazardous property threshold criteria under the Hazardous Substances and New Organisms Act) and amending Rule 1 to read:</p> <p style="padding-left: 40px;"><i>Stormwater discharge into water or onto land in the coastal marine area that either:</i></p> <ul style="list-style-type: none"> (a) does not convey stormwater from any industrial or trade premise, or (b) conveys stormwater from industrial or trade premises that: <ul style="list-style-type: none"> (i) cover a total area of 2 ha or less; and | <p>Accept the recommendation</p> |

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| | trigger controls under Hazardous Substances and New Organisms Act 1996. | would exclude a premise from being high risk. A similar approach is adopted in the Regional Fresh Water Plan for Taranaki (see Rule 23) as well as more widely in regional plans around the country. | (ii) do not use or store hazardous substances <u>in quantities or of a type that exceed any of the hazardous property threshold criteria identified in Schedule 8AA</u> As well as the inclusion of an additional Schedule identifying the hazardous substances and quantities which are identified in Schedule 8AA [Hazardous substance thresholds]. | |
| The Oil Companies (46-699) | Support Rule 2 | Retain Rule 2 of the Plan as notified. | ACCEPT Support noted. Rule 2 is maintained subject to minor inconsequential amendments. | Accept the recommendation |
| The Oil Companies (46-702) | Support Rule 3 | Retain Rule 3 of the Plan as notified. | ACCEPT Support noted. Rule 3 is maintained subject to minor inconsequential amendments. | Accept the recommendation |
| The Oil Companies (46-771) | Support in part Rule 13 | Amend Rule 13, as follows: <u>A discharge into a district council managed stormwater system is a discharge to land outside the coastal marine area and an assessment for consent requirement should be made under the Freshwater Plan not this rule.</u> | ACCEPT Rule 13: Other discharges to water or land not provided for in Rules 1 to 12 Discharge of water energy or contaminants into water or onto land in the coastal marine area and the discharge does not come within or comply with Rules 19 to 12A, any other Rule in this Plan, excluding discharges regulated by the Resource Management (Marine Pollution) Regulations 1998 (Appendix 5) or the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (Appendix 6). <u>Note: A discharge into a district council managed stormwater system is a discharge to land outside the coastal marine area and an assessment for consent requirement should be made under the Freshwater Plan not this rule.</u> | Accept the s42A recommendation. |
| The Oil Companies (46-780) | Support Rule 14 | Retain Rule 14 of the Plan subject to the addition of a note, as follows: <u>A discharge into a district council managed stormwater system is a discharge to land outside the coastal marine area and an assessment for consent requirement should be made under the Freshwater Plan not this rule.</u> | ACCEPT Rule 14: Other discharges to water or land not provided for in Rules 1 to 12 Discharge of water or contaminants into water or onto land in the coastal marine area and the discharge does not come within or comply with Rules 1 to 12, any other Rule in this Plan, the Resource Management (Marine Pollution) Regulations 1998 (Appendix 5) or the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (Appendix 6). <u>Note: A discharge into a district council managed stormwater system is a discharge to land outside the coastal marine area and an assessment for consent requirement should be made under the Freshwater Plan not this rule.</u> | Accept the s42A recommendation. |
| SECTION 8.2 – STRUCTURES AND OCCUPATION (RULES) | | | | |
| Royal Forest and Bird Protection Society (43-833) | Opposed, in part by the Oil Companies Rule 22 Amend by changing the rule classification to make the erection or placement of network utility structures in the coastal marine area a Restricted Discretionary Activity (rather than a Controlled Activity) | The Oil Companies oppose, in part the submission. The Oil Companies consider that the matters raised can properly be addressed by appropriate matters of control. | DECLINE Officers note that Rule 22 seeks to provide for the placement of important network utilities that might transsect the coastal marine area pursuant to Policy 6 of the Plan and subject to the appropriate management of adverse effects. Through the consenting process, relevant environmental effects on historic heritage, indigenous biodiversity and use and enjoyment of the coast will be appropriately considered and managed having reference to the General Policies of the Plan plus relevant Activity-specific Policies. Other adverse effects within the coastal marine area, e.g. water quality are likely to be less than minor and temporary. Some certainty for these uses is considered appropriate, which would not be the case if the activity was made a Discretionary Activity (with the ability to decline a resource consent application). The Council has not encountered significant issues with the placement of utility structures in the coastal marine area under the current Plan and therefore do not consider it appropriate or necessary to require the placement of network utility structures to be made a Restricted Discretionary Activity. However, officers also note that if proposed activity is unable to meet all of the standards, terms and conditions of the Controlled Activity Rule, then the activity would need to be addressed under Rules 33 (Discretionary) and 34 (Non-complying) depending on the coastal management area. | Accept the s42A recommendation. |

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| <p>Royal Forest and Bird Protection Society (43-834)</p> | <p>Opposed, in part by the Oil Companies</p> <p>Rule 22 Include a standard, term and condition in rule that requires a 100m setback from Outstanding Value coastal management areas.</p> | <p>The Oil Companies oppose, in part the submission. The Oil Companies oppose the proposed 100m setback from Outstanding Value Management areas, which is arbitrary and not justified in terms of effects.</p> | <p>No precise details of the rationale for the relief sought has been provided, or indeed what the proposed setback distance would achieve.</p> <p>Officers recommend declining the relief sought by the submitter noting that the rule excludes the Outstanding Value coastal management area and given that most of the activities covered by this rule require the structure to be buried or are small scale. Of note, in the event that this activity is of a type or scale that it could have an impact on Outstanding Values, the Rule reserves control over the location of the work.</p> | <p>Accept the s42A recommendation.</p> |
| <p>Royal Forest and Bird Protection Society (43-835)</p> | <p>Opposed, in part by the Oil Companies</p> <p>Rule 22 Include the following matters of discretion: <u>(x) effect on indigenous biological diversity</u> <u>(y) effects on natural character and natural features and landscape</u> <u>(z) effects on any areas of Outstanding Value.</u></p> | <p>The Oil Companies oppose, in part the submission. The Oil Companies consider that the matters raised can properly be addressed by appropriate matters of control.</p> | <p>Officers agree in part to the relief sought by the submitter by amending the following matters of discretion in Rule 22 (plus consequential changes to equivalent rules elsewhere in the Plan).</p> <p>Rule 22: Network utility structure erection or placement (f) effects on ecological natural character, features and landscapes values (fa) effects on indigenous biodiversity values [...]</p> <p>Officers recommend that this amendment also be included in additional Rules where appropriate to maintain consistency. Officers note the amendments to term “ecological” better aligns with the wording adopted in the General Policies, which refers to “natural character, features and landscapes” and “indigenous biodiversity”. Officers did not believe it necessary to specify in the matters of discretion areas of outstanding values as this is a subset of natural character, features and landscapes (and therefore already provided for).</p> | <p>Accept the s42A recommendation.</p> |
| <p>The Oil Companies (46-837)</p> | <p>Support Rule 22</p> | <p>Retain Rule 22 of the Plan subject to the addition of wharf, as follows:</p> <p>Network utility structure erection or placement where the structure is: (a) A pipeline that is buried or attached to a bridge, wharf, or access structure [...]</p> | <p>ACCEPT Support noted.</p> <p>Rule 22: Network utility structure erection or placement Placement or erection of a network utility structure erection or placement where the structure is: (a) A pipeline that is buried or attached to a bridge, wharf, or access structure; (b) an outfall structure which does not come within or comply with Rule 18; (c) an intake structure; (d) a communication or electricity cable that is buried or attached to a bridge, access structure or pole; or (e) marine communications equipment and any associated: (a) occupation of space in the common marine and coastal area; (b) disturbance of the foreshore or seabed; (c) deposition in, on or under the foreshore or seabed; and (d) discharge of sediment excluding activities regulated by the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (Appendix 6).</p> | <p>Accept the recommendation (although evidence in relation to cables/lines)</p> |
| <p>Taranaki Energy Watch (51-881)</p> | <p>Opposed, in part by the Oil Companies</p> <p>Rule 26-30 Amend rules as follows: - incorporating a precautionary approach in the rules - having regard to Marine Oil Spill Contingency Plan</p> | <p>The Oil Companies oppose, in part the submission. The Oil Companies oppose the relief sought as it is unclear what amendment to notification and activity status the submitter seeks. If changes are required, it may be more appropriate to introduce these by way of variation. The Oil Companies consider that the plan must be read as a whole and therefore the precautionary principle already applies as request by the submitter. A consistent approach should be adopted in the Plan.</p> | <p>DECLINE</p> <p>Officers suggest that Rules 26 to 30 of the Plan do incorporate a precautionary approach, whereby for drilling in the Open Coast or Port (for which the activity and adverse effects are relatively low, subject to compliance with standards, terms and conditions) conditions have been applied that includes buffer distances based on Cawthron advice requiring the activity to be 2,000 m or more from the line of the mean high water springs or from any Outstanding Value coastal management area, 1,000 m or more from any sensitive marine benthic habitats, including reef systems, and 2,000m from any other drilling site.</p> <p>Rules 27 to 30 relate to drilling activities not being able to comply with Rule 26 and/or later</p> | <p>Accept the recommendation</p> |

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| | <p><i>(MOSCP, 2012), in particular Appendix 4: Sensitive Site Coastal Info when considering the rules notification and activity status</i></p> <ul style="list-style-type: none"> - <i>applying an assessment criteria to discretionary oil and gas activities within the coastal marine area that includes consideration of low probability but significant adverse effects events and buffer zones as appropriate planning tools</i> - <i>add a requirement to publicly notify under these rules</i> | <p><i>Sections 30 and 31 of the RMA need to be read together with section 142 of the HSNO Act. Section 142 of HSNO provides that RMA instruments can only include more stringent requirements than HSNO when they are considered 'necessary' for the purposes of the RMA. Where the HSNO requirements are sufficient to meet the purposes of the RMA that test will not be met. Any RMA controls must also be justified in terms of section 32 of that Act. The submitter has not provided justification for the inclusion of provisions as sought.</i></p> <p><i>Further, the relief sought by the submitter is not specific to petroleum production activities as defined in the plan and therefore has potential to impact on a range of onshore activities undertaken by the Oil Companies. The principle of criteria addressing risk is not necessarily opposed if it can be justified, but in the absence of detail of the relief sought the submission is opposed. In particular the Oil Companies</i></p> | <p><i>production activities (which involve an increased scale of activities and therefore effects associated with the construction and operation of an offshore petroleum production installation). These Rules require any drilling or later production activities to be considered as a Discretionary Activity or a Non-complying Activity depending upon coastal management area affected. Through the consenting process, relevant environmental effects will be appropriately considered and Policies 1 to 21, 22, 28, 29, 30, 31, 32, 36, 37, 38, 39, 40, 41, 42, 44, 47 and 49, including Policy 3 relating to the adoption of a precautionary approach.</i></p> | |
| <p><i>Kiwis Against Seabed Mining (55-882)</i></p> | <p>Opposed by the Oil Companies</p> <p><i>Rule 26-30 Amend rules so, at a minimum, they are Discretionary Activity classification and that areas with higher natural and cultural values are either Non-complying Activities or Prohibited Activity.</i></p> | <p><i>The Oil Companies oppose, in part the submission. The Oil Companies oppose the relief sought as it is unclear what amendment to notification and activity status the submitter seeks. If changes are required, it may be more appropriate to introduce these by way of variation. The Oil Companies consider that the plan must be read as a whole and therefore the precautionary principle already applies as request by the submitter. A consistent approach should be adopted in the Plan.</i></p> <p><i>Sections 30 and 31 of the RMA need to be read together with section 142 of the HSNO Act. Section 142 of HSNO provides that RMA instruments can only include more stringent requirements than HSNO when they are considered 'necessary' for the purposes of the RMA. Where the HSNO requirements are sufficient to meet the purposes of the RMA that test will not be met. Any RMA controls must also be justified in terms of section 32 of that Act. The submitter has not provided justification for the inclusion of provisions as sought.</i></p> <p><i>Further, the relief sought by the submitter is not specific to petroleum production activities as defined in the plan and therefore has potential to impact on a range of onshore activities undertaken by the Oil Companies. The principle of criteria addressing risk is not necessarily opposed if it can be justified, but in the absence of detail of the relief sought the submission is opposed. In particular the Oil Companies.</i></p> | <p>NO RELIEF NECESSARY / DECLINE</p> <p><i>The submitter seeks that all drilling and production activities in the coastal marine area be a Discretionary Activity at the very least and Non-complying or Prohibited Activity within areas with higher natural and cultural values. Officers note that the Rules 27 to 30 already give effect to the relief sought by the submitter (but not in relation to Rule 26).</i></p> <p><i>For Rules 27 to 30, officers suggest no relief is necessary as drilling and production activities in the coastal marine area are already a Discretionary or Non-complying Activity depending upon what coastal management area the activity occurs in. As part of that framework, Outstanding Value. Estuaries Unmodified and Estuaries Modified coastal management areas have a higher level of regulatory protection under the Plan.</i></p> <p><i>However, drilling activities in the Open Coast or Port coastal management areas, are currently proposed to be a Controlled Activity (noting it is a Permitted Activity under the current Plan). This is considered appropriate as drilling associated with seabed exploration should have less than minor adverse effects, subject to compliance with standards, terms and conditions set out in Rule 26. It is important to differentiate between hydrocarbon exploration activities and later production activities as they are totally different activities with totally different associated environmental effects, i.e. due to the increased scale of activities and therefore effects associated with the construction and operation of an offshore petroleum production installation. Officers do not believe it appropriate to require this activity to be a Discretionary Activity.</i></p> | <p>Accept the s42A recommendation.</p> |

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| <p>Greenpeace (56-883)</p> | <p>Opposed by the Oil Companies</p> <p>Rule 26-30 Amend rules so, at a minimum, they are Discretionary Activity classification.</p> | <p>The Oil Companies oppose the submission. The relief sought by the submitter is not specific to petroleum production activities as defined in the plan and therefore has potential to impact on range of onshore activities undertaken by the Oil Companies. As sought by the submitter, all activities undertaken by the Oil Companies at the Newton King Wharf, including any amendments to the Oil Companies existing infrastructure in this location, would as a minimum require discretionary activity consent. This approach is not justified and is opposed.</p> | <p>DECLINE</p> <p>The submitter seeks that all drilling and production activities in the coastal marine area be a Discretionary Activity at the very least and Non-complying or Prohibited Activity within areas with higher natural and cultural values.</p> <p>Officers note that the Rules 27 to 30 already give effect to the relief sought by the submitter (but not in relation to Rule 26).</p> <p>For Rules 27 and 30, Officers suggest no relief is necessary as drilling and production activities in the coastal marine area are already a Discretionary or Non-complying Activity depending upon what coastal management area the activity occurs in.</p> <p>However, drilling activities in the Open Coast or Port coastal management areas, are currently proposed to be a Controlled Activity (it is a Permitted Activity under the current Plan). This is considered appropriate as drilling associated with seabed exploration should have less than minor adverse effects, subject to compliance with standards, terms and conditions set out in Rule 26. It is important to differentiate between hydrocarbon exploration activities and later production activities as they are totally different activities with totally different associated environmental effects, i.e. due to the increased scale of activities and therefore effects associated with the construction and operation of an offshore petroleum production installation. Officers do not believe it appropriate to require this activity to be a Discretionary Activity.</p> | <p>Support the s42A recommendation.</p> |
| <p>The Oil Companies (46-935)</p> | <p>Support Rule 33</p> | <p>Retain Rule 33 of the Plan as notified.</p> | <p>ACCEPT</p> <p>Support noted. Rule 33 is retained subject to minor amendments.</p>  | <p>Accept the s42A recommendation.</p> |
| <p>Department of Conservation (29-949)</p> | <p>Opposed by the Oil Companies</p> <p>Rule 35 Amend as follows: - how the use of vehicles</p> | <p>The Oil Companies oppose the submission. The proposed wording of standards addressing the matters raised has not been provided. In the absence of specific wording, the nature and effect of the standards is unclear and they are opposed. For instance, the submission seeks machinery takes the shortest and least</p> | <p>Officers recommend declining the relief sought by the submitter.</p> <p>Similar type conditions have been considered as part of the Plan review process and were not deemed to be necessary. Most of the proposed conditions seem to relate to avoiding, remedying or mitigating adverse effects already addressed by the standard, terms and conditions, particularly Conditions (d) and (e). For example refuelling or fuel storage is not allowed, under Condition (d)(i),</p> | <p>Accept the s42A recommendation.</p> |

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| | <p>and machinery in the coastal environment will be avoided where possible, and minimised/effects mitigated where necessary (including taking the shortest and least sensitive route)</p> <ul style="list-style-type: none"> - the requirement for construction equipment including spoil, litter or equipment to be removed within 24 hours of completion of any works - the prohibition of any refuelling or fuel storage occur within the coastal environment and that methods should be employed to avoid any fuel spillage. | <p>sensitive route. There would seem to be potential that these two matters are contradictory, and it is not clear why there is a need to include a requirement beyond "least sensitive".</p> | <p>to result in any conspicuous oil or grease films. Similarly, Condition (e) addresses disturbances to the foreshore and seabed which could be caused by vehicles.</p> <p>In relation to other matters raised by the submitter, officers are concerned that the specificity sought is unnecessarily restrictive and imposes operational constraints on those using it. For example, the requirement to remove spoil within 24 hours.</p> | |
| <p>The Oil Companies (46-953)</p> | <p>Support in part Rule 35</p> | <p>Amend Rule 35, as follows:</p> <ul style="list-style-type: none"> - delete reference in the Activity Description to "minor" - include the Port coastal management area to this rule. | <p>ACCEPT IN PART</p> <p>Officers recommend accepting in part the relief sought by the submitter. Officers consider that the reference to "minor" is necessary as it reflects the recommended wording in Policy 36 [Maintenance, minor alteration or minor extension of existing structures]. There is a distinction between those alteration and extension activities that are minor (and can therefore comply with the standards terms and conditions listed in Rule 35) and those which are considered more significant and will require a resource consent.</p> <p>Officers note that consequential amendments are also recommended to the Plan definitions including amending the existing definition for "maintenance" and introducing new definitions for "alteration" and "extension".</p> <p>Officers recommend granting the relief sought by the submitter to include the Port within Rule 35, however, recommend deleting Rule 39 as a consequential amendment to ensure that there is no confusion around which rule applies to structures within the Port.</p> <p>Further to simplifying the Rules cascade for Port structures and ensuring consistency within the Plan with regards to the inclusion of the Port within Rule 35, officers recommend that Rule 41 is also deleted and that the provisions that are covered by Rule 41 are incorporated into Rule 40. This will provide a similar drafting approach to Rule 35 and ensures a simpler pathway for Port structures that do not comply with the standards, terms and conditions of Rule 35 as a Permitted Activity.</p> | <p>Accept the s42A recommendation.</p> |
| <p>Department of Conservation (29-966)</p> | <p>Opposed by the Oil Companies</p> <p>Rule 37 Amend to include a provision about limiting the size of any extension of the structure.</p> | <p>The Oil Companies oppose the submission. Matters of control such as the design and the size of any extension would reasonably be considered a design matter, which is already included as a matter of control. An amendment to this effect sought by the submitter is therefore considered unnecessary.</p> | <p>ACCEPT</p> <p>Officers recommend accepting the amendments requested relating to an extension limit. Officers have considered other similar conditions in other regional coastal plans and consider a 10% extension limit to be appropriate provided other environmental concerns are addressed. The new standard, term and condition reads as follows:</p> <p><i>(aa) the structure envelope, including length, width and height does not increase beyond 10% of the original size within a 24 month period; [...]</i></p> | <p>Accept the s42A recommendation.</p> |

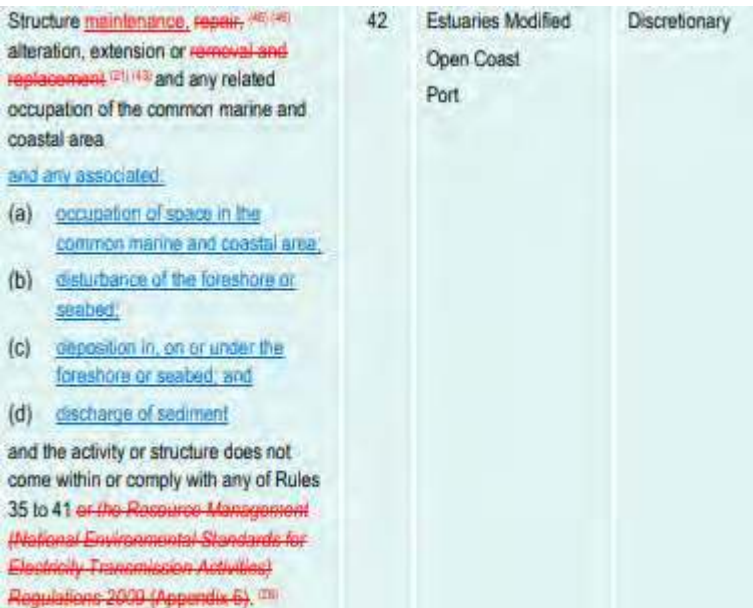
Appendix 2: Staff Recommendations on the Submissions and Further Submissions of the Oil Companies on Proposed Coastal Plan for Taranaki

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| | | | Officers also recommend that, for the purposes of consistency, a similar condition be included in Rule 40 (Controlled). | |
| First Gas Ltd (30-967) | Supported, in part by the Oil Companies Rule 37 Amend rule to make network utility pipeline repair, alteration or extension a Permitted Activity (rather than a Non-complying activity) AND Extend the Rule to include Outstanding Values coastal management areas. | <i>The Oil Companies support, in part the submission. The intent of the submission is supported, although it is noted that Rule 35 already provides a permitted activity pathway for maintenance, repair or minor alteration, except at the Port.</i> <i>The Oil Companies reserve judgement on the specific provisions of the proposed permitted activity rule and how this will sit alongside the existing cascade, particularly Rule 35.</i> | GRANT IN KIND In response to submitters, the rules relating to maintenance, alteration and extension of structures have been reframed to more clearly delineate between the respective activities. Officers recommend granting the relief in kind by including a new Restricted Discretionary Rule addressing network utilities, including those in Outstanding Value areas, not covered by Rule 35 and 37. Officers note that most maintenance and minor alteration activities associated with network utilities can be addressed as a Permitted Activity under Rule 35. Other alteration and extension activities associated with network utilities can be addressed under Rule 37. Officers note that, for those activities not covered by Rule 35 and 37, would be addressed under a new rule, Rule 37A, whereby alteration and extension of network utilities can be addressed as a Restricted Discretionary Activity. This is part of a framework that better recognises and provides for regionally important network utilities. | Accept the s42A recommendation. |
| The Oil Companies (46-971) | Support in part Rule 37 | Amend Rule 37, as follows: <i>Lawfully established network utility structure <u>maintenance</u>, repair, alteration or extension where the structure is:</i> <i>(a) a pipeline that is buried or attached to a bridge, <u>wharf</u> or access structure;</i> <i>[..]</i> <i>(f) discharge of sediment</i> <i>and does not come within or comply with Rule 35 excluding activities regulated by the Resource Management (National Environmental Standard for Electricity Transmission Activities) Regulations 2009 (Appendix 6).</i> | ACCEPT IN PART Officers recommend granting the relief sought in relation to amending the Activity Description (a) and the inclusion of 'wharf'. Regarding compliance with Rule 35, officers recommend declining the relief sought noting that there may be instances where an activity does not come within the activity description of that Rule. Maintaining the current wording will ensure drafting consistency with the rest of the Plan. | Accept the recommendation (although evidence in relation to cables/lines) |
| Department of Conservation (29-981) | Opposed by the Oil Companies Rule 38 Amend to include new standards, terms and conditions addressing: - how the use of vehicles and machinery in the coastal environment will be avoided where possible, and minimised/effects mitigated where necessary (including taking the shortest and least sensitive route) - the requirement for construction equipment | <i>The Oil Companies oppose the submission. The proposed wording of standards addressing the matters raised has not been provided. In the absence of specific wording, the nature and effect of the standards is unclear and they are opposed. For instance, the submission seeks machinery takes the shortest and least sensitive route. There would seem to be potential that these two matters are contradictory, and is not clear why there is a need to include a requirement beyond "least sensitive".</i> | <i>Officers recommend declining the relief sought by the submitter. Similar type conditions have been considered as part of the Plan review process and were not deemed to be necessary with the effects of those activities being addressed in the standards, terms and conditions of the Rule. Notwithstanding the above, in response to other submitters' requests, officers consider that Rule 38 is unnecessary as it addresses matters already covered through a different Rule pathway. Officers recommend deleting Rule 38 to avoid confusion for Plan users and for resource users to instead rely on Rules 44, 45 and 46 for the removal aspect of the structure, and Rules 18 to 34 for the 'replacement' aspects of the structure.</i> | Accept the s42A recommendation. |

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| | <p><i>including spoil, litter or equipment to be removed within 24 hours of completion of any works</i></p> <p><i>- the prohibition of any refuelling or fuel storage occur within the coastal marine environment and that methods should be employed to avoid any fuel spillage</i></p> | | | |
| The Oil Companies (46-991) | <p>Support in part Rule 39</p> | <p>Amend Rule 39, as follows:</p> <p><i>Existing lawfully established structure maintenance, repair or alteration where the activity relates to that part of the wharves or breakwaters that is normally above the water surface including any attached structures, and relates directly to port company operations and any associated: [...]</i></p> | <p>GRANT IN KIND Officers recommend granting the relief in kind. Officers note that amendments made to Rule 35 have made Rule 39 redundant due to duplication of provisions. As a result, Rule 39 is recommended to be deleted. Officers note that the concerns raised by the submitter and request to broaden the scope of Rule 39 to all port operations has already been provided for under Rule 35.</p> | <p>Accept the s42A recommendation</p> |
| The Oil Companies (46-995) | <p>Support Rule 40</p> | <p>Retain Rule 40 of the Plan as notified.</p> | <p>ACCEPT Support noted but additional standards, terms and conditions</p> | <p>Accept the s42A recommendation.</p> |
| Port Taranaki (32-1002) | <p>Supported by the Oil Companies</p> <p>Rule 42 Amend to:</p> <ul style="list-style-type: none"> - insert a new rule specifically for Port coastal management area and in respect to Port activities providing Controlled Activity status for other structure repair, alteration, extension or removal and replacement that is not provided for un Rules 35-41) - make any consequential amendments to other rules and objectives and policies to give effect to this relief <p>OR</p> <ul style="list-style-type: none"> - provide another rule structure or amendment/additional rules to Rules 35-41 that delivers the same result for the port. | <p><i>The Oil Companies support the submission. The Oil Companies support the principle of a standalone controlled activity rule for the provision of infrastructure at the Port not otherwise provided for, but reserve judgement on the specific wording of the rule.</i></p> | <p>ACCEPT IN PART Officers recommend accepting in part the relief requested by the submitter. Officers consider that regionally important infrastructure, which includes the Port, should be recognised within the Rules and provided for in a manner that promotes the maintenance and future proofing of infrastructure, subject to the appropriate regulatory controls and environmental outcomes. Officers recommend including two additional rules that provide a Restricted Discretionary pathway for maintenance, alteration and extension activities for the Port and for Network Utilities. These are new Rules 37A for network utility structures and 40A for Port structures. Officers note that Rules 35 and 37 already provide a Permitted and Controlled activity pathway for most maintenance, alteration and extension activities within the Port. Only in circumstances where the activity cannot comply with the standards, terms and conditions of these rules will a higher regulatory rule be required, i.e. Rule 40A.</p> | <p>Accept the s42A recommendation.</p> |

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| <p>The Oil Companies (46-1004)</p> | <p>Support Rule 42</p> | <p>Retain Rule 42 of the Plan as notified.</p> | <p>ACCEPT Support noted. Rule retained subject to amendments</p>  | <p>Accept the s42A recommendation.</p> |
| <p>Department of Conservation (29-1014)</p> | <p>Opposed by the Oil Companies Rule 44 Amend to: - how the use of vehicles and machinery in the coastal environment will be avoided where possible, and minimised/effects mitigated where - necessary (including taking the shortest and least sensitive route) - the requirement for construction equipment including spoil, litter or equipment to be removed within 24 hours of completion of any works - the prohibition of any refuelling or fuel storage occur within the coastal environment and that methods should be employed to avoid any fuel spillage.</p> | <p>The Oil Companies oppose the submission. The proposed wording of standards addressing the matters raised has not been provided. In the absence of specific wording, the nature and effect of the standards is unclear and they are opposed. For instance, the submission seeks machinery takes the shortest and least sensitive route. There would seem to be potential that these two matters are contradictory, and it is not clear why there is a need to include a requirement beyond “least sensitive”.</p> | <p>Officers recommend declining the relief sought.</p> <p>Similar type conditions have been considered as part of the Plan review process and were not deemed to be necessary. Most of the proposed conditions seem to relate to avoiding, remedying or mitigating adverse effects already addressed by the standard, terms and conditions, particularly Conditions (a) and (c). For example Condition (a) addresses disturbances to the foreshore and seabed which could be caused by vehicles. In relation to other matters raised by the submitter, officers are concerned that the specificity sought is unnecessarily restrictive and imposes operational constraints on those using it. For example, the requirement to remove spoil within 24 hours.</p> | <p>Accept the s42A recommendation.</p> |
| <p>The Oil Companies (46-1024)</p> | <p>Support Rule 45</p> | <p>Retain Rule 45 of the Plan as notified.</p> | <p>ACCEPT Support noted. Rule retained subject to amendments</p> | <p>Accept the s42A recommendation.</p> |

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| | | | <p>Structure Removal and demolition of a structure, excluding:</p> <ul style="list-style-type: none"> (a) Walkers and Patea River control weir; (b) Main Breakwater or Leas Breakwater; and (c) petroleum product installations and pipelines; and any associated (d) occupation of space in the common marine and coastal area; (e) disturbance of the foreshore or seabed; (f) deposition in, on or under the foreshore or seabed; and (g) discharge of contaminants <p>and the activity does not come within or comply with Rule 44. (1) or (2)</p> <p>Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (Appendix 5).</p> <p>Note: If the activity does not comply with meet the standards, terms and conditions in the Rule refer to Rule 46.</p> | 45 | Outstanding Value | Controlled | <p>(a) The activity does not have an adverse effect on any freshwater or stream, or regionally distinctive species, or over land and unconsolidated ecosystems (as including those identified in Schedule 4A (Schedule 1) species and ecosystems); ⁽¹⁾</p> <p>(b) The activity does not have an adverse effect on the waters associated with large estuarine systems in Schedule 4C (Large estuarine); ⁽²⁾ and</p> <p>(c) The activity does not occur in any historic heritage site identified in Schedule 5A and B; ⁽³⁾ (Historic heritage) or any other archaeological site.</p> | |
| The Oil Companies (46-1030) | Support Rule 46 | Retain Rule 46 of the Plan as notified. | <p>Structure Removal and demolition of a structure and any associated:</p> <ul style="list-style-type: none"> (a) occupation of space in the common marine and coastal area; (b) disturbance of the foreshore or seabed; (c) deposition in, on or under the foreshore or seabed; and (d) discharge of contaminants <p>and the activity does not come within or comply with Rules 44 or 45 of the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (Appendix 5).</p> | 46 | Outstanding Value | Discretionary | | Accept the s42A recommendation. |
| The Oil Companies (46-1047) | Support Rule 48 | Retain Rule 48 of the Plan as notified. | <p>Continued occupation of the common marine and coastal area with an existing lawfully established structure, where the occupation was a permitted activity at the time of placement or erection.</p> | 48 | Outstanding Value | Permitted | <p>(a) The structure is being used for its originally permitted ⁽¹⁾ purpose.</p> | Accept the s42A recommendation. |
| The Oil Companies (46-1054) | Support Rule 49 | Retain Rule 49 of the Plan as notified. | | | | | | Accept the s42A recommendation. |
| The Oil Companies (46-1062) | Support Rule 50 | Retain Rule 50 of the Plan as notified. | | | | | | Accept the s42A recommendation. |

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| | | | Activity | Rule | Coastal management area | Classification |
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| | | | Occupation of the common marine and coastal area and the activity does not come within or comply with Rules 47 to 50, 49 (2)(1)-(2) or any other Rule in this Plan or the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 1998 (Appendix 5). (2)(1) | 50 | Outstanding Value Estuaries Unmodified Estuaries Modified Open Coast Port | Discretionary |
| SECTION 3.7 – DEFINITIONS | | | | | | |
| The Oil Companies (46-1177) | Support Definitions: “best practical option” “coastal marine area” “common marine and coastal areas” “discharge” “environment” “structure” “industrial or trade premises” | Retain the RMA definitions such as; “best practical option”, “coastal marine area”, “common marine and coastal areas”, “discharge”, “environment”, “structure”, “industrial or trade premises”. | ACCEPT Definitions retained as notified. | | | Accept the s42A recommendation. |
| Trans-Tasman Resources Ltd (6-1179) | Supported, in part by the Oil Companies Definition – “Adaptive Management” Amend as follows: Adaptive management means a structured, iterative process of robust decision making in the face of uncertainty, <u>which includes allowing an activity to commence on a small scale or for a short period so that its effects can be assessed and a decision made about the appropriateness of continuing the activity (with or without amendment) on the basis of those effects with an aim to reducing uncertainty over time via system monitoring.</u> For the purposes of this Plan, the principles underpinning adaptive management include: (a) robust baseline | <i>The Oil Companies support the submission, in part. The Oil Companies support the clarity provided by the amendments, and note that they are consistent with the concept as defined in other NZ legislation.</i> | DECLINE <i>Recent case law has highlighted adaptive management as an inappropriate method of managing activities that may produce impacts that are uncertain, little understood or potentially significantly adverse. As a result, officers recommend removing reference to adaptive management from the Plan entirely, including the definition of adaptive management.</i> | | | Accept the s42A recommendation. |

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| | <p>monitoring to good baseline information to establish the existing receiving environment; (b) resource consent conditions that require <u>provide for effective monitoring of adverse effects using appropriate indicators; [...]</u></p> | | | |
| <p>Heritage New Zealand (57-1182)</p> | <p>Opposed by the Oil Companies</p> <p>Definition – “Alteration” Amend as follows: <u>Alteration, in relation to buildings, means any changes to the fabric or characteristics of a structure involving, but not limited to, the removal and replacement of walls, windows, ceilings, floors or roofs, either internally or externally and includes any sign attached to the structure. In relation to structures, means any changes to function, layout, or appearance of a structure without changing its physical dimensions.</u></p> | <p>The Oil Companies oppose the submission. The narrow definition of alteration is opposed, particularly the exclusion of any changes to the physical dimensions of a structure.</p> | <p>ACCEPT IN PART</p> <p>Officers agree that the interpretation and application of the Plan, particularly in relation to rules addressing structures in the coastal marine area, would be improved by defining the term “alteration”. Officers note that alteration may apply to many types of structures and is not restricted to buildings, therefore, for the purpose of the Plan, reads as follows. <u>Alteration in relation to a structure, means any modification to a structure that does not increase its external dimensions</u></p> <p>Officers note that change to the external dimensions of a structure is defined through the term “extension” which officers suggest should also be included within the definitions section for consistency. <u>Extension in relation to a structure, means any modification to the external dimensions of a structure, including length, width and height.</u></p> | <p>Accept the s42A recommendation.</p> |
| <p>The Oil Companies (46-1188)</p> | <p>Support</p> <p>Definitions: “Coastal environment”</p> | <p>Amend the definition of “coastal environment”, as follows:</p> <p><u>Coastal environment means the areas where coastal processes, influences or qualities are significant, including lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of these and includes all of the coastal marine areas, land inland to the point defined on the maps at Schedule X, the natural and physical resources within it, and the atmosphere above it.</u></p> | <p>ACCEPT</p> <p>Officers recommend including an indicative coastal environment line into the coastal mapping layers to help establish the extent of the coastal environment and to amend the definition of “coastal environment”. However, officers note that this line is only an indicative line and the range of coastal processes captured in the original definition may still apply and may be relevant for determining on a case-by-case basis, whether or not an activity affects the coastal environment. The amended definition reads:</p> <p>Coastal environment means</p> <ul style="list-style-type: none"> (a) <u>all of the coastal marine area;</u> (b) <u>areas landward of the coastal marine area and identified in a district plan or proposed district plan as being the coastal environment or equivalent (map link), however described; and</u> (c) <u>any other areas landward of the coastal environment line where coastal processes, influences or qualities are significant.</u> <p>Officers also recommend additional consequential amendments to the Plan, including amendments to associated planning maps to identify the indicative coastal environment line, including amendments to associated planning maps to identify the coastal environment line that are aligned with the coastal environment line identified in a district</p> | <p>Accept the s42A recommendation.</p> |

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| Transpower NZ (26-1197) | <p>Supported, in part by the Oil Companies</p> <p>[Proposed definition] Definition – “Functional need”</p> <p><u>The locational, operational, practical or technical needs of an activity, including development and upgrades.</u></p> | <p>The Oil Companies support, in part the submission. The intent of the submission is supported. A similar definition, explicitly referencing the coastal environment, was sought by the Oil Companies, as follows:</p> <p>Functional need means a requirement for a proposal or activity to traverse, locate or operate in the coastal environment.</p> <p>The Oil Companies accept that the ‘requirement’ could be further clarified with reference to “locational, operational, practical or technical needs”.</p> | <p>Officers recommend including a definition for “functional need” but noting that the definition must be aligned with the National Planning Standards 2019. The definition reads:</p> <p>Functional need means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.</p> | Accept the s42A recommendation. |
| The Oil Companies (46-1199) | <p>Support</p> <p>[Proposed definition] Definition – “Functional need”</p> | <p>Include a new definition, as follows:</p> <p>Functional need means a requirement for a proposal or activity to traverse, locate or operate in the coastal environment.</p> | | |
| Fonterra (47-1200) | <p>Opposed, in part by the Oil Companies</p> <p>[Proposed definition] Definition – “Functional need”</p> <p><u>Functional need means the need for a proposal or activity to traverse, locate or operate in a particular environment because it can only occur in that environment.</u></p> | <p>The Oil Companies oppose, in part the submission. The principle of a definition for functional need is supported but the Oil Companies prefer the definition proposed in its primary submissions which appropriately recognises that these assets don’t necessarily have to be in the CMA and which may avoid the need for the definition of operational requirement as also proposed by the submitter.</p> <p>The Oil Companies sought the following definition be included:</p> <p>Functional need means a requirement for a proposal or activity to traverse, locate or operate in the coastal environment.</p> | | |
| The Oil Companies (46-1205) | <p>Support</p> <p>Definition – “Hazardous substances”</p> | <p>Retain the definition of “hazardous substances”.</p> | <p>ACCEPT</p> <p>Support noted. Definition of “hazardous substances” is retained as currently notified.</p> | Accept the s42A recommendation. |
| The Oil Companies (46-1215) | <p>Support in part</p> <p>Definition – “Maintenance”</p> | <p>Amend the definition of “maintenance”, as follows:</p> <p>Maintenance in relation to structures, includes replacement, repair, or renewal, activities for the purpose of keeping a structure in good condition and/or working efficiently which restore a structure or asset to its original authorised standard and purpose, and where the character, intensity and scale of the structure or asset or site remains the same or similar. It excludes the extension. It excludes the extension or repair of structures or assets, or change in location.</p> | <p>ACCEPT</p> <p>Officers note that the distinction between a maintenance activities and alteration activities may overlap in some instances, however, do not recommend including alteration within the definition of maintenance. Officers recommend that definitions differentiate between ‘maintenance’ and ‘alteration’. These definitions align with relevant rules, particularly Rules 35 to 43.</p> <p>The following amendments to the definition of “maintenance” are recommended: Maintenance in relation to a structure, means the ongoing and regular activities that aid in the preservation of a structure and includes repair works conducted for the purpose of</p> | Accept the s42A recommendation. |

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| | | | <p>keeping the structure in good condition and/or working efficiently and where the character, intensity and scale of the structure remains the same.</p> <p>Officers further note that alterations may not be restricted to alterations completed in order to bring a piece of equipment up to a new standard and there may be other reasons for altering a structure and may include other modifications for other purposes. Officers consider that it is appropriate to leave the definition broad so that it can be applied to other scenarios. For the purpose of the Plan officers recommend that the definition of alteration read as follows:</p> <p>Alteration in relation to a structure, means any modification to a structure that does not increase its external dimensions.</p> | |
| Heritage New Zealand (57-1216) | <p>Opposed by the Oil Companies</p> <p>Definition – “Maintenance”</p> <p>Amend definition as follows: <u>Maintenance means the ongoing protective care of a place.</u></p> | <p>The Oil Companies oppose the submission. In applying only to a place, the definition is particularly narrow and does not encompass the range of activities that may constitute maintenance. The definition of maintenance in the proposed plan, subject to amendments set out in the Oil Companies submission, is preferred.</p> | <p>Officers do not consider the relief suggested by the submitter to be sufficient for the Plan as it does not provide enough direction or clarification as to what activities can be considered “maintenance” due to the use of the term “protective care”. This term is broad and has potential to be misinterpreted or distorted to fit a user’s requirements irrespective of the intent of the Plan. Officers recommend amending the definition of maintenance to read as follows:</p> <p>Maintenance in relation to a structure, means the ongoing and regular activities that aid in the preservation of a structure and includes repair works conducted for the purpose of keeping the structure in good condition and/or working efficiently and where the character, intensity and scale of the structure remains the same.</p> | Accept the s42A recommendation. |
| The Oil Companies (46-1236) | <p>Support</p> <p>Definition – “Network utility”</p> | <p>Retain the definition of “Network utility” as notified.</p> | <p>ACCEPT</p> <p>Definition of “network utility” is retained as notified, however, a minor and inconsequential amendment is recommended to include a footnote that references Section 166 of the RMA to assist Plan users.</p> | Accept the s42A recommendation. |
| Fonterra (47-1239) | <p>Opposed, in part by the Oil Companies</p> <p>[Proposed definition] Definition – “Operational requirement” <u>Operational requirement means the requirement for a proposal or activity to traverse, locate or operate in a particular environment because of technical or operational characteristics or constraints.</u></p> | <p>The Oil Companies oppose, in part the submission. The principle of a definition of operational need is supported if that term is used in or relevant to the Plan but the Oil Companies prefer the simplicity of a broader definition of functional need.</p> | <p>Submitter requests amendment to the Plan to include a definition for “operational requirement” as a consequential amendment as a result of amendments requested for Policy 5 [Appropriate use and development of the coastal environment] of the Plan. Officers recommend granting the relief sought by the submitter to include a definition of “operational requirement”, however, recommend aligning with the definition for “operational need” within the National Planning Standards 2019, which reads as follows:</p> <p>Operational need means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical or operational characteristics or constraints.</p> | Accept the s42A recommendation. |
| The Oil Companies (46-1246) | <p>Support</p> <p>Definition – “Pipeline”</p> | <p>Retain the definition of “Pipeline” as notified.</p> | <p>DECLINE</p> <p>Officers recommend declining the relief sought to amend the Plan to refer to “regionally significant infrastructure” rather than “regionally important infrastructure” in the interests of aligning terminology with other regions (noting that similar terminology has been adopted in other recent second generation plans).</p> | Accept the s42A recommendation. |
| Royal Forest and Bird (43-1247) | <p>Opposed, in part by the Oil Companies</p> <p>Definition – “Port”</p> <p>Amend definition to state the port is port Taranaki.</p> | <p>The Oil Companies oppose, in part the submission. The Oil Companies are not necessarily opposed to the principle of a definition of Port but note that the plan includes a mapped coastal management area for the Port. The Oil Companies seek to ensure that any definition appropriately encompasses its activities at the Port, by including both the Port itself and the coastal</p> | <p>ACCEPT IN PART</p> <p>The submitter contends that the current definition does not make sense given the common meaning of port. The submitter suggests Policy 1 sets out that the “port” is Port Taranaki and states the definition would be clearer if it said it was the Port of Taranaki.</p> <p>Officers recommend amending the definition of “Port”.</p> | Accept the s42A recommendation. |

Appendix 2: Staff Recommendations on the Submissions and Further Submissions of the Oil Companies on Proposed Coastal Plan for Taranaki

| | | | | |
|--|--|--|---|--|
| | OR Delete definition | management area. | Port refers to the coastal management area identified in Schedule 1 of the Plan as Port Taranaki . | |
| Petroleum Exploration and Production Association of NZ (37-1261) | Neutral Definition – “Regionally important infrastructure” Amend definition, as follows: [...] (c) facilities and arterial pipelines for the supply, <u>storage</u> , or distribution of minerals including oil and gas and their derivatives; [...] | The Oil Companies are neutral to the submission. The Oil Companies consider that storage is essential to supply and distribution so do not consider the addition is strictly necessary but are not opposed to it if it provides clarification of the Oil Companies understanding. | ACCEPT Officers agree to amend clause (c) of the definition of “regionally important infrastructure” to include the storage of minerals including oil and gas and their derivatives as requested by the submitter.; Regionally important infrastructure means infrastructure of regional and/or national importance and is: [...] (b) facilities and arterial pipelines for the supply, <u>storage</u> , or distribution of minerals including oil and gas and their derivatives, [...] | Accept the s42A recommendation. |
| The Oil Companies (46-1264) | Support in part Definition – “Regionally important infrastructure” | Retain the definition of “Regionally important infrastructure” but adopt the term “regionally significant infrastructure” to ensure consistency between the Plan and other planning documents such as the Regional Policy Statement. | DECLINE Officers recommend declining the relief sought to amend the Plan to refer to “regionally significant infrastructure” rather than “regionally important infrastructure” in the interests of aligning terminology with other regions (noting that similar terminology has been adopted in other recent second generation plans). | Accept the s42A recommendation. |
| The Oil Companies (46-1268) | Oppose Definition – “Repair” | Delete the definition of “Repair”, as follows: <u>Repair means reconstruction.</u> | ACCEPT The submitter suggests that repair is a type of maintenance activity and that the standalone definition should be deleted. Officers recommend granting the relief sought. Consequential amendments are also necessary to the definition of maintenance and associated rules. | Accept the s42A recommendation. |
| The Oil Companies (46-1273) | Support in part Definition – “Reverse sensitivity” | Amend the definition of “Reverse sensitivity”, as follows: <u>Reverse sensitivity refers to the potential for the operation of an existing effect of sensitive activities on other lawfully established activities to be constrained or curtailed by the more recent establishment or intensification of other activities which are sensitive to the proposed activity in their vicinity.</u> | ACCEPT A range of activities may be susceptible to reverse sensitivity effects. As drafted, the submitter believes that the definition could be interpreted that only sensitive activities, for instance residential activities, care facilities, and the like could be affected in this way. This does not recognise that other activities may also be affected. The submitter has suggested amendments to the definition that retain its intent but provides added clarity and minimises potential for misinterpretation. Officers agree that the definition for “reverse sensitivity” is ambiguous and potentially confusing. Officers recommend amending the definition. Reverse sensitivity refers to <u>the potential for the operation of an existing lawfully established activity to be constrained or curtailed by the more recent establishment or intensification of other activities which are sensitive to the exiting activity-</u> | Accept the s42A recommendation. |
| The Oil Companies (46-1281) | Support Definition – “Stormwater” | Retain the definition of “Stormwater”. | ACCEPT Officers recommend retaining the definition of stormwater but note consequential amendments to align with the definition of “stormwater” in the National Planning Standards 2019 to read: Stormwater means runoff that has been channelled, diverted, intensified or accelerated by human modification of a land surface or runoff from the surface of any structure, as a result of precipitation and includes any contaminants contained within. | Accept the s42A recommendation. |
| SCHEDULE 1 (COASTAL MANAGEMENT AREAS) & SCHEDULE 2 (COASTAL AREAS OF OUTSTANDING VALUE) | | | | |
| The Oil Companies | Support in part Schedule 1 and Schedule 2 | Amend Schedules 1 and 2, as follows: | ACCEPT IN PART A number of submitters have requested to have the coastal environment defined by a line that | Accept the s42A recommendation. |

Appendix 2: Staff Recommendations on the Submissions and Further Submissions of the Oil Companies on Proposed Coastal Plan for Taranaki

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|-----------|--|--|--|--|
| (46-1302) | | <ul style="list-style-type: none"> - mapping the coastal environment line - ensuring that the extent of sensitive coastal management areas are appropriate having particular regard to existing infrastructure, particularly the landward edge of Nga Motu and Tapuae areas of outstanding value - amending the corresponding descriptions of the coastal management areas throughout the Plan to recognise existing infrastructure in these sensitive areas to ensure it can be operated, maintained, and upgraded as appropriate. | <p>recognises its extent. Officers recommend granting the relief sought by referencing an “indicative coastal environment line” in the Plan and identifying the coastal environment on relevant planning maps.</p> <p>The indicative nature of this line is to recognise that the coastal environment is a dynamic environment where process of can occur rapidly and induce change to the nature and character of the area and as such the coastal environment line may become redundant or inaccurate in the future due to these changes. The indicative line is useful for identifying whether a particular activity is likely to fall within the coastal environment, however, proper assessment of the location with regards to coastal features and processes will still be necessary to consider the nature of that location, including the relative significance of any coastal features and characteristics (such matters to be considered on a case-by-case basis through the consenting process).</p> <p>With regards to existing infrastructure, the location of infrastructure has been considered, however, the values associated with these locations are considered to be high enough to afford the protections provided for within the Plan despite any infrastructure that may exist in their vicinity. Further, officers consider it unnecessary and inappropriate to retrospectively amend the extent of any sensitive management areas or their descriptions to simply provide for existing infrastructure.</p> <p>Officers further note that areas of Outstanding Value are consistent with the extents of outstanding natural feature and landscapes identified by the New Plymouth District Council in the Draft District Plan and South Taranaki District Council. Officers seek, as far as is practicable, alignment and consistency with other Plans within the region.</p> | |
|-----------|--|--|--|--|

IN THE MATTER

of the Resource Management Act 1991 ("**RMA**")

AND

IN THE MATTER

of the Proposed Coastal Plan for Taranaki

**STATEMENT OF PRIMARY EVIDENCE OF DEAN MICHAEL CHRYSTAL
FOR FONTERRA LIMITED**

PLANNING

12 JULY 2019

1. SUMMARY

- 1.1 Fonterra Limited ("**Fonterra**") made a number of submissions and further submissions (submission number 47) on the Proposed Coastal Plan for Taranaki ("**Proposed Plan**"). In particular, while generally supporting the Proposed Plan, Fonterra sought amendments to ensure that (among other things) Fonterra's activities are appropriately recognised and provided for and certain matters clarified in order to improve the certainty and usability of the Proposed Plan.
- 1.2 In my opinion some amendments are still necessary to Objective 3 and Policy 7 in relation to reverse sensitivity, and to Policies 5 and 34 to provide greater certainty and clarity.
- 1.3 In relation to the remainder of Fonterra's submission points I consider that the amendments to the Proposed Plan recommended in the section 42A report, while not always necessarily the specific amendments sought by Fonterra, either address Fonterra's concerns or have limited implications for Fonterra and/or will achieve the purpose of the RMA.

2. INTRODUCTION

- 2.1 My full name is Dean Michael Chrystal. I am a Director of Planz Consultants Limited, a planning consultancy based in Christchurch. I hold a Bachelor of Regional Planning degree and am an accredited Commissioner. I have been employed in the practice of Planning and Resource Management for over 30 years, both in New Zealand and the United Kingdom.
- 2.2 I have previously been involved in a number of major Fonterra manufacturing site development projects, and I have provided evidence for Fonterra on a number of district plans throughout the country. I am familiar with the various Fonterra Dairy Plants in Taranaki including in particular Whareroa.

- 2.3 While my firm advises Fonterra in respect of various district and regional plans around the country, it has not previously been involved in the Proposed Plan.

Code of Conduct

- 2.4 I acknowledge that I have read and am familiar with the Environment Court's Code of Conduct for Expert Witnesses, contained in the Environment Court updated Practice Note 2014, and agree to comply with it. I confirm that the matters addressed within my evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of evidence

- 2.5 Having reviewed the s42A report and tracked change version of the Proposed Plan in relation to the submissions and further submissions lodged by Fonterra, my statement of evidence specifically discusses outstanding issues from Fonterra's submission and further submission. In particular, my evidence will address submission points, in the context of the relevant section 42A Report recommendations, in relation to the following:
- (a) Objective 3;
 - (b) Policy 7;
 - (c) Policy 5; and
 - (d) Policy 34.
- 2.6 For completeness, except for the matters specifically referred to above and which are addressed in Section 4 of my evidence, I have not made any specific comment on any other submission or further submission points made by Fonterra. I consider that the amendments to the Proposed Plan recommended in the section 42A report, while at times not necessarily the specific amendments sought by Fonterra, either address Fonterra's concerns or have limited implications for Fonterra and/or will achieve the purpose of the RMA. As a result no further amendments are sought in respect of those matters.

2.7 I also note that Fonterra's submission included:

All necessary and consequential amendments, including any amendments to the provisions themselves or to other provisions linked to those provisions submitted on, including any necessary changes to the Proposed Plan maps, and including any cross references in other chapters.

3. REVERSE SENSITIVITY

3.1 As Objective 3 and Policy 7 relate to reverse sensitivity I have provided some context to this particular effect.

3.2 Reverse sensitivity is a planning effect which can arise where sensitive activities are introduced to an environment where existing intensive activities generating effects such as noise, dust and odour are taking place and subsequently compromise those existing activities. This generally begins with complaints against the existing activity but can also manifest itself in opposition to further development or intensification of an activity. This can place significant constraints on the existing activity, as well as cost.

3.3 District and Regional Plans now typically include objectives and policies specifically addressing reverse sensitivity along with associated rules. Councils have therefore recognised that the balance of costs/benefits falls in favour of some controls in order to preserve the efficient and effective operation of essential infrastructure, significant industry or other specific effects-generating activities.

3.4 The use of specific rules to manage reverse sensitivity can take a variety of forms to suit the particular situation. One method has been to direct sensitive activities away from incompatible activities often through buffer distances. In such circumstances the activity involved is the subject of significant capital investment and is not easily moved elsewhere. In addition, such activities can often be perceived to be "out of place" despite in many cases being long established.

- 3.5 While proposed Objective 3 and Policy 7 in the Proposed Plan address reverse sensitivity, which Fonterra generally supports, there appears to be no corresponding rules, either general or for specific activities, which implement these provisions.

4. SUBMISSION POINTS

A. Objective 3

- 4.1 Fonterra sought the retention of Objective 3 as notified.

Reporting Officers Recommendation

- 4.2 The s42A report has recommended the following amendments to the objective:

Objective 3: ~~Reverse sensitivity~~ **Impacts on established operations and activities**

The use and ongoing operation of ~~nationally and regionally~~ important infrastructure and other existing lawfully established activities is protected from new or ~~inappropriate~~ **incompatible subdivision**, use and development **occurring under, over, adjacent or nearby to the infrastructure or activity** in the coastal environment.

Assessment

- 4.3 The s42A report states that Objective 3 has been "*retained subject to minor amendments as requested by...submitters*". However, the Council officers have provided no explanation regarding which submission(s) the amendments now proposed to the latter part of the objective (being the addition of "*occurring under, over, adjacent or nearby*") actually stem from. No submission sought that Policy 7 be amended in this way. The Council has also provided no evaluation as to why this change is the most appropriate way to give effect to the purpose of the RMA, as required under s32 of the RMA.
- 4.4 Notwithstanding the above, I am not entirely opposed to the overall amendments proposed. However, I do consider the words "**under, over,**

adjacent or nearby” to be too specific for the policy to be workable in practice. Those words signify or represent a distance which is effectively exact. For example, unless the new activity was on an “adjacent or nearby” site, then the objective in theory would not apply. Activities generating the potential for reverse sensitivity effects are not always adjacent or nearby, under or over the existing activity. A good example of this at a district level are new noise sensitive activities (such as dwellings) being located within an area affected by adverse noise levels from an existing activity. The location or area affected by such noise levels often extends well beyond adjacent or nearby properties.

- 4.5 In my opinion using the word “proximity” instead of “under, over, adjacent or nearby” would overcome my concerns and simplify this objective, as follows:

The use and ongoing operation, **maintenance, alteration and extension** of ~~nationally and~~ regionally important infrastructure and other existing lawfully established activities is protected from new or ~~inappropriate~~ **incompatible subdivision** use and development **occurring under, over, adjacent or nearby to in proximity to the infrastructure or activity in the coastal environment.**

B. Policy 7

- 4.6 Policy 7 flows from Objective 2. Fonterra's submission on Policy 7 sought the following amendment:

~~Avoid, remedy or mitigate the adverse effects~~ **reverse sensitivity effects from** of new activities, ~~including reverse sensitivity impacts,~~ on existing lawfully established activities.

- 4.7 The s42A report has recommended the following amendments to the policy:

~~Avoid, remedy or mitigate the adverse effects of activities, including reverse sensitivity impacts, on~~ **Protect** existing lawfully established activities **from reverse sensitivity effects that may arise from the establishment of new activities or the intensification of other existing activities by:**

- (a) **avoiding significant adverse effects on regionally importance infrastructure;**
- (b) **avoiding, remedying or mitigating other adverse effects on regionally important infrastructure and other activities.**

4.8 This policy provides the framework for any provisions associated with reverse sensitivity, however as referred to above no such provisions currently exist. Notwithstanding this, and on the basis that provisions maybe forthcoming in the future, I consider that a few amendments are necessary.

4.9 Firstly, it is not all new activities or intensification of existing activities that result in reverse sensitivity effects. Rather it is only those activities which are sensitive to effects stemming from the existing activity. I consider therefore that a qualifier such as “new **sensitive** activities” would be appropriate to add to the policy to provide greater clarity. This could consequently generate the need for a definition as to what new sensitive activities may be, and I consider this would be associated with the development of any rules. Within the context of Fonterra’s activity i.e. the Whareroa outfall, this might include for example marine farms. Sensitive activities is a term used and defined in many district and regional plans throughout the country.

4.10 Secondly, I am of the view that the use of the phases *avoid, remedy and mitigate* (which are used on a number of occasions within the objectives and policies) are superfluous and therefore unnecessary. Their use merely paraphrases one clause of s5(2) of the RMA. They provide no useful guidance whatsoever to reporting officers or decision-makers, and their use has previously been criticised by the Environment Court.¹

4.11 In my opinion the policy should be amended to read:

Protect existing lawfully established activities from reverse sensitivity effects that may arise from the establishment of new **sensitive** activities or the intensification of other existing **sensitive** activities. ~~by:~~

¹ Refer High Country Rosehip Orchards and Mackenzie Lifestyle Limited and Ors v Mackenzie District Council Decision No. [2011] NZEnvC 387, paragraphs 144 – 145.

~~(a) avoiding significant adverse effects on regionally importance infrastructure;~~

~~(b) avoiding, remedying or mitigating other adverse effects on regionally important infrastructure and other activities.~~

C. Policy 5

4.12 As part of its submission on Policy 5, Fonterra sought the inclusion of “dairy manufacturing” within clause (b).

4.13 The s42A report has recommended declining Fonterra's submission, stating that:

Officers do not believe that specifically recognising individual industries within Policy 5 is necessary. Policy 5 addresses all activities not identified as regionally important infrastructure.

Officers note that to avoid policies becoming verbose, Council has endeavoured to bundle activities where practicable and avoid ‘cherry picking’ specific industries. Where policies do identify specific industries, it has done so as part of explicitly recognising and giving effect to national policy directions (such as the New Zealand Coastal Policy Statement or the National Policy Statement for Renewable Electricity Generation) or because a certain industry is relatively specific to this region (e.g. oil and gas). The requested amendment would introduce an unnecessary level of detail and other regional industries could quite rightly argue a similar case for the inclusion of their industry within the Policy also. Officers therefore recommend declining the relief sought.

4.14 Notwithstanding the above the s42A report has recommended the inclusion of “*the existing and potential contribution of petroleum and mineral resources*”, in clause (b) in response to a submissions from New Zealand Petroleum and Minerals and Trans-Tasman Resources Ltd. Further, the clause already includes “*the potential contribution of aquaculture, and renewable energy resources*”. In this context, where other individual industries are already referenced in the clause, I can see no reason for excluding dairy manufacturing, which also provides significant

benefits to the regional economy. I note that dairy manufacturing, along with other rural based industries, is specifically recognised and provided for in the South Taranaki District Plan.

4.15 I therefore consider that clause (b) should be amended to read:

- (b) the benefits to be derived from **other** activities at a local, regional and national level, including **the existing and potential contribution of petroleum and mineral resources and dairy manufacturing**, and the potential contribution of aquaculture, and renewable energy resources;

D. Policy 34

4.16 Fonterra sought the inclusion of the word “industry” in Policy 34 as follows:

Hard protection structures will be discouraged and the use of alternatives promoted, whilst recognising that hard protection structures may be the only practical means to protect existing nationally and regionally important **industry and** infrastructure.

4.17 Based on Fonterra's submission the s42A report has recommended the following amendments to the policy:

Hard protection structures are discouraged and the use of alternatives promoted, ~~whilst recognising that hard protection structures may be the only practical means to protect existing nationally and regionally important infrastructure.~~

Appropriateness of hard protection structures must be assessed by the provision of evidence that demonstrates:

....

4.18 The s42A report states:

The submitter has highlighted an issue whereby the Policy reference to “regionally important infrastructure” is problematic in that it excludes some activities and arguably repeats consideration matters covered in Clause (e), (sic) which refer to the national and regional importance of existing infrastructure, use or value at threat.

Officers propose an alternative relief whereby reference to regionally important infrastructure (and its limited scope) is deleted and instead the Policy will rely on Clause (c) which has a much broader application and would cover the hard protection structure that would encompass protecting the Whareroa discharge outfall.

4.19 In my opinion the change now proposed in the s42A report, being the deletion of the qualifier that recognises that some hard protection structures may need to be in the coastal environment from a practical perspective, goes beyond what Fonterra's submission sought. As currently drafted, Policy 34 discourages the location of *any* hard protection structure in the coastal environment, and comes close to creating an avoid policy.

4.20 A further problem exists with the supposed reliance on clause (c) which reads "*the national and regional importance of existing infrastructure, use or value at threat*". This clause could well be interpreted to only apply to **regionally important infrastructure**, which is specifically defined in the Proposed Plan's definitions. Fonterra's Whareroa Dairy Plant does not fall under that definition, and therefore the Whareroa discharge outfall would not be covered by that clause (as suggested by the s42A report).

4.21 In my view the relief sought in Fonterra's submission remains the more appropriate option and also aligns with amended Objective 2, which refers to "*activities that have a functional need or an operational need that depend on the use and development of these resources (being the natural and physical resources of the coastal environment), are provided for in appropriate locations*". I therefore consider the policy should be amended to read as follows:

Hard protection structures are discouraged and the use of alternatives promoted, whilst recognising that hard protection structures may be the only ~~practical~~**practicable** means to protect existing nationally and regionally important infrastructure **and industry**.

4.22 In the alternative, Policy 34 could be amended as follows:

Hard protection structures are discouraged and the use of alternatives promoted, whilst recognising that hard protection structures **may have**

~~a functional need or an operational need to be located in the coastal environment be the only practical means to protect existing nationally and regionally important infrastructure.~~

5. CONCLUSION

5.1 I support the majority of the recommendations proposed in the s42A report, however I have gone on to address points relating to Fonterra's submissions where I am in disagreement with the recommendations. In short I conclude that:

- (a) Objective 3 should be amended to refer to “proximity” to the infrastructure or activity, rather than “under, over, adjacent or nearby”.
- (b) Policy 7 should be amended to refer to new “sensitive” activities rather than just new activities and that reference to avoid, remedy and mitigate within clauses (a) and (b) should be removed as they are unnecessary.
- (c) Clause (b) of Policy 5 should include reference to “dairy manufacturing” alongside the other industries already referenced or proposed to be referenced in the clause.
- (d) The original wording of Policy 34 be reinstated with the inclusion of “industry” or in the alternative reference be made to “a functional need or an operational need” within the policy.



Dean Michael Chrystal

12 July 2019

IN THE MATTER OF: The Resource Management Act 1991

AND

IN THE MATTER OF: The Taranaki Regional Council Coastal Plan

STATEMENT OF EVIDENCE BY:

Archie Hurunui; I am Hapuu Leader for Ngāa Rauru

I am here to present evidence in support of Te Kaahui o Rauru the post treaty settlement entity

Let me begin with the Ngā Rauru proverbial saying, "He rua au, he awa au, he rauru au ai auē." Its English equivalent is, "I am of dual identity, I belong to Awanui-a-Rangi, I belong to Rauru." This aphorism espouses the Ngā Rauru genealogy links to the Whakatane area and the Ngāti Awa nation, decendants of the Mataatua canoe (the face of the gods)

So what does this mean "Our Ngā Rauru uniqueness lives in the hearts and minds of our uri/descendants. Our Ngā Rauru is our soul, our conscience. It carries us through our many life experiences and guides our behaviour. It allows us to think, speak and act in a particular way and (pause) can only survive via intergenerational transmission.

Our coastline Te Kiri o Rauru – the flesh or skin of our ancestor Rauru is our historical story board that connects us to Te Moana nui a Kupe – The Great Ocean of Kupe. Its connects us to Tangaroa and Maru (pause) the dieties of saltwater and freshwater.

The coastline connects us to Papatūānuku (pasue) Mother Earth - not only the land we walk upon but the ocean bed too. The coastline connects us to Haha-te-whenua – the fish Maui-tikitiki-a-Taranga caught at the bottom of the sea and brought to the surface, thus becoming Te Ika-a-Maui – the great fish of Maui (pause) the land we walk and live on today. Tāne Mahuta the diety between low tide and high tide. Toi-te-huatahi, grandfather of Rauru and also one of the many guardians of the sea from Oakura to Te Kaihau-a-Kupe or the Whanganui River mouth. Kupe the great voyager who married Kuramarotini, and gave their daughter Kurareia to Taikehu. Taikehu the original paramount chief in the South Taranaki area, whose name Te Awa-nui-a-Taikehu reigned supreme over the Patea River.

These are merely a few stories that will be impacted on by the Regional Coastal Plan. And least we forget the wise words of our patriarch Uncle Potanga Neilson to me in 2014 (pasue), "The beach was not a playground. It was a where we collected kaimoana to live on"

Therefore if we do not work collaboratively on the Coastal Plan – ka mate taku iwi – my Ngā Rauru people will perish (pause) as I cannot feed my family, my grandchildren, or my visitors (pause) and my ability to "manaaki" (pause) a division of 2 words "mana (aura) and aki (enhance)", so I can no longer enhance the aura of another.

The Regional Plan measures or KPI's need not go further than our 5 senses:
Sight – water quality (pause) discolouration etc. (2) Smell – sea/water odour – discharging untreated effluent into the Patea River (3) Taste – can I drink from it, can I eat from it? (4) Touch – can my children/grandchildren swim in it? (5) Sound – we've forgotten how to listen to the sea, how to listen to the coastline for the betterment of our children/grandchildren

Therefore I'm going to leave the semantics of the plan to these ladies next to me, that's their forte. Hopefully ladies and gentlemen you've viewed the Coastal plan with a different set of lenses. And we as Ngā Rauru are always open to co-producing, co-sharing in the development of a plan. Ngā Rauru kī tahi, kotahi te kupu kua mana – The word of Rauru is an honourable word indeed.

The rohe of Ngā Rauru Kī tahi at 1840 began at Kaihau-a-Kupe (the mouth of the Whanganui River). The kaainga or occupied sites at Kaihau-a-Kupe included Kaihokahoka (ki tai), Kookoohuia (the swampy area at Castlecliff), Te Whare Kaakaho (the Wordsworth Street area), Pungarehu/Te Ahi Tuatini (Cobham Bridge), Te Oneheke (between Karamu Stream and Churton Creek), Patupuhou, Nukuiro, and Kaieerau (St Johns Hill). The rohe then extended from Kaieerau along the watershed to Motuhou, Kaihokahoka (ki uta), Taurangapiopio, Taumatarata, Maataimoana, Taurangakawa and north into the Matemateaaonga Ranges and the area known as Tawhiwhi.

After the Matemateaaonga Ranges, is the Mangaehu Stream where the Mangaehu Paa was situated, near the source of Te Awanui-a-Taikehu (Paatea River). Between Te Awanui-a-Taikehu and Whenuakura Rivers (Te Arei o Rauru) were the paa of Maipu and Hawaiki. Many Ngā Rauru Kī tahi paa and kaainga were also situated along Te Awanui-a-Taikehu, such as Oowhio, Kaiwaka, Arakirikiri, Ngā-papa-tara-iwi, Tutumaahoe and Parikaaranga.

At the mouth of the river sat the kaainga and marae of Rangitaawhi and Wai-o-Turi which remain today. Along the shoreline between Rangitaawhi and Tuuaropaki lies Te Kiri o Rauru. Between Rangitaawhi and the mouth of the Whenuakura River stood Tihoi Paa (where Te Rauparaha rested).

From Tihoi the rohe extends to Waipipi, Tapuaarau, Waitootara River, Waiinu, Waikaramihi and Te Wai-o-Mahuki (near Te Ihonga). It continues past the Ototoka Stream to Poopoa (the marae of Aohehu at the mouth of the Okehu Stream), and then continues onwards to the mouth of the Kai Iwi Stream near the marae of Taipake Tuturu. From here the rohe stretches past Tutaramoana (he kaitiaki moana) back to Kaihau-a-Kupe.

Our submission outlined in the Ngā Rauru Kī tahi Claims Settlement Act 2005, identifies the entire Coastal Marine Area within our rohe as a Statutory Acknowledgement Area.

The Ngā Rauru Kī tahi Claims Settlement Act was finalised in 2003. The rohe described above along with the entire marine coastal area was included in the Settlement Act 2005, therefore in the consideration and preparation of the Taranaki Regional Council Coastal Policy Statement the Council has to consider this Settlement Act is also relevant.

Statement of Evidence

I confirm that this evidence is the opinion which has been formed collectively by Ngā Rauru and I am representing that opinion. I also confirm that my evidence has been prepared in accordance with the Environment Court's Code of Practice 2014 for the preparation and presentation of evidence.

Acknowledgement of TKOR's submission points

At this point I would like to acknowledge the Taranaki Regional Council staff for the preparation of the track changes edition of the Proposed Taranaki Regional Coastal Plan. In particular Ngā Rauru Ki Taahi appreciates that quite a number of points that we made submissions on, have been accepted or accepted in a revised way. These include:

- a. 1.6 Mana whenua changes to wording on page 5,

- b. The insertion of section 2.4A and the recognition of the all the Iwi Settlement legislation,
- c. Policy 11 Indigenous Biodiversity
- d. Policy 35 Temporary protection structures,
- e. Policy 49 Noise and Vibration,
- f. 10.1 Monitoring
- g. Schedule 5B Sites of Significance to Maaori.

We recognise and support the inclusion of the guiding principles *Guiding principles for the management of the coast* on page V which gives life to those Tikanga Maaori principles of:

- Mai te maunga Taranaki ki te Tai a Kupe,
- Whakapapa,
- Kaitiakitanga,
- Manaakitanga,
- Whanaungatanga

We contend that while this is some of the principals it does not represent all of them. "Mai te Rangi ki te Whenua, mai uta ki Tai ngaa mea katoa e tapu ana is more favoured by Ngaa Rauru Kiiitahi

General Comments

1. Reference to the coastal environment in its entirety

To set the legislative scene we acknowledge the role that the Resource Management Act 1991 plays in the development of this Regional Coastal Plan and the work conducted by DOC on the development of the National Coastal Plan 2010.

Our submission outlined the importance of the Ngaa Rauru Kiiitahi Claims Settlement Act 2005, which identifies the entire Coastal Marine Area within our rohe as a Statutory Acknowledgement Area. This means that in addition to the matters listed in the Resource Management Act 1991 that Council must consider this Settlement Act also.

In more recent times Te Kaahui o Rauru Trust has made an application to the High Court under the Marine and Coastal Area (Takutai Moana) Act 2011 for an order that recognises:

- a. Customary Marine Title between Te Awanui-a-Taiehehu (Patea River) in the north, through to the Whanganui River in the south (which I appreciate is under the purview of Horizons Regional Council), out to the 12 nautical mile limit; and
- b. The Protected Customary Right to the practice of Mahinga Kai between Te Awanui-a-Taiehehu (Patea River) in the north, through to the Whanganui River in the south, out to the 12 nautical mile limit.

The application for this is to be considered in the near future.

Implementation of maatauranga maaori

In addition we note the insertion of the Iwi Management Plans that have been lodged with Council (page 11). The acknowledgement is appreciated, however the Coastal Plan should go further towards implementing maatauranga maaori in several areas of importance to us.

*Please note: As Council has received **three** Management Plan the paragraph before the list should be amended to state "three" not "two".*

Legislative references and Puutaiao Management Plan

In relation to the preparation of a regional plan we want to remind TRC of the statutory requirements of the RMA and in particular Section 66(2A)(a) to have regard to any relevant planning document recognised by an iwi authority as stated below:

The RMA requires that:

- Section 66(2A)* *When a regional council is preparing or changing a regional plan, it must deal with the following documents, if they are lodged with the council, in the manner specified, to the extent that their content has a bearing on the resource management issues of the region:*
- (a)* *the council must take into account any relevant planning document recognised by an iwi authority; and*
 - (b)* *in relation to a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, the council must, in accordance with section 93 of that Act,—*
 - (i)* *recognise and provide for the matters in that document, to the extent that they relate to the relevant customary marine title area; and*
 - (ii)* *take into account the matters in that document, to the extent that they relate to a part of the common marine and coastal area outside the customary marine title area of the relevant group.*

Whilst the Taranaki Regional Council officers have, in a considerable way, taken the iwi recognised documents and submissions into account in the track change version of the proposed coastal plan, there are still a few matters that we seek to have addressed. These are detailed in "Further matters to be included in the Taranaki Regional Council Proposed Coastal Plan"

For the panels reference we have outlined the parts of the Puutaiao Management Plan which we used to guide our thinking.

The purpose of the Puutaiao Management Plan is to:

- Provide focus and direction to TKOR to fulfil their kaitiaki responsibilities;
- Improve public awareness of Ngaa Rauru Kaitahi values, aspirations and concerns regarding natural and physical resource values;
- Ensure Ngaa Rauru Kaitahi environmental values, aspirations and concerns are incorporated into local and national decision-making processes;
- Demonstrate our commitment to work alongside resource users, policy makers and decision makers.
- Guide resource users, policy makers and decision makers on how to engage and include Ngaa Rauru Kaitahi in their environmental activities; and

- Increase participation of TKOR in policy, consenting and compliance processes, as well as decision making, monitoring, research, reviews, and other environmental activities.

The coastal environment (CE) is extremely precious to Ngaa Rauru Kiiitahi and it has significant spiritual, cultural and historical importance to us. Our relationship with the CE is of utmost importance to us especially in terms of maintaining our customs and traditions associated with the CE.

As kaitiaki we have responsibilities to look after the CE, including the protection of Tauranga waka, waahi tapu/waahi tupuna and other taonga located in the CE.

In our rohe the CE is coming under increased pressure through:

- Increased commercial and residential coastal development,
- Discharges of sewage, stormwater and other contaminants,
- Increased recreational use,
- Structures in the seabed and foreshore such as wharfs, jetties and marinas,
- Run-off from farms,
- Sediment runoff,
- Sand extraction,
- Seabed exploration and seabed mining, and
- Poor local and central government policy, legislation and regulations.

Our objective in respect of the tangaroa is (from our Puutaioa Management Plan):

Objective 4.1 To ensure that the realms of Papatuaanuku, Maru and Tangaroa are managed appropriately in accordance with Ngaa Raurutanga.

This objective is supported by the following policies:

Policy 4.1 To preserve the CE through the protection of coastal landscape features, waahi tapu/waahi tuupuna, mahinga kai, water quality and the protection of valued flora and fauna and their habitats.

Policy 4.2 To participate in developing consistent and effective assessment processes for coastal landscapes values and management.

Policy 4.3 Raise the understanding and awareness of local and central government agencies and the wider community of Ngaa Rauru Kiiitahi's special relationship to the CE.

Policy 4.4 Advocate for appropriate levels of support which facilitate Ngaa Rauru Kiiitahi participation in CE planning and decision-making processes.

Policy 4.5 Promote better integration between activities happening on land and those happening in the CE to ensure consistent and compatible management.

Further matters to be included in the Taranaki Regional Council Proposed Coastal Plan

1. Policy 8: Areas of outstanding value.

The protection of the visual quality of the seascape would include a definition of the visual quality of the underwater seascape. Whilst the plan goes some way towards addressing the protection of the visual quality of the seascape it does not include the underwater visual quality. We propose "Protect the visual quality, which includes the

underwater visual quality, as well as the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 2. Included in this is the water quality affected by inappropriate land use which impacts on the awa in the rivers and in turn affects the visual quality of the water in the seascape. Addressing both ensures that the mauri of the ocean is respected and protected from inappropriate subdivision, use or development

2. Policy 13: Relationship with tangata whenua

(g) should include the right of local iwi/hapuu to choose said person of expertise, as long as there has been no illustrated conflict of interest. We assert that *"providing for the opportunity of hapuu or iwi to recommend the appointment of person(s)"*. The importance of recognising the hapuu/or iwi in the appointment of persons gives mana and self-determination over matters important to Maaori interests and maatauranga.

3. Policy 22: Discharges of water and contaminants to coastal waters.

Our submission seeks the inclusion of Maaori Values in the list of matters to be considered. As may be well known the discharge of water and contaminants into water is an abhorrence to Maaori. Any such discharge is pollution and can seriously adversely affect the mauri (life force) of that water body. As Kaitiaki (stewards) we iwi (collectively) have a responsibility to ensure no harm comes to tangaroa (the sea).

We, iwi of Taranaki, hold mana moana (authority) over tangaroa. To not strenuously pursue this responsibility at each opportunity would be considered negligent and would bring disgrace. For these reasons it is imperative that there is equity and balance in the wording of Policy 22 that reflects iwi and Hapuu roles and responsibilities in terms of any discharge, irrespective of the wording of Policy 16. Consequently, we seek the consideration of Maaori Values to Policy 22.

4. Rule 26 Drilling of a petroleum exploration or appraisal well.

Presently this activity is listed as being a controlled activity. We are deeply concerned that our submission seeking that this activity become a Discretionary Activity has not been accepted. As said in evidence above iwi have a responsibility to tangaroa and drilling for exploration will cause discharges of a range of substances into the environment including ecotoxic substances arising from drilling activity.

A Controlled Activity status cannot be declined. the RMA provides:

Section 87A If an activity is described in this Act, regulations (including any national environmental standard), a plan, or a proposed plan as a controlled activity, a resource consent is required for the activity and—

- (a) the consent authority must grant a resource consent except if—*
 - (i) section 106 applies; or*
 - (ii) section 55(2) of the Marine and Coastal Area (Takutai Moana) Act 2011 applies; and*
- (b) the consent authority's power to impose conditions on the resource consent is restricted to the matters over which control is reserved (whether in its plan or proposed plan, a national environmental standard, or otherwise); and*
- (c) the activity must comply with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.*

Council should retain its ability to apply its discretion, and it is essential for council to enable interested parties including Ngaa Rauru and Taranki Iwi and Hapuu to make submissions on drilling activities. It cannot do so unless the activity were more appropriately listed as a discretionary activity.

5. Rule 54: Burial of dead animals;

The plan change has gone some way to ensuring that iwi/hapuu are notified when there are burials of animals required (except for seals which are too numerous for active involvement in every circumstance); however it is expected that iwi/hapuu will have an active, as opposed to notification of, involvement in the burial of all other marine animals including but not limited to whales, turtles, and leopard seals. This approach allows for appropriate tikanga and ceremonies to be performed such as karakia to return the animal's wairua to its resting place. We seek an amendment to read "iwi/hapuu will participate in the burial of dead animals on the beach"

6. Rule 85 Taking or use of water, heat or energy (page 109).

Excluding the taking in an Estuary, this take is listed as a permitted activity. As noted above we iwi and hapuu have significant responsibility for the effects of activities on the environment. For too long the tangaroa has been considered a resource that can be exploited without proper consideration of the effect on that water body's mauri. As with the drilling activity we considered that council should retain its discretion and enable interested parties including iwi and hapuu to express our concerns in accordance with our tikanga and kaitiakitanga practices, in the hope that culturally appropriate conditions of consent that involve the application of maatauranga maaori can be required of applicants.

7. Rule 8.6.2 Light;

We accept the position of TRC that the use of appropriate navigational tools are important and note that opportunities to affect decisions via the resource consent process are available.

8. Section 9 Financial Contributions

Policies 9.1.3, 9.1.5 & 9.1.6. Our submission seeks to enable Tangata whenua to exercise their kaitiaki (guardianship) in instances of environment degradation, be it biodiversity, protection of historic heritage or protection, restoration or enhancement of seabed and foreshore. We seek this for the reason that within our rohe we are the guardians of the environment. Where any sort of restoration is to be achieved through financial contributions we, as Tangata whenua, need to be there to ensure that whatever is proposed to occur meets with our tikanga.

Such "rights" are enshrined in the statute Ngaa Rauru Kaitiaki Claims Settlement Act 2005, and Te Tioriti o Waitangi. Such "rights" are provided for: under Part 2 of the RMA, the NZ Coastal Policy Statement, Ngaa Rauru's Puutaioa Management Plan, and so too should it be enabled in the Taranaki Coastal Plan to comply with these documents. This fact may have been misunderstood by officers.

9. Our submission made the observation that this rule contains a relatively narrow set of offset options. Indeed, the whole Financial Contributions Section makes no reference to or inclusion of reparation mechanisms for the protection, maintenance or restoration of sites of cultural significance to Maaori. Such an omission is considered to be

contrary to sections 6(e) and 7(a) of the RMA which has elevated such taonga to a matter of national importance.

By way of further example, the NZ Coastal Policy Statement includes:

Objective 3

To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:

- *recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;*
- *promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;*
- *incorporating mātauranga Māori into sustainable management practices; and*
- *recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.*

10. Accordingly, it is considered imperative that the restoration of damaged or destroyed sites of cultural significance to Māori be included in the provision to adequately reflect that Matter of National Importance (s 6(e)) and Other Matters (s 7(a)) of the Act and the provisions of the NZCPS 2010.

11. In terms of Provision 9.2 Determining a Financial Contribution our submission seeks clarity about the extent to which and the quantum of mitigation: is it full mitigation or partial? How is that determined? Does the term "community" effects include or exclude cultural effects? It is considered that this provision is all too vague and without certainty. It is noted that no track changes have been recommended. We consider that it is necessary to have engagement and consultation about the nature of this provision to ensure that adequate provisions are contained in the coastal plan that are:

- Meaningful,
- Able to be given effect to
- Will actually achieve the outcome
- Ensure that there is sufficient adequacy in terms of effects on cultural values, and
- Are reasonable necessary (the Newbury Test).

In conclusion we thank council officers for their consideration of our submissions. We leave the decision on these submissions in the hands of the Hearing Panel and look forward to your decisions in due course.

Ngaa Mihi

Date: _____

Proposed Coastal Plan for Taranaki

Submission by Ngati Rahiri Hapu

Mihi

Whaikororia ki te Atua i runga rawa

He maungarongo i runga i te whenua

He whakaaro pai ki nga tangata katoa – ahakoa, ko wai.

Kia koutou nga kaiwhakarongo, tenei te mihi atu kia koutou katoa i hui tahi nei i runga i tenei kaupapa e pa ana ki te tiakina o to matou moana, ara, to matou mahinga kaimoana. Na matou matua tupuna i whakatakoto te ara mo matou hei hikoinga tika i runga i te mata o te whenua. No reira i roto i tera whakaaro o te kaitiakitanga o to matou rohe, o to matou tikanga, tena koutou, tena koutou, tena huihui tatou katoa.

Introduction

1. Thank you for the opportunity to summarise our concerns to this coastal plan today.
2. My name is Keith Holswich and I am Ngati Rahiri. I am a land surveyor and live in New Plymouth. Beside me is Kristine Marsh, also Ngati Rahiri. Kris is our hapu whenua and moana manager and seems to spend all her time fighting for the protection of our lands, waterways and coastline.
3. Unfortunately, we are here because despite extensive discussions with Council officers, and here we must thank Chris, and his team (nga mihi), we have been unable to reach agreement on all our concerns. Some were accepted, the majority were not, but that is just part of the process. Of the ones that were not accepted, we have made our point and we shall proceed no further. However, there is one matter that we cannot accept and we must pursue this.

Our Reefs

4. Map 45 of the proposed plan shows the extent of our reef system offshore from Nikorima Road in the west, then Motunui, Epiha Road, Turangi Road and the Waiau Stream in the east. The extent of this extremely large reef system was accurately defined by hydrographic survey prior to the construction of the Pohokura onshore production facility, so it's accuracy cannot be questioned.
5. The importance and significance of this reef system to us cannot be underestimated. Since our arrival to this land some 800 years ago, it has provided us with sustenance, indeed, our very life. But most of all, it provides our hapu with the mana to provide for our guests whenever they visit us.

6. We have fought for the protection of this reef system ever since and no bigger fight can be mentioned than the epic work carried out on our behalf by Aila Taylor who took our concerns to the Waitangi Tribunal in 19xx. The final Waitangi Report (Wai 6 – Motunui xxx) has since provided a case study on the relationship between iwi/hapu and our reefs, and the significance of those reefs to us. The report also clearly sets out the framework for the protection of the reefs. If you have not yet done so, I urge you to review the Wai 6 report.
7. There is no need for us to go into further details regarding our relationship to our reefs. They are so well articulated in the WAI 6 report.
8. Both Kristine and I represented our hapu at the Environment Court in 20xx in an attempt to stop an oil company cutting through our clifftop waahi taonga sites and laying a pipeline over our reef. Thankfully, common sense prevailed, and the development proposal was withdrawn.
9. I mention these matters to show that even today, we are prepared to fight for the protection of our reefs.

The Proposed Coastal Plan

10. This brings us to the subject of our meeting here today – the Proposed Coastal Plan for Taranaki and in particular Councils insistence that the following should be PERMITTED activities over our reefs including
 - a. Rule 18 - Placement or erection of an outfall structure – page 64
 - b. Rule 20- Placement or erection of a mooring structure – page 66
 - c. Rule 21 - Placement or erection of a navigational aid – page 67
 - d. Rule 22 - Placement or erection of a network utility structure – page 68

And as a CONTROLLED activity

- e. Rule 26 - Drilling of an exploration or appraisal well – page 73
11. All I can say is Permitted activities? Have we learnt nothing from the previous 40 years or so?
12. We cannot accept that anything other than a DISCRETIONARY activity designation should be placed on any activity that has the potential to damage, desecrate or destroy our reefs.
13. We are not convinced by TRC officers assurances that even though the above activities are permitted, no damage to our reef system will be allowed, because here is the catch. As a permitted activity, there will be no need to consult with us prior to any works commencing so we will be unable to express our concerns, there will be no monitoring from Council to ensure that any matter that needs to be considered has indeed been considered.
14. In this instance, we cannot agree with the officers Sec 42 report (page 294) that

“.. the activity is considered fairly standard and routine with any adverse effects generally being temporary and less than minor”

We can never accept that any commercial activity on our reef is “fairly standard and routine” and can never accept that the effects on us as a hapu are “less than minor”

15. And we are deathly afraid that we will have another situation on our hands such as the condensation spill in 19xx where it was necessary to place a rahui on the collection of seafood off our reefs. Oh, we were told that no such spill could occur but when it did, it was our hapu members who found the polluted beach and reef system the day after the unreported spill had actually occurred. But luckily, we did have an agreement in place that the oil company would compensate us if our reefs were ever damaged. And what did they do after the spill? NOTHING!
16. We can never accept having a similar situation again.

Relief Sought

17. The relief we seek is very simple. Rule 29 on page 76 makes it a DISCRETIONARY activity for the placement or erection of a petroleum production installation in the open Coast area. And this is good.
18. We are simply asking that Rules 18, 20, 21,22 and 26 become DISCRETIONARY activities as well with all the protection that such a designation will give to our reefs.

Summary

19. I am reminded of a recent RMA Association meeting in New Plymouth, that was attended by several TRC officers, when Dr xxx, the renowned whatever, commented that

“A permitted activity has the greatest potential to damage etc”

And that is one reason why we wish to stop any permitted activity occurring on our reefs.
20. So, if you do not intend to listen to, or abide by the Waitangi Tribunal (WAI 6) recommendations, then you may leave the plan as it stands.
 - If you do not believe that we as a hapu, have via the Treaty of Waitangi, the rights to undisturbed possession and use of our reefs, then you will leave the plan as it is.
 - If you do not believe that the very mana of our hapu is at stake here, you may leave the plan as it is
21. However, if in your wisdom, you recognise that the three matters I have just mentioned are not only in our interests, but in the interests of the wider community and indeed the country as a whole, then you must give us the relief sought and recommend changing the plan
22. Once again, thank you for the opportunity to present our concerns here today. We are in your hands

23. Tena kotou, tena kotou, tena kotou katoa

24. I am happy to take any questions on this brief submission.

Motunui Waitara Report

Title

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TITLE

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WAITANGI TRIBUNAL WELLINGTON NEW ZEALAND

March 1983

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WAI 6

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REPORT FINDINGS AND RECOMMENDATIONS

OF THE WAITANGI TRIBUNAL

ON AN APPLICATION BY AILA TAYLOR FOR AND ON BEHALF OF TE
ATIWA TRIBE IN RELATION TO FISHING GROUNDS IN THE WAITARA
DISTRICT

Edward Taihakurei Durie
Chief Judge of the Maori Land Court
Chairman

Walter Max Willis
District Court Judge
Member

Sir Graham Stanley Latimer, J.P.
Member

March 1983

Waitangi Tribunal, Department of Justice, Wellington.

Motunui Waitara Report

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Motunui Waitara Report

1 Introduction

1 Introduction

1. INTRODUCTION

1.1 Summary of findings

We have made inquiry into a claim by and on behalf of the Te Atiawa people of Taranaki that they are prejudicially affected by the discharge of sewage and industrial waste onto or near certain traditional fishing grounds and reefs and that the pollution of the fishing grounds is inconsistent with the principles of the Treaty of Waitangi. Evidence has been given as to the extent and use of the fishing grounds, their historical and cultural significance, the extent of pollution, the existing controls and the steps taken to minimise pollution, and certain related matters that were brought into issue during the hearing, including the extent to which any Maori interest in the fishing grounds is either recognised or provided for.

We find

- (a) That the reefs and river referred to in this claim constitute significant and traditional fishing grounds of specific hapu of the Te Atiawa people.
- (b) That the hapu are prejudicially affected in that the reefs and associated marine life suffer from various degrees of pollution and that those near to the mouth of the Waitara River in particular are badly polluted and stand to be polluted further.
- (c) That certain reefs near Motunui are likely to be deleteriously affected by the construction of the proposed ocean outfall associated with the synthetic fuels plant.
- (d) That there are insufficient planning requirements to provide an adequate assurance that the river and reefs will not be further polluted as a result of further development and growth in the area and that in any event insufficient recognition is given to the Maori interest in the coastal and inland waters to ensure the protection of that interest in existing mechanisms for planning and control and in legislation governing the use of the seafood resource.
- (e) That the Treaty of Waitangi obliges the Crown to protect Maori people in the use of their fishing grounds and to protect them from the consequences of the settlement and development of the land.
- (f) That the Treaty of Waitangi obliges the Crown to ensure that priority is given to the Maori interest in fishing grounds but an appropriate priority is not given, or is not able to be given by Departments of State and other bodies whose duties are prescribed by statute.
- (g) That the Treaty of Waitangi obliges the Crown to provide for legislative recognition of Maori fishing grounds and to confer upon the hapu most closely associated therewith certain rights of control.
- (h) That it is not inconsistent with the spirit and intention of the Treaty of Waitangi that the Crown and the Maori people affected should confer on matters arising thereunder and agree to alter the incidence of the strict terms of the treaty in order to seek acceptable practical solutions for any particular case. The Te Atiawa people have

stated a desire to establish a workable compromise in this case and our recommendations are a reflection of that.

1.2 Summary of recommendations

We recommend

- (a) That the proposal for an ocean outfall at Motunui be discontinued and
- (b) That the Crown seek an interim arrangement with the Waitara Borough Council for the discharge of the Synthetic Fuels Plant effluent through the Waitara Borough Council's outfall.
- (c) The establishment of a Regional Planning and Co-ordinating Task Force to propose medium term plans for development in the region and the provision of infrastructures and ancillary services commensurate with projected growth. In the first instance the Task Force should direct its attention to the replacement of the defective Waitara Borough outfall, and in the long term to the provision of land based treatment plants.
- (d) The establishment of an interdepartmental committee to promote legislation for the reservation and control of significant Maori fishing grounds, the recognition of Maori fishing grounds in general regulatory and planning legislation, to improve existing provisions for the assessment and control of particular work projects that may impinge on Maori fishing grounds, and to effect certain miscellaneous amendments. Our findings and recommendations and our reasons therefore are more particularly set out in the succeeding paragraphs.

Waitangi Tribunal, Department of Justice, Wellington.

Motunui Waitara Report

2 The Claim

2 The Claim

2. THE CLAIM

2.1 Particulars of the claim

The original claim was filed on 4 June 1981 and was made by Aila Taylor "for and on behalf of Te Atiawa tribe". A copy of the claim is annexed as Appendix 1.

In response to a request from the Tribunal for further particulars a more specific claim was filed 25 March 1982. A copy of the more specific claim is annexed as Appendix II.

2.2 A claim in a representative capacity

It was recognised that Mr Taylor made this claim in a representative capacity and that he spoke for the Te Atiawa people of the Taranaki area, and for those of the Manukorihi, Otaraua and Ngatirahiri hapu in particular. He gave evidence himself but he was supported by many others who had ample knowledge of the concerns of the Te Atiawa tribe.

2.3 Notification of the claim

Public notice of the claim and of the Tribunal's sittings was given in the Dominion, the New Zealand Herald and the Taranaki Daily News. Specific notice was given to those named in Appendix III.

In addition the claim and the Tribunal's hearings attracted considerable provincial and national media attention.

Motunui Waitara Report

3 Hearing Of The Claim

3 Hearing Of The Claim

3. HEARING OF THE CLAIM

3.1 Sittings, submissions and evidence

The tribunal sat

(a) during the week commencing 5 July for the purpose of hearing the Te Atiawa claimants,

(b) during the week commencing 18 October for the purpose of hearing other interested persons and bodies, and

(c) during the week commencing 22 November for the purpose of hearing final submissions and replies.

Those who made submissions to us are named in Appendix IV. No evidence or submissions were given in private but as shown in the appendix six written submissions were received without an appearance by or on behalf of the authors. The tribunal visited the reefs said to be affected, the synthetic fuels and methanol plant sites, Borthwicks Freezing Works, and the Waitara Borough outfall, all of which are in the vicinity of Waitara.

The tribunal also conducted its own researches into existing literature touching upon the areas of concern.

3.2 Prior proceedings

The tribunal did not commence its inquiries until after certain proceedings before the Planning Tribunal and the Court of Appeal had been concluded in the hope that certain areas of concern might be resolved before our inquiries opened and to the intent that the areas of concern might be made more certain. We were also conscious of the provisions of section 7 (1) (c) of the Treaty of Waitangi Act whereby we may decline to inquire into a claim where there is an adequate remedy or right of appeal that might be pursued in another forum, and we wondered whether the claimants might find satisfactory relief in other proceedings.

3.3 Matters of omission and rectification

During the course of the first week's hearings it became apparent that the claim and further particulars as filed were deficient in that

- they were not specific,
- they failed to make specific reference to the proposed Motunui ocean outfall associated with the synthetic fuels plant, and
- they did not adequately state the total concerns of the Te Atiawa people in relation to the fishing grounds.

It is our view that claims to the Waitangi Tribunal ought not to be overly constrained

by the adequacy of pleadings provided that the various claims can be adequately identified at the hearing, and other parties can be given a sufficient opportunity to respond to them. This approach seems to us to be important in order to facilitate Maori claims to the Tribunal without undue legalism, and to be particularly important where, as in this case, the claim is made on behalf of a tribal group in respect of whom it cannot be presumed that the individual members are all of one mind. Accordingly it was our approach in this case to accept that the full nature and extent of the claim might not be apparent until the Te Atiawa claimants as a whole had been heard, to use the first week of the proceedings to enable the various Te Atiawa claims and concerns to be identified and stated, and then to adjourn proceedings for a sufficient period to enable other interested parties to consider the claims and to respond to them.

In the result certain matters not specifically stated in the formal claim were brought within our purview and in particular

- the extent of pollution in the Waitara River and its effect on Te Atiawa River fishing practices,
- the existing provisions affecting the use, enjoyment and control of Maori fishing grounds, and
- the Motunui outfall

(The Motunui outfall was only obliquely referred to. The claim referred principally to the discharge of sewage and industrial waste into the sea between New Plymouth and Waitara but para. 7 of the claim went on to state -

"Petro Chemical Industries being established near Waitara have obtained approval for the discharge of industrial waste and sewage into the same area of the sea as is already polluted by the Waitara Outfall and the position in the absence of proper supervision is therefore likely to deteriorate.")

3.4 Marae hearings

It is useful to record that each hearing was held on the Manukorihi Marae. The Treaty of Waitangi Act enables the Tribunal to receive evidence in any form and it should be mentioned that none of the evidence in this case was sworn evidence. The proceedings were held on the Marae because the Tribunal was of the firm opinion that on their home territory the Maori people would be better able to express their feelings and make their concerns known. The Tribunal is completely satisfied that by adopting this procedure it was able to reach the real heart of the matter. This would not have been possible had the proceedings been held in a building such as a Courthouse or in proceedings conducted in the same manner as a court hearing.

Motunui Waitara Report

4 Background To The Reefs - Te Atiawa Perspective

4 Background To The Reefs - Te Atiawa Perspective

4. BACKGROUND TO THE REEFS - TE ATIWA PERSPECTIVE

4.1 History and legend

The Te Atiawa fishing reefs (or kaawa) extend for some 30 to 35 miles along the coast of the north Taranaki bight and provide an abundant source of seafood. Collectively they constitute one of the most extensive traditional fishing reefs of the Maori people. They are referred to in the songs and legends of the Te Atiawa people and were a source, not only of food, but of tribal pride and prestige. Sir Peter Buck ("The Coming of the Maori" page 378) has recorded one such legend as follows: "A curious story is connected with the visit of a Ngati Tama ohu to clear some land for a Taranaki tribe south of the present New Plymouth. The ohu speedily completed its task with a large stone adze named Poutamawhiria, to which a certain amount of magic power was ascribed. The working party had been fed with choice mussels from a local reef. They were so good that the Ngati Tama priest with the ohu decided to steal a portion of the reef. He waded out secretly to the reef, cut off its northern end with the adze, Poutamawhiria, and by means of magic incantations, floated it back to his own territory, where it is now fixed in the sea as the mussel-bearing reef named Paroa. However, Poutamawhiria marked its disapproval of the theft by allowing a chip to break off from one corner of its cutting edge. Generations later the adze disappeared, but a description of it was handed down orally. It was of very black polished stone about 16 inches in length, and it had a chip off one corner of its cutting edge. One night a young girl of the Ngati Tama dreamt that Poutamawhiria had been found at the neighbouring village of Pukearuhe by a European farmer named Black. The girl was so insistent that her father, Te Kapinga, visited Mr Black's home, where, to his intense surprise, Mrs Black produced a large stone adze which her husband had found recently. It was of polished black basalt, the right length, and it had a chip off one corner of the cutting edge. Mr Black arrived and, after hearing the story, very generously gave it to Te Kapinga as the representative of the rightful heirs. The Ngati Tama and Ngati Mutunga tribes held a meeting at which Poutamawhiria was laid in state on a flaxen robe on the marae, and the people greeted its return with a welcome of tears. The finder was publicly thanked and given a suitable present. Later, on a visit, I was shown Poutamawhiria. I looked doubtingly, perhaps, at Te Kapinga, as I felt the chipped corner. "Well," he replied, "If you examine the Taranaki reef, you will see that its northern end is cut off clean and if you examine the Paroa reef you will find that its southern end is cut off clean. Now if you were to bring the two reefs together you would find that the two cut ends would fit perfectly." Who am I to gainsay such proof?"

Evidence of the role which the reefs and sea-bed play as a means of recording and transmitting cultural values is also contained in statements made to us. The first concerns the events which give rise to the full name of the locality as Owae Waitara,

also borne by the portal of the Manukorihi marae. Wharematangi, a young man brought up by his mother's people north of Taranaki, expressed (circa 1420) the wish to meet with his father Rahue and paternal kinsfolk of Te Atiawa. Following the tara (dart) given to him by his mother Wharematangi's journey led him to the reefs off the river mouth of the river now known as Waitara, hence the Owae Waitara which other dialects would pronounce as Owae Whaitara.

(See also S P Smith - "Maori History of the Taranaki Coast.")

This episode demonstrates the richness of the history associated with the reefs and the way in which their names can act as signposts for further accounts of the history of the people.

Another person appearing before us referred to an event recorded in the oral history of the area by which the neighbouring reef of Waiongona was named. The name refers to Ngona, daughter of the well known voyager Kupe, who called in at that point so that Ngona could drink and refresh herself - hence the name Wai o Ngona (literally water of Ngona).

4.2 Hapu divisions of the reefs

Possession of the reefs was seen by Te Atiawa as important as the occupation and possession of the land. It is significant to note that just as the adjoining land is divided amongst the various hapu of Te Atiawa, so also are the reefs so that particular reefs are regarded as the property of particular hapu.

We were advised that the following reefs are associated with the following hapu:

Waiwakaiho }

Mangati } Ngati Te Whiti

Kunene }

Waiongona }

Tauranga }

Orapa } Otaraua, Manukorihi

Te Puna }

Tokataratara }

Titirangi Ngati Rahiri

Urenui Ngati Mutunga

Paraninihi Ngati Tama

The custom in this respect continues to this day. Aila Taylor for example stated that he would not take kaimoana (seafood) from a reef other than that belonging to his own hapu. We have been singularly impressed with the quiet honesty and integrity of Aila Taylor and accept his evidence entirely.

In regarding the extensive nature of the Taranaki reefs therefore it is not an adequate answer to the Maori claims to consider the pollution of the reefs in one locality not to be prejudicial for as long as other reefs remain untainted. The important question here is whether the whole or an undue proportion of the reefs of any particular hapu are prejudicially affected.

4.3 The seafood resource

In this particular inquiry we have not been concerned with the Taranaki reefs as a whole. Our inquiry has focused upon the Tauranga, Orapa, Te Puna and Titirangi

reefs off Waitara and Motunui, and which are regarded as belonging to the Manukorihi, Otaraua and Ngati Rahiri hapu.

Nonetheless, it is apparent that many of the claims made in respect of the particular reefs referred to hold true for the reefs as a whole. There can be no doubt that in the Taranaki area the various reefs along the coastline were and still are a valuable source of seafood. They are used today for the harvesting of kuku, kina, kotoretore, four genera of pupu (karikawa, mitimiti, korama and ngaruru or makiritai), rore, karengo, paua, wheke (octopus), starfish, the waiwakaiho crab, limpets, crayfish, starfish and fish generally.

4.4 The cultural value of the seafood resource

The harvesting of seafood from the reefs was and is not only for the purposes of survival. Kaimoana also has an intrinsic cultural value manifested in manaaki (token of the esteem) for manuhiri (visitors).

That attitude is expressed in the statement before this Tribunal -

" . . . mataitai [seafood] is very valuable, more valuable than meat - without that our table is nothing . . . "

It is a matter of tribal prestige and honour, not only that guests should never leave hungry, but that guests should be suitably impressed by an abundance of traditional foods prepared for them. The hakari (feast) associated with the numerous Maori tangi and hui is an important part of Maori culture, and as we were to witness for ourselves, it is important that the supply should exceed the guest's needs. (The residue is not wasted but is divided amongst the host hapu). The cultural value of kaimoana is therefore important, not only because it satisfies the traditional palate and sustains the way of life of the individual, but because it maintains tribal mana and standing. In Maori terms it would not be valid to contemplate the destruction of some reefs by assessing the individual needs of the local people and the resource necessary to meet that need. It is necessary to assess the tribal need.

4.5 Customs attaching to the reefs

There was ample evidence to show that from very early times the Te Atiawa people have not only looked upon the reefs as a source of supply but have tended, harvested and conserved them. Our attention was drawn to the particular cultural preferences that govern the Te Atiawa stewardship of their reef and river resources. In its outward manifestation it includes -

- the harvesting of seafood rotationally and in appropriate seasons;
- the preservation of the beds in their original state to the extent that even a dislodged rock is returned to its original position;
- the avoidance of all forms of despoliation from rubbish and waste to human and animal excreta in proximity to the sea or to the rivers that run into it;
- the placing of a rahui (prohibition) on the gathering of seafood following the loss of a body at sea or to guard against over exploitation (in this district the rahui was sometimes indicated by a sprig of rimu on a floating log);
- the avoidance of gutting fish or shelling shellfish below the high water mark; and
- a prohibition on the gathering of shellfish by women during menstruation.

Other customary practices of earlier years, not so commonly observed today were explained to us by one witness referring to the collection of seafood over a three day

period at a time of the month when the tide is most favourable. She described how on those occasions the women (and then only selected women) used only newly plaited and clean baskets. None of the seafood was cooked or prepared for eating until after the third day "so that the sea be calm", and bathing or washing in nearby rivers was prohibited. In referring to fishing generally she described how the fish had to be hooked and secured before it bled so that it did not bleed on the rocks ("or no more will go into the cupboard"). She described how the fish caught were not for the individual, but for the marae people as a whole and how the first fish caught had to be given away. She noted with some sorrow that the Orapa reef was once reserved for supplying the marae, but that because of the pollution it could no longer be used. The deterioration was such that the mussels had become soft to the extent that the shells would crumble in the hand.

Other customs were only obliquely referred to by the many elderly women who spoke to us at the hearing. We accepted that this had to be so. As Aila Taylor explained "It has been quite an exercise to get the elders to participate in an exercise such as this. We are a proud people. There are certain things that we don't wish to advertise, and neither do we seek to make a spectacle of ourselves." For our part it has been necessary to record those things tending to establish a traditional and continued user of the reefs, and which indicate cultural preferences that define the nature of that use. In its simplest form such customs are an outward manifestation of the respect paid by Maori people to the sea and its food resource. It is probably more important to note however that such customs are a manifestation of a far more complex Maori spiritual conception of life and life forces which compels them to insist upon a much higher standard in the maintenance of clean water and the preservation of natural states than that to which we are accustomed.

4.6 Spiritual and cultural factors

Many of those who appeared before us spoke therefore not only of the physical contamination of water by which a degree of pollution might be entertained as not injurious to health, but of the "spiritual pollution of water which affects the life force of all living things and eventually man" (Moke Couch) and according to which no degree of contamination can be contemplated. The tapu (sacred) nature of water in the Maori scheme of things was stressed by many (in particular Joe Tukapua, Milton Hohaia, and Hikaia Amohia) while a more pragmatic approach was adopted by another witness (Titi Tihu) who was within two months of his 100th year. He quite dramatically pointed out that if, for example, corn was thrown into the water it would rot because the water would reject it. The proper place for corn was on the land where it properly belonged. The water will react against what it does not like but will nurture what it does. Moke Couch pointed out "that which we dispose of from the body goes back to the earth and the earth can cope with it." He considered that no remnants from the human body, from washing or excreta, should pass into waters associated with food - "if we eat food that has particles of mortuary waste of possibly people we know - we are presenting a kind of insult." So strong is this feeling that others considered the eating of fish following the placing of a rahui was in some cases tantamount to cannibalism.

Accordingly, in the traditional Maori conception of life, it is irrelevant to consider whether effluent and human waste can be so treated as to be virtually pure before it is discharged into the river or sea. The position was succinctly stated by the Commissioner for the Environment as follows:

"It is the Commission's experience that the environmental impact of a given level of pollution depends in part on the subjective reaction of individuals to that particular form of pollution. For certain forms of pollution the reaction of individuals will be determined by cultural or religious factors. Submissions made during the opening stages of this Tribunal made it clear that this applies to the composition of the effluent discharged to the coastal waters off Waitara and that there is a strong philosophical and moral objection from Maori people to the discharge of sewage effluent into a food source and waters used for washing, bathing, fishing."

After a great deal of evidence on this subject from a number of Maori people we were convinced that there is a need for a much greater awareness of the spiritual and mental concepts of the Maori in relation to seafood and water by non Maori who share the seafood resource and by those who are charged with its protection. It would be particularly wrong if the administration of Maori fishing grounds was entrusted only to those whose judgements are founded upon cultural values that are entirely irrelevant to Maori people. For this Tribunal the question is not only whether the Treaty of Waitangi envisages a measure of protection for the Te Atiawa reefs, but whether any such protection should properly accord Te Atiawa cultural preferences.

4.7 Early legislative recognition - Maori Affairs Act - Fisheries Act

With the change and increase in the Taranaki population the danger arose that the Maori interest in the fishing grounds would not be recognised. With the failure of the European to appreciate fully Maori methods of conservation and harvesting the added danger arose of the seafood resources being reduced or extinguished.

In 1909 Section 232 of the Native Land Act was enacted to enable Maori land to be set apart as Maori reservations for the common use and benefit of the owners, for the purposes, amongst other things, of fishing grounds and bathing places. The provision continues to this day in Section 439 of the Maori Affairs Act 1953. It is a provision that is well known to Maori people being used regularly to secure to them the ownership and control of sites of particular importance and significance by application to the Maori Land Court.

Although the current Section 439 continues to refer to fishing grounds, the Section is not in fact capable of being used to secure most Maori fishing grounds. Maori reservations under section 439 can be created only in respect of land above the high water mark and then generally only in respect of Maori land. The Maori Land Court is unable to contemplate the reservation of fishing grounds except to the extent that they exist in rivers or lakes the beds of which are clearly Maori land, or except that Maori land adjoining a fishing ground may be reserved.

We consider that this has not been understood by the Te Atiawa people. Evidence was given of various areas along the Taranaki coastline set apart as Maori reservations in the 1920s, 1930s and 1970s. It was considered that by reserving the land for the purpose of providing fishing grounds the adjoining coastal fishing reefs had also been reserved. That is not in fact the case. The Maori reservation status applies only to the coastal land.

(We wonder also about the extent to which Maori reservations are in fact inviolate. Evidence was also given that part of one reservation had been taken in 1948 as waste land. Another, which contained a Tauranga waka (traditional boat race) and mauri (rock or other symbol representing the life force) was said to have been "taken over" by a local boat club and the race had been concreted.)

The Maori Councils Act 1900 created District Maori Councils and empowered them

to make Regulations and bylaws for the control and regulation of fishing grounds used by Maoris. By an amendment in 1903 provision was made for the gazetting of Maori fishing grounds "exclusively for the use of the Maoris of the locality or of such hapus or tribes as may be recommended" and by a consolidation of these provisions in Section 33 of the Maori Social and Economic Advancement Act 1945 provision was made for the control of such fishing grounds by tribal executives or committees. These provisions were repealed on the enactment of the Maori Welfare Act 1962. As far as we have been able to ascertain the Te Atiawa people did not take advantage of these provisions and no Maori fishing ground reserves were in fact created. Various reasons were given. One was that reliance had been (wrongly) placed upon the Maori reservation provisions in the Maori Affairs Act. Another was that the people were generally unaware of the provisions until it was proposed that they be repealed. Yet another was that approaches made to reserve areas had been met with a rejoinder that it could not be done as the areas sought were too large and there would be opposition from the European sector. Thus C. Bailey stated to us "Quite a number of years ago we marked out all the kaawa from Mokau to Patea. We had them all named too. We sent it to the Minister of Fisheries and his reply back was that no way could he see that the Maoris were going to claim the whole Taranaki coast." (The lack of legislative recognition in the past contrasts markedly with the recognition in fact given to Maori fishing practices in other policy areas. We were informed for example that during the depression of the early 1930's, unemployed Maoris received a smaller benefit than their European counterparts on the basis that they had access to natural food resources.)

4.8 Present Legislative recognition

The present position is that there are now no statutory provisions to secure to the Atiawa hapu the exclusive use, ownership or control of any of the Te Atiawa fishing reefs, and it appears that none have been reserved under earlier enabling legislation. Legislative provision for the harvesting and the control of harvesting seafood from the Te Atiawa reefs is now that which applies generally to all fisheries, and (save for one exception) to Maori and European alike. These provisions are generally contained in the Fisheries Act 1908 and its various amendments and the Regulations made thereunder.

Section 77 (2) of that Act, which exempts from Part I thereof "any existing Maori fishing rights" has no application to the Te Atiawa reefs as no existing Maori fishing rights have been established in respect of them. While for other tribal areas certain specific statutory provisions exist to acknowledge certain Maori fishing or other rights (in respect, for example, to Lakes Rotorua, Rotokakahi, Taupo, Rotoaira, Horowhenua and Forsyth and with regard to Oyster fisheries, the Fisheries Amendment Act 1965) there are no specific statutory provisions for the Te Atiawa reefs.

(The Rock Oyster provisions relate to designated Maori oyster fisheries along certain parts of the Northland foreshore. Harvesting is authorised for non-commercial purposes under the supervision of a committee of Maoris appointed by the Minister from residents in the neighbourhood. If necessary, for conservation purposes, closed seasons can be declared by the Minister on recommendation from the Committee. These fisheries were designated principally within the period 1913 to 1933.)

Special provisions are included in the Fisheries Regulations however to enable Maoris, on behalf of a Maori Committee or a District Maori Council, to be authorised

by a Maori Community Officer after consultation with an Inspector of Sea Fisheries to harvest certain kaimoana in excess of daily and personal quotas for use at specific hui or tangi. (Regulation 106K (5A) of the Fisheries (General) Regulations 1950). However, it is clear from the evidence that from time to time difficulties are created. It was pointed out that deaths do not always occur at a time which allows use to be made of the exemption provided in the Regulation. It is not always easy to find a Maori Community Officer or a Fisheries Officer, particularly at weekends. In addition, licences are issued for particular days but weather or tide conditions may make those days unsuitable.

Other Regulations are regarded as inappropriate for the Te Atiawa reefs. The Regulations require for example that paua under 125 mm or about 5 inches be not taken. While paua exceeding 125 mm may be common in other districts, there was clear evidence from the Te Atiawa people that their paua rarely grow in excess of three inches. In the Te Atiawa circumstance the Regulation serves not as a regulation but as a total prohibition.

While we were concerned only with a specific area it was abundantly clear that there is a general concern amongst Maori people throughout New Zealand that Maori fishing rights have been affected by the Fisheries Act and its Regulations. We note in this respect the evidence of T. E. Kirkwood before this Tribunal in a claim relating to a proposed power station at Waioua Pa, and submissions made, from time to time, by the New Zealand Maori Council.

4.9 Te Atiawa concern - ownership - control - user

The Te Atiawa concern with the application of particular regulations is however merely an outward manifestation of a more deep rooted concern. The reefs, in their view, are their reefs just as they were the reefs of their forefathers, but they have not the ownership of them nor the control. The control is in fact vested in others who may or may not be aware of their customs and preferences or who may be constrained by an empowering statute that does not enable them to give to the Maori interest any greater weight than that which must be given to the general public interest.

The Te Atiawa must apply to others to do that which in their view they ought to be able to do as of right. The question before this tribunal therefore is not merely whether the regulations ought to be amended in one way or another to enable the harvesting of smaller paua or to expedite licences to harvest kaimoana for tangi or hui, but whether the current presumption as to who may control or regulate the use of the reefs and the manner in which that is done, is consistent with the principles of the Treaty of Waitangi.

Some of those who appeared before us would seek the reservation of reefs and Maori fishing ground in a manner similar to that contemplated by the earlier legislation. It is significant to note however that although it might be argued that the Treaty intended that the Maori people should have an exclusive user of their fishing grounds, an exclusive user was not urged by those who sought this course. The overall impression gained was that that which was principally sought was the control of the reefs so that the "mana Maori" or authority in respect of them might be seen to vest in the local hapu. This was urged by many people and we refer in particular to the recorded statements of Sally Karena, Vera Bezems and Milton Hohaia. The way in which Fisheries Regulations for the control of the harvesting of sea food was seen as inimical to the mana Maori was graphically expressed by the Chairman of the Taranaki Maori Trust Board who stated "the legislation has made thieves of us Maori,

of our own food." It would not have assisted the restrained and dignified presentation of the Te Atiawa case to have asked him whether he saw that result as intended by the Treaty of Waitangi.

Some referred to past pleas to Government agencies. Milton Hohaia referred to a report of the Seminar on Fisheries for Maori Leaders with special regard to Taranaki Tikanga (customary practices) of 1976 which recommended "that legislation be formulated to ensure tribal council control of reefs adjacent to, and traditionally associated with, papakainga (Maori fishing reserves)." Sally Karena referred to a meeting at Tawhitiānui with representatives from the Department of Agriculture and Fisheries in 1981 to consider a proposed new Fisheries Bill and at which, she said, a resolution had been passed "supporting the clause relating to fisher's rights set out in the Treaty of Waitangi." Charles Bailey referred to similar resolutions over several years from the Aotea District Maori Council (which includes Taranaki) and the New Zealand Maori Council.

It was pointed out that several large tracts of Maori land have been set apart as Maori reservations for scenic and other purposes, but save to the extent that it has become necessary to control an abuse, the general public has not been denied access by the Maori persons appointed as trustees for the control of them.

Waitangi Tribunal, Department of Justice, Wellington.

Motunui Waitara Report

5 The Reefs - A General Public Perspective

5 The Reefs - A General Public Perspective

5. THE REEFS - A GENERAL PUBLIC PERSPECTIVE

5.1 Public Use and Concern

Today the reefs and coastal waters are used not only by Te Atiawa of course, but by the general public. They are used by commercial and non-commercial fishermen, skin-divers, surf-riders, bathers, and for rock scrambling and fossicking. The reefs are also used by non-Maoris for the gathering of seafood. A witness for the Taranaki Catchment Commission counted more non-Maori than Maori gathering shellfish from the Waitara reefs over a given period.

There was evidence of considerable public agitation for greater controls for the protection of the reefs and their associated marine life, of public concern with the alleged polluted state of the Waitara waters and with the prospect of further pollution from existing and proposed major industries. Submissions were made to us on behalf of the Taranaki Clean Sea Action Group Inc., the Taranaki Branch of the Soil Association of New Zealand, the Taranaki Branch of the Values Party, the Waitara Surf Riders Club and by individual members of the general public many of whom had also appeared before the Planning Tribunal in earlier hearings. Generally they urged greater protection of the reefs and coastal waters in the interests of the general public of the area.

A number of bodies having some responsibility for the protection and enhancement of the coastal and inland waters were also represented before us. Nearly all those who addressed us from this sector were either of the view that the Maori interest in the reefs could be held to be no greater than that of other special interest groups within the general public, or considered that they were constrained to adopt that view in terms of their empowering statutes.

5.2 Taranaki Catchment Commission and Regional Water Board

The Taranaki Catchment Commission and Regional Water Board administers the Water and Soil Conservation Act 1967 in its application to the Taranaki area and has responsibility for the overall management of Taranaki's water resources. It handles applications to take water and to discharge water and/or wastewater to natural water, conducts its own researches into water standards, marine ecology, water use and management plans and waste disposal options, investigates water rights applications and monitors and supervises granted water rights. In the performance of its functions the Regional Water Board is required to balance a number of public uses and, amongst other things, is required to have "due regard to recreational needs and the safeguarding of scenic and natural features, fisheries and wildlife habitats" (Section 20 (c) Water and Soil Conservation Act 1967).

The Commission is very conscious of the value that Maori people place upon the

Taranaki reefs. In a report on the "Recreational Use of Water in North Taranaki" it recommended "that the value placed on traditional fishery resources by the Maori people be recognised and that measures be undertaken to ensure the protection of these resources." Nevertheless, as was stated by many of the witnesses from the Commission, the Maori interest is but one of many public interests that must be brought into account and weighed in the balance. In the performance of its functions and in its consideration of water rights applications the Commission has no particular mandate to consider Maori values in relation to water and Maori fishing grounds, and has no authority to accord priority to the Maori interest. Indeed in its report on "Recreation water resource investigations. Synthetic petrol plant - Motunui" food gathering, (not Maori food gathering) is placed alongside such uses as rock scrambling and fossicking, surfing and skindiving. While the Water and Soil Conservation Act focuses upon a need to protect fisheries and wildlife habitats, there is no focus upon the Maori interest in them. The Maori interest is accorded no greater weight than the general public interest even although in many respects the Maori and the general public interest diverge.

The Maori people, along with the general public do however have (and have exercised) rights to object to water right applications. Section 23 of the Act enables persons "detrimentally affected" to object to the grant of a water right to the Crown, and, in reference to water right applications by bodies other than the Crown, Section 24 (4) of the Act provides

"Any person may lodge an objection to the application on the ground that the grant of the application would prejudice his interests or the interests of the public generally." It was urged upon us by counsel for the Ministry of Agriculture and Fisheries that there is nothing to prevent any Maori from objecting to an application on the ground that his or her people would be prejudiced by the grant that the applicant is seeking and that loss of fisheries as a food resource is a valid ground. In our view however there is a distinction to be made between the inchoate right of Maori people to present a case that may or may not be upheld upon a balance of factors, and defined rights stemming from a statutory recognition of Maori fishing grounds. As was stated to us by one witness " . . . the Maoris' right is implicit and inherent and they should not forever have to be on their guard to fight for it."

It also appears that the current right of objection may be limited. "Detrimentally affected" means affected to a degree greater than or in a manner different from the degree or manner in which the general public will be affected (*Keam v Minister of Works and Development* (CA) 8 NZTPA 241) and it could be said that without legislative recognition for Maori fishing grounds, the Maori interest is no greater than the general public interest. Maori cultural and spiritual factors transcending the physical environment are also not recognised under the Act (*Minhinnick v Auckland Regional Water Board*. Planning Tribunal Decision No.A116/81 of 16.12.81). The Te Atiawa people related to us other difficulties confronting them in their endeavours to be heard before various bodies on planning related matters. Along with others of the general public they have experienced difficulties in funding the costs of expert witnesses and counsel and in taking time off work to prepare for and attend various hearings. On occasions their right to be heard has been challenged.

We note here that the Te Atiawa people were not represented when the Waitara Borough Council obtained its water right in 1973. We were advised that the Aotea District Maori Council voiced a concern but due to ignorance of planning procedures and financial constraints, did not pursue its concern at the hearing. Not only were the

Maori people unaware of procedures but also the general public. It is significant that the conservation movement was in its infancy at that time.

5.3 Ministry of Works and Development

The Water and Soil Conservation Act 1967 is administered in the Ministry of Works and Development.

In addition the Ministry provides engineering advice to other government departments and local authorities on matters of water supply, sewerage, sewage and solid waste disposal. The majority of these works are financed from loan money which must be sanctioned by the Local Authorities Loans Board and government subsidy available through the Department of Health. The Ministry acts as technical adviser to the Local Authorities Loans Board and the Department of Health, reporting on the capability of the works to meet the conditions of the water right and whether the selected works are the best and most economic option for any particular situation. It has no fixed policy as to sewage disposal systems applicable to any situation and considers that each case must be considered on its own. It checks however to ensure that the alternatives have been considered.

In processing proposals the Ministry seeks an appreciation of local support or opposition but it has no direct responsibility to ensure that the concerns and attitudes of the general public are considered. Rather it ensures that the various processes by which the general public can make their input to any proposal are completed before it reports to the Local Authorities Loans Board or the Department of Health.

Accordingly the Ministry of Works and Development is not in a position to seek or insist that public health works be created or designed to accord Maori cultural preferences in the disposal of waste in proximity to Maori fishing grounds.

5.4 Department of Health

The Department of Health advises and assists local authorities in the promotion and conservation of public health, conducts researches and investigations into such matters as the risk of infectious diseases from pollution, and undertakes surveillance of local sanitary conditions. One significant measure of assistance is provided to local authorities through the Department of Health, by Government subsidies for sewerage works and water supplies. There may from time to time be paid, out of money appropriated by Parliament, towards the actual capital cost of the construction of sewerage works and works for disposal of sewage such sums as the Minister of Health considers appropriate having regard to such considerations as appear to him to be material. The rates of subsidy and the conditions under which subsidies may be given are decided by Cabinet from time to time.

As was stated by one witness for the Department "The public health needs of all are considered without discrimination . . . it is the health of the public that is the concern of the Department" and its role "is to adequately promote and conserve the public health so as to achieve the greater good for the greatest number." Accordingly while it is pertinent for the Department to note the Maori predilection for the gathering of shellfish, (and the Department is involved in a joint committee concerned with health safety factors from shellfish harvesting) in the performance of its functions and in its review of subsidy applications for sewerage and water works, the Department has no particular duty or mandate to require or enable it to seek the protection of specific Maori fishing grounds.

It follows that in its concern for public sanitation and health, it is as legitimate for the Department of Health to prevent the use of polluted reefs as it is to seek the protection of the reefs from pollution. Thus in referring to the pollution of reefs off the Waitara River mouth from the Waitara Borough Council's ocean outfall, a witness from the Department of Health was able to state:

"However I am of the opinion that providing shellfish affected by water of inadequate purity are not eaten, the risk to public health is very small indeed from the present discharge albeit that it falls short of expectations in other respects."

5.5 Ministry of Agriculture and Fisheries

Amongst other things the Ministry of Agriculture and Fisheries promotes and carries out fisheries research and investigations and is concerned with fisheries conservation. In its concern to conserve the fishing resource it exercises an objector's role at hearings of water right applications under the Water & Soil Conservation Act.

It also administers the Fisheries Act. As was put to us by one witness for the Ministry ". . . the general thrust of the Fisheries Act is to ensure an equitable distribution of fisheries resources within lakes, rivers, estuaries or the marine environment for all persons which includes balancing the need to conserve and protect the resources and the harvesting of the resources by non-commercial or commercial interests." While the Ministry is aware of particular Maori interests in specific fishing areas, it has no specific instruction to pay particular attention to the Maori interest and no authority to give it any priority over the general public interest.

Indeed the Ministry's witness went on to state "The New Zealand Maori Council made representations to the Fishing Industry Committee in 1970/72 on (proposals to recognise Maori fishing grounds) but the Committee did not accept that areas should be withdrawn from the commercial fisheries except on the same principles as govern other divisions between non-commercial and commercial fishing. The same for both Pakeha and Maori."

5.6 Taranaki United Council

The Taranaki United Council was gazetted in 1979 and as required by the Town and Country Planning Act 1977, is preparing a regional planning scheme. Although there is no maritime planning scheme in force pursuant to Part V of the Town and Country Planning Act 1977 the Taranaki United Council has also applied to the Minister of Works and Development to have the territorial sea off Taranaki brought within its planning region pursuant to a gazette notice (section 19 (2) of the Act). In the preparation, implementation and administration of regional and maritime schemes the relationship of the Maori people and their culture and traditions with their ancestral land must in particular be recognised and provided for (Section 3 (1) (g) Town and Country Planning 1977). It must be noted however -

(1) that the provision for Maori people is but one of many "public interest" provisions that are required to be recognised and provided for under the section and there is no provision for any priority to the Maori interest in the event of a conflict;

(2) there must be doubts whether the reference to ancestral lands can be taken to encompass ancestral fishing grounds for the purpose of regional and maritime plans; and

(3) recent decisions of the Planning Tribunal suggest that ancestral land may mean land that was and remains Maori land.

Accordingly we doubt that section 3(1)(g) provides any assurance that in any maritime plan Maori fishing grounds will be recognised as such or will be provided for except to the extent that as a matter of public interest such plans are to deal with the preservation or conservation of "stretches of coastline of scientific, fisheries or wildlife importance . . ." Similarly in regional planning we do not see section 3(1)(g) as assuring an adequate protection for the Maori interest when important policy questions fall to be determined, such as whether new major industries should be spread across the region with individual waste discharge points along the coast, or whether they should be aggregated to minimise the spread of pollution and so that they might contribute to joint use treatment plants.

The Town and Country Planning Act is administered in the Ministry of Works and Development. A witness from the Ministry stressed to us the extent to which district and regional plans (and Planning Tribunal decisions) have moved to accommodate the Maori interest and the opportunities given to Maori people (along with the general public) to be involved in the planning processes. In the final analysis however while accepting that certain authorities may well in fact make provision for the Maori interest in fishing grounds, there appears to be no clear statutory assurance that the Maori interest in fishing grounds is to be protected or is to have a priority over the general public interest. Indeed, Counsel for the Ministry of Works and Development stated to us "Planning statutes apply to all - Maori and pakeha - as has been said, 'we are one people'." Perhaps it is that presumption that is the cause of a substantial problem.

5.7 Commission for the Environment

The Commission for the Environment was established by Cabinet in 1973 to advise and assist on environmental matters and on project proposals, to administer the Government's Environmental Protection and Enhancement Procedures, to identify areas of significant environmental concern and to initiate appropriate action and review. The Commission considers that environmental values are a reflection of cultural as well as scientific factors. In its audits it has not only given special emphasis to the enjoyment by Maori people of those features of the New Zealand environment which are of special importance to them but it has sought to relate that enjoyment to the particular spiritual, cultural and philosophical mores of the user. The Commission however is not a control agency. It issues no licences and administers no regulations. While it is an advocate and seeks to influence decisions, the decisions must be made by others and then within the parameters of their perception of the legal framework. Thus in its review of environmental considerations in the context of sections 20(5)(c) and 20(6) of the Water and Soil Conservation Act 1967 the Planning Tribunal felt unable to take into account Maori cultural and spiritual factors that transcend the mere physical environment. (*Minhinnick v The Auckland Regional Water Board and Waikato Valley Authority*, 16.12.81 Planning Tribunal No. 1 Division). To that extent the Maori interest in the environment is equated with the general public interest.

5.8 Maori Interest c.f. Public Interest

We have therefore had to ask ourselves whether the view (and apparent policy) that the Te Atiawa interest in the reefs is no greater than that of the general public is consistent with the spirit and intention of the Treaty of Waitangi.

Motunui Waitara Report

6 The Waitara River

6 The Waitara River

6. THE WAITARA RIVER

We have referred in this report to the Taranaki or Te Atiawa reefs and in particular to those near Waitara and Motunui. The hapu of Te Atiawa, and the general public, are also users of the Waitara River. We were given extensive photographic and other visual evidence of the large quantities of inanga, tuna, piarau, kahawai, kaupapa and yellow eyed mullet harvested from the Waitara River by the Te Atiawa people and used for both individual purposes and for feeding guests at tangi, hui and meetings. We consider that the Waitara River also contains traditional fishing grounds of the Te Atiawa people and as was noted in the report of the Planning Tribunal on the Synthetic Fuels Plant, ". . . is of prime importance to the Maori people as a source of food." Our earlier comments concerning the significance of the reef to the Te Atiawa people apply also to the river.

In similar vein, many of the things that we will hereafter refer to in this report in reference to the reefs, apply also to the river. In particular, we will refer to the Te Atiawa cultural preference for land based disposal systems as distinct from the discharge of effluent into either fresh or salt waters and will note that land based plants have been urged in recent years by the district branch of the Maori Women's Welfare League, the Taranaki Maori Trust Board, a meeting of the Te Atiawa people in 1976, and a meeting of tribal representatives with Waitara Borough Councillors during the course of our sittings. The physical pollution of the river affects of course the marine life of that river. Its additional affect upon Te Atiawa was explained to us by Hikaia Amohia in these words "My people personify the river as an entity allied to our ancestor Maruwaranui, with the spirit or taniwha of the river a personification of the spirit of the river. Those who cast pollution onto the spirit of the river are casting it onto the spirit of my people."

In another respect the river is in a singular position. Several people reiterated the Te Atiawa concern that the draw-off of large quantities of fresh water from the river for industrial needs must also affect the freshwater biota. We noted that the Taranaki Catchment Commission and the Planning Tribunal had given much thought to this matter and had proposed or recommended appropriate restrictions.

Motunui Waitara Report

7 Pollution Of The River And Reefs

7 Pollution Of The River And Reefs

7. POLLUTION OF THE RIVER AND REEFS

7.1 Borthwicks and the Borough of Waitara

The Borough of Waitara is situated on the banks and mouth of the Waitara River. There is also situated on the banks of the river, within the Borough and near to the coast, a meat export freezing works operated by Borthwicks - CWS Limited. It has been associated with the town for over 100 years and was and still is, its biggest single employer (over 1000 persons per annum), although the Borough includes a number of other industries both primary and secondary.

Certain reports held by the Department of Health describe the development and present state of sanitary conditions in the area. In 1937 Waitara had a population of 1971. (The Borough population in the 1982 census is given as 6012). None of the homes was sewered and the locality received a night soil collection. In 1947 it was reported that all stages of development in excreta disposal were evident at Waitara ranging from homes with only the crudest form of disposal or with bucket latrines serviced by a night soil collection, to homes with individual septic tanks and homes linked to the borough water-borne sewerage installation which discharged domestic sewage into the Waitara River via several septic tanks. By 1950 a sewerage installation scheme for the discharge of sewage from 5 septic tanks into the Waitara River was completed.

During this period the vast bulk of the freezing works discharge wastes received only minimal screening and were then discharged direct into the river, only a short distance from the coast. Primary treatment of the works' discharge was first introduced in 1956 and "a minimal amount" of the discharge was made via the Borough's septic tanks into the Waitara River (it appears that at that time the Borough's tanks were already over-committed by its own domestic effluent.)

An outbreak of bacillary dysentery in 1965-66 mainly centred in Stratford, became an epidemic with 224 notified cases, and with some in Waitara. Although it was concluded at the time that the spread was due to lack of personal hygiene, and lack of knowledge in several respects, the outbreak was a salutary reminder of the risks also present from inadequate sewerage and sewage disposal. As a further reminder in 1967 there were nine cases of typhoid, all in Maoris, with a strong possibility that polluted shellfish were implicated at Waitara and Patea.

Recognition by the Waitara Borough Council of the need to improve sewage disposal was given in 1970 when consultants were engaged to upgrade the system. The Medical Officer of Health in his 1970 annual report referred to badly malfunctioning septic tanks and the discharge to the Waitara River. He was of the opinion that pollution of the river by the freezing works could not be dealt with satisfactorily until the discharge of semi-raw sewage from the Borough Council's septic tanks was overcome.

By 1972 the Borough Council and the freezing works had a joint scheme in mind, for the discharge of effluent by an ocean outfall. By 1973 a water right No. 136 was obtained by the council from the Taranaki Catchment Commission and Regional Water Board for the discharge of 5.7 million gallons at a point approximately 1200 metres off shore.

The water right grant was subject, inter alia, to the following conditions:

(a) The discharge is to conform to class SE standards and any portion of the discharge that should reach the beaches must meet the classification SB or such higher classifications when the coastal waters are classified by the Water Resources Council in due course.

(b) In the event of the discharge or any portion of it not meeting the above classification then steps must be taken to give primary treatment to the discharge to ensure the classification is met and the Commission requires land to be reserved for a future Waste Water Treatment Plant site.

(c) Monitoring of the discharge from the outlet to and including the beaches as required from time to time by the Commission shall be carried out by the Waitara Borough Council and the result supplied to the Commission as and when requested, the full cost to be carried by the Council.

An application for subsidy was made in October 1974 by the Waitara Borough Council to the Department of Health. The Environmental Impact Assessment with the application concludes that the aim of the proposal was to remove the wastes presently fouling the Waitara River within the Borough, and discharge them far enough out to sea to minimise the effect on the environment.

The Department of Health supported the sanctioning of the loan by the Local Authorities Loans Board, noting that the water right contained a condition relating to primary treatment if the classifications of the sea water were not met in the future. The Department of Health also recommended to the Ministers of Health and Finance the approval of subsidy amounting to \$205,076 and this was approved in April 1975. The approved scheme was to collect the wastes discharged to the Waitara River and pump them out to sea, after comminution. The flow of waste was estimated to be 70 percent industrial and 30 percent domestic, and the subsidy was towards the domestic element only. On an organic pollution basis, the Ministry of Works and Development reported to the Department of Health that industry was equivalent to a population of 200,000 whilst the Borough had then a population of 5,460 and a design population of 8,000.

Borthwicks reported to us that none of its other works have joined with a local authority in building a municipal project such as the Waitara outfall pipe. Borthwicks' contribution is 72.8% (in excess of \$1.8 million) to the outfall costs. Its wastes, after receiving primary treatment, continue to be discharged through the ocean outfall and the company contributes 72.8% to ongoing running costs. It was put to us that this commitment together with the company's time payments to clear its portion of the capital cost must be seen in the context of the difficult trading conditions facing West Coast North Island Freezing Works and the high re-development cost thrust upon them by the American Meat Market and the EEC Hygiene Regulations.

The company does not have a separate water right. The water right was applied for and is held by the Borough. Similarly, while the company shared the capital and maintenance costs for the outfall it has had no role in its physical construction or maintenance.

There were delays in the commissioning and construction of the works and it was not until 1978 that a pipeline was fully operational. Initially there were delays due to

exchanges between the Borough's consultants and the Ministry of Works and Development concerning the materials and methods of installing the outfall pipe, the Ministry being required to be satisfied on the adequacy of the marine outfall before construction commenced. Then, extensive damage occurred at sea during the launching of the pipe in 1977 and repairs were needed. In July 1977 an additional subsidy of \$207,226 was approved by the Department of Health and in 1978 the works were completed.

By 1979 it was clear that the pipe leaked and that the diffuser on the end of it did not work well. A further application for additional subsidy made by the Waitara Borough in November 1979 has not been recommended for approval to the Ministers of Health and Finance because the Department of Health "cannot assure the Ministers that the outfall can operate as intended."

That is where the matter lies at present. Gross pollution of the river with wastes has been removed but a satisfactory conclusion of the intended scheme has not as yet been achieved by the Waitara Borough Council, and gross pollution of the river mouth area and the surrounding coastal reefs exists.

Although other industries discharge their effluent through the Waitara outfall, we were advised that some 70% to 80% of the waste discharge is meatworks waste. We were advised that the Borthwicks quantity of effluent is equal to a population of 40,000.

In addition to the problems arising from breakages in the outfall pipeline and the consequential leak of effluent close to the shore, concern was expressed by many that the Waitara outfall was overloaded and could not cope with the quantity of effluent that passed to it. We were advised that that was one factor that encouraged the Crown to opt for an independent outfall for the "Syngas" project at Motunui. One witness considered that the Waitara outfall is designed to produce 450 cubic metres per hour but that Borthwicks alone produced three times that figure, or 1350 cubic metres per hour.

Complaints were directed also to the low level of effluent treatment prior to discharge. The effluent in fact passes only through a comminuter, which, to use Aila Taylor's words, means that "it is minced up and then discharged."

Borthwicks has however effected some improvements within its own works. Sheep pellets that formerly passed through the bar screen and were not broken down in the comminuter are now, at least for the greater part, separately removed and buried. A bar screen for the removal of larger solids has been supplemented by an aquaguard screen which removes wool particles from fellmongery waste and a contrasher screen currently planned for installation in March 1983 will enable greater solids removal. Despite these improvements, it is raw effluent that is discharged to the ocean. There are no secondary or tertiary treatment processes the presumption apparently being that this is not necessary for a sea outfall. We were advised for example that other freezing works, not discharging to the ocean, used at least trickle filters.

There are no programmes for the conversion of waste to fertiliser.

The Waitara outfall is also badly located. It is adjacent to the Waitara River, the Waitara township, and runs between two major reefs.

We received unrefuted evidence of extensive pollution in this area. We were given photographic evidence of ocean "plumes" or "boils" indicating the rapid discharge of waste from fractures along the length of the outfall pipe, and evidence of how the predominating north-westerly winds, high wave action and on shore currents had the effect of returning the effluent along the shallow coastal shelf to the shellfish beds and to the shore.

Despite comminution, evidence was given of the deposit of solids and fat on the beach. A tallow spillage of 24.4.81 was due to a human error during loadout when the stopcocks on a railway tanker were left open as the tallow was loaded in, allowing the tallow to drain into the river through the stormwater drainage system. There was evidence however of the deposit of fat and other solids on the beach on other occasions, one witness claiming that he had observed such deposits at least three times a month. Reference was made to the murky bronze colouring of the water (although this is no doubt contributed to by the Waitara River) and to sludge on the water's edge.

The evidence is that the pollution of the area is in excess of that permitted by the water right. We received expert evidence on the extent of pollution as established by coliform counts, but the position was graphically illustrated for us by evidence of bathers contracting boils and other skin diseases after swimming in the area, of divers emerging from the water with toilet paper and other wastes on their bodies, and of the closing of the surf riding club.

Needless to say, the evidence is also that shellfish are now rarely, if ever, taken from the reefs at the mouth of the Waitara River. The elders referred to "sick mussels" on the reefs. On the Orapa reef, once "reserved" to service the Manukorihi marae, the mussel shells are said to be fragile, disintegrating underfoot and even crumbling in the hand. It was considered that the badly affected reefs, Orapa and Te Puna "receive pollution nearly every day."

It must be accepted that prior to the outfall becoming operative in 1978-79, there was some pollution at the mouth of the river, and in the lower parts of the river itself. One witness claimed that the pollution of the reefs was not apparent until after 1978 but others stated that they were deterred from taking shellfish from the adjoining reefs prior to 1978 because of the pollution of the shellfish beds.

It seems to have been well established that subsequent to the outfall being brought into operation the reefs became further polluted. There is a fear that the continued discharge of effluent from the Borough and Borthwicks will extend to pollute further reefs, and deny a source of seafood not only to the Maori people but to the rest of the population.

The Waitara Borough water right for the discharge of effluent expires in December 1983. We understand that an application for the renewal of that right is to be heard in about April-May 1983.

7.2 "Petralgas" and the Methanol Plant

In July 1980 Petralgas Chemicals (NZ) Limited (hereinafter called Petralgas) applied for a water right to discharge treated sewage and industrial waste into the Waitara River from its proposed methanol plant for the Waitara Valley situated near to the Waitara Borough. During the course of the hearing before the Planning Tribunal (the matter being under the National Development Act), and following submissions from the Department of Agriculture and Fisheries and a report from the Taranaki Catchment Commission, (and it seems, opposition from a number of other sources as well,) the Planning Tribunal indicated its disfavour of a river discharge. It followed that the Company sought and secured an arrangement with the Waitara Borough Council for the discharge of its effluent through the Borough's system under the Borough's existing water right and then withdrew its application to discharge to the Waitara River. The Planning Tribunal noted this fact in its report and commented: "In the light of the evidence that withdrawal was in our opinion properly made."

The consequences are both that the treated sewage and industrial waste from the Methanol plant are now added to the matters discharged through the Waitara outfall, and, that the marine discharge of industrial wastes from this major project has not, at this stage, been the subject of review and determination by a Regional Water Board or the Planning Tribunal. This was a matter of much comment to us and it is undoubtedly the cause of considerable concern to the local people that they were unable to comment on the alternative proposal for the oceanic discharge of the Methanol plant's industrial waste. The change in the proceeding highlights the constraints facing the Planning Tribunal. It must consider the specific proposals as they are laid before it, and has no authority to conduct a global review of other options.

We have some difficulties in assessing the extent of any pollution that may be occasioned by the Methanol Plant discharge through what is clearly a defective ocean pipeline. Evidence was adduced as to the possible long term sub-lethal effects on marine organisms of the toxic wastes from large industries and especially, as here, where chromates are used, for example, as rust inhibitors in cooling towers. It was submitted that the accumulation of chromium and other heavy metals in the marine environment is likely to be harmful to the biota and eventually to man. Evidence was produced of corrosion inhibitors which are not toxic to marine life and it was urged that these alternatives should be used.

Petralgas of course pays a trade wastes charge fixed by reference to the flow contributed by it as a proportion of the total. The terms of the agreement with the Borough entitle Petralgas to discharge trade wastes into the Borough system for a term of 25 years.

The water right for the Waitara outfall expires in December 1983 and the Borough has applied to the Regional Water Board for a new water right. We were advised that although Petralgas hopes to use alternatives to chromates in its plant, it is not yet able to give an assurance that that can be done, and as a "fallback position" it will seek to include the right to discharge chromates in any new water right that may be given.

The Government is a financial supporter of the Methanol project. Through the Secretary for Energy the Government is represented on the Board of Directors of Petralgas Chemicals Limited and through the Ministry of Energy and the Ministry of Works and Development the Government is undertaking the provision of the infrastructures associated with the works, including effluent disposal.

7.3 "Syngas" and the Synthetic Fuels Plant

In February 1981 New Zealand Synthetic Fuels Corporation (hereinafter called Syngas) applied for a water right to discharge sewage and industrial waste into the sea through an independent outfall adjacent to its synthetic fuels plant at Motunui, a short distance north of the Waitara Borough. This hearing also was before the Planning Tribunal under the National Development Act.

The application was opposed by the claimant who was disturbed that the proposal would endanger the Motunui reef a kilometre or so north of the mouth of the Waitara River.

After a full consideration the Planning Tribunal recommended to the Minister that the water right sought be granted upon certain terms and conditions and a grant was made subject to those terms and conditions, in the National Development (New Zealand Synthetic Fuels Corporation Limited) Order 1982 (SR 1982/37).

It would not be proper for us to comment upon an order having its genesis in a

decision of the Planning Tribunal but it is probably not unreasonable to record here the view of several witnesses that the Tribunal's approach was "cautious" and to note that its decision was made after hearing the local Maori people and following a review of the Te Atiawa interest in the reefs. It commented -

"The general Motunui reef system to which we are referring is unusual on the west coast because it is the only system of any consequence facing north. These areas contain an abundance of sea life which is an important food source for both the Maori and the European races. The Te Atiawa Tribe and its hapus have historic associations with the coast line in this area and depend upon the sea resources to provide them with the diet to which they have been accustomed for many centuries. Each hapu has its own particular reef or area and tribal custom discourages members of the one hapu from gathering food from the reef of another hapu. Thus the contamination of one reef would deprive the hapu which customarily was entitled to the sea food from that reef. Although the law does not prevent the gathering of sea food from anywhere along the coast, the evidence indicated that Maori custom, which is very strong amongst the members of the Te Atiawa Tribe, would act as an effective social prohibition."

"The Maori people treat the reefs with the greatest of respect in so far as cleanliness is concerned: there are stringent tribal rules concerning the personal hygiene of the sea food gatherers which are incompatible with any discharge of sewage effluent into the ocean, no matter how well such effluent is treated. However, the Water and Soil Conservation Act 1967 does not absolutely prohibit the discharge of effluent into the sea but, in respect of classified waters, sets a series of criteria and, in respect of unclassified waters, has some general guidelines. Although the waters off Motunui are not classified all parties appear to have accepted that the SA classification would be a minimum, this classification pertaining to areas where shellfish may be gathered for human consumption."

"All the reefs in the area of the proposed outfall share the plentiful supply of edible sea life we have referred to previously. The following is a list of the major reef inhabitants; all are edible although some species do not suit the European palate: Paua; Kina; Mussels; Limpets; Cooks Turban; Yellow Foot Paua; Papu; Octopus; Chiton; Crabs; Starfish; Anemone; Sea Lettuce."

"We have recorded the extensive use made of these reefs for two reasons:

- (a) To show that the danger of contamination does not relate to an area where occasional harvesting of shellfish may occur, but to an area where harvesting is a continuous process; and
- (b) To highlight the importance of the area should contamination result in sub-lethal effects on marine life, with particular reference to reproductive ability.

We are dealing with a valuable resource which, in the absence of disaster, is perpetually renewable. Nothing artificial should therefore be discharged into that system if the possibility exists of long-term damage which may not be detectable until too late."

It was further submitted to us that the scientific "uncertainties" as to potential risks to seafood led to recommendations endorsing the "extremely strict" standards and conditions proposed by the Taranaki Catchment Commission. The view that these standards and conditions were perhaps the most "stringent" to have been applied, at least in this country, was not challenged.

It is to be noted

- (1) that in recommending a marine outfall some 900 metres from the shoreline the Tribunal added a further 300 metres to the outfall as originally proposed to place the discharge well outside any possible near shore circulation zone;

(2) the terms of the work's right is 10 years and it therefore expires in March 1992 when application must be made for its renewal. In practical terms this authorises discharge for a period of some 5 years of the plant's operation. The term of the grant sought was 27 years;

(3) the water quality standard and conditions imposed appear to be considerably stricter than applicable national standards for seawater from which shellfish may be regularly taken (i.e., waters to which an 'SA' classification would be applicable under the Water and Soils Conservation Act 1967);

(4) Syngas originally proposed the use of chromium based compounds as corrosion inhibitors in the plant. In response to concerns expressed by local Maori and environmental groups that such compounds posed unacceptable risks to the environment, a decision to use zinc compounds was made and was publicly notified. Although research is still continuing in this area it was submitted to us, principally by the Commission for the Environment, that zinc and other heavy metal compounds may also have deleterious effects and that recent pollution control laws overseas and locally discourage the use of such chemicals. We were advised that a range of phosphate based cooling tower chemicals are now available and that these may be more environmentally acceptable. Syngas submitted to us that these have yet to be fully tested in a plant of the size and complexity of the Synthetic Petrol Plant. Syngas is investigating replacement of zinc based compounds with phosphate based chemicals that do not contain heavy metals such as zinc.

It was stated to us -

"It must be emphasised (that Syngas) is not undertaking to replace the zinc compounds at this stage. It remains firmly of the view that the low concentrations of zinc and biocide which will enter the sea as a result of this discharge pose no threat to the maintenance of healthy populations of seafood along the Motunui coast. If this does not prove to be the case the Catchment Commission has powers to order the Corporation to modify or cease the discharge. Further, the right must be reviewed after five years of operation. However providing the Corporation is satisfied that non-heavy metal treatment chemicals can provide an efficient, reliable and totally effective treatment then discussions will be held with the Taranaki Catchment Commission with a view to seeking any necessary changes to the water right."

Syngas also stated to us -

"One component of the treated effluent to be discharged by (Syngas) is sewage. During the construction phase of the plant sewage is treated on site and disposed of to the Waitara Borough system. For the operating phase of the plant, when some 230 employees will be present, the current plan is to provide in-plant treatment followed by disposal through the Corporation's outfall. In the course of the Planning Tribunal hearings last year, and again at this hearing, it has been made clear that the discharge of human sewage, no matter how well treated, is of particular concern to the Maori community. Subject to discussions with the Waitara Borough and the Catchment Commission, (Syngas) is willing to convey the small volume of treated sewage arising from plant operation (approximately 0.5 litres/sec) to the Borough system."

The legality of the Tribunal's decision in extending the outfall was subsequently challenged by the claimant (Aila Taylor) representing the Ngatirahiri hapu and others in review proceedings before the Court of Appeal. The Court concluded that the Tribunal had not acted unlawfully in ordering the outfall extension and that the allegations concerning the absence of a "fair hearing" on this point were not sustainable.

Before us the Te Atiawa claimants reiterated their concerns. The question that Aila Taylor had consistently posed to expert witnesses before the Planning Tribunal was whether they could guarantee that there would be no pollution of the reefs. It appears that before that Tribunal, as before us, that guarantee could not be given. (It may not have been only coincidence that in seeking a "guarantee" Aila Taylor chose to employ a word that is also employed in the Treaty of Waitangi.)

The local hapu are by no means convinced that even the stringent conditions attaching to the Motunui water right will not result in a measure of pollution. Nor are we. Evidence adduced by the Commission for the Environment through Professor M. W. Loutit suggests that much further study is needed on the marine discharge of chemical wastes, and although this evidence did not pass unchallenged, it appears to us that further research is necessary to remove present uncertainties.

Additionally the Maori people hold strongly to the view that serious consequences will result from the physical destruction of parts of a reef. To them every stone must be left unturned, and if that is not done, the mobile marine inhabitants of the reefs will move away.

In our view it is not entirely relevant to consider whether the Te Atiawa contention is corroborated by scientific evidence. Indeed we question the extent to which scientific evidence should be preferred. The Maori lore on the conservation and preservation of natural resources, as inherited by word of mouth, represents the collective wisdom of generations of people whose existence depended upon their perception and observation of nature. We do not consider that the weight given to scientific evidence should be such as to denigrate the worth of customary lore, or to inhibit Maori people from relying upon it. In the final analysis it is the test of experience (and the generations of the future) that will determine the worth of scientific postulates.

The local hapu consider further that they will suffer a cultural pollution of the reefs with the discharge of human and other waste in proximity to them. This would be substantially but nonetheless only partly alleviated by the proposal to re-route the sewage effluent to the Waitara Borough outfall.

There remains the prospect of pollution from accidental spillages at the plant, which is situated on the coast, and from breakages in the pipeline. There was evidence that accidental spillages have occurred from major industries in the region in the recent past including the 1981 tallow spillage at Borthwicks and in 1982 the spillage at the Ammonia Urea plant to the south at Kapuni, and the intentional discharge of ammonia waste at Manaia. We note that since our hearings there has been a seepage of chemical waste from a pit to the foreshore at New Plymouth.

As will be seen later in this report, a specific proposal was presented to us for the redirection of the Syngas effluent to the Waitara Borough outfall. Counsel for Syngas stated to us "Until (Syngas) is presented with an operationally and technically viable proposal for disposal of plant effluent through an alternative system it is not in a position to seek any delay by the Crown in the planning and construction of a separate outfall. At this stage any delay on the basis of possibilities or suppositions which may, or may not, be realised sometime in the future would involve totally unacceptable uncertainties in relation to plant operation."

As with the Methanol plant the Government is a participant as a financial supporter in the synthetic gasoline venture. The Secretary for Energy is the Government's representative as a director on the New Zealand Synthetic Fuels Corporation and through the Ministry of Energy, the Ministry of Works and Development is undertaking the provision of the infra-structure works associated with the

development, including effluent disposal. In terms of its agreement with Syngas, the Crown will need to have a fully operational effluent disposal system in situ in 1984.

7.4 Other sources of pollution

We were advised that from Urenui to New Plymouth there are some 16 discharges to the ocean. Many are natural rivers and streams such as the Urenui, Onaero, Waiongona, Waiwhakaiho, Hiroto and Te Henui but these serve substantial farm catchment areas and towns. Although several controls have been instituted on the discharge of farm effluent and farmers are now required to install settling ponds, it is inevitable that the rivers are affected from animal excreta and carcasses, fertiliser and chemical sprays and the like, as well as from some town residential and industrial wastes.

Other sources of pollution include the Urenui Domain and Motor Camp (with seepage from septic tanks), the Bell Block Brixton Dairy Factory and Bell Block oxidation ponds (both discharging onto the beach), the Clifton-Moa dairy factory, Port Taranaki and the New Plymouth Power Station. In New Plymouth the Elliott Street outfall discharging untreated wastes is to be closed down. It should be noted that after obtaining a water right in 1979 for the discharge of comminuted sewage 1600 metres offshore from the Waiwhakaiho River mouth to replace the Elliott Street outfall, and following pressure from the public, the New Plymouth City Council subsequently applied for and obtained a new water right. The new water right is to enable it to discharge into deep sea about 400 m from the high tide water mark, but only after treatment in a carousel system. The construction of a substantial carousel plant is now under way.

It is to be noted that the proposal to change from a long marine outfall with comminution, to a short outfall with secondary treatment, drew no objections from the public. The Te Atiawa people were involved in the 1979 hearings.

7.5 Summation

There can be no doubt that there is extensive pollution of the reefs in the area, and in particular around the Elliott Street outfall, the Waiongona reef, Airedale reef and Epiha reef. The evidence suggests that from strong northerly and westerly winds there is a drift of pollution along the coast in the northern and easterly directions, and there is evidence that the reefs and beaches at Motunui and further north to Onaero have suffered from pollutants emanating from Waitara.

The evidence is that the pollution comes from a combination of the various man-made outfalls along the coast and the various natural rivers and streams running into the coastal waters, and in particular the Waitara River. It is difficult to assess which source produces the greater contamination of the filter feeding shellfish. On the one hand the pollution as assessed by coliform counts is particularly marked just after heavy rainfall along the coastal region. On the other hand the more visible and, to most witnesses, the most offensive pollution results from the discharge of sewage and industrial waste.

The problem is clearly compounded by the damaged state of the Waitara Borough outfall, the very basic treatment of that effluent in a comminuter, the apparent overloading of the outfall, and the action of onshore winds and currents in returning solids and other effluent to the shore without adequate dilution or dispersal.

It is clear that the greater part of the reefs of the hapu involved in this claim have been

so affected as to be no longer usable as a source of kaimoana, and that all the reefs of one hapu have been spoilt. Their attention now focuses on the Ngati Rahiri reef at Motunui, which is still used, and which must replace the extensive food supplies that the others once provided. As one witness stated "We are now having to poach into the Ngati Rahiri reefs".

Waitangi Tribunal, Department of Justice, Wellington.

Motunui Waitara Report

8 Maori Fishing Grounds - The Extent Of Legislative Recognition And Protection

8 Maori Fishing Grounds - The Extent Of Legislative Recognition And Protection

8. MAORI FISHING GROUNDS - THE EXTENT OF LEGISLATIVE RECOGNITION AND PROTECTION

8.1 Early provisions in Fisheries legislation

It is not true to say that prior to the 1970's the legislature had never acknowledged that certain fishing rights might accrue to Maori people by virtue of the Treaty of Waitangi. Section 8 of the Fish Protection Act 1877 provided -

"Nothing in this Act contained, shall be deemed to repeal, alter, or affect any of the provisions of the Treaty of Waitangi, or to take away, annul, or abridge any of the rights of the aboriginal natives to any fishery secured to them thereunder."

The significance of that provision has now been lost. It is continued only in substantially modified form in Section 77 (2) of the Fisheries Act 1908 which merely provides

"Nothing in this Part of this Act shall affect any existing Maori fishing rights."

We referred to S77 (2) at 4.8 and noted that it afforded no advantage to the Te Atiawa people.

The present position appears to be that "existing Maori fishing rights" are only those rights that can be enforced because they are specifically provided for in special statutory provisions or have been reserved under earlier legislation. The view that customary fishing rights have been extinguished does not appear to have been seriously challenged in any decision of the Courts, since it was affirmed in *Waipapakura v Hempton* (194) 33 NZLR 1065.

We noted at 4.7 that other provisions in the Fisheries Act for the recognition, reservation and control of Maori fishing grounds were repealed in 1962.

8.2 Maori Affairs Act

At 4.7 also we referred to Section 439 of the Maori Affairs Act 1953 which enables Maori Reservation to be proposed by the Maori Land Court for the purpose, amongst other things, of reserving "fishing grounds." We pointed out that that provision is of very limited application.

Generally it applies only to Maori Land and it was determined in *In re the Ninety Mile Beach* (1963) NZLR 461 that areas of foreshore and seabed are not Maori Customary land but are vested in the Crown. S. 150 of the Harbours Act 1950 and S7 of the Territorial Sea and Exclusive Economic Zone Act 1977 put the title issue beyond all doubt.

8.3 Fisheries Act

At 4.8 we referred to the Fisheries Act 1908 which regulates the control and harvesting of seafood. It has no provisions to recognise Maori fishing grounds but regulations made pursuant thereto give to Maori people a right to apply for special licences for tangi and hui.

8.4 Health Act

At 5.4 we noted that the Health Act 1956 makes no special provisions for the protection of Maori fishing grounds or customary practices in its concern to promote and protect general public health and sanitary conditions and in its consideration of loans for the provision of sewage and water works.

8.5 Marine Reserves and Marine Farming Acts

The Marine Reserves Act 1971 provides for coastal areas to be reserved and maintained in a natural state, with limitations on commercial and non-commercial fishing. The Marine Farming Act 1971 enables leases and licences to be issued for the commercial sea farming of particular parts of the coastal waters and the seabed and an amendment to the Fisheries Act in 1977 permits areas to be designated as controlled fisheries to limit the number of fishing vessels that may use the area and to permit of non-commercial fishing only in accordance with strict management regimes. These provisions are not directed to the protection, management or control of Maori fishing grounds but they provide a precedent for the delineation of specific coastal areas for specific purposes and with specific restrictions on public uses. Conversely it is to be noted that there are no exemptions to exclude Maori fishing grounds in the application of the provisions referred to.

8.6 Water and Soil Conservation Act

The Water and Soil Conservation Act 1967 is an Act to promote a national policy in respect of natural water and to provide for its conservation, allocation, use and quality. Although its concern is also with Fisheries and Wildlife habitats, as we noted at 5.2 and 5.3, there are no special provisions for Maori fishing grounds and the Maori interest is merely an aspect of the general public interest.

It is consistent with that view that in *Minhinnick v The Auckland Regional Water Board and Waikato Valley Authority* (16 December 1981) the Planning Tribunal determined that under the Water and Soil Conservation Act 1967 the Tribunal could not take account of those concerns of the Maori people in relation to water that were merely cultural, spiritual or metaphysical.

We note too that while Regional Water Boards must (amongst many other things) "have regard to recreational needs and the safeguarding of . . . fisheries and wildlife habitats" (S20 Water and Soil Conservation Act 1967) they must also consider the multiple use of the natural water resource and then in the context that in terms of S21 (3) of the empowering Act and as noted by the Planning Tribunal (*Henderson v Water Allocation Council* (1970) 3 NZTCPA 327, 328) the disposal of waste is one of the functions of natural water. In its provisions for the grant of water rights the Act does not clearly spell out the broad principles to be applied in the fine balancing act that Regional Water Boards must perform or the extent to which any special interests should be protected.

What the Act instead provides for is the classification of regional waters to provide a

broad blueprint against which the Regional Water Boards are required to discharge their responsibilities in granting water rights. It is this provision which provides the essential planning and control mechanisms against which Regional Water Boards (and the Planning Tribunal) are able to measure individual applications. It provides the minimum standards of quality at which classified areas of natural water shall be maintained.

The classification of natural waters falls within the purview of the Water Resources Council. It was submitted to us that the Council should be urged to classify the water surrounding the Taranaki reefs to a minimum standard of SA, which, in accordance with the Fifth Schedule to the Act would hopefully ensure that there would be " . . . no destruction of natural aquatic life by reason of a concentration of toxic substances" It was pointed out that the Taranaki Catchment Commission had already carried out a considerable amount of the necessary investigatory work.

The SA classification of waters could be used to provide a measure of recognition for the de facto existence of Maori fishing grounds, and a measure of protection for them. It would also seem to be a natural corollary to any official recognition of particular Maori fishing grounds, but, as the law stands, no official recognition is given, and the de facto existence of Maori fishing grounds is only one of the factors that the Water Resources Council would need to consider in any proposal for the classification of local waters.

It is also of considerable concern to us that the classification system, the application of which appears to us to be essential if the provisions of the Water and Soil Conservation Act are to be applied in accordance with the sound planning principles envisaged by the Act, is in fact rarely applied. We were advised that the system whereby the Water Resources Council classifies water has been "fraught with difficulties and at the moment is seldom used" and that it is not the current policy of the Water Resources Council to invoke the powers of classification that it has.

The difficulties faced by the Planning Tribunal through the lack of classification was noted by the Tribunal in *Pikarere Farm Ltd v Porirua City Council* (1979) 6 NZTPA 545, 573. We consider that the lack of a classification system that also adequately recognises Maori fishing grounds, or, the failure of the legislature to provide a more workable alternative that would achieve the same end, has and will continue to disadvantage the Maori hapu of Waitara in the consideration of individual water discharge applications in proximity to the reefs.

8.7 Town and Country Planning Act

At 5.6 we referred to the Town and Country Planning Act 1977. We noted that while the relationship of the Maori people and their culture and traditions with their ancestral land must be recognised and provided for in district and regional plans, that provision is accorded no priority over other and possibly competing "public interest" provisions, and it was doubtful that the provision could be interpreted as encompassing the Maori interest in the sea for the purposes of regional and maritime planning. We noted also that while the preservation or conservation of stretches of coastline of scientific, fisheries or wildlife importance was to be considered in maritime planning, there were no particular provisions for Maori fishing grounds and in planning for major industries and ocean outfalls, the Maori interest could only be considered as an aspect of the general public interest.

Here again certain unfortunate lacunae appear in the application of the prescribed planning laws governing the discharge of waste by ocean outfalls. The appropriate

planning control mechanism is provided for in Part V of the Act relating to Maritime Planning.

Once an area has been constituted a Maritime Planning area s. 102A of the Act applies pending the preparation of a scheme. This Section prevents any work being commenced without consent if the use detracts or is likely to detract from the amenities of the area. It is possible that a pipeline would come within this definition. An application must be made and the Authority must have regard to the public interest and, more importantly -

"The likely effect of the proposed use on the existing and foreseeable future amenities of the area, and on the health, safety, convenience and economic, cultural, social and general welfare, of the people of the area and of any region or district affected by the application."

The Section furthermore makes those considerations subject to s. 3 of the Act which request that regard be had to

"The conservation, protection and enhancement of the physical, cultural and social environment, and

The preservation of the natural character of the coastal environment"

Again however, the evidence before us indicated that either little has been done in the way of maritime planning or that the plans are or are likely to be restricted to limited coastal areas. The consequence is not only a lack of co-ordinated policy with regard to ocean outfalls but that, without such planning, the Planning Tribunal is itself severely limited in its consideration of discharge rights. It is merely concerned with the standard of effluent at the point of discharge. The route of the pipeline, its proximity to sensitive marine areas and the potential for accidental discharge at a point other than the authorised point are not relevant considerations. As was put to us "there is no reason why the mere gazetted of an area should place it, for practical purposes, in a more protected situation than areas of perhaps greater sensitivity that have not been so gazetted," and "Thus machinery exists (for the Planning Tribunal) to investigate matters which appear to be of concern to the Waitangi Tribunal but the machinery is restricted to maritime planning areas."

The result appears to be also that in the application of the National Development Act to important works involving outfall pipes the application merely needs the consent of the Minister to construct the pipe and the Minister is under no obligation to take into account the protection of Maori fishing grounds or other fishing resources.

It would appear in particular that there is no co-ordinated overall planning to effectively regulate ocean outfalls in the Taranaki area and there have been constraints upon the Planning Tribunal in its consideration of the Motunui outfall.

We feel that it needs to be stressed here that the adequate consideration of individual applications depends largely upon a co-ordinated planning scheme being first proposed, tested and accepted in manner prescribed by the Act, in order that individual proposals may be tested against the broad plan. Indeed, as was stated by the Planning Tribunal in its report and recommendations on the Petralgas plant "The Tribunal is a judicial body which acts by weighing the evidence which it hears. It does not, indeed it cannot "plan". The initial identification and evaluation required in the course of the planning process must be done by others."

The hearing of an individual application is not then an opportunity for proposals to be made for the aggregation or dispersal of petrochemical industries, or, except to the extent that it may provide insights into the desirability of the chosen site, to promote the use of alternative sites. The Planning Tribunal is concerned with a particular proposal for a prescribed site. The absence therefore of firm regional and maritime

plans that can be tested and objected to, places real constraints not only upon the Planning Tribunal, but upon those who put objections to it, including in this case, the Te Atiawa people.

We have had to ask ourselves whether there is adequate legislative recognition of Maori fishing grounds and adequate legislative provisions for their protection.

Waitangi Tribunal, Department of Justice, Wellington.

Motunui Waitara Report

9 Special Problem Areas And Proposals

9 Special Problem Areas And Proposals

9. SPECIAL PROBLEM AREAS AND PROPOSALS

9.1 Coastal Character, Waste Streams, Spillages, and disposal options

9.1.1 The Character of the Coast

The OECD review of Environmental Policies in New Zealand recognised the problem of the Maori people when it stated at p 62 of its review that:

" . . . in localised areas (for instance in Wellington and New Plymouth) there is evidence of contamination of shellfish from near-shore outfalls. This represents a potential health hazard, and affected areas are rendered extremely unattractive to bathers. The situation here is especially unacceptable to local Maoris who retain certain rights over shellfish gathering and for whom this comprises an important cultural and recreational pursuit. Notwithstanding New Zealand's otherwise good record in sewage management, it appears urgent that in certain localised areas the environmental threats posed by shallow-water discharge be countered either by the construction of land-based treatment plants in the affected areas or by the replacement of near-shore outfalls by deep sea discharge points."

While some of the witnesses who appeared before us argued that pollution problems would be overcome or satisfactorily ameliorated by long ocean outfalls with discharge points beyond the zone of wave generated currents, others doubted that deep sea discharge points could ever provide a satisfactory solution for the district. They considered that the action of the Taranaki winds, coastal currents and strong tides would always operate to return effluent to the shore without adequate dispersal or dilution.

Certainly from the evidence before us it is obviously far too simplistic to consider the vastness of the ocean to be such that it can be relied upon to safely dilute and disperse effluent in all cases. In Taranaki the high wave energy, the wind induced north westerly and along-shore coastal currents and the shallow waters of the continental shelf result in the movement of material to the shore and the carriage of effluent and contaminated sediment to the shellfish beds.

Nor do we think that it can be presumed or conclusively argued that the saline ocean will in all cases destroy the bacteria in effluent, or sufficiently dilute, remove or disperse chemicals discharged into it. There is evidence that chromium for example, and also bacteria, will remain in sediment on the ocean floor to pass later into the food chain, and the sediment may be washed in-shore to the shellfish beds.

The question therefore of whether or not deep sea discharge points are a satisfactory option cannot be argued in the general but only in the context of the particular character of the particular coast. While the evidence before us was conflicting and inconclusive, we at least felt able to determine that in the Waitara district even deep sea discharges are not a preferable option when they are in proximity to shellfish beds.

9.1.2 Engineering Capabilities

Other witnesses considered that even were a deep sea outfall to be effective, the turbulent nature of the coast would expose such outfalls to the likelihood of damage or destruction. K. M. Wood, a pipeline engineer, outlined the difficulties of constructing a marine outfall on this coast having regard to its turbulent nature and rapidly changing weather conditions, cross currents, and extensive reefs with large and mobile boulders. (We noted of course that the Waitara pipeline had been damaged. We were told that it had been damaged during launching. We note that its repair has not been effective.) Mr Wood referred also to certain construction difficulties and concluded "under these conditions an outfall should not be considered unless a careful costing - based on a thorough sea bed survey and firm proposals for construction - shows that the outfall is much cheaper than any other alternative". It seemed to us essential that any body charged with the function of approving ocean outfalls for the Taranaki coast should need to be satisfied that the state of the art in engineering is sufficiently advanced to provide an adequate assurance that the constructional work is capable of reaching the required standards. It appears to us that Regional Water Boards and the Planning Tribunal are limited in the extent to which they can consider these matters.

The Ministry of Works and Development has a responsibility for the matter in advising the Local Authorities Loans Board or the Department of Health where local authority loans or subsidies are involved, or the Ministry of Transport where consent is required in terms of section 178 (b) of the Harbours Act, but where the Ministry of Works and Development has a commitment to providing outfalls itself, for Crown projects or private projects with Crown involvement, it becomes a judge in its own cause in assessing the engineering capabilities.

9.1.3 Chemical Wastes and waste streams

As has been referred to at 7.2 and 7.3 considerable debate revolves around the use of zinc, chromate and other toxic materials in water treatment for cooling tower use, resulting in the consideration of non-toxic poly-phosphate alternatives. Certain researches indicate that such chemicals, and in particular the soluble hexavalent chromium, may not be diluted and dispersed even if discharged alone into the ocean, but may be discharged to the ocean floor and become attached to other matter consumed by marine animals. The likelihood of absorption with other matter is high if the chemical waste is discharged with other effluent or is able to mix with it. There is also concern with the synergistic effect that might operate from the mixing of chemical discharges.

The researches indicate that two measures are desirable. The first is that industries must actively search for alternatives to heavy metals. The second is that adequate effluent disposal schemes must have regard to the variety of waste streams, the separate of waste streams at source, and the application of different forms of treatment for each. It follows further that an assessment of the treatment and disposal needs of each waste stream in the current energy projects should be undertaken whenever there are proposed changes in the use of chemicals.

9.1.4 Accidental spillages

Evidence of accidental spillages in the recent past highlighted for us the importance of ensuring that at any industrial site the effluent treatment systems are able to cope with accidental spills of chemicals and any possible operational upsets. This requires an adequate engineering design and contingency planning procedures to operate the effluent treatment systems under adverse conditions. In our view it needs to be made clear that Regional Water Boards and the Planning Tribunal have a responsibility in

this area.

The prospect of an accidental spillage is, in our view, a further reason for considering that ocean outfalls should not be sited in proximity to fishing grounds.

9.1.5 Investigation of alternatives

Dr Patrick for the Taranaki Catchment Commission, and later Dr Stevenson of the Department of Scientific and Industrial Research at Petone, referred to a number of options for the treatment and disposal of the effluents in the Waitara area and highlighted many of the advantages and disadvantages of land disposal options as compared with ocean discharges. Dr Stevenson outlined irrigation treatments and rapid infiltration systems, considered the various types of discharges ranging from sewage and meatworks effluent to the chemical discharges of the Petralgas and Syngas plants, and stressed the desirability of separating the various types of waste streams for separate treatment according to the most optimum form of disposal for each. He reviewed comparative costings (based on very general cost guesstimates) and considered that if only the repair of the Waitara outfall were required, a land disposal option would be much more expensive but if milliscreening and chlorination were also required to achieve acceptable receiving water conditions, the cost of the land disposal option would be of the same order.

He concluded:

"Commitment of substantial expenditure to upgrading the outfall, or to treating the effluents before discharge would divert finance which might be used to develop land disposal systems, thereby possibly precluding the very high levels of receiving water protection which they offer. If there is any prospect of land disposal being a viable or attractive option, there is an urgent need for more detailed studies to determine definitely whether practical and acceptable economic systems can be developed within a reasonable time, so that a well-informed choice between land disposal and sea discharge approaches can be made before further expenditure is committed.

"One sea discharge option which would greatly decrease pollutant loads on the receiving water, and improve aesthetic conditions is based on the preliminary indications that the returns from sale of recovered protein may approximately cover the costs of physio-chemical treatment of slaughterhouse effluents. The consequent improvement in effluent quality could then be considered to be achieved at no cost. Construction of a new separate sewer from the freezing works to the outfall would then make it possible to consider separate treatment of the Waitara Borough sewage, perhaps in an oxidation pond, with ultimate disposal either by land application or discharge via the outfall. This might be achieved at a cost less than milliscreening and chlorination . . . but would provide much higher standards of effluent treatment and receiving water protection."

It is important to appreciate that Dr Stevenson did not pretend to having provided an exhaustive analysis on which he could proffer solutions. He was concerned to establish that although there were a number of problems associated with each there were a number of alternative possibilities and that they had not been adequately researched.

We too are concerned to note the lack of research, costing and planning in this area, and the extent to which alternative possibilities present themselves but have not been adequately researched.

9.1.6 Summation

from the evidence we conclude -

- that while the marine environment has an assimilative capacity to cope with wastes, the threshold of that capacity is not known, and that the dilution of a pollutant in the

sea does not equal its removal;

- that no proposal for a marine outfall in this district can be adequately considered without a detailed understanding of the coastal structure and the combined effect of winds, currents and erosion;

- that there is a need for greater certainty concerning engineering capabilities in the construction of long outfalls on this turbulent coast, and it should be clear that matters relating to the construction of outfalls, and the provision of emergency contingency plans and facilities, should be within the purview of Regional Water Boards and the Planning Tribunal;

- that there is a need to consider separate treatment for separate waste streams, and for a review of the position on any change in the nature of a wastestream; and

- that there is a need for a greater study of waste disposal options by an interdisciplinary team.

On the evidence before us there was insufficient data to enable any concrete conclusions to be drawn on whether deep sea discharge, land disposal or oceanic discharge after primary secondary or tertiary treatment should be sought, and then whether on an individual or regional basis.

What we do challenge however is the view that because the use of the coastal waters for the discharge of effluent is at law a legitimate use of that water, then ocean discharges should continue unless and until it can be shown that some other means of disposal can be proven to be better and economically comparable. Having regard to the known pollution of the coast and the uncertainties surrounding the effect of winds and tides, the lack of engineering evidence that adequate pipelines for this coast can be constructed, and having regard in particular to the pollution of the Te Atiawa reefs and the clear cultural preference of the Maori (and also many non-Maori) inhabitants for the disposal of the waste on land, we consider the presumption should be the other way. We consider in particular that land disposal systems, or at least the separation of wastes and the discharge of certain wastes to the ocean only after secondary or tertiary treatment, should be the presumed option, unless and until it can be clearly established that the other alternative is a sufficient guarantee against the further pollution of the coast.

9.2 Better planning and co-ordination

During the course of our hearings we made it clear that we did not consider it our function to blame, apportion fault or to judge others, be it the Crown, an agency of the Crown, or any person. We were concerned to identify problems but only for the purpose of seeking solutions.

We also made it clear that it was not our role to do that which the Planning Tribunal is able to do.

It was soon apparent however that the Te Atiawa hapu were prejudiced by the pollution of their reefs and that any proposals that we might envisage for the removal of the prejudice or to prevent other hapu from being similarly affected in the future, needed to be seen in the context of the total situation in the locality, and of the measures provided for, and the steps taken or not taken to provide relief for the district as a whole.

We noted that the Crown, through legislation, had made extensive provisions for the rationalisation and facilitation of both economic growth, and environmental protection. Although there were no specific provisions for the protection of Maori fishing grounds, Maori fishing grounds were not without some benefit from the

general provisions.

We noted also that the Crown, through its executive and various statutory agencies had undertaken considerable measures of implementation. We were impressed by the extensive research and other work undertaken by each of the Departments of State that were represented before us, and we were particularly impressed by the work that had been carried out by the Taranaki Catchment Commission and the Commission for the Environment.

We noted further that the major pollution problems were not primarily the result of recent economic growth in the petro-chemical area but rather that those developments threatened to compound an already existing problem. It appeared to us that the major cause of pollution arose from the damaged state of the Waitara Borough ocean outfall. Our Tribunal sitting afforded a unique opportunity for the various government, local authority and private enterprises involved, to meet in a relatively informal way to discuss common problems from the perspective of their own responsibilities, and to review future options. It was unique in that the parties were able to review, not an individual development proposal, but the developments as a whole, and thus to seek a broad overview of developments in the district.

It is from the perspective of that overview that we consider the major pollution and other problems arising from the past and present growth in the Waitara area, to result from a lack of adequate regional and maritime planning to facilitate and regulate that growth, and the lack of an adequate and co-ordinated plan for the provision and equitable funding of the necessary infrastructure to service it.

We consider that present conditions call for urgent measures, and measures that will bring together the various agencies and parties to fast track the procedures whereby ancillary works are proposed, built and funded, and to co-ordinate their efforts.

We see an important need for a medium term growth strategy with appropriate planning controls to provide for both industrial growth and coastal protection.

Without such planning and co-ordination, we envisage that growth in the region will be spasmodic and disparate, and environmental interest groups will be forced to a confrontation stance at a time when there is a need for the practical reconciliation of conflicting interests.

We were amazed that no regional policy for waste treatment and disposal had been formulated for North Taranaki and that there appears to have been no formal or informal forum where treatment and disposal options could be discussed by all interested parties before individual water right applications for waste disposal were proceeded with. Our attention was drawn to a joint study currently being undertaken by Government, the Taranaki and Wanganui United Councils and the Taranaki Catchment Commission to consider petro-chemical industrial location options and the opportunities for the community and developer to share such infrastructures as water supply and effluent disposal systems.

In our view however the Crown needs to go further. Above all we consider that having regard to existing local constraints and the existing and projected proposals for industries of national importance, the Crown ought reasonably to intervene to assist both the formulation and practical application of appropriate strategies.

At 8.6 and 8.7 we identified the lack of water classification and maritime planning as a major constraint in ensuring adequate protection of the coastal resource while yet providing for industrial growth. We noted that the lack of distinct policies for ocean outfalls and waste disposal and for the location and servicing of future petro-chemical industries was a major constraint in the consideration of individual project proposals as there was no broad blueprint or planning base on which to measure them.

It seemed to us that the new industrial growth in the region was proceeding faster than the planners could plan for it. We noted with some sorrow that although major new industries have already been established, and there is evidence that others are pending, the body most responsible for the production of an appropriate regional and maritime plan had only recently been established. We refer to the Taranaki United Council which was not gazetted until January 1979 and which has a staff of three persons, headed by a regional planner who, at the time when he appeared before us, had been in the employ of the Council for three weeks. We were concerned also that in response to our questions we were advised that the Taranaki United Council favoured the dispersal of major industries across the region. We were concerned because it opens the prospect of a proliferation of outfalls along the Taranaki coast with possible deleterious effects on a substantial number of reefs. We noted that the aggregation of petro-chemical industries had been urged by a number of those who appeared before us and that it had been urged before the Planning Tribunal. It had been put to us that the aggregation of industries enabled the establishment of pipeline corridors for the supply of natural gas and the transport of end products to the local port. It would facilitate the development of substantial joint use and jointly funded waste disposal plants, localise the spread of pollution and reduce roading and other servicing costs. We wondered at the extent to which the United Council's preference reflected independent planning advice, and the extent to which it reflected the nature of its constitution. While the Crown is represented on the United Council's regional planning committee, the committee is mainly comprised of representatives of local authorities in the region.

While certain parties stressed to us the rights of Maori and other members of the public to be heard in objection and appeal on planning matters, we note that with regional plans, there is an opportunity for public input, but no rights of objection or appeal.

We consider too that the replacement or repair of the pipeline for the Waitara Borough outfall is a matter of extreme urgency. We note that the water right in respect of that outfall expires this year and a new water right has been sought. If it is not granted a state of uncertainty will exist, and if it is granted subject to certain repair or replacement conditions or the provision of additional land based treatment plants, there are still doubts whether the requisite approvals for loan finance will be given through the Ministry of Works and Development and the Department of Health, (the latter expressing to us reservations about the effectiveness of the pipeline disposal) or whether the necessary works could be funded at all by local interests. We consider too that a number of other practical difficulties will arise over the extent to which the joint users of the pipeline ought to contribute to any repair or replacement proposals, and, having regard to existing commitments, the extent to which the Borough, Borthwicks, and other users will be able to meet the cost or furnish the loans.

In chapters 5, 6 and 7 we noted that lack of statutory recognition of Maori fishing grounds and the lack of a specific recognition of Maori fishing grounds in planning legislation. We consider that without such recognition in the relevant legislation, water classification and district, regional and maritime planning will not afford a sufficient guarantee that the Maori interest in Maori fishing grounds will be protected. The existing laws provide for the multiple use of water and as things stand, the Maori interest is but one of several interests to be weighed in the balance, and little or no weight attaches to the Maori cultural approach to the water as a source of food.

9.3 Amending existing plans

In considering the practical application of the Treaty of Waitangi to the particular case, we report that the Waitara hapu consider the reefs off the mouth of the Waitara River to be both physically and culturally polluted and that their concern is now to protect the Motunui reef and to minimise the spread of pollution to ensure that the remaining reefs remain open to them. Following a meeting with the Waitara Borough the local people urged us to propose that the Motunui outfall be not proceeded with, and that the Motunui discharge be re-routed through the Waitara outfall. This seemed to us to show not only a degree of planning sense, but a very commonsense and accommodating approach by Maori people to the application of Treaty of Waitangi. From the standpoint of their own culture, the local hapu would join with certain planners in urging the aggregation of industries and industrial waste, and the pooling of resources to localise and minimise pollution. It seems to us that Maori culture would join with European culture in urging the planned protection of seafood areas and the planned control of effluent disposal so as to localise the extent of water pollution in physically and culturally acceptable terms.

The Crown has agreed to provide the infrastructure for the Motunui works and this includes the location and construction of the Motunui ocean outfall pipe. This agreement has been made through the Ministry of Energy, and the necessary construction work will be undertaken through the Ministry of Works and Development. At this stage the necessary construction work has not been started. The Deputy Secretary for Energy outlined for us the Government's reasons for choosing an independent outfall at Motunui. There were doubts that the Waitara outfall was sufficient to handle the Syngas effluent and existing uses especially when the freezing works was operating at peak throughput. It was felt that the Syngas project should not be jeopardised by the possibility of technical difficulties, breakdown or other problems in an effluent disposal system in which the plant is only one of several users and over which it has no control, and it is obviously easier to monitor the effluent of the synthetic petrol plant through an independent outfall rather than through a joint facility. A principal drawback was also that the Borough's water right is due to expire this year (1983) and in view of the obvious defects in the outfall, it is by no means certain that this right will be renewed, except perhaps on conditions as to its repair, upgrading or complete replacement. There are other problems associated with any joint use or regional facility in assessing the total cost and apportioning costs, and in completing the extensive engineering and marine research that would be required before the technical and environmental feasibility of the proposal can be fully assessed. It appeared further that the provision of a regional facility at Waitara capable of handling present and future needs would require consideration of the construction of a completely new outfall.

Given the technical uncertainties and the corresponding uncertainties of whether water rights would be given for a regional facility and of the time it might take to determine those matters in the event of appeals, and given further that delays in the completion of an outfall facility would cause serious losses to private concerns and the country (as was put to us by Counsel for New Zealand Synthetic Fuels Corporation) it is understandable why an independent outfall was preferred.

The Deputy Secretary for Energy went on to state -

"Obviously, the Government would be able to contribute towards a regional facility only if it were clearly satisfactory from an engineering and environmental point of view, and the costs reasonable, and the Government's contribution to them fair.

Before the Government could make any financial commitment to the options under consideration, they would have to be properly costed, and agreement would have to

be reached between the Government and the other parties as to their relative contributions. It will be apparent from these remarks that the possibility does not exist of the Government meeting the totality of the costs of any new facility, or of it contributing to the costs of facilities which cannot be justified on technical grounds.

"The Government has always taken the view that the initiative for facilities such as a regional outfall should rest with the local authorities in the region. Similarly the initiative for developing and costing such facilities should be pursued by regional interests. At this point however, we are no closer to having answers on the points on which the Government would need to be satisfied before it could make a decision on the matter than we were eighteen months ago. In the interests of expedition therefore, the Minister of Energy has indicated to the Waitara Borough Council that the Ministry would be prepared, in consultation with the Council and the Taranaki Catchment Commission to commission studies of the technical feasibility and economics of a new regional outfall, through which the wastes of the existing users of the Waitara facility, NZSFC and any future petrochemical plants that may be constructed in the region might be discharged."

"The Minister has emphasised that this offer should not be construed as a commitment from the Government to fund the construction of a new outfall or the upgrading of the existing Waitara outfall. It has been made in the hope that this further work will serve to bring the various issues to a head, and facilitate a decision by the various parties on whether there would be merit in seeking a water right for any regional option that appeared to commend itself, on a joint funding basis."

"It will be appreciated that in view of the timing, and other potential technical constraints facing the New Zealand Synthetic Fuels Corporation, investigations of alternative disposal options must be undertaken in parallel with the Government's planning for the construction of the outfall at Motunui. It has been the concern of the Government throughout however, to work with the people of North Taranaki to find a mutually satisfactory solution to the several effluent disposal problems with which they are faced. It is also the Government's hope that with goodwill on all sides, and a spirit of compromise rather than confrontation, this solution can be developed in the rapidly diminishing time available."

We welcome the Government's moves to pursue the prospect of a regional facility. We consider that Government must go further to consider whether special measures are necessary to facilitate that goal. Just as it became necessary to make special provisions to facilitate the approval of major works of national importance in the district, so also it seems necessary now to consider special measures for the orderly development of the necessary infrastructures to minimise the harmful consequences of those works.

The question that we must ask ourselves too is whether the Crown has a particular obligation to seek better protection for the Te Atiawa fishing reefs. In particular, we must ask ourselves whether in terms of the Treaty the Crown has an obligation to protect the Te Atiawa people in the use and enjoyment of their fishing grounds, and if so, and if the provision of a regional facility will help achieve that end, whether it is appropriate that the Crown should consider that the provision of a regional facility must rest with the local authorities in the region, or whether the Crown has a responsibility to aid and assist local authorities to achieve that end.

It is in this context, and with regard to the background that we have reported on, that we consider the proper interpretation to be given to the Treaty of Waitangi in its application to this particular case.

Motunui Waitara Report

10 Interpretation Of The Treaty Of Waitangi

10 Interpretation Of The Treaty Of Waitangi

10. INTERPRETATION OF THE TREATY OF WAITANGI

10.1 Background and Approach

The Treaty of Waitangi has been referred to as "The Maori Magna Carta" (refer thesis of T. J. Lanigan of 1939 "The Treaty of Waitangi: Its Intention and Interpretation") and as "The great charter of Maori rights" (T. L. Buick "The Treaty of Waitangi"). It has also been described as a "fraud" and a "sham" (Edward G. Wakefield in writing to Gladstone in 1846). It is however a fact, and whatever our personal perception of it, it seems also to be a fact that for over a century the Maori people have placed a significance on the Treaty far in excess of that given by the general public.

For over a century the Treaty of Waitangi has been a regular subject in marae debates throughout the country and in recent years, the focus of some Maori activism. With certain notable exceptions, as for example in a seminar at Victoria University of Wellington in 1972, it has not been the subject of concerted debate within the public at large. We were impressed by those Maori who appeared before us to recite incidents surrounding the execution of the Treaty as passed down to them from their forefathers and we know that the perpetuation of the Treaty in the oral history of the Maori is not peculiar to Te Atiawa.

We note too that over the last century the Treaty has been, and continues to be behind a number of Maori petitions to Parliament and to the Queen. It has also been the subject of pleas before the Courts in both New Zealand and the United Kingdom, and the Treaty continues to be pleaded in both inferior and appellate Courts in this country, despite the fact that our Courts have generally considered the Treaty to have no force or effect at domestic law.

It is not necessary for us to enter the current debate in which some writers argue that the Treaty could or should have judicial recognition, but merely to note that fact and to refer to -

A. P. Malloy "The Non-Treaty of Waitangi" (1971) N.Z.L. 193

B. Carter "The Incorporation of the Treaty of Waitangi into Municipal Law" (1980) 4 A.U.L.R. 1

P. G. McHugh "The Treaty of Waitangi : A judicial Myth revisited" (1981)

J. C. Clad "Politics, Law and Indigenous Peoples" (1981) and

J. D. Sutton "The Treaty of Waitangi Today" (1981) V.U.W.L.R. 17

In similar vein we need only note that the Maori people have persistently pleaded the Treaty in the Courts but without success, and refer to -

R. v. Symonds (1847) N.Z.P.C.C. 387

Wi Parata v. Bishop of Wellington (1877) 3 N.Z. Jur (N.S.) S.C. 72

Mangakahia v. New Zealand Timber Company (1881-82) 2 N.Z.L.R. 345

Nireaha Tamaki v. Baker (1901) N.Z.P.C.C. 371 (1902) A.C. 561

Hohepa Wi Neera v. Bishop of Wellington (1902) 21 N.Z.L.R. 655 (C.A.)

Baldick v. Jackson (1911) 13 G.L.R. 398

Tamihana Korokai v. Solicitor-General (1912) 32 N.Z.L.R. 321
Waipapakura v. Hempton (1914) 33 N.Z.L.R. 1065
Hoani Te Heuheu Tukino v. Aotea District Maori Land Court (1941) A.C. 308
Inspector of Fisheries v. Ihaia Weepu and anor (1956) N.Z.L.R. 920
In re the Bed of the Wanganui River (1962) N.Z.L.R. 600
In re the Ninety Mile Beach (1963) N.Z.L.R. 46
Keepa v. Inspector of Fisheries (1965) N.Z.L.R. 322
R. Hita v. H. D. Chisholm, Inspector of Fisheries (Supreme Court 8 February 1977)
While the Treaty may have a dubious status in international and municipal law it is interesting to note that in the cases in which the Treaty of Waitangi has been referred to, no argument has been adduced to question the existence of the Treaty as such or to deny the moral obligation it imposed.

Nonetheless the approach of the New Zealand Courts, and of successive Governments, does not compare favourably with that taken by other Courts and Governments in their consideration of indigenous minorities. In North America for example treaties with the original Indian populations have been recognised by the governments and enforced by the Courts, and in areas not covered by treaties, common law rights are regarded as vesting in the native peoples by virtue of their prior occupation (refer for example, *Calder v Attorney-General of British Columbia* (1973) 34 D.L.R. 145).

The overseas experience must cause us to re-think our perception of the Treaty of Waitangi and of its significance. In its consideration of a major oil pipeline running the length of Canada for example, and in proposing a moratorium on the continuation of the works, the Royal Commission in *The McKenzie Valley Pipeline Inquiry* (Justice Thomas R. Berger) considered it necessary that Native Land Claims be first settled, and that "native hunting, trapping and fishing rights . . . be guaranteed". We consider that it will be increasingly unrealistic for New Zealanders to assess the Treaty of Waitangi in the context only of their own history.

While in this particular case we have not found it necessary to stray beyond the wording of the Treaty, we are not unmindful of overseas developments that suggest that "native or aboriginal rights" may extend beyond the wording of a treaty itself. On this argument, certain customary rights exist and continue to exist unless by treaty they are voluntarily surrendered or modified. On this approach the question is not whether a treaty makes any guarantee in respect of native hunting or fishing rights for example, but whether any body of native customary law relating to hunting or fishing was expressly modified, taken away or added to.

In a consideration of the specific terms of the Treaty it is important to appreciate that the Maori text is not a translation of the English text and conversely, nor is the English version a translation of the Maori.

An historical explanation is given by Ruth N. Ross in an article "Te Tiriti of Waitangi - texts and translations" 1972 6 N.Z. Journal of History 129. Initially a number of drafts were prepared in English and one (only) of those drafts was given to the missionary Henry Williams to translate. It was his translation of that text (with one subsequent amendment) that came to constitute the Treaty of Waitangi as executed at Waitangi by Governor Hobson and various Maori on 6 February 1840. Unfortunately however, the English text given to Williams to translate does not appear to have survived.

Ross then records that in all Hobson forwarded five English versions of the draft Treaty to his superiors in Sydney or London, each with certain differences between them. However, Ross writes "If the differences were noticed in the Colonial Office, it

was perhaps supposed that Hobson's despatch of 15 October 1840 set the record straight with its enclosure of a certified copy of the Treaty both in English and the Native Language, with the names inserted of the chiefs and witnesses who signed it." The English text was not a translation of the Maori.

History records how, after Waitangi copies of the Maori text were taken about the country and executed at divers times and places by various Maori. (Reports vary as to the number of Maori who signed in all, but it is clear that the number was in excess of 500). At the Waikato Heads however, 33 Maori signed an English version (for reasons that are not clear) and to this six more names were subsequently added at Manukau. This English version contained slight differences from that sent to the Colonial Office on 15 October 1840, but it was the "Waikato Heads" version that came to bear Hobson's signature and seal, and it was the "Waikato Heads" version that has come to be regarded as the official version and which is now printed in the First Schedule to the Treaty of Waitangi Act. Again, it is not an accurate translation of the Maori text and there are significant differences.

It was because it was the Maori text that was executed (with the exception noted) that Ross considered "It has always appeared to me that one must accept the Maori text as the Treaty of Waitangi." An alternative view is that both texts must apply, as the signatory for the Crown, Lt Governor Hobson, would have relied upon an English text. In terms of the Treaty of Waitangi Act however we are "to determine the meaning and effect of the Treaty as embodied in the two texts".

The Treaty of Waitangi Act also recognises that there are differences between the two texts and we are required "to decide issues raised by the differences between them". It seems to us remarkable that the sad history of error, confusion, and inefficiency in the preparation, printing and preservation of the Treaty of Waitangi last century has continued into this. We are required to "have regard to the two texts of the Treaty set out in the First Schedule (to the Treaty of Waitangi Act)" but the text in Maori as printed in the First Schedule contains in Article the Second glaring errors and omissions.

We wondered whether the Maori wairua (spirit) was not in operation to ensure that the true and precise wording of the Treaty should forever be confused.

A Maori approach to the Treaty would imply that its wairua or spirit is something more than a literal construction of the actual words used can provide. The spirit of the Treaty transcends the sum total of its component written words and puts narrow or literal interpretations out of place.

Adopting for the moment however the English legal approach, we accept the submission of the Department of Maori Affairs with regard to the errors in the Maori text as follows:

"the Tribunal may have regard to a text of the Treaty acknowledged as being a correct reproduction to supply corrections of the numerous errors and the omission of certain words from Article 2 as reproduced - Maxwell on the Interpretation of Statutes, 12 ed. p. 228 and authorities there cited."

We find also that there are several similarities between the Maori approach to the meaning of things, and the "European" legal approach to the interpretation of treaties. The latter approach was described for us by the Department of Maori Affairs as follows:

"It is submitted that the principles of treaty interpretation should be applied to the Treaty of Waitangi rather than those relating to construction of a statute.

"The body of law which exists on the construction of treaties stands quite separate from its legislative counterpart. Furthermore the very nature of treaties, the circumstances in which they are drawn and their legal consequences dictate that the principles relating to treaty interpretation differ significantly from the traditional tenets of statutory interpretation.

"If the Treaty of Waitangi Act 1975 merely enacted the Treaty of Waitangi in identical or substantially similar wording a different view may be offered. However the manner in which the Treaty of Waitangi has been incorporated into the legislation indicates Parliament's intention that independent effect should be given to the terms of the Treaty for the purposes of interpretation, section 5 (h) of the Acts Interpretation Act 1924 notwithstanding.

"Furthermore the House of Lords has stated that:

'The correct approach in construing a United Kingdom statute which incorporates and gives effect to a European convention is to interpret the English text as set out in the statute in the normal manner appropriate for the interpretation of an international convention, unconstrained by technical rules of English law or by legal precedent but on broad principles of general acceptance.'

James Buchanan & Co. Ltd v Babco Forwarding and Shipping (U.K.) Ltd [1977] 3 All ER 1048.

"That opinion has immediate application to the documents before this Tribunal.

"Accordingly the Department adopts the principles set out by I M Sinclair in his work on Treaty Interpretation in the English Courts found in ICLQ (1963) Vol. 12 p. 508: a Treaties are to be interpreted primarily as they stand and on the basis of their actual text.

b Subject to paragraph (f) below, particular words and phrases are to be given their normal natural and unrestrained meaning in the context in which they occur. However, if the language used is obscure or ambiguous recourse may be had to extraneous means of interpretation such as consideration of surrounding circumstances.

c Treaties are to be interpreted as a whole.

d Treaties are to be interpreted with reference to their declared or apparent objects and purposes, and particular provisions are to be interpreted in such a way that a reason and a meaning can be attributed to every part of the text.

e Recourse to the subsequent conduct and practice of the parties in relation to the treaty is admissible.

f The terms of a treaty must be interpreted according to the meaning which they possessed, or which would have been attributed to them, and in the light of current linguistic usage at the time when the treaty was originally concluded.

"There is also recent judicial authority affirming the principle that treaties and other constitutional documents should be interpreted in the spirit in which they are drawn and taking into account the surrounding circumstances. *Fothergill v. Monarch Airlines Ltd* [1980] 2 All ER 696 (H.L.), *Minister of Home Affairs v. Fisher* [1980] A.C. 319 (P.C.)."

Referring then to bilingual treaties the Department submitted

"In relation to bilingual treaties *McNair (The Law of Treaties)* states that in the absence of a provision to the contrary neither text is superior to the other. Further, that there is ample authority for the view that the two or more texts should help one another so that it is permissible to interpret one text by reference to another.

"However, it is submitted that should any question arise of which text should prevail the Maori text should be treated as the prime reference. This view is based on the

predominant role the Maori text played in securing the signatures of the various Chiefs.

"In this regard the Department refers to Articles 33 (2) of the Vienna Convention on the Law of Treaties of 1969. The text of that convention is reproduced in Brownlie J. Basic Documents in International Law 2 ed. at p. 233. New Zealand became a party to the Convention on 4 August 1971 and it came into force on 27 January 1980.

"Finally, the rule of *contra proferentem* states that in the event of ambiguity a provision should be construed against the party which drafted or proposed that provision."

The Department made then a comparison with North American Treaties -

"The Supreme Court of the United States had laid down an indulgent rule which requires treaties made with Indian tribes to be construed "in the sense which they would naturally be understood by the Indians" - *Jones v Meehan* (1899) 175 U.S.1.

"The United States rule is in fact founded on Article VI of the Constitution of the United States which provides that treaties made under proper authority shall be the supreme law of the land and which has been held to apply to the treaties made with the Indians.

"In the light of the constitutional position of treaties in the United States we merely draw the rule to the Tribunal's attention. Discussion by the Courts and commentators on the rule indicate that it may be regarded as an extension of the *contra proferentem* rule."

From the standpoint of European legal concepts we incline to the broad approach urged by the Department of Maori Affairs. We consider that approach is also envisaged by the Treaty of Waitangi Act which requires us to determine "whether certain matters are inconsistent with the principles of the Treaty" (rather than "with the provisions of the Treaty") and we refer to the long title, preamble and Section 6 (1) (c) of the Act.

10.2 Particular Aspects of the Treaty

(a) "Fishing Grounds"

In the consideration of this particular claim differences in the Maori and English texts become important. In the English text specific reference is made to "fisheries" as follows:

"Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession . . . "

In the Maori text there is no specific reference to forests (*ngaherehere*) or fisheries (*taunga ika*) but rather to "*o ratou wenua*" (their lands), "*o ratou kainga*" (their habitations), "*me o ratou taonga katoa*" (and all their treasured things).

The Te Atiawa people gave us examples of their use of the word "*taonga*" and illustrated for us that to them, the general word "*taonga*" embraces all things treasured by their ancestors, and includes specifically the treasures of the forests and fisheries. We accept that approach. We note that tribal fishing grounds, like specific areas that were renowned as sources of food, were regarded as part and parcel of tribal treasure troves, and were often the cause of tribal conflict. Tamaki isthmus for example, which was renowned for its rich fowl and fish resources, was referred to as "Tamaki, sought as a bride by a thousand lovers".

A remarkable feature of the English language is its facility to use words of precision so as to define arguments and delineate the differences that may exist. The Maori language is generally metaphorical and idiomatic. It is remarkable for the tendency to use words capable of more than one meaning in order to establish the areas of common ground, and for its use of words to avoid an emphasis on differences in order to achieve a degree of consensus or at least a continuing dialogue and debate. The use of the word "taonga" in a metaphorical sense to cover a variety of possibilities rather than itemised specifics is consistent with the Maori use of language. It would be entirely inappropriate to apply English canons of construction to the translation of a Maori text and so to argue that the failure to make specific reference to "fishing grounds" in the Maori text indicated that fishing grounds were not within the purview of the Treaty. Applying also the canons of construction in the interpretation of bilingual treaties as submitted by the Department of Maori Affairs, we conclude that in this respect the difference between the English and Maori texts is not as substantial as may at first be thought. We consider that the Treaty envisaged protection for Maori fishing grounds because the English text specifically provided for that while the Maori text implied it.

(b) "Rangatiratanga"

The essence of the second article in the Maori text of the Treaty of Waitangi is in the use of the word "rangatiratanga".

The English text states "Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess . . ."

The Maori text goes further. It confirms to the Chiefs and the hapu, "te tino rangatiratanga" of their lands etc. This could be taken to mean "the highest chieftainship" or indeed, "the sovereignty of their lands."

Sir William Martin, New Zealand's first Chief Justice, wrote "To themselves they retained what they understood full well, the tino Rangatiratanga, full Chiefship (sic) in respect of all their lands." Williams, translating the Maori text back into English translated this part as "their full rights as chiefs, their rights of possession of their lands and all their other property of every kind and degree". In addressing us during our hearings Hikaia Amohia stated "(the Maori) accepted the Treaty relying on the honesty and honour of the Queen and her representative, believing that Chieftanship of their properties was guaranteed to them unreservedly and with no hidden conditions or reservations."

By 1840 the Maori people had had more than a fleeting acquaintance with the missionaries. The spread of Christianity amongst them was rapid. This is sometimes attributed to the thought that Maori spiritual and religious concepts, and many aspects of Maori communal life, were not far removed from concepts expressed in the Bible and that no major ideological shift was involved. It has been noted that many Maori were able to recite large passages from Scripture and the Book of Common Prayer by rote. It is also to be remembered that the missionaries played a major role in presenting and explaining the Treaty to Maori people, at Waitangi and throughout New Zealand. It must also have been readily apparent to the Maori that the Treaty was written in what could best be described as "Missionary Maori".

It appears to us that the Maori signatories to the Treaty would have been in no doubt that they and the missionaries were agreed on what "rangatiratanga" meant. It was well known to both parties for its use in scripture and prayer, as in "kia tae mai tou

rangatiranga" or, "thy kingdom come", as appearing in the Lord's Prayer. "Rangatiratanga" and "mana" are inextricably related words. Rangatiratanga denotes the mana not only to possess what is yours, but to control and manage it in accordance with your own preferences.

We consider that the Maori text of the Treaty would have conveyed to Maori people that amongst other things they were to be protected not only in the possession of their fishing grounds, but in the mana to control them and then in accordance with their own customs and having regard to their own cultural preferences.

We consider that that is the proper interpretation to be given to the Treaty, because the Maori text is clearly persuasive in advancing that view, and because the English text, referring to a "full exclusive and undisturbed possession" also permits of it.

The promise to protect the Maori interest as so defined is apparent in the second article of the English text, ("Her Majesty the Queen of England confirms and guarantees . . . ") and in the preamble of both the English and Maori texts:

"Her Majesty . . . regarding with Her Royal Favour the Native Chiefs and Tribes of New Zealand and anxious to protect their just Rights and Property . . . " and "Ko Wikitoria te Kuini o Ingarangi i tana mahara atawai ki nga Rangatiratanga me nga Hapu o Nu Tirani i tana hiahia hoki kia tohungia ki a ratou o ratou rangatiratanga . . . "

That then was the exchange of gifts that the Treaty represented. The gift of the right to make laws, and the promise to do so so as to accord the Maori interest an appropriate priority.

10.3 Broad Aspects of the Treaty

As we have said the Treaty of Waitangi has been referred to as "The Maori Magna Carta" and as "the great Charter of Maori rights". It may well be so described but we consider that that is but one aspect of the Treaty's significance and that it has broader implications.

Governor Hobson's view of the broad implications is illustrated in his statement to each Maori signing the Treaty of Waitangi when he said "He iwi kotahi tatou" which has been translated as "We are now one people". At Waitangi on 6 February 1841 however the present Governor-General, Sir David Beattie was to say - "I am of the view that we are not one people, despite Hobson's oft-quoted words, nor should we try to be. We do not need to be."

The Treaty was an acknowledgement of Maori existence, of their prior occupation of the land and of an intent that the Maori presence would remain and be respected. It made us one country, but acknowledged that we were two people. It established the regime not for uni-culturalism, but for bi-culturalism. We do not consider that we need feel threatened by that, but rather that we should be proud of it, and learn to capitalise on this diversity as a positive way of improving our individual and collective performance.

The Treaty was also more than an affirmation of existing rights. It was not intended to merely fossilise a status quo, but to provide a direction for future growth and development. The broad and general nature of its words indicates that it was not intended as a finite contract but as the foundation for a developing social contract.

We consider then that the Treaty is capable of a measure of adaptation to meet new and changing circumstances provided there is a measure of consent and an adherence to its broad principles.

We do not therefore consider that both the Maori and the Crown should be so bound that both sides must regard all Maori fishing grounds as inviolate. In our view it is not inconsistent with the Treaty of Waitangi that the Crown and Maori people should agree upon a measure of compromise and change.

In particular, it is not inconsistent with the Treaty that the Te Atiawa hapu should accept a degree of pollution in respect of certain of their fishing grounds, on the basis that other grounds will not be spoilt.

Waitangi Tribunal, Department of Justice, Wellington.

Motunui Waitara Report

11 Findings:

11 Findings:

11. FINDINGS:

11.1 Findings of Fact

There can be no doubt from the evidence adduced before us, nor was it challenged, that the river and reefs referred to in this claim constitute significant and traditional fishing grounds of the Manukorihi, Otaraua and Ngati Rahiri Hapu of Te Atiawa, and that the traditional user of them has continued unbroken into modern times (refer paras 4.1-4.9).

It is also clearly established that the river, reefs and associated marine life suffer from various degrees of pollution, that those near to the mouth of the Waitara River in particular are badly polluted and stand to be polluted further, and that the local Maori people are prejudiced as a result (refer paras. 7.1-7.5).

It is also apparent that the Crown intends to construct an ocean outfall at Motunui, that this will result in the physical destruction of a part of a further reef, and that either further pollution will follow, or that there can be no guarantee that there will not be further pollution. The local hapu are particularly prejudiced by the fact that this is the last remaining reef of those hapu not seriously affected by pollution (refer para. 7.3).

11.2 Findings of Interpretation

We are of the opinion that the Treaty of Waitangi obliges the Crown to protect Maori people in the use of their fishing grounds to the fullest extent practicable, and to protect them especially from the consequences of the settlement and development of the land (refer para. 10.2).

As noted at 10.2 the promise to "protect" is provided for in the second article of the English text, and in the preamble to both the English and Maori texts. That any legal or moral responsibility of the Queen by virtue of a treaty with native peoples, is a responsibility of the Queen in right of the territorial government, and thus in this case, the New Zealand Government, is established in *Indian Association of Alberta v. Secretary of State for Commonwealth* (1982) 2 All ER 118.

The protection envisaged by the Treaty involves at one level the physical protection of the fishing grounds from abuse and deterioration as a result of pollution or destruction. At another level the protection envisaged by the Treaty involves recognising the rangatiratanga of the Maori people to both the use and the control of their fishing grounds in accordance with their own traditional culture and customs and any necessary modern extensions of them (refer para. 10.2).

We do not find that the 'exclusive' use envisaged by the second article of the English text of the Treaty, necessarily means that an exclusive user of Maori fishing grounds by the hapu most closely associated with them must in all cases be upheld. The position was seen this way by the Commissioner for the Environment, K W

Piddington:

"We have the reference to 'rangatiratanga' in the Maori version, as opposed to the concept of 'full exclusive and undisturbed possession' in the English. The latter carries with it the implied right to buy and sell, whereas the Maori cultural context requires a different reading. As far as the Maori text is concerned, I would relate the idea of "rangatiratanga" to the mores of a society which treated resources as collective rather than individual assets. There is a parallel here with much environmental thinking about the use of natural resources, thinking which is reflected in the earlier English concept of 'stewardship'. If the Maori version is to prevail, it is clear that the emphasis of the English version on 'possession' is misleading."

We interpret this part of the Treaty to mean that the mana of the Maori people to be able to control their own fishing grounds ought to be upheld. This includes a power to regulate and restrict both the use and the class of persons who may use. It does not follow however, that there must in all cases be an exclusive user but rather that that is a matter to be determined in consultation and negotiation with the hapu concerned. We noted (at 4.9) that in this case the Te Atiawa people do not seek an exclusive user. We consider that this approach would be followed by other tribal groups as well in circumstances where extensive reefs adjoin areas of major public habitation and that this approach is consistent with Maori customs and values.

11.3 Findings on jurisdiction

We find that the Manukorihi, Otaraua and Ngati Rahiri people are or are likely to be prejudicially affected by the pollution and threatened pollution of the river and their traditional reefs. We consider them to be "prejudicially affected" within the meaning to be given to those words in the Treaty of Waitangi Act in that they are restricted in the exercise or enjoyment of a customary practice envisaged by the Treaty in accordance with their own culture.

We find that the hapu are prejudicially affected -

(a) by the Acts and Regulations for the time being in force as referred to in Chapter 8 in that while the Crown has enacted a number of commendable measures for the protection of the fish resource and coastal environs, they give insufficient recognition and protection for Maori fishing grounds and the Maori interest therein;

(b) (i) by the policies or practices adopted by the Departments of State and other statutory bodies created by the Crown as referred to in Chapter 5 in that a priority is not given or is not able to be given by them to the Maori interest in fishing grounds over and above the general public interest;

(ii) by the practice of the Crown in omitting to make appropriate laws for the protection of Maori fishing grounds from pollution, and for the control of Maori fishing grounds by Maori people;

(c) by the proposal of the Crown to erect an ocean outfall at Motunui, and by the omission of the Crown to provide for an effluent disposal system for the Methanol project without first ensuring that Maori fishing grounds will not be affected.

For the reasons given at 11.2 we find that the Acts, regulations, policies and practices, acts and omissions above referred to are inconsistent with the principles of the Treaty of Waitangi.

Counsel for Ministry of Works and Development argued that we did not have jurisdiction to consider the matters complained of. He argued that the responsibility for planning for the protection of the rivers and coastal waters was vested in certain local authorities and statutory bodies, that the application of those measures to given

cases was vested again in independent statutory bodies and judicial tribunals, and that the pursuit of individual applications was a right and responsibility of private enterprises. He argued that the policies and practices of those bodies could not be policies or practices of the Crown, that those bodies were not agents of the Crown, and it was clear that by entrusting responsibility to those bodies, the Crown had divested itself of any legal responsibility.

In similar vein he argued that the provision of sewerage and other schemes was the responsibility of local authorities. Government involvement was limited to making money available to local authorities by way of subsidy and loan, but the initiative must come from the local authority, and the government could act only on a proposal before it.

There must be doubts as to the independence of the bodies referred to in the manner submitted. In an interlocutory decision of 27.4.82 in *R and D Roach Ltd v Waitara Borough and Taranaki Catchment Commission and Regional Water Board* for example Prichard J commented "... in terms of the Water and Soil Conservation Act 1967... the sole right to discharge sewage and industrial waste into any natural water is vested in the Crown (S.21) subject, however, to the right of the Crown acting through a Regional Water Board to confer on any person the right to discharge waste into any natural water in any particular situation and on such terms and conditions as the Regional Water Board may see fit to attach to the grant." (The underlining being our own.) That same argument may be extended to other areas, but we do not find it necessary to consider it. We consider that the approach urged by Counsel for Ministry of Works and Development may be appropriate for argument in an action before a Court of record where the applicant cannot question the propriety of laws but must bring his case within the framework of such laws that exist. We do not consider that to be a proper approach to a consideration of the jurisdiction of the Waitangi Tribunal as set out in the Treaty of Waitangi Act.

The Treaty represents the gift of the right to make laws in return for the promise to do so so as to acknowledge and protect the interests of the indigenous inhabitants. We see it is as our function to assist the Crown by offering an independent opinion on its responsibilities under the Treaty in the making of laws and policies.

It appears to us that in the performance of that function the legislature intended that we should be able to adopt a broad approach. It is not so much that we are constrained by existing laws and policies but rather that we are specifically empowered to examine them. The question for us is not so much whether the Crown has divested itself of a responsibility or has placed a responsibility on bodies that it has made independent, but whether the Crown ought to have divested itself of that responsibility, or whether the statutory parameters that it has prescribed for others in defining their responsibilities are adequate having regard to the terms of the Treaty. We accordingly prefer and adopt the submissions in rejoinder by Counsel for the Waitara Borough Council. He argued that we were bound to consider "the responsibility of the Crown outside of all these planning acts" and then to review the acts in the light of our findings.

Motunui Waitara Report

12 Recommendations

12 Recommendations

12. RECOMMENDATIONS

12.1 Broad approach and the relief sought

Section 6 (3) of the Treaty of Waitangi Act provides that we may recommend to the Crown that action be taken to compensate for or remove the prejudice complained of or to prevent other persons from being similarly affected in the future.

We have come to the conclusion that the Te Atiawa hapu are prejudicially affected (Chapter 11), and having regard to all the circumstances we consider several recommendations to be appropriate.

In making recommendations we have had regard to the long title and preamble to the Act which refer to the "practical application of the principles of the Treaty". We have been assisted to do this by the reasonable and practical approach taken by the Te Atiawa people themselves. At 4.9 and 11.3 we noted that while seeking a measure of protection and control for their reefs, the hapu concerned did not seek the exclusive use of them. Perhaps because of the extensive nature of the reefs, the hapu were concerned to consider the general public interest. This contrasted markedly with the submissions of others who gave no priority to the Maori interest in fishing grounds (Chapter 5), and with our interpretation of the Treaty of Waitangi that it establishes the right of Maori people to a priority of consideration that is not in fact given them (para. 10.2).

The Te Atiawa willingness to accommodate the national interest is apparent also in the particular relief proposed by them. While it was open to them to insist upon the protection of all their reefs, they accept limited discharges in one area at Waitara. We refer now to the Te Atiawa proposals in greater detail.

For some years now, and at hearings related to various projects, the local hapu have urged the provision of land based treatment plants. It has been urged in resolutions of the District Maori Women's Welfare League, the Taranaki Maori Trust Board, the Aotea District Maori Council and at tribal hui. It has also been urged by many of the local community. We were advised for example of a petition in 1982 by 2033 residents of Waitara and surrounding districts, seeking a full land based treatment plant to replace the ocean outfall at Waitara.

The local hapu are also opposed to a proliferation of outfalls. They are opposed because this threatens to spread pollution and it threatens the physical destruction of further parts of the reefs in the completion of the necessary works. They oppose the Motunui outfall for the added reason that the cost of it could be better used to assist the establishment of a better facility at Waitara. They would like to see Syngas, Clifton County Council and proposed industries combine with the Waitara Borough Council and its present users to complete a land based tertiary treatment plant. They do not urge one plant for the total region, but they do seek one plant for the Waitara district. As one witness from the local hapu stated "If the Motunui outfall is built parts

of our reefs will be destroyed by the blasting and because of the poisons will be tapu also . . . We cannot and will never accept another sea outfall on our coast. I stress these are the last remaining reefs belonging to our hapu."

During the course of our hearings, and on 19 October 1983, the local hapu was able to fine up on what they sought following a meeting with representatives of the Waitara Borough Council. Following that meeting they asked, that for now, the treated effluent from Syngas be directed through the Waitara Sewer outfall, to be followed eventually by "a land based treatment plant (tertiary) or any other suitable type of waste disposal through Waitara Borough Council." They considered that there should be one outfall to take not only the sewer effluent and trade wastes from the existing Waitara Borough Council users and Syngas, but from any new petrochemical plants to be established in the Waitara region.

They considered that any Development Fund levy on developers or any direct Crown funding should also go to assist in the financing of the appropriate plant.

We referred to the proposal to re-route the Syngas effluent at 9.3 and considered that the proposal had a measure of planning sense to commend it. We noted earlier that the support for the establishment of land based treatment plants indicated, amongst other things, an important cultural preference. We note that the particular proposal of the hapu does not mean that in the long term there should be no marine discharge. It proposes localising the discharge, and then only after tertiary treatment.

Tertiary treatment is more advanced than secondary treatment, and certainly much more advanced than the present primary treatment. It is also much more expensive, but as one witness for the hapu stated "we cannot accept any argument which promotes an inferior system as the best, simply because it is the cheapest."

In other respects we thought the hapu proposals did not go far enough. On the evidence before us it seemed that while a treatment plant for Waitara is necessary, this should be considered only on the basis that certain waste streams, and especially chemical waste streams, will be kept separate with a separate treatment for each including land disposal for certain industrial and chemical wastes, or with provision for such wastes to be removed on site. It seemed also that any marine discharge should not be in proximity to Maori fishing reefs and accordingly, the replacement rather than the repair of the Waitara outfall is necessary.

12.2 Recommendations affecting the Syngas project

As noted at 7.3 and 9.3 the Crown has adduced a number of good reasons for preferring a separate outfall at Motunui. We would not dispute the validity of those reasons insofar as they advance the interests of Syngas and provide an assurance that a work of national value and importance can proceed. We consider however, that it would be helpful for the Crown to give further weight to the interests of the local community and the local Maori people.

We consider that the national economic interests, local interests and the protection of the coastal environment are not irreconcilable. We consider that each of those interests can be advanced together, by better planning and co-ordination (as noted at 9.2) and by integrating the Syngas infrastructures into a co-ordinated development plan for the area (as noted at 9.3).

We were pleased to learn that the Crown is undertaking a further study of its effluent disposal options. In view of certain time limits, and in case that study cannot be completed in time, we urge that the Crown adopt the suggested proposal of discharging through the Waitara outfall as an interim measure.

Accordingly as a first step towards providing integrated planning in the local interest we recommend to the Minister of Energy -

That the proposal for an ocean outfall at Motunui be discontinued, and

That the Crown seek an interim arrangement with the Waitara Borough Council for the discharge of the Syngas effluent through the Council's outfall.

Having regard to the hapu divisions of the reefs and the terms of the Treaty of Waitangi we consider that the Motunui outfall should not be proceeded with whether or not an alternative outlet is available and whether or not an economic loss is thereby sustained.

We consider however that if it is necessary to secure an alternative outlet pending the completion of further study and planning, the Crown would be justified in securing that outlet by special legislation as an interim measure, until a longer term proposal can be worked out and agreed upon.

12.3 Recommendation for further planning

The re-routing of the Syngas effluent is but a first step towards achieving better planning and co-ordination in the interests of the local community and the protection of the coastal waters. We do not see that the protection of Maori fishing grounds and other renewable resources should necessarily prevent the exploitation of non-renewable resources and economic growth. We do consider however, that planning is necessary if both objectives are to be reconciled and achieved. As with all natural resources, the protection of Maori fishing grounds as envisaged in the Treaty involves much more than merely confronting specific problems as they arise. Active protection involves positive forward planning to guard against the creation of future problems. Future planning must begin with an acknowledgement of existing problems. We consider -

(1) That a new outfall for the Waitara Borough Council is required as a matter of urgency (refer 9.1). It needs to have a greater working capacity and preferably should be relocated. Greater consideration needs to be given however to the feasibility of an ocean outfall having regard to the constructional standards required in the light of known coastal characteristics, known engineering capabilities and costs.

Consideration needs to be given to how capital and maintenance costs should be apportioned amongst the various users and to the nature and extent of Crown assisted funding required having regard to any financial constraints upon the existing users (refer 7.1) and any shortfall necessary for the completion of the works.

(2) Any new outfall for Waitara must eventually be supplemented by a land based secondary or tertiary treatment plant. Further research is needed as to the most optimum form of plant. It is necessary to plan this in conjunction with plans for the separation of waste streams and the application of different forms of treatment, including land dispersal and/or the removal of certain effluents at plant sites, and the re-cycling of wastes. Cost-benefit analyses are also necessary in the selection of appropriate options (refer 9.1).

(3) Future industries need to be located together to maximise the most efficient and economical use of resources but on the basis that they can also pool resources for the provision of the most optimum of effluent disposal systems, in their collective interest, and the interest of the district. Further research is required in this area, and it is necessary for appropriate plans and strategies to be formulated (refer 7.2, 7.3, 9.1, 9.2, 9.3).

(4) There is a need for better maritime and regional planning. The present lack of

planning is a major constraint in the assessment of individual proposals and we have doubts that in all the circumstances appropriate planning can be undertaken and resolved with sufficient expedition solely through the Regional Planning Committee of the Taranaki United Council (refer 5.6 and 9.2).

(5) There is a need for several agencies and organisations to be brought together for greater co-ordination of their efforts in both the planning for and actual provision of appropriate infrastructures for the area (refer 9.2).

(6) The extent of Crown involvement in the region requires a review of the extent and nature of Crown assistance in the planning, construction and funding of appropriate infrastructures (refer 9.2).

(7) It is not desirable to have ocean outfalls in proximity to shellfish beds. It is desirable that a body, and we would suggest the Taranaki Catchment Commission, should be commissioned to define existing Maori fishing grounds in North Taranaki in consultation with the District Maori Council, and to study the effect of existing outfalls on them. Nor is it desirable that there be discharges into the Waitara River (refer 9.1).

(8) The exigencies are such that special legislative provisions may be necessary. Future planning and the resolution of existing problems will require much further research and study (refer for example, 9.1.5). It is our view that having regard to the wide ranging nature of the problems, that study should be undertaken by an inter disciplinary team, and through the agency of a body that is able to draw together the various interested parties, and that is able, not only to bring down plans, but to facilitate the practical implementation of specific proposals.

We consider that the situation in North Taranaki calls for urgent measures (refer 9.2). Accordingly -

We recommend the establishment of a Regional Planning and Co-ordinating Task Force under the aegis of the Ministers of Energy and Works and Development with the broad function of proposing medium term plans for development in the region and making recommendations for the provision of infrastructures and ancillary services commensurate with projected growth, and with the particular function of addressing and making recommendations on the matters that we have raised in 1-8 above.

We envisage that the Task Force would be small, comprised of say three expert persons, but with authority to meet in consultation with a number of agencies and to commission reports and research from them.

Amongst such others as it may think fit, the Task Force should act in consultation and concert with the Taranaki United Council, the Taranaki Catchment Commission and Regional Water Board, the Waitara Borough Council, Borthwicks, the Secretary of Energy, the Ministry of Works and Development, the Department of Health and the Commission for the Environment and should call for joint consultations.

12.4 Recommendations for the statutory recognition and protection of Maori fishing grounds

We have to this point been concerned with the identification and resolution of specific problems arising from developments in the area and from the unsatisfactory nature of the Waitara Borough outfall. Planning measures will not adequately resolve the problem in the long term however, without concurrent recognition being given to Maori fishing grounds in planning and other legislation, to ensure their future protection (refer para. 8.7).

The lack of legislative recognition for Maori fishing grounds is in our view

inconsistent with the Treaty of Waitangi (refer 10.2).

At first glance there appear to be two approaches to the legislative recognition of Maori fishing grounds. One is to provide specifically for Maori fishing ground areas to be reserved, and to provide particularly for the protection of those reserves in planning and related legislation. This presumes that Maori people will come forward to lay claim to particular areas. We think it unrealistic to presume that this would be done in all cases.

The other approach is to provide generally for the protection of Maori fishing grounds in planning legislation without specific provision for their reservation, but this would not enable local hapu to exercise a measure of control in respect of fishing grounds of particular significance.

There is however a third alternative, and it commends itself to us, to provide generally for Maori fishing grounds and to provide specifically for certain of those fishing grounds of particular significance to be formally reserved.

We do not consider that the formal reservation of Maori fishing grounds should be entrusted to any department of state or agency with a predominant commitment to the general public interest. Rather, we consider that that function should pass to the Maori Land Court, but with provision for interested departments of state, and statutory agencies such as the local authorities and Catchment Commissions, to be notified of proposed applications for Maori fishing ground reserves, and to be heard.

Accordingly we recommend that provisions be made for the recognition and protection of Maori fishing grounds in:

The Maori Affairs Act 1953

The Fisheries Act 1908 (including the provisions for controlled fisheries)

The Maritime Reserves Act 1971

The Maritime Farming Act 1971

The Marine Pollution Act 1974

The Health Act 1956

The Water and Soil Conservation Act 1967 and

The Town and Country Planning Act 1977 (including the provisions for Maritime Planning areas)

and any similar legislation.

(During the course of our inquiry the Fisheries bill and the Marine Reserves Bills were referred to. We do not consider it appropriate that we should comment upon Bills before the House except upon formal reference to us under Section 8 of the Treaty of Waitangi Act, but to the extent that those Bills may fail to give recognition to Maori fishing grounds, it also ought to be the subject of the review hereinafter proposed.)

We recommend that provision be made in the Maori Affairs Act 1953 that the Maori Land Court may upon application recommend the gazetting of Maori Fishing Ground Reservations in respect of fishing grounds of particular significance to local hapu. In so doing the Court shall appoint trustees upon terms of trust empowering them to make regulations for their management and control of the reservations within parameters set by the Court. Provision should be made that notice of any such application shall be given to the Department of Agriculture and Fisheries, the Local Authority and any United or Regional Council and the local Catchment Commission and Water Board, so that they may be heard on all matters relating to the creation of the reservation, the appointment of trustees and the extent of their powers of regulation. There should be a right of appeal against any decision of the Court.

It would be appropriate to the Treaty of Waitangi if the formal creation of Maori Fishing Ground Reservations were to be effected by the Governor-General by Order in Council on the recommendation of the Court.

Provision should also be made for the definition of such reservations by survey effected through the Department of Lands and Survey.

Other legislative provisions appear to us to place unnecessary constraints on planning authorities in the protection of the environment generally, and thus of the seafood and freshwater resources of significance to Maori people (refer paras 8.7 and 9.2).

Legislative amendments appear necessary:

(a) To apply the provisions of Section 3 and Section 102 of the Town and Country Planning Act to any area in respect of which a Maritime Plan does not exist, and to extend the provisions of Section 3 (1) (g) to include Maori fishing grounds. (It should be made clear that those provisions cover applications to discharge effluent by ocean outfall pipelines). Our reasons for so recommending were given at 8.7.

(b) To empower Regional Water Boards to impose conditions or adopt practices enabling them to control the method of waste disposal. At present the Boards can do no more than set standards and enforce them when there is a breach. It is left to the developer to endeavour to attain those standards. We consider it important that the Boards' overview should be extended to a consideration of whether a particular proposed treatment facility will suffice.

(c) To enable Regional Water Boards to instigate variation procedures to existing water rights in recognition of changing circumstances. At present water rights issue for a fixed term and the current legislation does not enable the Boards to instigate variation procedures. An amendment should be made in recognition of the regional implications of rapid growth and the difficulties involved when discharge and other rights cannot be integrated with the grant of new rights.

We referred at 4.8 and 10.1 to certain anomalies that in our view call for further amendments. In particular we recommend:

(a) An amendment to the Fisheries (General) Regulations 1950 to enable the harvesting of paua under 125 mm from the Te Atiawa reefs and to enable special licences to issue for the taking of shell fish on the occasion of a tangi on the authority of only a Maori Community Officer, a Fisheries Inspector, or an elected representative to the New Zealand Maori Council where either a Community Officer or a Fisheries Inspector are not readily available.

(b) An amendment to the Maori text of the Treaty of Waitangi in the First Schedule to the Treaty of Waitangi Act 1975 to correct obvious errors.

Accordingly -

we recommend the establishment of an inter-departmental committee under the direction of the Minister of Maori Affairs comprised of representatives from the Department of Maori Affairs, the Minister of Agriculture and Fisheries, the Ministry of Works and Development, the Department of Health and the Department of Lands and Survey to draft amending legislation to provide for the reservation and control of significant Maori fishing grounds, for the recognition of Maori fishing grounds in general regulatory and planning legislation, to improve existing provisions for the assessment and control of particular work projects, and to effect certain miscellaneous amendments, in accordance with our proposals as given above.

We consider that the Committee should act in consultation with the New Zealand Maori Council on amendments providing for the creation and recognition of Maori fishing grounds, and the taking of shellfish for tangi and hui.

12.5 Compensation and Costs

Section 6 (3) of the Treaty of Waitangi Act enables us to "recommend to the Crown that action be taken to compensate for or remove the prejudice..."

In this case the Te Atiawa people have not sought compensation. Counsel for the Te Atiawa claimants did refer however to the "financial sacrifices" that the hapu have made in presenting their claim to us. During the course of our inquiry we noted that members of the hapu have been involved in other inquiries too in order to advance their case. This has involved appearances at the hearings related to the New Plymouth water rights application (about four days), the Petralgas application (about four weeks), the Syngas proposals (about seven weeks) and as appellants before the Court of Appeal in Wellington. These hearings have required a number of hui of the people and the preparation of evidence and submissions. Certain individuals, like Aila Taylor who is a butcher at the local freezing works, have had to take much time off work. It was obvious that the hapu had conducted extensive researches and done considerable work to present their case to us. The presentation of that case in fact took one week. We were impressed by the thoroughness of their work, and the restrained and dignified manner in which their case was presented.

The hapu also intend to be involved in the Waitara outfall hearing this year.

We have no authority to award costs or to make recommendations with regard thereto, but we would consider appropriate, an ex gratia payment by the Crown to Aila Taylor as representative of the hapu, for their efforts to protect that which in our view the Treaty guaranteed a protection.

We are grateful to the several Departments of State and statutory bodies or agencies that attended each day of our sittings to make extensive submissions and to assist considerably in our inquiries. We mention in particular the considerable assistance provided by the Taranaki Catchment Commission and Regional Water Board which has also been involved in extensive litigation and proceedings before other Tribunals in the performance of its statutory functions. The number of proceedings results largely from the growth in the area of new industries of national importance and we consider that this has placed an undue burden upon it. Its costs in appearing before us have been properly assessed at over \$20,000.

Owing to a pending Court action against it, the Waitara Borough Council was unable to present evidence to us, but we were ably assisted by counsel for the Borough. He attended each day of our sittings and made extensive submissions. He also sought a measure of agreement with the local hapu during the course of proceedings, and although that attracted some criticism, we considered his actions entirely appropriate to our inquiry where consultation and new understandings between different interest groups is important in seeking practical solutions to the sorts of problems that must confront us.

We consider that the consequences of national growth should be apportioned equitably on a national and a local basis. They should not result in an oppressive charge or levy on local people. We think it appropriate that the Crown should consider contributing to the legal costs of the Taranaki Catchment Commission and Waitara Borough Council in their appearances before this Tribunal.

12.6 Dispatch of this report

In accordance with Section 6 (5) of the Treaty of Waitangi Act 1975 the Registrar is directed to serve a sealed copy of this report containing our findings and

recommendations on

(a) The claimant, Aila Taylor and for the Te Atiawa people, S. Raumati, chairman of the Manukorihi Marae Trustees, R. Bailey, chairman of the Aotea District Maori Council and R. A. Muggeridge (Counsel).

(b) The Minister of Maori Affairs;

The Minister of Energy;

The Minister of Works and Development;

The Minister of Agriculture and Fisheries;

The Minister of Health and

The Minister for the Environment.

(c) The Secretaries for the Departments of State responsible to the above ministers and the Commissioner for the Environment;

The Waitara Borough Council and its Counsel Mr Bornholdt;

The Taranaki Catchment Commission and Regional Water Board and its Counsel Mr Somerville;

The Taranaki United Council;

Borthwicks C.W.S. Limited and its Counsel Mr Camp;

Petralgas New Zealand Limited and its Counsel Mr Boon;

Synthetic Fuels Corporation of New Zealand Limited and its Counsel Mr Holm;

F White for the Taranaki Clean Sea Action Inc.;

B Allison for the Taranaki Values Party;

C Jury for the Waitara Surfriders Club;

The Secretary for the New Zealand Maori Council; and

The Chief Registrar of the Maori Land Court.

In conclusion we pay tribute to the people of Manukorihi Marae for their hospitality in catering for the Tribunal and for those who attended our proceedings.

DATED at Wellington this 17th day of March 1983

Waitangi Tribunal, Department of Justice, Wellington.

Motunui Waitara Report

A1 Appendix I

A1 Appendix I

A1 APPENDIX I

THE ORIGINAL CLAIM

IN THE MATTER of the Treaty of Waitangi Act, 1975

AND

IN THE MATTER of a claim by Manukorihi and Atariawa Hapus of Te Atiawa Tribe

TO: THE WAITANGI TRIBUNAL

I, AILA TAYLOR of Waitara, member of Te Atiawa Tribe, claim the tribe to be prejudicially affected by the policy or practice adopted by or on behalf of the Crown which results in failure to properly control discharge of sewage and industrial waste into the sea between New Plymouth and Waitara such policy or practice being inconsistent with the principles of the Treaty of Waitangi in that it has in particular adversely affected fishing grounds known as Tauanga, Te Puna, Titi Rangi and Orapa Reefs belonging to Manukorihi, Otaraua and Ngati Rahiri Hapus and is causing and will continue to cause irreversible damage to a larger area of sea bed on which the Te Atiawa Tribe relies as a source of food thereby depriving the Te Atiawa Tribe of the full exclusive and undisturbed possession of fisheries which it desires to retain as confirmed and guaranteed to it by the Crown.

DATE: "2 June 1981"

FOR AND ON BEHALF OF TE ATIWA TRIBE

"A. Taylor"

.....

AILA TAYLOR

Waitangi Tribunal, Department of Justice, Wellington.

Motunui Waitara Report

A2 Appendix II

A2 Appendix II

A2 APPENDIX II

FURTHER PARTICULARS OF CLAIM

IN THE MATTER of the Treaty of Waitangi Act, 1975

AND

IN THE MATTER of a claim by Te Atiawa Tribe and its Manukorihi Otaraua and Ngati Rahiri and other Hapus

I, AILA TAYLOR of Waitara, member of and authorised spokesman for Te Atiawa Tribe say as follows: -

1. HAPUS OF TE ATIAWA TRIBE both before and since the Treaty of Waitangi have enjoyed the full exclusive and undisturbed possession of their respective fisheries including those offshore and beyond low water mark along the Taranaki Coast and it is their wish and desire to retain the same in their possession.
2. PARTICULAR fishing grounds affected are Tauanga, Te Puna, Titi Rangi and Orapa reefs belonging to Manukorihi, Otaraua and Ngati Rahiri Hapus.
3. TE ATIAWA TRIBE relies on its fisheries as a source of food.
4. THE Taranaki Catchment Commission by order dated 6/12/73 gave the Waitara Borough Council as a local authority constituted under the Local Government Act, 1974 the right for a period of ten years to discharge preliminary treated sewage and industrial waste into the sea off the Waitara River at a point approximately 1200 metres off shore subject inter alia to the following conditions.
 - (a) The discharge is to conform to class SE standards and any portion of the discharge that should reach the beaches must meet the classification SB or such higher classifications when the coastal waters are classified by the Water Resources Council in due course.
 - (b) In the event of the discharge or any portion of it not meeting the above classification then steps must be taken to give primary treatment to the discharge to ensure the classification is met and the Commission requires land to be reserved for a future Waste Water Treatment Plan site.
 - (c) Monitoring of the discharge from the outlet to and including the beaches as required from time to time by the Commission shall be carried out by the Waitara Borough Council and result supplied to the Commission as and when requested the full cost to be carried by the Council.
5. A series of tests carried out by both the Taranaki Catchment Commission and the Health Department has now established that pollution off the area of the Waitara River mouth and extending along a considerable area of the coastline on either side is to a level in excess of that permitted by the Commission.

6. SUCH tests have also established that bacterial contamination of shellfish exceeds the American Federal Drug Administration quality standards and renders them unfit for human consumption.
7. PETRO Chemical industries being established near Waitara have obtained approval for the discharge of industrial waste and sewage into the same area of the sea as is already polluted by the Waitara Outfall and the position in the absence of proper supervision is therefore likely to deteriorate.
8. TE ATIWA TRIBE claims that the policy or practice adopted on behalf of the Crown by its Agencies including the Taranaki Catchment Commission and the Health Department prejudicially affects its rights to its fisheries and is inconsistent with the principles of the Treaty of Waitangi.
9. TE ATIWA TRIBE requests that the Treaty of Waitangi Tribunal inquire into and make such recommendations as it may consider appropriate to remove the prejudice it complains of and to prevent other persons from being similarly affected in the future.

"A. Taylor 18/3/82"

.....
AILA TAYLOR

Waitangi Tribunal, Department of Justice, Wellington.

Motunui Waitara Report

A3 Appendix III

A3 Appendix III

A3 APPENDIX III

INDIVIDUAL NOTICES DESPATCHED TO -

The Applicant
New Zealand Synthetic Fuels Corp. Ltd
Petralgas Chemicals NZ Ltd
Borthwicks C.W.S. Ltd

The Minister of National Development and Energy
The Director-General of Health
The Ministry of Works and Development
The Department of Agriculture and Fisheries
The Department of Maori Affairs, Wellington

The Commissioner for the Environment

Taranaki Catchment Commission and Regional Water Board
Taranaki Harbour Board
Taranaki United Council
New Plymouth City Council
Waitara Borough Council
Clifton County Council

Environment and Conservation Organisation of New Zealand Inc.
Environmental Defence Society Inc.
North Taranaki Environment Protection Association
Taranaki Clean Sea Action Group Inc.
Waitara Fisherman's Association
Taranaki Branch, Values Party

Professor S. M. Mead, Maori Studies Section, Victoria University of Wellington
Professor H. Kawharu, Maori Studies Section, Massey University
Dr R. Mahuta, Maori Research Section, Waikato University
Dr P. Hohepa, Anthropology Department, Auckland University
Mr D. Williams, Senior Lecturer in Law, Auckland University
The Secretary, New Zealand Maori Council, Wellington
The Editor, Tu Tangata magazine, C/- Department of Maori Affairs, Wellington

Motunui Waitara Report

A4 Appendix IV

A4 Appendix IV

A4 APPENDIX IV

SUBMISSIONS AND EVIDENCE RECEIVED

This is a list in order of appearances of those persons who presented evidence and submissions before the Tribunal over the period of three sitting weeks.

* marks those persons who did not appear but lodged written submissions.

** marks those persons who appeared in each sitting and presented additional submissions or evidence.

*** marks those persons who gave submissions and called evidence.

WEEK OF 5 JULY 1982

Te Atiawa Tribe - Aila Taylor
- Ngawhakaheke Wetere
- Moke Couch
- Joe Tukapua
- Ray Watemburg

**Ministry of Agriculture and Fisheries. - Harold Thatcher

Te Atiawa Tribe - Fiona Clarke
- Ray Watemburg **
- Ted Maha
- Charles Bailey
- Vera Bezams **
- Milton Hohaia **
- Aila Taylor
- Sally Karena **
- Myra Tippins
- Sue Watson
- Kevin Morrell
- Dr David Lyall

North Taranaki Environment
Protection
Association - Dr
Ben Grey

Department of Health - Dr John Reid

New Plymouth City Council - Ian Dudding(watching brief only)

Te Atiawa Tribe - P. A. Muggeridge ***

WEEK OF 18 OCTOBER 1982

**Commission for the
Environment - S. Kenderdine ***
- K. Piddington *
- Prof. M. Loutit

Taranaki Catchment
Commission - R. Somerville ***
- J. V. Douglas
- F. M. Power
- W. E. Boyfield
- F. M. Patrick
- B.G. Chamberlain
- M. A. Patchett

Minister of Works &
Development - John Gallen ***
- K. J. Thompson
- D. R. Cameron
- C. W. Mills
Taranaki United Council - John Hutchings

On own behalf - Huirangi Waikerepuru

On own behalf - Sally Karena **

WEEK OF 22 NOVEMBER 1982

**Minister of Agriculture &
Fisheries - H. Gajadhar ***
- C. Little
- B. Cunningham

Taranaki Values Party - B. Allison

Petralgas N.Z. Ltd - B. Boon

**Commission for Environment
- H. Rigg-Hughes
- C. D. Douglas
- S. Kenderdine ***

Taranaki Clean Sea Action Inc.

- F. White
- A. Foley
- M. Wood
- R. Watemburg

Waitara Surfriders Club

- C. Jury

Department of Health

- O. Smuts-Kennedy ***
- Dr. C. Collins
- D. Till
- Dr J. Reid **

Borthwicks C.W.S. Ltd

- C. Stavens ***
- P. Mahoney

Ministry of Works and
Development - J. Gallen

Synthetic Fuels Corporation

- M. Holm

Minister of Energy - W. Falconer

Taranaki Catchment

Commission - J. Douglas **

- R. Neals
- R. Somerville ***

**

Waitara Borough Concil - B. Bornholdt

On own behalf - S. Te Waru

Department of Maori Affairs

- W. Dewes

On own behalf - Hikaia Amohia

On own behalf - Titi Tihu

Te Atiawa Tribe - R. Muggeridge **

- M. Hohaia **

On own behalf - Vera Bezams **

On own behalf - S. Karena **

In addition written submissions or commentaries were received, without appearance, from: -

District Judge, W. J. M. Treadwell, Chairman, No. 2 Division, Planning Tribunal

Professor S. M. Mead (Victoria University of Wellington)

Deputy Registrar, Maori Land Court, Wanganui (Acquisition of Maori land for Petrochemical sites)

David V. Williams (University of Auckland)

J. H. Rapaea of New Plymouth

E. R. Tamati of Bell Block, New Plymouth

LIST OF REPORTS OF THE WAITANGI TRIBUNAL

Wai-1 Fishing Rights (Hawke) March 1978

Wai-2 Waiau Pa Power Station February 1978

Wai-4 Kaituna River November 1984

Wai-6 Motunui-Waitara March 1983

Wai-8 Manukau July 1986

Wai-9 Orakei November 1987

Wai-10 Waiheke Island June 1987

Wai-11 Te Reo Maori April 1986

Wai-12 Motiti Island May 1985

Wai-15 Fishing Rights (Te Weehi) May 1987

Wai-17 Mangonui Sewerage August 1988

Wai-18 Fishing Rights (Lake Taupo) October 1986 Wai-19 Maori 'Privilege' May 1985

Wai-22 Muriwhenua Fishing June 1988

Wai-25 Maori Representation (ARA) December 1986

AVAILABLE FROM:

Waitangi Tribunal
Department of Justice
Wellington
NEW ZEALAND

AND

Government Print
Wellington
NEW ZEALAND
93963C - 89C

Tena koutou katoa. Kua tae mai nei, ki te tautoko, te kaupapa o te ra. Ka nui te mihi ake, ki a koutou.

Good afternoon Mr Chair, hearings panel, officers and members of the public. Thank you for the opportunity to speak to this kaupapa, the Proposed Coastal Plan for Taranaki, today.

[Short pepeha]. Ko Sarah Mako toku ingoa. I have a Bachelor in Resource and Environmental Planning and have worked as a planner for eight years. More recently I have been processing planning applications for a local planning authority in London and on my return to NZ, I have been processing resource consent applications for the New Plymouth District Council.

I am currently Pou Taiao/ Policy Advisor Environment at Te Kotahitanga o Te Atiawa Trust and have been in my role for four weeks. Heoi ano, I will be speaking to Te Kotahitanga's submission today. I trust the submission can be taken as read and will touch on only a couple of matters.

Firstly I wanted to acknowledge and congratulate Chris Spurdle and the policy officers here at the Taranaki Regional Council for the amount of work that has gone into the review of the Coastal Plan for Taranaki. In most instances our submission relief sought has been accepted and where it has been part accepted or declined, sufficient officer justification has been provided. Nga mihi ki a koutou.

It is well known that many elements of Te Ao Maori and matauranga maori cannot be translated to or given English meaning without potentially reducing the mana or the impact of these maori realities. Te Kotahitanga consider that the scope of the proposed plan is broad, including the standards and conditions, matters of control/ discretion and the policy content. The plan reflects tangata whenua's cultural, spiritual and historical association with the whenua and tangaroa and the scope as proposed will ensure full consideration is given to the potential effects on Te Atiawa's cultural values through the application of the Coastal Plan for Taranaki.

Te Kotahitanga does have some relatively minor concerns about the updated version of the proposed plan following submissions.

Historic heritage is defined in the RMA and includes cultural qualities. In some instances the plan refers to cultural and historic heritage and in some instances historic and cultural heritage. For consistency we would seek that the plan should refer to cultural and historic heritage.

I am aware some hapū o Te Atiawa chose not to record some sites of significance to maori in the proposed plan. Proposed policy 15 is prescriptive in requiring only the adverse effects on those sites identified within schedules 5A and 5B to be considered. It is my understanding that schedules were a tool for rules and the policy context should be kept broad so as to not limit discretion. Te Kotahitanga seeks clarification on this.

Regarding Schedule 4C and the table of taonga species, this appears to have been prepared from the deeds of settlement of the iwi o taranaki. To ensure plan users are not restricted by this statement, Te Kotahitanga requests that the addition of iwi planning documents is also referred to.

Te Kotahitanga do not entirely agree with the officer justification for not amending an activity status from permitted to controlled in some instances. Notwithstanding this, we are supportive of the addition of the condition to most of the rules requiring many activities to not have a significant adverse effect on the values associated with taonga species (as per Schedule 4C). We look forward to seeing how applicants will satisfy the requirements of this condition.

[Commented about rule 26, reiterated the concerns of Nga Rauru in relation to the rule's activity status; however, noted that the matters over control/ discretion requires the consideration of effects on cultural values and historic heritage. We trust officers will note tangata whenua concerns regarding this rule].

We are in the final stages of preparing our iwi environmental management plan – Tai Whenua, Tai Tangata, Tai Ao – for launch. We hope that in the event the plan is launched prior to the proposed Coastal Plan being adopted, reference to our Plan can also be able to be referenced in any final version of the Coastal Plan

Given the scope of the proposed plan, particularly in relation to the consideration of cultural values and effects on them, we trust the Taranaki Regional Council will provide their officers with appropriate training and development to consider these values and effects and inform their recommendations. I suspect the plan will go well beyond the level of consideration to and assessment of potential adverse effects on cultural values than officers have assessed in the past. Te Kotahitanga and ngā hapū o Te Atiawa will expect to be engaged as a cultural expert on applications.

Thank you for this opportunity to speak to this kaupapa. I would be happy to take any questions.

No reira, tena koutou, tena koutou, tena tatou katoa.

Hearing on the Proposed Regional Coastal Plan for Taranaki

Forest & Bird's submission and Officers' Report recommendations

Introduction

My name is Karen Evans and I represent the National Office of the Royal Forest and Bird Protection Society as Regional Manager for the Lower North Island, including Taranaki.

The Royal Forest and Bird Protection Society of New Zealand (Forest & Bird) is New Zealand's largest independent conservation organisation. It is a not-for-profit organisation with members and supporters across the country, who care passionately about New Zealand's unique natural environment and want to ensure our natural taonga are protected for future generations. Forest and Bird has 48 branches across New Zealand. Our North and South Taranaki branches have actively led and contributed to environmental efforts across the Taranaki region for generations, for the benefit of local communities and our natural environment.

Forest & Bird's main objective is to protect New Zealand's natural features, indigenous flora and fauna, and their habitats. We work to protect wildlife and wild places on land and in the sea. Key matters of interest therefore relate to the protection of ecological values in the coastal environment, particularly the protection of New Zealand's indigenous biodiversity and natural character.

Forest & Bird appreciated the prehearing meeting held by Council staff late last year and the opportunity to provide comments on the draft Officers' report. In my submission today, I intend to focus on the key concerns that Forest & Bird still has with the Proposed Coastal Plan. I will also refer to recommendations made in the s42A Planner's Report, where these relate to our submissions and concerns.

Overview

Forest & Bird recognises that the Council has responsibilities under the Resource Management Act (RMA) (s6) to protect matters of national importance, and broader functions for the maintenance of indigenous biodiversity (s31). We have employed expert advice to align the outcomes we seek with these responsibilities and functions.

Forest & Bird's submission and my comments below promote alignment with the New Zealand Coastal Policy Statement (NZCPS), which directs how matters of national importance in the coastal environment are to be protected.

Our submission raised a number of concerns with the proposed regional Coastal Plan where it has not adequately given effect to the NZCPS, and in particular its directive Policies 11, 13 and 15, which require that adverse effects on certain values, areas, features and landscapes are to be avoided.

In preparing to speak to Forest & Bird's submission today, I have sought advice on the certainty, clarity and directiveness of provisions in the proposed Plan to ensure the protection of indigenous biodiversity and natural character. My comments today will focus on a number of provisions where the proposed wording would detract from achieving the protection required under the NZCPS.

The extent of the Coastal Environment – Policy 4

1. The Officers' recommendation resolves our concern that the notified wording did not allow mapping of the coastal environment in district plans.
2. However, as set out in Forest & Bird's submission (43-262), Policy 4's direction for determining the inland extent of the coastal environment is inconsistent with the NZCPS. This issue was not resolved by the s42A Report recommendation.
3. Our outstanding concerns about the case by case consideration of the inland extent of the coastal environment are that:
 - Firstly, the proposed clause (b)(ii) is not consistent with Policy 1 of the NZCPS, which includes no such basis for determining the extent of the coastal environment. In our view including this consideration in Policy 4 could result in inappropriate determination of the extent of the coastal environment. For example, the effects from the Port could extend much further inland than the coastal process and influences considered under the NZCPS.
 - Second, it does not currently refer to the coastal environment line shown on the planning maps.
4. Recognising the reasons set out in the Officers' Report, Forest & Bird suggests the following amendments to address our submission:
 - recognise the coastal environment line shown on the planning maps;
 - include direction to consider the regional Coastal Plan's mapped indicative coastal environment line where a district plan has not otherwise mapped the landward extent of the coastal environment;
 - remove clause (b)(ii); and
 - provide for a case by case consideration that is consistent with all relevant considerations from Policy 1 of the NZCPS.
5. We suggest the following wording to achieve this:

Policy 4: Extent and characteristics of the coastal environment

Determine the inland extent of the coastal environment for the purposes of policies under Section 5.1 of the Plan ~~on a case by case basis by having regard to:~~

- ~~(a) having particular regard to areas mapped in a district plan or proposed district plan as being the coastal environment or equivalent; or~~
- ~~(b) where a district plan or proposed district plan has not mapped the coastal environment area, considering the indicative coastal environment line shown on the planning maps [map link]; and~~
- ~~(c) on a case by case basis recognising areas landward of the coastal marine areas including:
 - (ia) areas where coastal processes, influences or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands and the margins of these areas; and
 - (b) the geographic extent to which activities within the coastal marine area may cause adverse effects on significant values and characteristics landward of the coastal marine area.~~
- (ii) areas at risk from coastal hazards;

- (iii) coastal vegetation and the habitat of indigenous coastal species including migratory birds;
- (iv) elements and features that contribute to the natural character, landscape, visual qualities or amenity values;
- (v) items of cultural and historic heritage in the coastal marine area or on the coast;
- (vi) inter-related coastal marine and terrestrial systems, including the intertidal zone; and
- (vii) physical resources and built facilities, including infrastructure, that have modified the coastal environment.

6. Forest & Bird also seeks to amend the definition of “Coastal environment” for consistency with our requested amendments to Policy 4. We consider that the definition should be simplified and recognise the relevant direction in Policy 4, as follows:

~~Coastal environment means; the areas where coastal processes, influences or qualities are significant, including lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of these and includes~~

- (a) all of the coastal marine area; and
- (b) areas landward of the coastal marine area identified under Policy 4.

7. We also suggest including a note under this definition referring to the planning maps showing the coastal marine area (CMA) and the indicative coastal environment line.

Integrated management – Policy 2

- 8. Forest & Bird supports the integrated management approach in the Plan which provides overarching objectives and policies throughout the coastal environment, and the activity-based policies and rules which apply within the CMA.
- 9. Forest & Bird supports the Officers’ amendment to Policy 2(a) to address our submission (43-231) by adding reference to significant indigenous biodiversity.
- 10. At the pre-hearing meeting we expressed concern about the Officers’ recommendation to include “industry” alongside regionally important infrastructure in Policy 2(f). Forest & Bird is concerned that this amendment attributes a regional importance to industry equivalent to regionally important infrastructure, but without higher level policy direction to support this. We do not consider the Officers’ explanation that this inclusion is only within Policy 2 for integrated management to be a sufficient justification.
- 11. This amendment creates uncertainty because “industry” (whether ‘regionally important’ or not) is not given any special status under the Regional Policy Statement (RPS) (unlike “Regionally significant [/important] infrastructure”). This is particularly concerning due to the direction to “provide” for the needs of industry in clause (f). Forest & Bird therefore does not support the Officers’ recommendation to add reference to “industry” at clause (f).
- 12. Forest & Bird sought amendments to the introductory paragraphs of Section 5.1 (General policies) in relation to integrated management. We support the Officers’ recommendation (43-179) to accept in part, however we note that the amended wording on the Officers’ Report differs from the tracked version of the Plan. Our preference is for the wording in the tracked version of the Plan as this aligns with what is shown on the maps.

Precautionary approach – Policy 3

- 13. We support the Officers’ recommendation (43-250) to remove adaptive management from the Policy to address our submission. This amendment was necessary because adaptive

management is not necessarily a precautionary approach. We accept that adaptive management can still be considered by decision makers, as noted in the Officers' report.

Coastal management area approach – Policy 1

14. Forest & Bird is generally supportive of the minor changes recommended by the Officers' report to clarify the coastal management area approach to address our submission.

Indigenous biodiversity – Section 5.1.3A

Identification of significant areas for indigenous biodiversity

15. Forest & Bird's submission seeks that the Plan identifies areas with significant indigenous biodiversity¹ to give effect to the RPS (including BIO Method 1, Policy 3 and 4) and as an effective way to give effect to Policy 11 of the NZCPS. The Taranaki RPS specifically directs Council to identify and monitor areas with significant indigenous biodiversity.
16. If areas containing significant biodiversity are not identified, it is harder to protect them under the Plan, especially when the Plan provides for permitted activities. Identifying areas is also the most effective way to provide certainty for people carrying out activities in the CMA.
17. Our submission included an Appendix (2) setting out criteria for the identification of significant indigenous biodiversity. Forest & Bird seeks that the Plan includes a direction to identify areas of significant indigenous biodiversity by applying these criteria.
18. We sought a number of amendments in our submission. Having considered the Officers' report and that the Plan has now progressed to the hearing stage, we suggest addressing our submission through a simple alternative amendment to Policy 14 that will enable Council to identify areas through resource consent processes and through any future surveys and assessment process:
 1. Add a new clause to Policy 14:

“(c) using the criteria in Appendix [X] to identify areas of significant indigenous biodiversity.”
 2. Add an Appendix [X] containing significance criteria into the Plan (as set out in Appendix 2 of Forest and Bird's submission).
19. This amendment would go a long way to addressing Forest & Bird's submission and does not change the direction already set in Policy 14 – consent decisions would be made on the basis of clauses (a) and (b). The new clause (c) would simply support this by identifying areas where (a) and (b) would need to be applied.

Protection of significant indigenous biodiversity – Policy 14 and Rules

20. Forest & Bird supports the s42A Report recommendation to included mapped 'significant marine animal and seabird areas' (43-1321).
21. However, we have some concerns with the way these areas are identified and provided for in the Plan.
22. Firstly, by including the 'significant marine animal and seabird areas' under clause (b)(vi) it implies that:

¹ As this applies to “significant indigenous vegetation and habitats of significant indigenous species” in s6(c) of the RMA and Policy 11 of the NZCPS.

1. These areas simply represent 'ecological corridors and areas important for linking or maintaining biological values';
 2. These areas do not include any other types of ecosystems and habitats listed under clause (b); and
 3. These areas do not contain any taxa, habitats or significant community types where adverse effects are to be avoided under clause (a).
23. Second, it is unclear on what basis the 'significant marine animal and seabird areas' have been identified. By comparison, for areas of 'Outstanding natural character', the terms are defined in the Definitions and characteristics are set out in a Schedule.
24. We suggest these uncertainties should be resolved as follows:
1. Adding a definition explaining what these areas are, for example:

"Significant marine animal and seabird areas are areas which are identified as including habitat and ecological values recognised under Policy 14(a) and (b)."
 2. Adding a Schedule setting out the key values and attributes identified in these areas that signify them as 'significant marine animal and seabird areas'.
 3. Amending Policy 14 to ensure that effects under both clauses (a) and (b) can be considered within 'significant marine animal and seabird areas'. This is best achieved by removing the reference to these areas in clause (b)(vi) and adding a separate clause providing for effects under both (a) and (b) to be considered in 'significant marine animal and seabird areas'. For example:

"(d) Controlling the effects of activities in 'significant marine animal and seabird areas' consistent with (a) and (b) above."
25. Third, the lack of reference to these areas in the Rules makes it unclear how or when protection will be provided.
26. To ensure that the values of these areas are protected and that Policy 14 (a) and (b) are achieved, we seek a consenting approach for activities within these areas, by amending the Rules as follows:
1. For all Permitted activities add a condition that:

"The activity is not within a significant marine animal and seabird area, as shown on the Maps."
 2. For all Controlled activities adding a matter of control for:

"Adverse effects on significant marine animal and seabird areas."
27. Lastly, the Council's responsibilities to recognise and provide for protection of significant indigenous biodiversity under the Rules are uncertain and in some cases, lacking altogether.
28. Forest & Bird's submission raised concerns about the Plan's use of conditions that rely on users to determine the effects of activities. This is particularly problematic when an "adverse effect" cannot be readily observed until it is too late.
29. Conditions are most effective when they set out clear limits and requirements that are not subjective, for example conditions like:
1. any change in the temperature of the receiving environment by more than 3°C;
 2. the structure has a maximum internal diameter of 300 mm and extends a maximum of 0.5 m seaward of the line of mean high water springs;

3. the structure is not placed or erected in any Marine Reserve or Marine Protected Area.
30. It is not appropriate to rely on a person undertaking a Permitted activity to determine whether or not their activity will have an adverse effect on threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type. It is the Council's responsibility to provide for protection and to ensure adverse effects are avoided, as necessary, to give effect to the NZCPS.
31. The conditions on Permitted activities that we are most concerned with are that:
 - "The activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant species and ecosystems]" (Rules 1, 18, 19, 20, 35, 44, 47, 53, 54);
 - "The activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant indigenous biodiversity]" (Rules 12, 12A, 31, 51, 52,65);
 - "The activity does not have a significant adverse effect on aquatic life" (Rule 15);
 - "navigation aid erection or placement does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant species and ecosystems]" (Rule 21);
 - "The activity does not have an adverse effect on any site identified in Schedule 7A [Regionally and nationally significant surf breaks]" (Rule 65);
 - "the taking or use of water is not at a quantity or rate that would cause significant adverse environmental effects" (Rule 65).
32. In relation to Controlled activities, we are similarly concerned about the condition that:
 - "the activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant species and ecosystems]" (Rules 12A, 22, 25A, 26, 32, 37, 40, 54).
33. It is relevant that "effect" includes potential effects under the RMA. But Plan users are unlikely to know whether their activity would or would not have the stated effect – on what basis are they expected to predict this?
34. The Council must consider the adequacy of any measures to avoid, remedy or mitigate adverse effects in order to meet its RMA responsibilities in relation to matters of national importance (s6(c)) and maintenance of indigenous biodiversity (s30(1)(ga)). The consent process is important in enabling the Council to do this. It allows the opportunity to review impact assessments and set appropriate limits or conditions on activities. By setting conditions/limits, the Council can also monitor and enforce compliance on that basis.
35. Forest & Bird therefore submits that conditions on Permitted or Controlled activities should only be provided where it is known that the potential effects will be no more than minor. In such cases these should be clear conditions that limit the location, scale and type of activity in an objective manner.

Maintaining indigenous biodiversity - Policy 14A

36. Forest & Bird supports the s42A Report recommendation to separate the directions to maintain and enhance indigenous biodiversity into a new Policy 14A to address Forest & Bird's submission. However, we are concerned about the proposed wording of that Policy.
37. Policy 14A as recommended does not provide clear direction on what actions are considered necessary to "maintain" or "enhance" indigenous biodiversity. The Policy needs to set out how maintenance is to be achieved and also consider impacts of activities on the maintenance of biodiversity.
38. We are particularly concerned about the following:
 1. The inclusion of the words "as far as practicable" in clause (a), particularly as this is not simply an "avoid" policy. The words are also uncertain in terms of the RMA's direction to avoid, remedy, or mitigate any adverse effects of activities on the environment (s5(2)).
 2. At clause (b)(iii), the direction to consider "the degree to which indigenous biodiversity values will be lost, damaged, destroyed" is inconsistent with the overall Policy direction to "maintain" and "enhance" indigenous biodiversity.
 3. Clause (b)(iii)ii. recognises that "discrete, localised or otherwise minor effects not impacting on the ecological area may be acceptable" – however it is unclear how the extent of the "ecological area" is to be determined, given that ecological areas have not been identified under the Plan.
 4. The Officers' recommended wording is not aligned with the Regional Policy Statement.
39. We have suggested wording to address these concerns, based on the wording of the RPS² (**shown in red**) and other similar Plans that we are familiar with:

Policy 14A: Indigenous biodiversity

Maintain and enhance indigenous biodiversity generally in the coastal environment by:

(a) ~~as far as is practicable~~, avoiding, remedying and mitigating the adverse effects of activities on indigenous biodiversity; and

(b) managing adverse effects to provide for the continuing functioning of ecological processes including:

(i) connections within, or corridors between, habitats of indigenous flora and fauna;

(ii) ecosystems, habitats and areas that provide buffering of habitats of indigenous flora and fauna;

(iii) botanical, wildlife, fishery and amenity values;

(iv) biological and genetic diversity;

(v) water quality, water levels and flows; and

(vi) soils, substrate, minerals, nutrients or other physical factors or processes necessary for the survival of any indigenous flora or fauna species or community

(bc) when assessing adverse effects on indigenous biodiversity, having regard to the extent of effects, including consideration of:

² The relevant provisions of the RPS are BIO POLICY 1, 2, 5 and 7, BIO METH 7.

- (i) the association of the ecological site and values with other interrelated, but not necessarily contiguous, ecological sites and values;
 - (ii) the nature, location, extent and design of the proposed development and the effects of these factors on indigenous biodiversity;
 - (iii) the social and economic benefits of appropriate use and development of resources
 - (iv) that a minor or transitory effect may not be an adverse effect;
 - (v) that where the effects are or maybe irreversible, then they are likely to be more than minor;
 - (vii) that there may be more than minor cumulative effects from minor or transitory effects.
- the degree to which indigenous biodiversity values will be lost, damaged, destroyed, or enhanced, recognising that;
- i. ~~the scale of the effect of an activity is proportional to the size and sensitivity of the ecological area and associated indigenous biodiversity values;~~
 - ii. ~~discrete, localised or otherwise minor effects not impacting on the ecological area may be acceptable; and~~
 - iii. ~~activities with transitory effects may be acceptable, where they can demonstrate the effects are not long term and/or irreversible.~~

Natural character and Natural features and landscapes - Policies 8 and 9

- 40. Forest & Bird raised a number of concerns with the way the Plan addresses Natural Character, and Natural features and landscapes in our submission.
- 41. We support the Officers' recommended change to the wording of Policy 9 clause (a)(v).
- 42. However, a key outstanding concern is that the Plan needs to identify areas of "High Natural Character". This is necessary to give effect to Policy 13 of the NZCPS, which requires "mapping or otherwise identifying at least areas of high natural character".
- 43. From our pre-hearing discussions with Council staff, we understand that the Council already has GIS information for areas of high natural character, but that they prefer this information sits outside the Plan. However, that approach makes little sense as this information must be contained within the Plan itself, for the Plan to give effect to the NZCPS.
- 44. Including mapped areas in the Plan also allows inclusion of rule conditions and matters of control/discretion to specifically refer to High Natural Character areas.
- 45. The alternative identification through the consenting process anticipated by the Officers (43-1320) creates unnecessary uncertainty for consent applicants who cannot identify whether their proposed activity is within an area of High Natural Character.
- 46. Forest & Bird therefore seeks:
 - 1. Inclusion of the mapped areas of High Natural Character in the Plan.
 - 2. Changes to Policy 9 to give effect to the NZCPS, and provide clarity for Plan users. The wording we suggest here is based on that used in the recent Northland Regional Plan. Amending Policy 9(a) to include:

“(ix) in areas of high natural character in the coastal marine area, minimising to the extent practicable indigenous vegetation clearance and modification (seabed and foreshore disturbance, structures, discharges of contaminants)”

3. Addition of a Matter of control for all Controlled activities: “effects on High Natural Character”.

Appropriate use and development – Policy 5

47. The directive nature of Policy 5 on “Appropriate use and development” as proposed is of significant concern to Forest & Bird.
48. This wording precludes the consideration of protection under the other policies in the Plan (in particular Policies 8, 9 and 14). This is because Policy 5 directs that the appropriateness of an activity is determined by applying clauses (a) to (j), without allowing for any other factors to be considered.
49. The *King Salmon* decision provides important guidance on the consideration of “inappropriate” activities. The Court in that case found that “inappropriate” must be determined on the basis of what is to be protected.
50. However, the directive wording of Policy 5 means the approach set out in the *King Salmon* decision cannot be effectively applied when looking at the protective Policies of the Plan. This is because Policy 5 alone would determine what is appropriate, leaving no room to apply *King Salmon* to determine what is inappropriate in relation to the protective Policies.
51. The Officers’ Report (43-282) does not respond to the amendments sought by Forest & Bird to remedy the directive nature of this Policy.
52. In pre-hearing discussions, Council Officers advised us that the entirety of the General policies section was intended to be read as a whole and no policy considered in isolation. However, Forest & Bird’s experience from many Environment Court processes is that directive policy wording can be read over other policy wording and create conflicting direction when read beside other directive policies.
53. Therefore, while Forest & Bird could be generally comfortable with Policy 5 as it provides useful guidance, we consider the directive wording is highly problematic. Our submission outlined how this could be resolved, or as an alternative we suggest:

1. Making Policy 5 subject to the protective policies:

“Policy 5: Appropriate use and development

Subject to Policies 8, 9, 14, 15 and 19, Determine whether subdivision and use and development of the coastal environment is in an appropriate location and form, and within appropriate limits, by having regard to: ...”

2. Or, amending Policy 5 to be less directive:

~~Determine~~ Consider whether subdivision and use and development of the coastal environment is maybe in an appropriate location and form, and within appropriate limits, by having regard to (but not limited to) the following: ...”

Seismic surveying - Rule 12 and 12A

54. Forest & Bird’s submission sought a Discretionary and Non-complying activity status for seismic testing/surveying.

55. We support the Officers' recognition that a consenting approach is necessary and their inclusion of a new Rule 12A to address this. However we consider that a Controlled activity classification is not sufficient for seismic surveying for the following reasons:
1. Compliance with condition (a) does not mean adverse effects are avoided or even at safe levels for marine mammals.
 2. Determining compliance with condition (b) in order to accept an application as a Controlled activity is inappropriate. An assessment of this scale can only be adequately considered by Council through a consent process after the consent application is accepted.
 3. In our view Council needs to retain discretion to decline such applications and to enable full public notification where matters of national importance may be adversely impacted.
 4. It may or may not be possible to develop an appropriate mitigation proposal, but this cannot be adequately considered by the Council at the pre-application stage.
 5. It is unlikely that seismic surveying could conclusively avoid adverse effects. In our view appropriately determining compliance with condition (b) would likely result in the majority of seismic surveying applications being processed as Discretionary or Non-complying activities under Rules 13 and 14. Therefore, classifying seismic surveying as a Controlled activity is misleading.
56. Having considered the Officers' Report, Forest & Bird retains its position that seismic testing should have a Non-complying activity status in areas of Outstanding Value, Estuaries Unmodified and Estuaries Modified. We also consider that a Non-complying status is appropriate within 'significant marine animal and seabird areas'.
57. We would accept a Restricted discretionary, rather than full Discretionary classification for the Open Coast area provided:
1. Seismic surveying does not occur within 'significant marine animal and seabird areas';
 2. Applications are publicly notified; and
 3. Council retains discretion in relation to:
 - the level of noise and vibration generated from the activity;
 - the timing of the activity, including whether it occurs at night or during times of low visibility in and above water;
 - the modelling used to determine sound threats and mitigation zones/buffers;
 - the range of frequencies of concern for any detection practices;
 - public notification where there is potential for significant adverse effects or adverse effects on matters of national importance, including threatened or at risk marine mammals; and
 - the matters set out by the reporting Officers as matters for control.

Aquaculture – reference in Policy 5

58. Forest & Bird's submission sought that the Plan identify areas for Aquaculture. As result of pre-hearing discussions with Council staff, we accept that identification of specific areas in

the Plan may not be practicable at this time given the lack of demand and suitability for aquaculture activities generally in Taranaki.

59. We remain concerned with the inclusion of aquaculture in Policy 5 (at clause (b)) and the directive basis this provides for determining appropriate locations, as already outlined.
60. However, the inclusion of aquaculture in Policy 5 would be reasonable if that Policy is amended as sought above; so that the directive wording is removed or it is clearly subject to the protective Policies.

Regionally Important Infrastructure – Policy 6, reference in Policy 5

61. Forest & Bird is supportive of the Officers' amendments to Policy 6 (explained at 43-305 of the s42A Report), which largely resolve the concerns set out in our submission.
62. However as for aquaculture above, we are concerned with the inclusion of Regionally Important Infrastructure in Policy 5 at clause (aa). Again we consider that this would be reasonable if Policy 5 is amended as sought.

Management of adverse effects of the National Grid - Policy 6A

63. Policy 6A has been proposed by the Officers to address Forest & Bird's submission on Policy 6 and in response to Transpower's submission. Forest & Bird has concerns with the wording proposed by the Officers as there is some uncertainty in applying clause (a) when considering the following clause (b), which has only a "seeking to avoid" rather than "avoid" approach.
64. Subsequently, we have had some correspondence with Transpower about amendments to Policy 6A and we have no particular concerns with the version of Policy 6A which they shared with us prior to hearings. However, without clear policy direction and appropriate consenting requirements throughout the rest of the Plan, the application of Transpower's proposed Policy 6a is also uncertain.
65. We are unable to state agreement or otherwise with Policy 6A due to the implications of other provisions which are also subject to change.

Offshore (petroleum) drilling and production – Policy 29

66. Forest & Bird's submission supported Policy 29 in part and sought an amendment that the Policy would provide for existing lawfully established activities. Forest & Bird also further submitted in opposition to TransTasman Resources Ltd who sought to delete the word 'petroleum' from Policy 29.
67. The Officers' recommendation is to delete 'offshore petroleum' from Policy 29 so that the Policy provides generally for drilling and production activities.
68. Forest & Bird are opposed to this amendment. We are particularly concerned that:
 1. It is not clear what "drilling and production" activities the Policy would now apply to, whereas this was reasonably understood in the context of offshore petroleum.
 2. The matters considered under (a) to (d) are no longer adequate, because whereas the codes, standards and practises referred to in Policy 29 were previously applicable to offshore petroleum drilling and production, it is now uncertain whether these are applicable to the undefined activities that may be considered under Policy 29.

3. The consideration of adequate separation and buffer distances at clause (aa) is not adequate direction to avoid adverse environmental effects and is particularly uncertain in terms of the protection required to give effect to the NZCPS.
 4. The Policy would not enable Council to protect the significant and outstanding values of the CMA from adverse effects generated from activities in neighbouring regions or beyond the 12 nautical mile limit.
 5. Policy 29 creates a conflict with the protective Policies in the Plan, and it does not give effect to the NZCPS.
69. Forest & Bird seeks that Policy 29 applies solely to 'offshore petroleum drilling and production'.
 70. We also seek that it is amended to apply only to existing lawful activities. This does not prevent new petroleum drilling and production activities or other drilling and production activities from applying for resource consent.

Maintenance, minor alteration or minor extension of existing structures – Policy 36

71. Forest & Bird sought changes to clarify Policy 36 and the definition of "Maintenance", which have been accepted in part in the s42A Report.
72. We generally support the Officers' changes subject to:
 1. removing the term "material change" added by Officers;
 2. removing "minor extension" added by Officers; and
 3. removing "minor alteration" retained by Officers, but which Forest & Bird's submission sought to delete.
73. The term "material change" is subjective, removing it clarifies the Policy.
74. The inclusion of "minor alteration" and "minor extension" are also uncertain as what counts as "minor" is subjective. What is considered "minor" could vary significantly depending on the size of the original structure and such alterations or extensions may not be appropriate in all cases. The Policy 36 direction of "allowed" is not appropriate given this uncertainty and the potential for perverse outcomes. This is because the direction that these activities be "allowed" on the basis of 'appropriate management of adverse effects' is not consistent with the direction to 'avoid adverse effects' under Policies 8, 9 and 14 of the Plan.
75. We have also considered how this Policy is applied under the Rules of the Plan:
 1. We support the addition of a small 5% size change limit in Rule 35 as this provides certainty for users and the application of Policy 36 in respect of Permitted activities.
 2. However our concerns remain with how Policy 36 is applied in consent processes. It is unlikely consent could be declined for activities to be "allowed" on the basis of "appropriate management of adverse effects".
76. Forest & Bird seeks:
 1. Either inclusion of definitions for "minor alteration" and "minor extension" as set out in our submission, or alternatively removal of the provision for "minor alteration" and "minor extension" from Policy 36; and
 2. Amendment of "appropriate management of adverse effects" to "appropriate avoidance, remediation or mitigation of adverse effects". This is also consistent with the Officers' recommended wording in Policy 6.

Disturbance, deposition or extraction activities – Policy 41

77. Forest & Bird supported the notified wording of Policy 41. However at clause (g), the scope of activities that are allowed under this Policy has been expanded by the s42A Officers' amendments to include "altering" or "extending" structures.
78. We are concerned with this amendment as Policy 41 uses similar wording as Policy 36, to "allow" activities on the basis of "appropriate management of adverse effects".
79. Forest & Bird seeks to return Policy 41 to the notified wording, or alternatively to:
 1. Remove provision for "alteration or extension" from clause (g) in Policy 41; or
 2. Change "appropriate management of adverse effects" to "appropriate avoidance, remediation or mitigation of adverse effects..."

Appropriateness of reclamation or drainage – Policy 45

80. Forest & Bird sought changes to Policy 45 to ensure consistency with the NZCPS. Most of those changes were rejected by the Officers on the basis that they consider Policy 45 gives effect to the NZCPS when read in conjunction with each of the other relevant policies. Forest & Bird disagree.
81. Under the notified wording, reclamation or drainage of land would not be allowed unless (a) to (d) of the Policy were met. The implication being that if they were met, then the activity would be allowed. It was uncertain in our view whether Council could adequately consider other Policies given the direction of this policy wording.
82. We now have further significant concerns with the Officers' proposed changes to this wording, which direct that reclamation or drainage of land is to be allowed where clauses (a) to (d) are met. There is no flexibility under this wording for Council to apply other policy directions. This Policy clearly conflicts with the protective Policies and as a result the Plan does not give effect to the NZCPS.
83. In addition, the direction that reclamation or drainage would not be allowed where clauses (a) to (d) are not met has been removed. This means that the activities which do not meet (a) to (d) can still be considered under the Plan.
84. This amended wording is even more directive.
85. Forest & Bird seeks that Policy 45 is reverted to the notified wording and amended as per the original relief sought in our submission (at page 41). Alternatively Policy 45 could be amended to be less directive:

Consider Reclamation or drainage of land in the coastal marine area ~~will not be allowed~~
~~unless~~ only in circumstances where:...

Noise and Vibration - Policy 49

86. We are comfortable with the Officers' proposed amendment to address our submission on Policy 49, as it resolves inconsistency with NZCPS. We note that the wording sought in our submission is preferable as it gives effect to the NZCPS with more certainty.

Matters for control – Controlled Rules

87. We support the Officers' recommended amendments to the effects on ecological values now specifically referring to Natural character, features and landscape values, and effects

on indigenous biodiversity. This creates alignment with policies in the Plan and Policies 11, 13 and 15 of the NCPS.

Rule 1A - Water discharges

88. New permitted Rule 1A provides for the discharge of water. It appears from the Officers' report that this is intended to respond to a submitter's request for an allowance for the use of portable water treatment units for military training, and discharges from cooling systems used on boats/outboards. If there are additional activities this is intended to cover, it would be good for Council to clarify these.
89. Because Rule 1A is not specific to any activities, Forest & Bird's concern is that it may provide scope for a wider range of activities to occur with unanticipated adverse effect on the environment.
90. The Rule's provision for discharge of "minor contaminants" is concerning. There is no definition of "minor contaminants" or specific conditions to limit types of contaminant.
91. If an appropriate definition cannot be determined, adding a new condition limiting Rule 1A to the activities for which it was sought would help provide some certainty to the Rule and potential effects:

"(x) the activity is for the purpose of portable water treatment units for military training, and operating or maintaining cooling systems used on boats/outboards"

Rules 15 and 16 - Port Air Zone – addition of discharge of contaminants to water

92. The changes to Rules 15 and 16 now include discharge of contaminants to water in the Port Air Zone from the storage or transfer of cargo materials.
93. Under the notified Plan wording, such water discharges would likely have been considered as Discretionary activities under Rule 13, and where the discharge is stormwater it would have been Discretionary under Rule 2. It is not clear whether stormwater (where the discharge is specific to storage or transfer of cargo in the Port Air Zone) would now also be captured under Rules 15 and 16 as amended.
94. Rule 15 as amended is a significant change in activity classification for discharges of contaminants and of stormwater to water.
95. The Rule does not specify limits to any of the contaminants that may be included with the discharge. For example, a discharge from wash-down of surfaces (such as from sweeping and truck exit grids) could include fertiliser compounds which affect water quality but may not be visually conspicuous.
96. Including discharge of contaminant to water as a permitted activity in Rule 15 does not allow for the management of cumulative effects on water quality.
97. The requirement to avoid significant adverse effects on aquatic life is not sufficient or easily enforceable.
98. For these reasons, Forest & Bird seeks the inclusion of an additional condition to provide protection for indigenous biodiversity:

"(x) the activity does not include any wash-down water from vehicles or traffic surfaces or from the clean-up of spills or storage or cargo material."

Rule 18 - Outfall structures

99. Forest and Bird submitted on Rule 18 in relation to construction standards for condition (b) and disturbance, as well as to clarify the scope of the Rule with regard to discharges.
100. The recommendation in the Officers' report to add a note regarding discharges addresses that aspect of our submission. The minor amendments (shown in blue in the Tracked version provided by the Officers) resolve Forest & Bird's submission in respect of condition (b) which was uncertain.

Rule 22 and 37 - Network utility structures

101. The Officers' recommendation to include the management areas for "Outstanding values" is not appropriate in Controlled activity Rule 22.
102. The conditions of this Rule are not sufficient to capture all adverse effects which are to be avoided under the NZCPS. For example, the amended matters for control include effects on natural character, however, if an effect on natural character which must be avoided under Policy 13 of the NZCPS cannot be avoided, Council would not be able to decline consent under the controlled activity classification.
103. The control over the location could not be used to decline a consent application on the basis of an alternative location avoiding adverse effects on natural character if the alternative location is not part of the application proposal.
104. Council needs to retain the ability to decline consent in "Outstanding value" areas.
105. Further, this amendment to the 'Coastal management area' where the Rule applies is inconsistent with Rule 37, which also has a Controlled classification. Rule 37 does not include "Outstanding value" areas for the alteration and extension of network utility structures. For those activities in "Outstanding value" areas, a non-complying classification applies under Rule 43.
106. For consistency with the amendment to Rule 18 condition (b), the same amendment regarding occupation should also be added to condition (a) in Rule 22.
107. Forest & Bird seek Rule 22 remains as notified, i.e. that it does not include "Outstanding value" areas.

Rules 33 and 34 - Structures with addition of other drilling and temporary military training activities

108. The Officers' recommendation makes significant changes to the activities captured under these "catch-all" rules. By catch-all, we mean these are the rules that apply where another rule doesn't capture the activity – i.e. these catch-all rules can capture activities that have not been anticipated or are not as common as those addressed specifically in other rules.
109. As a catch-all, we consider that the classifications for Rules 33 and 34 should be at least as stringent, if not more so, than the preceding rules.
110. This is not the case in respect of activities in Estuaries Modified. For example, drilling of an exploration or appraisal well under Rule 28 is a non-complying activity in Estuaries Modified as well as Estuaries Unmodified and Outstanding Value.
111. In our view, the Officers' amendments to Rules 33 and 34 provide greater weight to the need for these activities in Estuaries Modified to be addressed through the more stringent tests required for Non-complying activities.

112. As set out in Forest & Bird's submission, we request that Estuaries Modified are removed from Rule 33 and included in Rule 34, so that activities will be subject to the higher tests under Non-complying activity classification.

Definitions

113. Accretion – We support the Officers' recommended amendment to address Forest & Bird's submission.
114. Adaptive management – We support the Officers' recommended deletion of this definition to address Forest & Bird's submission.
115. Alteration – We support the Officers' recommended deletion of this definition to address Forest & Bird's submission.
116. Coastal environment - Forest & Bird still has concerns with this definition as set out in our submission and discussed in relation to the extent of the coastal environment above.
117. Data deficient – We support the Officers' recommendation to include this new definition to address Forest & Bird's submission.
118. Extension – This definition is helpful to clarify this term and to address Forest & Bird's submission.
119. Functional need – We support the definition wording as recommended by the Officers.
120. Maintenance – We support the Officers' recommended amendments to this definition to address Forest & Bird's submission.
121. Reclamation – We support the Officers' recommendation to include this new definition to address Forest & Bird's submission.
122. Regionally important infrastructure – the Officers' amendment to clause (d) adds "storage" of mineral. This appears inappropriate in terms of regional importance and potential effects on the coastal environment. The amendment would result in storage of mineral being considered "appropriate" in the coastal environment when it should be preferable that such storage is located outside the coastal environment. We also note that Port Taranaki is provided for in clause (a) and that clause (b) is a more general provision.
123. Repair – We support the removal of this definition to address Forest & Bird's submission.

Closing

While I have provided more detail and explanation on a number of matters raised in Forest & Bird's submission, as well as responding to amendments recommended by the Officers which are relevant to those submissions, we rely on our original and further submissions for the matters I have not been able to raise today.

Forest and Bird commends the Council on the progress made to date on the proposed Coastal Plan. We look forward to further improvement of the Plan to ensure it provides sufficient and clear protection for Taranaki's valuable coastal environment and biodiversity.

Thank you for your time today.

**BEFORE THE HEARINGS PANEL FOR
THE PROPOSED REGIONAL COASTAL PLAN FOR TARANAKI
AT STRATFORD**

IN THE MATTER of the Resource Management
Act 1991

AND

IN THE MATTER Submissions and Further
Submissions in relation to the
Proposed Regional Coastal Plan
for Taranaki

AND **Port Taranaki Limited**
Submitter #32

**STATEMENT OF EVIDENCE OF KEVIN JAMES LEHRKE
ON BEHALF OF PORT TARANAKI**

PORT OPERATIONS

01 AUGUST 2019

1. INTRODUCTION

- 1.1 My full name is Kevin James Lehrko. I hold the position of Environment Manager at Port Taranaki Limited. I have been in this position since 1 April 2019. Immediately prior to that I was engaged as a contractor as Acting Environment Manager from January to March 2019, and in a technical role from January 2018 to December 2018 providing environmental management support services.
- 1.2 I hold a New Zealand Certificate in Science that was awarded in 1983 by the Authority for Advanced Vocational Awards (now a NZQA National Diploma – Level 6) and Postgraduate Diploma in Environmental Management and Technology that was awarded in 1998 by Oxford Brookes University.
- 1.3 I have nearly 30 years' experience in environmental management in New Zealand. Most of that time has been spent within the Taranaki region. I have previously made, or contributed to, submissions on regional plans and I have provided evidence at resource consent hearings in Taranaki and in Southland.
- 1.4 I contributed to the submission and the further submission that Port Taranaki Limited (PTL) made on the Proposed Regional Coastal Plan (PRCP). I was also party to two consultation meetings with Taranaki Regional Council (TRC) officers, one at the TRC office in Stratford and one at the PTL office in New Plymouth.
- 1.5 The key documents I have used, or referred to, in forming my view while preparing this brief of evidence are:
- (a) The operative Regional Coastal Plan for Taranaki
 - (b) The Proposed Regional Coastal Plan for Taranaki
 - (c) The Officers' Section 42A Report and recommended tracked changes
 - (d) Coastal Permit 6409-1

2. SCOPE

- 2.1 I offer a view from the 'operating' perspective of the Port. By this I mean that I am responsible for understanding and interpreting the rules of the Plan to ensure that the Port operates in compliance with them.
- 2.2 Full details of the Port's views on the proposed provisions have been provided in the table attached to Ms Carter's evidence. I believe that the rationale for the Port supporting, accepting or opposing those provisions has been explained and I would simply like to highlight and expand on a few of the key ones that could cause significant difficulty from an operating perspective if they are misunderstood.

3. PROPOSED RULES

Rule 4 – Petroleum dispersal use in the Port

- 3.1 PTL currently holds Coastal Permit 6409-1 for capital dredging in the Port Area. A copy of this is attached as Appendix A.
- 3.2 One of the potential effects of capital dredging is the promulgation of a natural oil seep from the seabed.
- 3.3 Coastal Permit 6409-1 contains 21 special conditions including Special Condition 3 that requires the consent holder to provide to the written satisfaction of the Chief Executive, TRC, a contingency plan outlining measures to be undertaken in the event of an unforeseen spill or discharge event.
- 3.4 In addition, special condition 17 requires the consent holder to adopt the best practicable option, as defined in section 2 of the RMA, to prevent or minimise any actual or likely adverse effects on the environment.
- 3.5 Rule D2.2 of the operative Regional Coastal Plan permits PTL (and others) to discharge of petroleum dispersants into water or onto land in the coastal marine area. This rule enables PTL to discharge its consent compliance obligations in the event of a natural oil seep.
- 3.6 Rule 4 of the PRCP has the same effect and it is specific to capital dredging.

3.7 The current proposal to delete Rule 4 is based on a desire not to duplicate regulatory controls addressed under the Marine Protection Rules – Part 132: New Zealand Spill Control Agents.

3.8 PTL has not had sufficient time to resolve the matter and it is therefore PTL's preference that Rule 4 is retained and that Maritime New Zealand's (#54) alternative amendment is accepted i.e. that the term "petroleum dispersant" is simply replaced with "oil spill control agent".

Rule 11 – Abrasive blasting

3.9 PTL supports this rule based on the understanding from the definition that it does not include waterblasting or pressure washing without the addition of an abrasive agent.

3.10 PTL submits that there may be a typographical error in the definition and the word 'short' may have been intended to read 'shot'.

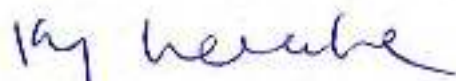
Rules 15 and 16 – Storage or transfer of cargo materials within the Port Air Zone

3.11 PTL supports the inclusion of "and water" in this rule in acknowledgement of Rule G2.11 in the operative plan and the fact that when dry bulk cargoes are transferred between ships and shore there is, and always has been, the potential for some to escape into the water.

Definition - Port

3.12 PTL supports the officer's recommendation to clarify the definition of "Port".

3.13 PTL suggests that there may be value in considering the use of the word "Port" throughout the plan and, where appropriate, clarifying whether it is referring to the Port Coastal Management Area or to the infrastructure or other assets owned by Port Taranaki Limited.



Kevin James Lehrke

10 July, 2019

APPENDIX A

Consent 6409-1



Coastal Permit
Pursuant to the Resource Management Act 1991
a resource consent is hereby granted by the
Taranaki Regional Council

CHIEF EXECUTIVE
PRIVATE BAG 719
47 DUNDON STREET
STRATFORD
NEW ZEALAND
PHONE 06 765 7107
FAX 06 765 967
www.trc.govt.nz

Postal address: PO number
not applicable

Name of Consent Holder: Port Taranaki Limited
P O Box 348
NEW PLYMOUTH

Consent Granted Date: 7 April 2005 [by the Minister of Conservation]

Conditions of Consent

Consent Granted: To remove up to 2,700,000 cubic metres of material from the bed of the coastal marine area of Port Taranaki within the area commonly known as Port Taranaki including the approach channel out to a depth of about 14.5 metres below Chart Datum [see Appendix 2] see various grid references at or about GR: P19:000-382

Expiry Date: 1 June 2039

Review Date(s): June 2005, June 2017, June 2021, June 2025, June 2029, June 2034

Site Location: Area commonly known as Port Taranaki including the approach channel out to a depth of about 14.5 metres below chart datum [see Appendix 2], Breakwater Road, New Plymouth

Legal Description: Port Taranaki

Catchment: Tasman Sea

For General, Standard and Special conditions
pertaining to this consent please see reverse side of this document

www.trc.govt.nz

Working with people • Caring for our environment

Consent 6405-1

General conditions

- a) On receipt of a requirement from the Chief Executive, Taranaki Regional Council the consent holder shall, within the time specified in the requirement, supply the information required relating to the exercise of this consent.
- b) Unless it is otherwise specified in the conditions of this consent, compliance with any monitoring requirement imposed by this consent must be at the consent holder's own expense.
- c) The consent holder shall pay to the Council all required administrative charges fixed by the Council pursuant to section 36 in relation to:
 - i) the administration, monitoring and supervision of this consent; and
 - ii) charges authorized by regulations.

Special conditions

- 1) The consent holder shall provide written notice to the Chief Executive, Taranaki Regional Council, at least one (1) month prior to undertaking each programme of dredging activities under this consent, and again upon completion of the disturbance. Notification shall include the expected duration of the dredging programme, the location(s), the depths proposed to be dredged to, and shall outline proposed community notification and consultation, and the nature of any monitoring proposed.
- 2) The consent holder shall notify the Maritime Safety Authority and the Hydrographic Office of the Royal New Zealand Navy of the harbour works at the time the consent is granted, at least one (1) month prior to undertaking each programme of dredging activities, and again upon completion of the work.
- 3) Prior to the each specific dredging exercise under this consent, the consent holder shall provide to the written satisfaction of the Chief Executive, Taranaki Regional Council, a contingency plan outlining measures to be taken in the event of an unforeseen spill or discharge event.
- 4) The consent holder shall place a notice of at least two column widths in the Taranaki Daily News newspaper, on at least two occasions, not less than three days prior to any blasting activities. In the notice the consent holder shall supply a contact phone number where questions can be addressed.
- 5) The consent holder shall undertake a regular programme of community consultation with interested nearby residents, including regular meetings and updates, on dredging programmes, and blasting activities. The consent holder shall report annually on all community consultation undertaken within each calendar year, such report to be provided by 31 May each year.

Consent 6400-1

- 6) The consent holder shall undertake an independent pre-blasting survey of residential properties, if requested by the Chief Executive, Taranaki Regional Council. The consent holder shall remedy any significant adverse effects caused by vibration as a result of blasting, as determined by the Chief Executive, Taranaki Regional Council.
- 7) Blasting may only take place between the hours of 7 am and 6 pm.
- 8) The consent holder shall monitor, at land based locations, the vibration effects of blasting activities at distances of approximately 100 metres and approximately 200 metres (or if the distance is less than 100 metres, at the furthest land based location practicable) from the nearest residential property in line with the blast locations. The consent holder shall provide a written report on the results of vibration monitoring, to the satisfaction of the Chief Executive, Taranaki Regional Council, within one (1) month of the completion of a set of blasting activities.
- 9) The exercise of this consent is limited to the areas provided for in Appendix 2 attached to this consent. The depths of excavation provided in Table 1 within Appendix 2 are considered to be the target dredge depth below chart datum, with the maximum depth of disturbance being an additional 0.5 metres below chart datum.
- 10) Prior to any dredging in the area D3, the consent holder shall provide for the written approval of the Chief Executive, Taranaki Regional Council, existing and proposed cross section profiles in at least three (3) locations of the seabed and Lee Breakwater beach.
- 11) The exercise of this consent shall be conducted in accordance with the information submitted in support of the application and to ensure that the conditions of this consent are met at all times.
- 12) The consent holder shall make every effort, where practicable, to minimise effects on marine biota during the exercise of this consent.
- 13) The consent holder shall use reasonable and practical endeavours to ensure no blasting takes place when marine mammals are present within 500 metres of the blast site.
- 14) The consent holder shall ensure that all dead marine biota are removed, where practicable, within the Port, and in particular Ngamotu Beach, whether or not the cause of death is considered to be the result of blasting operations.

Consent 6409-1

- 15) The exercise of this consent shall at all times comply with the noise requirements of section 4.4.3(b) of the Regional Coastal Plan for Taranaki.
- 16) The exercise of this consent shall not have any significant adverse effect on the geomorphic form or function, and public amenity values of either Ngamotu Beach or the Lee Breakwater Beach.
- 17) At all times the consent holder shall adopt the best practicable option, as defined in section 2 of the Resource Management Act 1991, to prevent or minimise any actual or likely adverse effect on the environment associated with dredging and blasting activities.
- 18) The consent holder shall keep and maintain records of all dredging and blasting activities under this consent including dates of dredging and blasting, and the dredged and blasted locations and the depths dredged to, and shall make these records available to the Chief Executive, Taranaki Regional Council, upon request.
- 19) In the event that any archaeological remains are discovered as a result of works authorized by this consent, the works shall cease immediately at the affected site and tangata whenua and the Chief Executive, Taranaki Regional Council, shall be notified within one working day. Works may recommence at the affected area when advised to do so by the Chief Executive, Taranaki Regional Council. Such advice shall be given after the Chief Executive has considered: tangata whenua interest and values, the consent holder's interests, the interests of the public generally, and any archaeological or scientific evidence. The New Zealand Police, Coroner, and Historic Places Trust shall also be contacted as appropriate, and the work shall not recommence in the affected area until any necessary statutory authorizations or consent have been obtained.
- 20) This consent shall lapse on the expiry of five (5) years after the date of issue of this consent, unless the consent is given effect to before the end of that period or the Taranaki Regional Council fixes a longer period pursuant to section 123(1)(b) of the Resource Management Act 1991.
- 21) In accordance with section 128 and section 129 of the Resource Management Act 1991, the Taranaki Regional Council may serve notice of its intention to review, amend, delete or add to the conditions of this resource consent by giving notice of review during the month of June 2005, and/or June 2009, and/or June 2013, and/or June 2017, and/or June 2021, and/or June 2025, and/or June 2029, and/or June 2034, for the purpose of ensuring that the conditions are adequate to deal with any adverse effects on the environment arising from the exercise of this resource consent, which were either not foreseen at the time the application was considered or which it was not appropriate to deal with at the time.

Consent 6408-1

Transferred at Stratford on 13 October 2025

For and on behalf of
Taranaki Regional Council



Director-Resource Management

**BEFORE THE HEARINGS PANEL FOR
THE PROPOSED REGIONAL COASTAL PLAN FOR TARANAKI
AT STRATFORD**

IN THE MATTER of the Resource Management
Act 1991

AND

IN THE MATTER Submissions and Further
Submissions in relation to the
Proposed Regional Coastal Plan
for Taranaki

AND **Port Taranaki Limited**
Submitter #32

**STATEMENT OF EVIDENCE OF JANICE CARTER
ON BEHALF OF PORT TARANAKI**

PLANNING

01 AUGUST 2019

1. INTRODUCTION


- 1.1** My full name is Janice Carter. I hold the position of Technical Director - Planning at GHD. I have been in this position since April 2013 originally with the title "Principal Planner".
- 1.2** I hold the qualifications of Bachelor of Science in Geology and Geography from the University of Canterbury and a Master of Science (Hons) (Resource Management) from the University of Canterbury and Lincoln College. I have 28 years' experience in Resource Management Planning. I am also a full member of the New Zealand Planning Institute. I have completed the Good Decisions training course and hold an accredited hearing commissioner chair endorsement.
- 1.3** My experience includes planning in both a local authority environment and in private practice. A large proportion of my work has involved regional and district plan drafting, regional and district plan administration, managing resource consent processing contracts for local authorities, and preparing resource consent applications and assessments of environmental effects for a variety of developments requiring a suite of consents from both district and regional councils.
- 1.4** I have been involved in assisting Port Taranaki Limited (PTL) with planning advice since 2007. Most recently I have been assisting PTL with the New Plymouth District Plan Review and the Proposed Regional Coastal Plan (the Proposed Plan). In respect to the Proposed Plan this has included assisting with drafting submissions and further submissions, attending meetings with PTL, and with Taranaki Regional Council (TRC) officers.
- 1.5** I am familiar with Port Taranaki and its environs having visited it on numerous occasions.
- 1.6** I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

1.7 The key documents I have used, or referred to, in forming my view while preparing this brief of evidence are:

- (a) The operative Regional Coastal Plan for Taranaki (the operative Plan);
- (b) The Proposed Regional Coastal Plan for Taranaki (the Proposed Plan);
- (c) The draft Regional Coastal Plan for Taranaki (draft Plan);
- (d) The New Zealand Coastal Policy Statement (2010);
- (e) The Taranaki Regional Policy Statement (2010);
- (f) The draft New Plymouth District Plan; and
- (g) The Officers' Section 42A Report and recommended tracked changes.

2. SCOPE

2.1 This evidence covers the submissions and further submissions made by PTL to the Proposed Plan. My evidence is from a planning perspective. The body of my evidence is contained within **Attachment A**. This evidence includes consideration of input from Mr Roper and Mr Lehrke which have informed my opinions. As discussed in the table in Attachment A, a letter is provided in **Attachment B** from Mr Peter McComb in respect to the Main Breakwater surf break.



Janice Carter

01 August 2019

ATTACHMENT A – Table Responding to the Officers Section 42a Report

| Submitter | Submission Point | Submitter's requests | Officers' recommendation and response | Port Taranaki Limited Response |
|--|------------------|---|--|--|
| 4.1 Plan introduction or background | | | | |
| Section 1.7 – Coastal management areas | | | | |
| 32 – Port Taranaki | 47 | Support Retain Section 1.7.4 of the Plan as notified. | Accept Support noted. Section 1.7 is retained subject to minor amendments as requested by other submitters. | Support Officers' recommendation. Recognition of the highly modified nature of the Port Coastal Management Area ('The Port') in Section 1.7.4 is considered appropriate and important to enable the management of the area for the on-going operation and development of Port Taranaki as regionally important infrastructure. |
| 43 – Royal Forest and Bird Protection Society | 48 | Amend Submitter opposes the coastal management area approach adopted in the Plan as it is unclear as to how it applies to the wider coastal environment. | Decline The coastal management areas approach is specific to the coastal marine area. It is based upon a similar regime that has been successfully applied through the current Coastal Plan and effectively is a zonal approach identifying five 'coastal management areas' based upon shared values, characteristics, vulnerabilities or sensitivities, and management needs. The 'zones' bundle compatible activities or effects of those activities together and restricts activities which are incompatible. Of note, management responses may vary within the coastal management area (and at a finer spatial scale) according to the particular sites and values triggered within a particular locality. | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| 4.2 Objectives | | | | |
| Objective 1 – Integrated management | | | | |
| 45 – Powerco | 92 | Support Retain Objective 1 of the Plan as notified. | Accept Objective 1 is retained subject to the minor amendment in response to the submitter (20) above. | Support Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Objective 2 – Appropriate use and development | | | | |
| 32 Port Taranaki | 103 | Amend Submitter seeks amendment of Objective 2 of the Plan (or add new objective) to specifically address provision for ongoing development of strategically significant regional and national infrastructure, including Port Taranaki. | Accept Officers recommend amending Objective 2 to grant this and other related reliefs sought by the submitter. The amended Objective would read as follows: <i>Natural and physical resources of the coastal environment are used efficiently, and activities that have a functional need or an operational need, that depend on the use and development of these resources, are provided for in appropriate locations.</i> | <p>It is considered that the recommended wording does not specifically recognise regionally important infrastructure as sought, appears to change the meaning of the objective as notified, and is poorly worded.</p> <p>Seek: Retain Objective 2 as originally notified and add a new Objective 2A as follows: <i>The strategic importance of regionally important infrastructure is recognised and growth and development of regionally important infrastructure to meet changing needs is provided for in appropriate locations.</i></p> <p>It is noted that Policy 6 and Policy 5(aa) (and potentially Policy 2(f)) does not have an objective in the overall framework that it is implementing and the provision of this new objective closes that gap.</p> <p>It is also considered that this wording gives effect to the TRPS. See clause CNC Policy 3 Coastal Natural Character Policy for Port Taranaki that states "Appropriate recognition should be given to Port Taranaki to ensure its efficient operation and enable appropriate development and diversification to occur to meet changing needs". See also Policy 9 (b) and Policy 6(1)(a) (b) and (e) of the New Zealand Coastal Policy Statement (2010) (NZCPS).</p> |
| Further submissions – Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support in part | | |

| Submitter | Submission Point | Submitter's requests | Officers' recommendation and response | Port Taranaki Limited Response |
|--|------------------|--|--|--|
| Objective 3 – Reverse sensitivity | | | | |
| 32 – Port Taranaki | 117 | Support Retain Objective 3 of the Plan as notified | Accept Support noted. Objective 3 is retained subject to minor amendments as requested by other submitters. | Support the officers' recommendation. |
| Objective 5 – Coastal water quality | | | | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 129 | Support Retain Objective 5 of the Plan as notified. | Accept Support noted. Objective 5 is retained subject to minor amendments as requested by other submitters. | There is concern that the new tracked changed wording accompanying the section 42A report creates uncertainty, as there are no quality standards which would determine what is considered "good" and what is "degraded". For instance, if the water at Port Taranaki considered is "degraded", will that affect mitigation required (i.e. enhancement) beyond the impact/effects of any proposed port related discharge in order to gain a discharge consent? Port Taranaki Limited (PTL) is a responsible party and is not concerned with mitigating its own effects. However, it is concerned with the potential uncertainty/costs around requirements to <u>enhance</u> , if the water around the port is considered degraded, and to what standards. It is considered that this objective goes well beyond the requirements of Policy 21 of the NZCPS. |
| Further submissions – Port Taranaki Ltd (32) | Support | | | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | Oppose | | | |
| Objective 6 – Natural character | | | | |
| 23 – New Plymouth District Council | 134 | Support Retain Objective 6 of the Plan as notified. | Accept Support noted. Objective 6 is retained subject to minor amendments as requested by other submitters. | The proposed new wording by Officers' suffers from similar issues identified for Objective 5. Will a consent be able to be granted that maintains a particular character if that character is a degraded one? Is the minimum consent threshold in a degraded environment one that includes a requirement to enhance the environment? |
| Further submissions – Meridian Energy Ltd (20) | Support in part | | | |
| Further submissions – Port Taranaki Ltd (32) | Support | | | |
| Objective 8 – Indigenous biodiversity | | | | |
| 23 – New Plymouth District Council | 149 | Support Retain Objective 8 of the Plan as notified. | Accept Support noted. Objective 7 is retained as notified. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | Support | | | |
| Objective 9 – Relationship of tangata whenua with the coastal environment | | | | |
| 48 – Taranaki District Health Board | 154 | Support Retain Objective 9 of the Plan as notified. | Accept Support noted. Objective 9 is retained subject to minor amendments as requested by other submitters. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | Support | | | |
| Objective 10 – Treaty of Waitangi | | | | |
| 48 – Taranaki District Health Board | 157 | Support Retain Objective 10 of the Plan as notified. | Accept Support noted. Objective 10 is retained subject to minor amendments as requested by other submitters. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | Support | | | |
| Objective 11 – Historic heritage | | | | |
| 43 – Royal Forest and Bird Protection Society | 160 | Support Retain Objective 11 of the Plan as notified. | Accept Support noted. Objective 11 is retained as notified. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | Support | | | |
| Objective 12 – Public use and enjoyment | | | | |

| Submitter | Submission Point | Submitter's requests | Officers' recommendation and response | Port Taranaki Limited Response |
|---|------------------|--|--|---|
| 43 – Royal Forest and Bird Protection Society | 167 | <p>Amend</p> <p>Submitter seeks amendment to Objective 12 of the Plan to recognise additional matters set out in Policy 16(a), Policy 18(a), (b), (d) and (e), Policy 19(1), (3) and (4), and Policy 20 of the <i>New Zealand Coastal Policy Statement</i>.</p> | <p>No relief necessary</p> <p>No precise details of amendments sought to Objective 12 have been provided and the amendments sought by the submitter are considered unnecessary. Officers note the Plan comprises of a suite of objectives, policies and methods, including rules that collectively give effect to the <i>New Zealand Coastal Policy Statement</i>. Plan provisions need to be read together (while also acknowledging the different statutory responsibilities and powers of territorial authorities and district plans for giving effect to specific elements of the <i>New Zealand Coastal Policy Statement</i>). Officers refer the submitter to Policies 17 [Public access], 18 [Amenity values], 19 [Surf breaks], of the Plan, and Implementation Methods 32 to 36 and 39, which specifically address Policy 16(a), Policy 18(a), (b), (d) and (e), Policy 19(1), (3) and (4), and Policy 20 of the <i>New Zealand Coastal Policy Statement</i>. Other Plan provisions also apply.</p> | <p>Support the Officers' recommendation, which is to decline the relief sought by Royal Forest and Bird Protection Society (RFBPS).</p> |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| Objective 13 – Coastal hazards risk and public health and safety | | | | |
| 43 – Royal Forest and Bird Protection Society | 174 | <p>Amend</p> <p>Submitter seeks amendment to Objective 13 of the Plan to address the wider coastal environment and to reflect the matters set out in Policy 24, Policy 25, Policy 26, and Policy 27 of the <i>New Zealand Coastal Policy Statement</i>.</p> | <p>Accept in part</p> <p>No precise details of amendments sought to Objective 13 have been provided. Officers recommend minor amendment to make clear that Objective 13 applies to the wider coastal environment and that only the second part of the objective that relates to use and development is specific to the coastal marine area. However, as previously noted in submission point 165, officers do not believe it necessary or appropriate to make further amendments to reflect the <i>New Zealand Coastal Policy Statement</i>. Officers note the Plan comprises of a suite of objectives, policies and methods, including rules that collectively give effect to the <i>New Zealand Coastal Policy Statement</i>. Plan provisions need to be read together (while also acknowledging the different statutory responsibilities and powers of territorial authorities and district plans for giving effect to specific elements of the <i>New Zealand Coastal Policy Statement</i>). Officers refer the submitter to Policies 20 [Coastal hazards], 21 [Natural hazard defences] and Implementation Methods 37 to 42, which specifically address matters set out in Policy 24, Policy 25, Policy 26, and Policy 27 of the <i>New Zealand Coastal Policy Statement</i>. Other Plan provisions may also apply. Officers recommend amending Objective 13 (in line with reliefs sought by other submitters) to read as follows:</p> | <p>Support the Officers' recommendation.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |

| Submitter | Submission Point | Submitter's requests | Officers' recommendation and response | Port Taranaki Limited Response |
|---|------------------|--|--|--|
| | | | <i>The risk of social, cultural, environmental, and economic harm in the coastal environment from coastal hazards is not increased beyond acceptable levels and public health, safety and property is not compromised by use and development of the coastal marine area.</i> | |
| 4.3 Policies | | | | |
| Policy 1 – Coastal management areas | | | | |
| 32 – Port Taranaki | 193 | Amend Submitter generally supports Policy 1 but questions the relevance or significance of Clause (e)(v) and recommends deleting it: <i>(v) can have significant effects on areas outside of the Port, including contributing to coastal erosion along the New Plymouth foreshore</i> | Accept Officers agree that activities able to have significant effects outside the area of operation and able to have an impact on coastal erosion are not confined to the Port and recommend deleting the clause. | Support the Officers' recommendation. |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58) | | Oppose | | |
| 43 – Royal Forest and Bird Protection Society | 196 | Other Submitter seeks discussion around Policy 1 to determine whether the characteristics listed under Outstanding Value, Estuaries Unmodified, Estuaries Modified, Open Coast and Port require all characteristics to apply together as indicated by the use of "and" within the listings. | No relief necessary Comments noted. Officers note that the matters listed are but a general description of distinguishing values, characteristics and uses that underpin the identification of the five coastal management areas. Other values will inevitably apply but do not need to be identified and would be addressed in other supporting policies. Officers will discuss the matter further with the submitter as part of the pre-hearing engagement process. | PTL have not been party to the discussions with RFBPS so are unsure what the outcome was, but generally support no amendment to the proposed plan as a result of this submission point. |
| Further submissions – Port Taranaki Ltd (32) | | Support in part | | |
| 43 – Royal Forest and Bird Protection Society | 197 | Other Submitter questions whether the current wording of Policy 1 of the Plan, and its subheadings, account for the protection of biodiversity and associated values or merely define large management areas, which then have their values protected or uses provided through other policies. If this is the case it is unclear where these protective provisions are. | No relief necessary No relief is sought. However, as previously noted, Policy 1 is a general description of distinguishing values, characteristics and uses that underpin the identification of the five coastal management areas. In relation to the "protective provisions" officers refer the submitter to the rest of the Plan. Officers note the introductory sentence to Section 5 on page 19 that "...when assessing an activity, regard will be had to all relevant general and activity based policies are to be considered and no individual policy viewed in isolation." Officers believe the 'suite' of General Policies plus relevant Activity Policies triggered by use and development activities in the coastal marine area address, amongst other things, the use and development and protection of natural and physical coastal resources. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support in part | | |
| 43 – Royal Forest and Bird Protection Society | 198 | Amend Submitter seeks amendment to the Plan by deleting Policy 1 of the Plan OR | Accept in part Officers recommend amendments to Policy 1 that gives partial effect to the relief sought by the submitter but which also addresses issues/matters raised by other | Support the Officers' recommendation, except for references in respect to the submission by RFBPS that refer to "indicative" coastal environment line on the planning maps in section 1 and section 5.1. These references are not supported and the reasons for not supporting these are explained further in my comments on Policy 4 below. |
| | | | | |

| Submitter | Submission Point | Submitter's requests | Officers' recommendation and response | Port Taranaki Limited Response |
|---|------------------|--|---|---------------------------------------|
| | | Amend Policy 1 by: <ul style="list-style-type: none"> • setting out an area based management approach based on mapped and scheduled areas. Refer to relevant policies to identify characteristics in those areas which are not already for those areas in a schedule AND move the amended policy to section 5.2 so that it clearly sets out a management approach only within the coastal marine area and applies only to the activities which are controlled under rules in the plan • amending the description of the management approach as per the submitter's suggestions relating to Section 1.7 above and Policies 1(a), (b), (c), (d) and (e) below • including a statement that explains that Policy 1 does not provide direction for subdivision, use or development activities within the management areas. | submitters. The submitter's concerns with the coastal management area approach are noted. However, officers note that the approach has been in place since 1997 and to date no issues have been identified in relation to its application. The current Coastal Plan, which includes the same zonal approach and has an equivalent policy, has been demonstrated to be efficient and effective in managing adverse effects in the coastal marine area through interim reviews and state of the environment monitoring. Officers do not believe it necessary nor appropriate to delete Policy 1. Notwithstanding the above, officers note recommendations that give partial relief to other reliefs sought by the submitter. These include amendments to the Policy 1 plus other inconsequential changes in Section 1.7 of the Plan to clarify that the application of the coastal management areas apply only to the coastal marine area. | |
| Further submissions – Port Taranaki Ltd (32) | | Opposed | | |
| 43 – Royal Forest and Bird Protection Society | 199 | Amend Submitter seeks amendment to Policy 1(a) of the Plan to read: <i>In managing the use, development and protection of resources under the Plan, recognition will be given to the following coastal management areas (identified in Schedule 1) and their distinguishing values, characteristics and uses:</i> <i>(a) Outstanding Value: Coastal areas of outstanding value (identified in Schedule 2) that characteristically:</i> <i>(i) are areas of outstanding natural character and/or outstanding natural features or landscapes;</i> <i>(ii) contain values and attributes that are exceptional, including in relation to landforms, land cover, biodiversity, cultural and heritage associations, and visual qualities identified in Schedule 2 (refer corresponding Policy 7);</i> <i>(iii) contain marine areas with legal protection, including Parininihi Marine Reserve, Ngā Motu/Sugar Loaf Islands Marine Protected Area and Tapuae Marine Reserve (identified in Schedule 1); and</i> <i>(iv) are iconic to the region's identity and sense of place <u>These coastal management areas represent those areas that have been identified</u> </i> | Accept in part Officers do not consider it is appropriate or necessary to paraphrase and reference the <i>New Zealand Coastal Policy Statement</i> or other policies in the Plan. Officers also do not consider it necessary to amend Policy 1(a) to delete references to the distinguishing values, characteristics and uses set out in Clauses (ii), (iii) and (iv). Officers note that Policy 1(a) is similar to an equivalent policy in the current Plan for which no issues have been identified in relation to its interpretation and application. Officers note requests by other submitters seeking to have additional values identified. Notwithstanding the above, officers recommend granting relief in part. Officers recommend amendments to Policy 1(a) based upon the relief sought by the submitter (and others) that reads as follows: <i>(a) Outstanding Value: <u>These coastal management areas refer to those areas listed in Schedule 1(a) and are identified as having outstanding natural character and/or outstanding natural features or landscapes values. These areas characteristically:</u></i> <i>(i) contain values and attributes that are exceptional [...]</i> | Support the Officers' recommendation. |

| Submitter | Submission Point | Submitter's requests | Officers' recommendation and response | Port Taranaki Limited Response |
|---|------------------|---|--|---------------------------------------|
| | | <i>to meet the criteria under Policy 8: Outstanding Natural Character and Policy 9: Outstanding Natural Features and Landscapes. They are listed in Schedule 1(a) and shown on the Planning maps. The values and characteristics of these identified areas are set out in Schedule 2.</i> | | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| 43 – Royal Forest and Bird Protection Society | 200 | Amend Submitter seeks amendment to Policy 1(a) of the Plan to include specific provisions for marine reserves and protected marine areas under relevant policies. | Decline Officers do not consider it is necessary in Taranaki to include specific provisions for marine reserves and protected marine areas. In Taranaki, all marine reserves already have a high level of protection via the Plan as they have been identified and assessed as Outstanding coastal management areas. Separate standalone policies would be unnecessary and redundant. It is also noted that constraints on use and development also occur under other legislation, including the Marine Reserves Act 1971 and the Fisheries Act 1996. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| 43 – Royal Forest and Bird Protection Society | 201 | Amend Submitter seeks amendment to Policy 1(b) of the Plan to read: <i>In managing the use, development and protection of resources under the Plan, recognition will be given to the following coastal management areas (identified in Schedule 1) and their distinguishing values, characteristics and uses:</i> [...] <i>(b) Estuaries Unmodified: Estuaries, not identified in (a) or (c) of this policy, that are permanently open to tidal movements and characteristically:</i> <i>(i) provide a natural focal point for human activity but are generally not significantly modified and are surrounded by minimal urban development and unmodified environments;</i> <i>(ii) have significantly different and more complex natural processes than the open coast; and</i> <i>(iii) provide important habitats, migration paths, breeding areas and nursery areas for marine and bird life.</i> <i>These coastal management areas are those estuaries that are permanently open to tidal movements. These areas do not include estuaries identified as Outstanding value areas. They are listed in schedule 1(b) and shown on the</i> | Accept in part Officers do not believe it is appropriate or necessary to paraphrase and reference the <i>New Zealand Coastal Policy Statement</i> or other policies in the Plan. Officers also do not believe it necessary to amend Policy 1(b) to delete references to the distinguishing values, characteristics and uses set out in Clauses (i), (ii) and (iii). Officers note that Policy 1(b) is similar to an equivalent policy in the current Plan for which no issues have been identified in relation to its interpretation and application. Officers note requests by other submitters seeking to have additional values identified in this Policy. Notwithstanding the above, officers recommend amendments to Policy 1(b) that partially give effect to the changes sought by the submitter that reads as follows: <i>(b) Estuaries Unmodified: <u>These coastal management areas refer to those estuaries, that are permanently open to tidal movements and listed in Schedule 1(b). These areas do not include estuaries identified in (a) or (c) of this policy and characteristically:</u></i> [...] | Support the Officers' recommendation. |

| Submitter | Submission Point | Submitter's requests | Officers' recommendation and response | Port Taranaki Limited Response |
|---|------------------|--|--|---------------------------------------|
| | | <p><i>Planning maps. In determining the values and characteristic in these estuaries have particular regard to Policy 14 Indigenous Biodiversity, Policy X High natural character, Policy X other natural character, Policy X other natural features.</i></p> | | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| 43 – Royal Forest and Bird Protection Society | 202 | <p>Amend</p> <p>Submitter seeks amendment to Policy 1(c) of the Plan to read: <i>In managing the use, development and protection of resources under the Plan, recognition will be given to the following coastal management areas (identified in Schedule 1) and their distinguishing values, characteristics and uses:</i> [...] (c) Estuaries Modified: Patea, Waiwhakaiho and Waitara estuaries that are permanently open to tidal movements and characteristically: (i) have been modified by flood protection works and placement of structures; (ii) are surrounded by urban, extensively modified environments; (iii) have significantly different and more complex natural processes than the open coast; and (iv) provide important habitats, migration paths, breeding areas and nursery areas for marine and bird life. <i>These coastal management areas are those estuaries that are permanently open to tidal movements and have been modified. These areas do not include estuaries identified as Outstanding value areas or Estuary Unmodified. They are listed in schedule 1(b) and shown on the Planning maps.</i> <i>In determining the values and characteristic in these estuaries have particular regard to Policy 14 Indigenous Biodiversity, Policy X High natural character, Policy X other natural character, Policy X other natural features and landscapes and Policy XX water quality.</i></p> | <p>Accept in part</p> <p>Officers do not believe it is appropriate or necessary to paraphrase and reference the New Zealand Coastal Policy Statement or other policies in the Plan. Officers also do not believe it necessary to amend Policy 1(c) to delete references to the distinguishing values, characteristics and uses set out in Clauses (i), (ii), (iii) and (iv). Officers note that Policy 1(c) is similar to an equivalent policy in the current Plan for which no issues have been identified in relation to its interpretation and application. Officers note requests by other submitters seeking to have additional values identified in this Policy. Notwithstanding the above, officers recommend amendments to Policy 1(c) that partially give effect to the changes sought by the submitter that reads as follows: (c) Estuaries Modified: <i>These coastal management areas refer to the Patea, Waiwhakaiho and Waitara estuaries that are permanently open to tidal movements and listed in Schedule 1(c). These areas</i> characteristically: [...]</p> | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Opposed | | |
| | 203 | Amend | Accept in part | Support the Officers' recommendation. |

| Submitter | Submission Point | Submitter's requests | Officers' recommendation and response | Port Taranaki Limited Response |
|---|------------------|--|--|---------------------------------------|
| 43 – Royal Forest and Bird Protection Society | | <p>Submitter seeks amendment to Policy 1(d) of the Plan to read:</p> <p><i>In managing the use, development and protection of resources under the Plan, recognition will be given to the following coastal management areas (identified in Schedule 1) and their distinguishing values, characteristics and uses:</i></p> <p>[...]</p> <p>(d) Open Coast: Areas of the open coast not identified in (a),(b),(c) and (e) of this Policy that characteristically:</p> <p>(i) are subject to a high energy westerly wave environment and the coastal land behind the foreshore is generally naturally eroding;</p> <p>(ii) include reef systems that provide habitat to marine life, and are valued by Māori for mahinga kai;</p> <p>(iii) include nationally and regionally important surf breaks identified in Schedule 7 (refer corresponding Policy 19); and</p> <p>(iv) contain fisheries that are recreationally, culturally and commercially valuable.</p> <p><u>This coastal management area represents the remaining areas of the coastal marine area not identified in (a),(b),(c) and (e) of this Policy. this includes estuaries which are not permanently open to the sea.</u></p> <p><u>All other policies of the plan are relevant to determining values and characteristics of the coastal environment in this area.</u></p> | <p>Officers do not believe it is appropriate or necessary to paraphrase and reference the <i>New Zealand Coastal Policy Statement</i> or other policies in the Plan.</p> <p>Officers also do not believe it necessary to amend Policy 1(d) to delete references to the distinguishing values, characteristics and uses set out in Clauses (i), (ii), (iii) and (iv). Officers note that Policy 1(d) is similar to an equivalent policy in the current Plan for which no issues have been identified in relation to its interpretation and application. Officers note requests by other submitters seeking to have additional values identified in this Policy. Notwithstanding the above, officers recommend amendments to Policy 1(d) that partially give effect to the changes sought by the submitter that reads as follows:</p> <p>(d) Open Coast: This coastal management area refers to remaining areas of the coastal marine area not identified in (a), (b), (c) and (e) of this Policy that characteristically:</p> <p>[...]</p> | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| 43 – Royal Forest and Bird Protection Society | 204 | <p>Amend</p> <p>Submitter seeks amendment to Policy 1(e) of the Plan to read:</p> <p><i>In managing the use, development and protection of resources under the Plan, recognition will be given to the following coastal management areas (identified in Schedule 1) and their distinguishing values, characteristics and uses:</i></p> <p>[...]</p> <p>(e) Port: Port Taranaki, which is a highly modified environment that characteristically:</p> <p>(i) enables people and communities to provide for their economic wellbeing;</p> <p>(ii) contains nationally and regionally important infrastructure;</p> | <p>Accept in part</p> <p>Officers do not believe it is appropriate or necessary to paraphrase and reference the <i>New Zealand Coastal Policy Statement</i> or other policies in the Plan.</p> <p>Officers also do not believe it necessary to amend Policy 1(e) to delete references to the distinguishing values, characteristics and uses set out in Clauses (i), (ii), (iii), (iv) and (v). Officers note that Policy 1(e) is similar to an equivalent policy in the current Plan for which no issues have been identified in relation to its interpretation and application. Officers note requests by other submitters seeking to have additional values identified in this Policy. Notwithstanding the above, officers recommend amendments to Policy 1(e) that partially give effect to the changes sought by the submitter that reads as follows:</p> | Support the Officers' recommendation. |

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| | | <p><i>(iii) contains port related activities that are accepted as appropriate uses of this coastal management area;</i></p> <p><i>(iv) has low levels of natural character, although is located adjacent to an area of outstanding value; and</i></p> <p><i>(v) can have significant effects on areas outside of the Port, including contributing to coastal erosion along the New Plymouth foreshore.</i></p> <p><i>This coastal management area represents the operational management area of Port Taranaki. The operational considerations and provisions for development capacity are set out in Policy X. In determining the values and characteristic in these estuaries have particular regard to Policy X Port of Taranaki, Policy 14 Indigenous Biodiversity, Policy X High natural character, Policy X other natural character, Policy X other natural features and landscapes and Policy XX water quality.</i></p> | <p>(e) Port: <u>This coastal management area refers to the operational management area of Port Taranaki. The area is a highly modified environment that characteristically:</u> [...]</p> | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| NEW Policy 1A – Coastal management areas (Port) | | | | |
| 43 – Royal Forest and Bird Protection Society | 214 | Amend | Decline | Support the Officers' recommendation, subject to the inclusion of proposed Objective 2A above. |
| | | Submitter seeks amendment to the Plan to include a new Policy specific to the Port of Taranaki and consistent with Policy 9 [Port] of the New Zealand Coastal Policy Statement. | Officers do not believe it is appropriate or necessary to include a new policy specific to the Port to give effect to Policy 9 of the <i>New Zealand Coastal Policy Statement</i> . Officers note the introductory sentence to Section 5 on page 19 that “... when assessing an activity, regard will be had to all relevant general and activitybased policies are to be considered and no individual policy viewed in isolation. ” It is therefore unnecessary to include a new policy specific to the Port when matters outlined in Policy 9 of the New Zealand Coastal Policy Statement have been more fully covered and addressed via Policy 1 [Coastal management areas], Policy 5 [Use and development], Policy 6 [Regionally important infrastructure] and Policy 7 [Reverse sensitivity]. These and the other General Policies and relevant Activity Policies will contribute to the efficient and safe operation of Port Taranaki. | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| Policy 2 – Integrated management | | | | |
| 13 – Spark New Zealand Trading Limited | 219 | Support | Accept | Support the Officers' recommendation. |
| | | Retain Policy 2 of the Plan as notified. | Support noted. Policy 2 is retained subject to amendments sought by other submitters. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 3 – Precautionary approach | | | | |

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| 20 – Meridian Energy Limited | 247 | Support Retain Policy 3 of the Plan as notified. | Accept Policy 3 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32), Fonterra (47) | | Support | | |
| Policy 4 – Extent and characteristics of the coastal environment | | | | |
| 19 – South Taranaki District Council | 258 | Support Retain Policy 4 of the Plan as notified. | Accept Support noted. Policy 4 is retained subject to amendments to include a coastal environment line. | The Officers' have recommended accepting this submission to retain the policy as notified. However, they have changed this policy substantially to include a coastal environment line that was not there previously. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | <p>It is noted that there is no coastal environment line in the current operative New Plymouth District Plan, and there is not yet a Proposed New Plymouth District Plan. It is understood that in the District Plan Review there is to be a coastal environment which will be identified by a line landward of Mean high water spring (MHWS), but has not yet been notified and been through the planning process and may be subject to considerable challenge. It is considered that it is premature to put such a line in the Proposed Regional Coastal Plan (the Plan) whether indicative or not.</p> <p>There is also concern that the line was not notified with the Plan and there is not the scope to include it now without giving opportunity for parties to make submissions. While some submitters requested there be an identified coastal environment area, no party actually requested the line in the position being recommended by Officers. PTL is located within this line and has not been able to make a submission in support or opposition to its location. It is considered that a variation to the Plan is required to include this coastal environment line.</p> <p>Further it is noted that in some parts of the Plan the line is referred to as an "indicative" line and in other places it is not identified as "indicative", but as the coastal environment line as shown on the Planning Maps (see policy 4 (b) (i) and section 1.4.2 and the legend to the Planning Maps).</p> <p>Clarification is sought on how Policy 4 can be interpreted when there is no coastal environment line in an operative New Plymouth District Plan or proposed New Plymouth District Plan.</p> <p>PTL seek that Policy 4 be retained as notified.</p> |
| Policy 5 – Appropriate use and development of the coastal environment | | | | |
| 32 – Port Taranaki | 276 | Amend The submitter suggests that Policy 5 does not adequately recognise important security and public safety issues facing ports and seeks amendments to Clause (g) that qualifies the enhancement or restoration of public access to exclude the Port and other area where public safety and security needs would be jeopardised. Submitter seeks an amendment to Policy 5(g) to read as follows: <i>Determine whether use and development of the coastal environment is in an appropriate place</i> | Grant in kind Officers note that Policy 5 contains a suite of considerations and must be read in conjunction with the other General Policies and relevant Activity-specific Policies. Policy 5(e) already addresses public health and safety risks while Policy 17 [Public access] sets out circumstances where public access would not be appropriate. Accordingly, Officers do not believe it necessary or appropriate to paraphrase other Plan provisions. Indeed there are risks in creating legal uncertainty in doing so. Officers recommend an alternative relief whereby Policy 5(g) is amended to refer | Support the Officers' recommendation. |

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| | | <i>and form and within appropriate limits by having regard to: [...]</i> <i>(g) the degree to which the activity contributes to the enhancement or restoration of public access or public use of the coast including for recreation, <u>unless the type of activity, and the need to maintain public safety, makes enhancement or restoration of public access inappropriate</u>; [...]</i> | to "appropriate" public access or use. Policy 17 would then apply and provides the guidance and direction on what constitutes appropriate public access and use in the coastal environment. | |
| Further submissions – Trans-Tasman Resources Ltd (6), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support | | |
| Further submissions – Taranaki Energy Watch (51) | | Oppose | | |
| Policy 6 – Activities important to the well-being of people and communities | | | | |
| 32 – Port Taranaki | 301 | Amend Submitter seeks amendment to Policy 6 of the Plan to better reflect the intention to capture Regionally Important Infrastructure as defined in the definitions section of the Plan. | Accept Officers agree. Officers recommend amending Policy 6 (and making consequential amendments to Policy 5) to specifically refer to "regionally important infrastructure". The revised Policy would read as follows: <i>Recognise <u>the benefits of new and existing regionally important infrastructure</u> to the social, economic and cultural well-being of people and communities in Taranaki, <u>and provide for the safe and efficient operation of regionally important infrastructure</u> subject to appropriate <u>avoidance, remediation or mitigation</u> of adverse environmental effects.</i> | Support the Officers' recommendation. |
| 43 – Royal Forest and Bird Protection Society | 305 | Amend Submitter seeks amendment to Policy 6 to: <ul style="list-style-type: none"> provide for new infrastructure as set out in the National Policy Standard – Electricity Transmission provide for activities regulated under the National Environmental Standards provide for maintenance to enable the safe operation of existing regionally important infrastructure provide for new regionally important infrastructure consistent with Policy 5 (subject to submitter's amendments) provide for activities subject to appropriate avoidance, remediation or mitigation of adverse environmental effects. | Accept It is officers' view that Policy 6 already provides the relief's sought by the submitter. Officers also refer the submitter to the definition of "regionally important infrastructure" which includes infrastructure and activities covered by national environmental standards. Notwithstanding the above, for the purposes of certainty and clarity, officers recommend minor changes to Policy 6 that do not change the policy intent. The revised policy would read as follows: <i>Recognise <u>the benefits of new and existing regionally important infrastructure</u> to the social, economic and cultural well-being of people and communities in Taranaki, <u>and provide for the safe and efficient operation of regionally important infrastructure</u> subject to appropriate <u>avoidance, remediation or mitigation</u> of adverse environmental effects.</i> A new Policy 6A [Management of adverse effects of the National Grid] is also proposed. | Support the Officers' recommendation. |
| Further submissions – Transpower NZ Ltd (26) | | Support in part | | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| Policy 7 – Impacts on established operations and activities | | | | |
| 59 – KiwiRail | 321 | Support | Accept | Support the Officers' recommendation. |

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| | | Retain Policy 7 of the Plan as notified. | Support noted. Policy 7 is retained subject to amendments as requested by other submitters that do not change the policy intent. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 8 – Areas of outstanding value | | | | |
| 2 – Federated Farmers | 322 | Amend Submitter seeks amendment to Policy 8 of the Plan to read: <i>Protect the visual quality and the physical, ecological and cultural integrity of coastal areas of outstanding value identified in Schedule 1 from inappropriate use and development by:</i> <i>(a) avoiding adverse effects of activities on the values and characteristics identified in Schedule 2 that contribute to areas:</i> <i>(i) having outstanding natural character; and/or</i> <i>(ii) being outstanding natural features and landscape; within or adjoining coastal management area – Outstanding Value; and</i> <i>(b) maintaining significant seascapes and visual corridors associated with outstanding natural features and landscapes, including views from within the landscapes or features, and views of the landscapes and features.</i> | Decline Officers recommend declining the relief sought. Officers note that activities undertaken adjoining Outstanding Value areas can, over time, adversely affect the values associated with an outstanding area. Seascapes and visual corridors are important values associated with natural features and landscapes and therefore require protection as per Policy 15 of the <i>New Zealand Coastal Policy Statement</i> . Accordingly, for the purposes of integrated coastal management, it would be inappropriate to exclude consideration of the wider landscape and would derogate from Council's efforts seeking to give effect to Policies 13 and 15 of the <i>New Zealand Coastal Policy Statement</i> . | Generally support the Officers' recommendation, however it is considered that the words "or adjoining" are not clear in this policy, in terms of the stated intent in the Officers' recommendation and is better achieved by Policy 9. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Support in part/neutral in part | | |
| Further submissions – Port Taranaki Ltd (32), Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support in part | | |
| Further submissions – Te Rūnanga o Ngāti Mutunga (40), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | | |
| Policy 9 – Natural character and natural features and landscapes | | | | |
| 43 – Royal Forest and Bird Protection Society | 342 | Amend Submitter seeks amendment to the Plan by deleting Policy 9. | Decline The submitter contends that Policy 9 of the Plan is uncertain. The submitter suggests that the inclusion of significant areas of indigenous vegetation and historic heritage in the policy overlaps and creates inconsistency with Policies 14 and 15 of the Plan. The submitter further suggests that the policy does not recognise that natural character is different to natural features and landscapes, nor does it provide for the assessment or identification required under Policies 13 and 15 of the <i>New Zealand Coastal Policy Statement</i> . Officers do not recommend deleting Policy 9. Officers believe that the Plan has given full effect to the <i>New Zealand Coastal Policy Statement</i> , including undertaking a regional landscape study of the Taranaki coastal environment. Notwithstanding the above, officers | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |

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| | | | recommend amendments to Policy 9 to address some of the concerns raised by the submitter (refer submission point 343 below). | |
| 43 – Royal Forest and Bird Protection Society | 343 | Amend | Accept in part | Support the Officers' recommendation. |
| | | Submitter seeks amendments to Policy 9 of the Plan by: <ul style="list-style-type: none"> including a new clause that reads: <i>Protect the natural character, features, and landscapes of the coastal environment by: [...]</i> <i>(ix) avoiding adverse effects of activities on natural character of the coastal environment with outstanding natural character and on outstanding natural features;</i> amending Policy 9(a)(v) to read: <i>(v) maintains the integrity of significant areas of indigenous vegetation protects significant indigenous biodiversity and maintains or enhances indigenous biodiversity [...]</i> | The submitter is concerned that Policy 9 does not provide for avoidance of adverse effects for outstanding values which may not be identified in Schedule 2. The submitter is also concerned that there are inconsistencies with directive policies for protection. In particular, it is the submitter's view that Clause (a)(v) is uncertain as the provisions do not currently identify significant areas of vegetation, nor does it reflect the protection required by Policy 14 [Indigenous biodiversity] of the Plan. Officers recommend granting relief in relation to Policy 8 (submission point 328) and consider this relief to address the first part of the submitters concern in Policy 9. As a result, Policy 8(a) is recommended to be amended to not limit its application only to the effects of activities in values and characteristics identified in Schedule 2. Officers further recommend amending Policy 9 (a)(v) as requested by the submitter as the suggestion is more directive and align language to that used elsewhere in the Plan. | |
| | | Further submissions 2 – Federated Farmers (2), Port Taranaki Ltd (32) | Oppose | |
| Further submissions – Radio New Zealand (35) | Oppose in part | | | |
| NEW Policy 9A – Criteria for identifying areas of outstanding or high natural character | | | | |
| 43 – Royal Forest and Bird Protection Society | 348 | Amend | Decline | Support the Officers' recommendation. |
| | | Submitter seeks amendment to the Plan to include a new Policies that: <ul style="list-style-type: none"> determines/identifies areas of Outstanding Natural Character to preserve areas of High Natural Character for other natural character in all areas of the coastal environment to provide a basis for determining outstanding natural features and landscapes other natural features and landscapes in all areas of the coastal environment. | Officers do not believe the requested amendment is necessary. Of note, the Council has worked closely with the New Plymouth and South Taranaki district councils in identifying, mapping and describing natural character, features and landscapes along the Taranaki coastline. Much of this work was addressed in a separate report Regional Landscape Study of the Taranaki Coastal Environment, which was prepared and consulted on as part of the Coastal Plan review. It was this work, which was used for determining and identifying outstanding natural features and landscapes but also examined natural character across the entirety of the Taranaki coastline. Officers further note that the Plan already contains policies addressing the protection of natural character, features and landscapes (Policies 8, 9 and 10) and do not believe additional policies are necessary or appropriate. All General Policies apply to any use and development activities in the coastal marine area and must be read together | |
| | | Further submissions 20 – Meridian Energy Ltd (20, Port Taranaki Ltd (32) | Oppose | |
| | | Further submissions – Department of Conservation – (29) | Support | |
| | | Further submissions – Powerco (45) | Oppose in part/Oppose | |
| Further submissions – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | Oppose in part | | | |
| Policy 10 – Restoration of natural character | | | | |

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| 19 – South Taranaki District Council | 349 | Support | Accept | Support the Officers' recommendation. |
| | | Retain Policy 10 of the Plan as notified. | Support noted. Policy 10 is retained as notified. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 11 – Coastal water quality | | | | |
| 19 – South Taranaki District Council | 355 | Support | Accept | Issues with this policy are similar to the concerns expressed above to the changes Officers propose to Objective 5. It is not known which waters are degraded and whether the port waters are considered degraded. This policy goes well beyond Policy 21 of the NZCPS. |
| | | Retain Policy 11 of the Plan as notified. | Support noted. Policy 11 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| NEW Policy 11A – Water quality limits | | | | |
| 43 – Royal Forest and Bird Protection Society | 364 | Amend | Decline | Support the Officers' recommendation. |
| | | Submitter seeks amendment to the Plan to include a new Policy 11A [Coastal water quality limits] to achieve Objective 5 [Coastal water quality]. The new Policy would set water quality targets and standards for freshwater and coastal water in the coastal environment to ensure that upstream water quality does not result in adverse effects in the coastal environment. | The submitter does not specify what attributes and numerics would be acceptable for coastal water quality and marine health. Officers have concerns that the adoption of standardised and universal water quality targets and standards would have a perverse outcome in that such targets are likely to be too high or too low depending upon uses and values in the locality. Such matters are best dealt with through the consenting process where the type, scale and significance of the activity and the vulnerability and sensitivities of the receiving environment (including cultural interests), and an appropriate mixing zone may be considered on a case-by-case basis. The Council's approach involves taking into account recognised national/international guideline values as appropriate. Officers note Taranaki only has seven major municipal and/or industrial discharges to the coastal marine area and that coastal water quality is generally good. In localities where that is not the case, a new Policy 12 has been included in the Plan seeking the restoration of local coastal water quality. | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| Further submissions – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Oppose in part | | |
| Policy 12 – Restoration of coastal water quality | | | | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 366 | Support | Accept | Support the Officers' recommendation. |
| | | Retain Policy 12 of the Plan as notified. | Support noted. Policy 12 is retained subject to minor amendment as requested by another submitter that do not change the policy intent. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 13 – Coastal air quality | | | | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 369 | Support | Accept | Support the Officers' recommendation. |
| | | Retain Policy 13 of the Plan as notified. | Support noted. Policy 13 is retained. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 14 – Indigenous biodiversity | | | | |

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| 26 – Transpower NZ Ltd | 373 | Amend | Grant in kind | Support the Officers' recommendation. |
| | | <p>Submitter seeks amendment to Policy 14(b) of the Plan to read:</p> <p><i>Protect areas of significant indigenous biodiversity in the coastal environment and maintain and enhance indigenous biodiversity by:</i></p> <p>[...]</p> <p><i>(b) avoiding significant adverse effects and avoiding, remedying and mitigating other adverse effects of activities on:</i></p> <p><i>(i) areas of predominantly indigenous vegetation in the coastal environment;</i></p> <p><i>(ii) habitats in the coastal environment that are important during the vulnerable life stage of indigenous species including:</i></p> <p><i>i. estuaries;</i></p> <p><i>ii. spawning areas (e.g. snapper-trevally spawning area in the North Taranaki Bight between Mōhakatino River and Pariokariwa Point);</i></p> <p><i>iii. areas that provide passage for diadromous species;</i></p> <p><i>iv. marine mammal resting, feeding and breeding areas; and</i></p> <p><i>v. bird roosting and nesting areas;</i></p> <p><i>unless following a route, site and method selection process, the activity is necessary for the provision of regionally important infrastructure, avoidance of adverse effects is not practicable and adverse effects are remedied or mitigated to the extent reasonably practicable; [...]</i></p> | <p>The submitter requests that the Policy be aligned to address the requirements for the National Grid with regards to the <i>National Policy Statement for Electricity Transmission</i> (NPSET). Policy 4 of the NPSET requires the provision of effective operation, maintenance, upgrade and development of the electrical transmission network.</p> <p>Of note, both the <i>New Zealand Coastal Policy Statement</i> (NZCPS) and the NPSET contain direction for how effects on biodiversity are managed. The NPSET includes a direction for the National Grid to “seek to avoid adverse effects” while the NZCPS applies to a broader range of activities.</p> <p>Officers note that Policy 14(b) is aligned with Policy 11(b) [Indigenous biological diversity] of the NZCPS and is considered appropriate as written. Granting the relief sought by the submitter would significantly derogate from the policy intent of the NZCPS. As an alternative, noting that the policy intent of different national policy directions such as the NZCPS and NPSET need to be balanced and weighed against each other, officers recommend the inclusion of a new Policy 6A that more explicitly addresses the management of adverse effects arising from the National Grid. All General Policies, including Policy 6A and 14 of the Plan, must be read together. Refer to submission point 626 for further discussion on Policy 6A [Management of adverse effects of the National Grid].</p> | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 15 – Historic heritage | | | | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 395 | Support | Accept | Support the Officers' recommendation. |
| | | Retain Policy 15 of the Plan as notified. | Support noted. Policy 15 is retained subject to minor amendment as requested by another submitter that does not change the policy intent. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 16 – Relationship of tangata whenua | | | | |
| 15 – Surfbreak Protection Society | 401 | Support | Accept | Support the Officers' recommendation. |
| | | Retain Policy 16 of the Plan as notified. | Support noted. Policy 16 is retained subject to minor amendments as requested by other submitter that does not change the policy intent. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 17 – Public access | | | | |
| 45 – Powerco | 426 | Support | Accept | Support the Officers' recommendation. |
| | | Retain Policy 17 of the Plan as notified. | | |

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| Further submissions – Port Taranaki Ltd (32) | | Support | Support noted. Policy 17 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. | |
| Policy 18 – Amenity values | | | | |
| 45 – Powerco | 440 | Support Retain Policy 18 of the Plan as notified. | Accept Support noted. Policy 18 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. | <p>The reference to surf breaks in this policy potentially negates the recommended provisions of Policy 19, which was the focus of discussions between the parties. The definition of amenity values expressed in Policy 18 includes recreational attributes and could potentially be applied to regionally significant surf breaks identified in the Plan adjacent to the Port. PTL notes that its submission seeks that the Port be able to keep pace with environmental, technological and commercial changes in the maritime sector and that the presence of the surf breaks is a key issue for the Port.</p> <p>The TRPS CNC Policy 3 specifically provides the following in respect to Port Taranaki “Appropriate recognition should be given to Port Taranaki to ensure its efficient operation and enable appropriate development and diversification to occur to meet changing needs”. At point 11 in its submission, PTL outlines that “New technology will continue to be evaluated...However, future extensions to the breakwaters needs to be retained as a possibility and part of the community conversation.”</p> <p>PTL also state at point 18 of its submission that “For each of the matters identified in Attachment 2, PTL also seeks any consequential amendments to objectives, policies and rules required to give effect to the submission and to provide a clear and consistent plan”.</p> <p>It is considered that there is scope within PTL’s submission to alter Policy 18 in a manner that is consistent with the amendments provided to Policy 19 for the port. Other submitters (Transpower) also sought relief in terms of regionally important infrastructure. PTL seek the addition to clause (c) so that avoiding, remedying or mitigation of effects is required “to the extent reasonably practicable” in terms of the surf breaks identified in Schedule 7. Such an amendment would avoid the inconsistency between Policy 18 and 19.</p> <p>Some appropriate wording will be provided at the hearing.</p> |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 19 – Surf breaks and Significant Surfing Area | | | | |
| 32 – Port Taranaki | 452 | Amend Submitter seeks amendment to Policy19(b) of the Plan to read: <i>Protect surf breaks and their use and enjoyment from the adverse effects of other activities by: [...]</i> <i>(b) avoiding adverse effects on all regionally significant surf breaks, identified in Schedule 7, that are outside of the Significant Surfing Area; unless the activity is necessary for the provision of regionally important infrastructure, avoidance of effects is not possible, and adverse effects are remedied or mitigated; [...]</i> | Accept in part The submitter is concerned that Policy 19(b) and the exemption for regionally important infrastructure is unclear. In particular, the submitter is concerned that the provision that avoidance of effects is not possible is ambiguous and potentially sets unrealistic expectations. Officers agree in part to the relief sought by the submitter but recommend an alternative relief based upon a relief sought by another submitter (see above) with similar concerns. The amended policy would read as follows: <i>Protect surf breaks and their use and enjoyment from the adverse effects of other activities by:</i> <i>(a) avoiding adverse effects on:</i> | Support the Officers' recommendation. |

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| | | | <p>(i) nationally significant surf breaks as identified in Schedule 7; and</p> <p>(ii) surf breaks within the designated Significant Surfing Area as identified in Schedule 7;</p> <p>(b) avoiding significant adverse effects on all regionally significant surf breaks, identified in Schedule 7, that are outside of the Significant Surfing Area; unless the activity is necessary for the provision of regionally important infrastructure, avoidance of <i>adverse</i> effects is not <i>practicable</i> and adverse effects are remedied or mitigated <i>to the extent reasonably practicable</i>; [...]</p> | |
| Policy 20 – Avoidance of increasing coastal hazard or public safety risks | | | | |
| 48 – Taranaki District Health Board | 461 | Support Retain Policy 20 of the Plan as notified. | Accept Support noted. Policy 20 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 21 – Natural hazard defences | | | | |
| 43 – Royal Forest and Bird Protection Society | 464 | Support Retain Policy 21 of the Plan as notified. | Accept Support noted. Policy 21 is retained as currently notified. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 22 – Discharge of water or contaminants to coastal water | | | | |
| 43 – Royal Forest and Bird Protection Society | 470 | Support Retain Policy 22 of the Plan as notified. | Accept Support noted. Policy 22 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 24 – Discharge of treated wastewater containing human sewage | | | | |
| 48 – Taranaki District Health Board | 484 | Support Retain Policy 24 of the Plan as notified. | Accept Support noted. Policy 24 is retained as notified. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 25 – New discharge of treated wastewater containing human sewage | | | | |
| 48 – Taranaki District Health Board | 490 | Support Submitter notes their view that Policy 25 meets the section 5 purpose of the RMA and also requirements under the <i>Health Act 1956</i> to protect the health of the public. Retain Policy 25 of the Plan as notified. | Decline Submitter's comments relating to the protection of public health are noted. However, officers note that in response to other submitters it is recommended that Policy 25 be amended to preclude new discharges to the entire coastal marine area (previously new discharges were precluded from all parts of the coastal marine area except for the Open Coast). Notwithstanding the above, officers believe that these amendments will contribute to better public health outcomes as sought by the submitter. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 26 – Improving existing wastewater discharges | | | | |
| | 499 | Support | Accept | Support the Officers' recommendation. |

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| 48 – Taranaki District Health Board | | Retain Policy 26 of the Plan as notified. | Support noted. Policy 26 is retained as notified. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 27 – Discharges of stormwater | | | | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 504 | Support Retain Policy 27 of the Plan as notified. | Accept Support noted. Policy 27 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 28 – Harmful aquatic organisms | | | | |
| 33 – New Zealand Defence Force | 511 | Support Retain Policy 28 as notified. | Accept Support noted. Policy 28 is retained subject to minor amendments to remove reference to "scraping". | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 29 – Impacts from offshore petroleum drilling and production | | | | |
| 25 – New Zealand Petroleum and Minerals | 514 | Support Retain Policy 29 of the Plan as notified. | Accept Support noted. Policy 29 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 30 – Discharge of contaminants to air | | | | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 521 | Support Retain Policy 30 of the Plan as notified. | Accept Support noted. Policy 30 is retained as notified. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 31 – Structures that support safe public access and use, or public or environmental benefit | | | | |
| 26 – Transpower NZ Ltd | 526 | Amend The submitter is concerned that the words "will be allowed for" infer resource consent approval and such wording would be interpreted as predetermining a resource consent process outcome. Submitter seeks amendment to Policy 31 of the Plan to read (or alternatively use the words "...to provide for"): <i>Enable sStructures in appropriate locations will be allowed for, subject to the appropriate management of adverse effects, where the structure is to provide for [...]</i> | Accept Officers note that the reference to "will be allowed for" was not meant to infer predetermination of the consent process outcome. Therefore, to allay the submitter's concerns and to avoid the potential risk for confusion, officers recommend granting the relief sought with a minor amendment in wording. Officers recommend using the term "allow" instead of "enable" (as it is not the Council's mandate to enable such activities). | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 32 – Placement of structures | | | | |
| 13 – Spark New Zealand Trading Ltd | 535 | Support Retain Policy 32 of the Plan as notified. | Accept | Support the Officers' recommendation. |

| Submitter | Submission Point | Submitter's requests | Officers' recommendation and response | Port Taranaki Limited Response |
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| Further submissions – Port Taranaki Ltd (32) | | Support | Support noted. Policy 32 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. | |
| Policy 33 – Hard protection structures in coastal areas of outstanding value | | | | |
| 43 – Royal Forest and Bird Protection Society | 545 | Amend Submitter seeks amendment to Policy 33 to read: <i>Hard protection structures located within the coastal management area – Outstanding Value (identified in Schedule 2) will not have an adverse effect on the values and characteristics, including those identified in Schedule 2, that contribute to an area having outstanding value, in accordance with Policy 8.</i> | Decline The submitter does not believe that all of the values or characteristics contributing to the outstanding natural character of the identified areas are identified within Schedule 2. Therefore, the policy is limited to only providing for those identified in Schedule 2 and not achieving the appropriate protection required by Policies 11, 13 and 15 of the <i>New Zealand Coastal Policy Statement</i> . Officers agree that there are broader considerations than just those values identified in Schedule 2, however, these considerations are separately provided for under other General Polices of the Plan that, in turn, give effect to Policies 11, 13 and 15 of the <i>New Zealand Coastal Policy Statement</i> . The wording of Policy 33 is consistent with Policy 8 [Areas of outstanding value] of the Plan in that the avoidance of adverse effects relates to specific scheduled values identified. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| NEW Policy 33A | | | | |
| 43 – Royal Forest and Bird Protection Society | 546 | Amend Submitter seeks amendment to the Plan to include a similar policy to Policy 33 to address hard protection structures and adverse effect on sites and areas with significant values identified under Policy 14 of the Plan. | Decline The submitter seeks the addition of a new policy to manage the adverse effects of hard protection structures on significant indigenous biodiversity values identified in Policy 14 of the Plan. Officers recommend declining the relief sought. It is suggested that the protection of significant indigenous biodiversity from the adverse effects of hard protection structures adequately addressed under other provisions of the Plan and do not require repeating. Section 5.1 explains that the policies apply to all activities within the coastal environment, regardless of the activity to be authorised and which coastal management area the activity may fall within. Thus, Policy 33 must be read in conjunction with each of the other relevant policies, including all the General Policies. Together these policies address the matters covered in the <i>New Zealand Coastal Policy Statement</i> . | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| Policy 34 – Appropriateness of hard protection | | | | |
| 59 – KiwiRail | 549 | Support Retain Policy 34(c) of the Plan as notified. | Accept in part Support noted. Policy 34 is retained subject to minor amendments as requested by another submitter that do not change the policy intent. | PTL has been unable to determine why the recommended change to the policy has been made in the tracked changed version as no one requested this change. PTL does not support the change and considers the original words to be more consistent with the NZCPS. It is considered important to recognise the need of regionally important infrastructure to be able to erect hard protection structures to protect its assets, particularly as a result of increasing sea levels. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |

| Submitter | Submission Point | Submitter's requests | Officers' recommendation and response | Port Taranaki Limited Response |
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| Policies 34 and 35 – Hard protection structures | | | | |
| 43 – Royal Forest and Bird Protection Society | 550 | Amend | Decline | Support the Officers' recommendation. |
| | | Submitter seeks amendment to Policies 34 and 35 of the Plan (or add a new policy) to ensure that hard protection structures avoid adverse effects on indigenous biodiversity to be protected under Policy 14 of the Plan AND Seek amendment to Policy 35 of the Plan to ensure protection is also given under Policies 8 and 9 of the Plan. | Officers recommend declining the relief sought as such matters are already adequately addressed under other provisions of the Plan and do not require repeating. Section 5.1 explains that the policies apply to all activities within the coastal environment, regardless of which coastal management area the activity may fall within. Thus, Policy 33 must be read in conjunction with each of the other relevant policies, including all the General Policies. Together these policies address the Further submissions – Department of matters covered in the <i>New Zealand Coastal Policy Statement</i> . | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| Policy 36 – Maintenance, repair, replacement and minor upgrading of existing structures | | | | |
| 13 – Spark New Zealand Trading Ltd | 553 | Support | Accept | Support the Officers' recommendation. |
| | | Retain Policy 36 of the Plan as notified. | Support noted. Policy 36 is retained subject to minor amendment as requested by another submitter that do not change the policy intent. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 37 – Alterations or extensions of existing structures | | | | |
| 13 – Spark New Zealand Trading Ltd | 561 | Support | Accept | Support the Officers' recommendation. |
| | | Retain Policy 37 of the Plan as notified. | Support noted. Policy 37 is retained subject to minor amendment as requested by another submitter that do not change the policy intent. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 38 – Removal of coastal structures | | | | |
| 32 – Port Taranaki | 570 | Amend | Accept | Support the Officers' recommendation. |
| | | Submitter seeks amendment to Policy 38 of the Plan to provide an exception to this policy for new port structures intended to be permanent. | Officers recommend granting the relief sought by the submitter. Officers recognise that some (but not all) Port structures may be designed and built to be permanent. In such situations it is appropriate that there is no obligation to remove these "permanent structures". Officers recommend amending Policy 38 to include a new Clause (c) (plus other consequential amendments) to allow considerations for material to be left in situ or elsewhere in the coastal marine area where the structure, or part of the structure, is intended to be permanent, e.g. new Port structures. Policy 38 will read as follows: <i>Policy 38 removal of coastal structures</i> <i>Decommissioning and removal of any new structure must be considered as part of the initial design and installation and removal will generally be required.</i> <i>When assessing the appropriateness of allowing a structure, a part of a structure, or material associated with a structure to be left in situ or elsewhere in the coastal marine area, at least one of the following must apply: [...]</i> | |

| Submitter | Submission Point | Submitter's requests | Officers' recommendation and response | Port Taranaki Limited Response |
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| | | | <i>(c) the structure, or part of the structure, is permanent or has a reuse value that is considered appropriate in accordance with Policy 5; [...]</i> | |
| Policy 40 – Disturbance, deposition and extraction in marine protected areas | | | | |
| 43 – Royal Forest and Bird Protection Society | 584 | Support | Accept | Support the Officers' recommendation. |
| | | Retain Policy 40 of the Plan as notified. | Support noted. Policy 40 is retained subject to minor amendments as requested by another submitters that does not change the policy intent. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 41 – Provision for disturbance, deposition or extraction activities that provide public or environmental benefit | | | | |
| 59 - KiwiRail | 587 | Support | Accept | Support the Officers' recommendation. |
| | | Retain Policy 41 of the Plan as notified. | Support noted. Policy 41 is retained subject to minor amendments as requested by another submitters that does not change the policy intent. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 42 – Disturbance of the foreshore and seabed | | | | |
| 13 – Spark New Zealand Trading Ltd | 591 | Support | Accept | Support the Officers' recommendation. |
| | | Retain Policy 42 of the Plan as notified. | Support noted. Policy 42 is retained as notified. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 43 – Port dredging | | | | |
| 57 – Heritage New Zealand | 602 | Amend | No relief necessary | Support the Officers' recommendation. |
| | | Submitter seeks amendments to Policy 43 of the Plan by adding a new clause (e) to read: <i>Maintenance and capital dredging activities for Port Taranaki, including spoil disposal, will be managed in order that:</i> [...] <i>(e) adverse effects on historic heritage are managed in accordance with Policy 15.</i> | Officers recognise the concern of the submitter but suggest that their concerns have already been provided for within the Plan. As stated in the preamble of Section 5.1, Policy 42 must be read in conjunction with each of the other relevant policies, including all the General Policies and Policy 15. Together these policies address the matters sought by the submitter, including those relating to the protection of historic heritage. It is not necessary to refer to historic heritage throughout the Policies when a standalone Policy provides the required protection already. | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| Policy 44 – Extraction or deposition of material | | | | |
| 43 – Royal Forest and Bird Protection Society | 607 | Amend | Accept | Support the Officers' recommendation. |
| | | Submitter seeks amendments to Policy 44 of the Plan to read: <i>Extraction of sand, shingle, shell and other natural material from the foreshore or seabed, or deposition of material on the foreshore or seabed, not provided for by Policies 39, 40, and 42 will should: [...];</i> | Officers recommend granting the relief sought by the submitter, however, recommend using “must” instead of “will” to maintain consistency with relief sought by other submitters. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 45 – Appropriateness of reclamation or drainage | | | | |
| 26 – Transpower NZ Ltd | 610 | Amend | Accept | Support the Officers' recommendation. |
| | | Submitter supports Policy 45(d) of the Plan but seeks amendment to Policy to read: | Officers note the support for Policy 45(d) that recognises nationally and regionally important infrastructure. | |

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| | | Enable r <i>Reclamation or drainage of land in the coastal marine area will not be allowed unless where: [...] (d) the activity provides significant public benefit with particular regard to the extent to which the reclamation or drainage and intended purpose would provide for the efficient operation of nationally and regionally important infrastructure including, but not limited to, ports, airports, coastal roads, pipelines, electricity transmission, railways, marinas and electricity generation.</i> | However, the submitter is concerned that the term "not be allowed" infers the decline of a resource consent and could be interpreted as predetermining the outcome of a resource consent process. The suggested wording provides an alternative that frames the policy more positively and captures the Policy intent. Officers agree to the request to amend Policy 45 but suggest a different wording to maintain consistency with language adopted elsewhere in the Plan: Allow r <i>reclamation or drainage of land in the coastal marine area where: [...]</i> | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | | |
| Policy 46 – Design of reclamation | | | | |
| 43 – Royal Forest and Bird Protection Society | 615 | Amend Submitter seeks amendment to Policy 46 of the Plan to provide for protection required by Policies 11, 13 and 14 of the <i>New Zealand Coastal Policy Statement</i> OR Alternatively retain Policy 46 as worded and amend Policies 5 and 45 as per the relief sought by the submitter in relation to those policies. | Accept in part Officers suggest that the submitter's concerns have already been provided for within the Plan. As stated in the preamble of Section 5.1, Policy 46 must be read in conjunction with each of the other relevant policies, including all the General Policies, which address the natural character and indigenous biodiversity policies of the <i>New Zealand Coastal Policy Statement</i> referred to by the submitter. It is not necessary to continuously refer to indigenous biodiversity or natural character value throughout the Policies when General Policies already provide for the required protection. Notwithstanding the above, refer to submission points 281 and 607 in relation to officer recommendations relating to granting in part reliefs sought by the submitter in relation to Policies 5 and 45 of the Plan. | Support the Officers' recommendation to retain as notified. |
| Further submissions – Port Taranaki Ltd (32) | | Oppose/Support in part | | |
| Policy 47 – Taking and use of coastal water | | | | |
| 43 – Royal Forest and Bird Protection Society | 619 | Support Retain Policy 47 of the Plan as notified. | Accept Support noted. Policy 47 is retained subject to minor amendments as requested by other submitters that do not change the policy intent. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Policy 49 – Noise and vibration | | | | |
| 33 - New Zealand Defence Force | 622 | Support Retain Policy 49 of the Plan as notified. | Accept Support noted. Policy 49 is retained subject to minor amendments as requested by another submitter that does not change the policy intent. | Support the Officers' recommendation in the tracked change version. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| 4.4 Methods | | | | |
| Methods 1 to 7 – General | | | | |
| 2 – Federated Farmers | 627 | Support Retain Implementation Methods 1 - 7 of the Plan as notified. | Accept | Support the Officers' recommendation. |

| Submitter | Submission Point | Submitter's requests | Officers' recommendation and response | Port Taranaki Limited Response |
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| Further submissions – Port Taranaki Ltd (32) | | Support | Support noted. The Methods are retained subject to amendments to offer relief to other submitters' concerns where appropriate. | |
| Method 8 – Coastal management framework | | | | |
| 43 – Royal Forest and Bird Protection Society | 637 | <p>Amend</p> <p>Submitter seeks amendment to Implementation Method 8 of the Plan to read: <i>Implement Plan objectives, policies and methods of implementation that recognise different coastal processes, values, and uses, and which allow, regulate or prohibit activities in;</i> <u>1. the following coastal management areas:</u> a) Outstanding Value b) Estuaries Unmodified c) Estuaries Modified d) Open Coast e) Port; <u>and</u> <u>2. areas identified as having:</u> a) significant indigenous biodiversity values under Policy 14 b) areas with natural character values under Policy XX c) areas with natural features and landscapes under Policy XX; <u>Consistent with policies in section 5.1.</u></p> | <p>Grant in kind</p> <p>The relief sought seeks to expand Implementation Method 8 to reference locations, sites and places (at a finer spatial scale to coastal management areas) with significant coastal values. Officers recommend Method 8, which focuses on coastal management areas, be retained as is but propose an alternative relief whereby a new Method 8A is included that recognises significant sites and places at the finer spatial scale. The new Method would read as follows: <u>8A. Implement Plan objectives, policies and methods of implementation that allow, regulate or prohibit activities in locations, areas or places with significant values in a manner that avoids, remedies or mitigates adverse effects on:</u> a) infrastructure of regional importance b) natural character and natural features and landscapes c) indigenous biodiversity d) historic heritage, including sites of significance to Māori e) amenity values, including surf breaks.</p> | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| Methods 13 to 20 Natural heritage | | | | |
| 2 – Federated Farmers | 641 | <p>Support</p> <p>Retain Implementation Methods 13 to 20 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Implementation Methods 13 to 20 are retained subject to minor and inconsequential amendments requested by other submitters.</p> | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Method 34 – Public use and enjoyment | | | | |
| 2 – Federated Farmers | 661 | <p>Support</p> <p>Retain Implementation Method 34 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Implementation Method 34 is retained subject to minor and inconsequential amendments requested by another submitter.</p> | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Method 50 – Regional marine oil responses | | | | |
| 7 – Waikato Regional Council | 670 | <p>Support</p> <p>Submitter supports Implementation Method 50 of the Plan relating to marine oil spill responses.</p> | <p>Accept</p> <p>Support noted. Implementation Method 50 is retained as notified.</p> | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Method 51 – Noise standards | | | | |
| | 671 | <p>Amend</p> | <p>Decline</p> | Support the Officers' recommendation. |

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| 43 – Royal Forest and Bird Protection Society | | Submitter seeks amendment to Implementation Method 51 of the Plan to delete reference to New Zealand Standards and replace with: <i>[...] considerations of the latest information of the effects of noise of marine species and habitats. The use of the most recent professionally supported noise modelling for the marine environment. Taking a precautionary approach where limited information is available.</i> | Officers recommend declining the relief sought by the submitter noting that the <i>New Zealand Standards NZS 6802:2008 Acoustics - Environmental noise and NZS 6803: 1999 Acoustics – Construction Noise</i> have been adopted and underpin the limits set in Section 8.6.3 [General standards – Noise]. | |
| Further submissions – Trans-Tasman Resources Ltd (6), Port Taranaki Ltd (32) | | Oppose | | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Support | | |
| 4.5 Rules | | | | |
| General – Plan | | | | |
| 43 – Royal Forest and Bird Protection Society | 674 | Amend | Accept | Support the Officers' recommendation. |
| | | Submitter seeks amendment to rules to change “effects on ecological values” to “effects on indigenous biodiversity” in matters for control. | The term “ <i>ecological values</i> ” means relating to or concerned with the relation to organisms to one another and their physical surroundings. As such it has a broad application and potentially captures other matters of control identified in relevant rules such as water quality but is potentially unclear as to what other constituent parts of the environment are also captured in the term. For the purposes of certainty and clarity, officers recommend changing reference to “ <i>effects on ecological values</i> ” to “ <i>effects on indigenous biodiversity</i> ” plus other consequential changes (addressing natural character) within the rules section to better align with Plan policies addressing natural form and functioning and indigenous biodiversity. This relief will better align language between the rules and language already adopted in the objectives and policies of the Plan. | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| Rule 2 – Stormwater discharges | | | | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 699 | Support | Accept | Support the Officers' recommendation. |
| | | Retain Rule 2 of the Plan as notified. | Support noted. Rule 2 is retained as notified, subject to minor inconsequential amendments that do not change the Rule's scope. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | | |
| Rule 4 – Petroleum dispersal use in the Port | | | | |
| 54 – Maritime New Zealand | 708 | Amend | Accept | Support for the Officers' recommendation to delete the Rule is provided only if there is no need for the Port to obtain consent under the RMA for the discharge of a petroleum dispersant (or oil spill control agent) into water in the CMA in the event of a natural oil seep resulting from capital dredging. PTL will research this issue prior to the hearing as it is unclear if there is the duplication of regulatory controls indicated in the Officers' report. |
| | | Submitter seeks amendment to the Plan by deleting Rule 4, OR Alternatively, amend Rule 4 by replacing the term “petroleum dispersant” with “oil spill control agent” to clarify the difference between a dispersant to be used on petroleum products | The submitter and others have highlighted a broader issue of duplicating regulatory controls addressed under the <i>Marine Protection Rules – Part 132: New Zealand Oil Spill Control Agents</i> . Officers therefore recommend that Rule 4 be deleted. | Support the words “oil spill control agent” to replace “petroleum dispersant” |

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| | | (spilt in the marine environment) and petroleum based dispersants. | | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose/Support in part | | The rational for our comment is to protect the environment from a natural seepage. |
| Rule 9 – Sampling and biofouling in the Port | | | | |
| 16 – Ministry for Primary Industries | 736 | <p>Amend</p> <p>Submitter seeks amendment to Rule 9 in order to refine how the Australian/New Zealand Anti-Fouling and In Water Cleaning Guidelines (2013) are translated into the Rules. In particular, to the description of fouling and the activity description.</p> <p>Amend permitted activity rule for in-water cleaning of biofouling to read:</p> <p>Activity: <u><i>In-water cleaning of biofouling from the part of a ship, moveable object or navigation aid that is normally below the water surface, resulting in the discharge of a contaminant into water in the coastal marine area and any associated:</i></u> <u><i>(a) deposition on the foreshore or seabed.</i></u> <u><i>Note: If the activity does not meet the standards, terms and conditions in this Rule refer to Rule 13.</i></u></p> <p>Standards, terms and conditions: <u><i>(a) the anti—foul coating on the ship, moveable structure or navigational aid shall not have exceeded its planned service life as specified by the manufacturer, and the cleaning method shall be undertaken in accordance with the coating manufacturer's recommendations;</i></u> <u><i>(b) microfouling may be cleaned without capture;</i></u> <u><i>(c) goose barnacles may be cleaned without capture;</i></u> <u><i>(d) macrofouling (other than goose barnacles) coverage on the ship, moveable structure or navigational aid shall be less than or equal to 2 on the Level of Fouling rank (Floerl et al (2005));</i></u> <u><i>(e) all biological material greater than 50 microns in diameter dislodged during cleaning (other than goose barnacles) shall be captured and disposed of at an approved landfill; and</i></u> <u><i>(f) if any person undertaking or responsible for the cleaning, suspects that harmful or unusual aquatic species (including species designated as unwanted organisms or pest species under the Biosecurity Act 1993) are present on the ship, structure or navigational aid, that person shall take the following steps:</i></u> <u><i>i. any cleaning activities commenced shall cease immediately, and</i></u></p> | <p>Accept</p> <p>The intention of Rule 9 is to provide for additional hull cleaning activities that are currently prohibited under the current Plan. Hull cleaning currently excludes ships that are greater than 25 meters in length and any ships that have been outside the exclusive economic zone since their last hull cleaning. Many second-generation coastal plans have provisions that allow the cleaning of these hulls provided the appropriate standards, terms and conditions are met.</p> <p>It is officers' opinion that the requested amendments provide additional information that strengthens Rule 9 and aligns with industry requirements and procedures. Officers further note that capture of macrofoul will be an important condition to ensure that the Port and surrounding areas (of note the nearby area of outstanding value) are safeguarded against any possible invasive species introduction. Officers recommend granting the relief requested subject to minor inconsequential word changes to align the reading of rules with the remainder of the Plan. The amended rule would read as follows:</p> <p>Activity <u><i>Discharge of contaminants from the cleaning of biofouling from the part of a ship, moveable object or navigation aid that is normally below the water surface into water in the coastal marine area and any associated:</i></u> <u><i>(deposition on the foreshore or seabed.</i></u> <u><i>Note (1) If the activity does not meet the standards, terms and conditions in this Rule refer to Rule 13.</i></u> <u><i>Note (2) For the purposes of this rule, further guidance is provided in the Anti—fouling and In-water Cleaning Guidelines (June 2013).</i></u> <u><i>Note (3) International vessels arriving into New Zealand waters have additional obligations under the Craft Risk Management Standard: Biofouling on Vessels Arriving to New Zealand (May 2014).</i></u></p> <p>Standards, terms and conditions: <u><i>(a) the anti—foul coating on the ship, moveable object or navigation aid shall not have exceeded its planned service life as specified by the manufacturer, and the cleaning method shall be undertaken in accordance with the coating manufacturer's recommendations;</i></u> <u><i>(c) the activity does not involve any species designated as unwanted organisms or pest species under the Biosecurity Act 1993.⁴</i></u></p> | Support Officers' recommendation which provides for "out of water" cleaning activities and is focused on discharge of contaminants from the cleaning of biofouling to the coastal marine area. |

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| | | <p><i>ii. the Taranaki District Council and the Ministry for Primary Industries shall be notified without unreasonable delay; and</i></p> <p><i>iii. the cleaning may not recommence until notified by the Council to do so, or in the event a designated unwanted organisms or pest species is found, notified to do so by the Ministry for Primary Industries.</i></p> <p><u>Notes</u></p> <p><i>1. For the purposes of the above, further guidance is provided in the Anti-fouling and In-water Cleaning Guidelines (June 2013).</i></p> <p><i>2. International vessels arriving into New Zealand waters have additional obligations under the Craft Risk Management Standard: Biofouling on Vessels Arriving to New Zealand (May 2014).</i></p> <p><u>Footnotes</u></p> <p><i>Defined in Floerl et al (2005) A Risk-based Predictive Tool to Prevent Accidental introductions of Nonindigenous Marine Species as: Light Fouling - 1—5% of visible surface covered by very patchy macrofouling. Remaining area often covered in microfouling.</i></p> | <p><i>(d) macrofouling (other than goose barnacles) coverage on the ship, moveable structure or navigational aid is less than or equal to 2 on the Level of Fouling rank (Floerl et al (2005));⁵ and</i></p> <p><i>(e) all biological material that cannot pass through a 50 micron sieve that is dislodged during cleaning (other than goose barnacles) is captured and disposed of at an approved landfill (microfouling and goose barnacles may be cleaned without capture).</i></p> <p><i>⁴ If any person undertaking or responsible for the cleaning suspects that harmful or unusual aquatic species are present, that person should cease the activity immediately and notify the Ministry for Primary Industries without unreasonable delay. Cleaning should not recommence until notified by the Ministry for Primary Industries.</i></p> <p><i>⁵ Defined in Floerl et al (2005) A Risk-based Predictive Tool to Prevent Accidental introductions of Nonindigenous Marine Species as: Light Fouling - 1—5% of visible surface covered by very patchy macrofouling. Remaining area often covered in microfouling.</i></p> | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| Rule 11 – Abrasive blasting discharges | | | | |
| 32 – Port Taranaki | 749 | <p>Amend</p> <p>Submitter suggests that within the Port coastal management area the effects of abrasive blasting discharges are well known and understood. Therefore, submitter seeks amendment to Rule 11 of the Plan to make the activity a Controlled Activity in the Port coastal management area and draft an appropriate set of matters over which control shall be restricted to.</p> | <p>Decline</p> <p>Abrasive blasting is capable of having significant adverse environmental effects. Given the amount of industrial and trade premises in the vicinity of the Port, the storage and transfer of dangerous and hazardous cargos and other materials, it is appropriate that such matters be considered on a case-by-case basis as a Discretionary Activity to ensure adverse effects are appropriately avoided, remedied or mitigated.</p> | Support the Officers' recommendation. |
| Rule 12 – Seismic surveying and bathymetric testing | | | | |
| 37 – Petroleum Exploration and Production Association of NZ | 755 | <p>Support</p> <p>Retain Rule 12 of the Plan as notified.</p> | <p>Decline</p> <p>Support noted. Officers note that Rule 12 is recommended to be split into two rules, a permitted activity for bathymetric testing and an additional rule (Rule 12A) for seismic surveying as a Controlled Activity. The Controlled Activity classification is recommended so that the Council can ensure that adverse effects on indigenous biodiversity are appropriately considered and addressed through a consenting process.</p> | Support the Officers' recommendation. |
| Further submissions – Climate Justice Taranaki Inc (21), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Rules 13 and 14 – Other discharges | | | | |
| | 773 | Support | Accept | Support the Officers' recommendation. |

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| 6 – Trans-Tasman Resources Ltd | | Retain Rules 13 and 14 of the Plan as these rules appropriately recognise and provide for other discharge activities to be assessed as either discretionary in open coast or Non-complying in the more sensitive outstanding value areas and are consistent with the activity status given to “other” activities (Rules 33, 34, 42 and 43). | Support noted. Rules 13 and 14 are retained subject to minor amendments as requested by other submitters that do not change the rule’s scope. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | | |
| Rule 15 – Storage or transfer of cargo materials within the Port air zone | | | | |
| 32 – Port Taranaki | 781 | <p>Amend</p> <p>Submitter seeks amendment to Rule 15 of the Plan to:</p> <ul style="list-style-type: none"> read: <i>Storage and transfer of cargo materials within the Port Air Zone involving discharge of contaminants to air <u>and water</u>.</i> amend the standard/terms/conditions to refer to discharges to water as per G2.11 of the operative Plan. <p>OR</p> <p>Provide an exception for contaminant discharges from storage and transfer of animal feed cargo to water from storage and transfer to/from ships to wharves (such a rule could be placed before Rule 13).</p> | <p>Accept</p> <p>Submitter recognises that Rule 15 provides for the discharge to air of contaminants from the storage and transfer of cargo within the Port Air Zone as a Permitted Activity and includes dust discharges to air from products such as animal feed that is transferred from ships via ship cranes to the wharves. The operative Coastal Plan provides for the discharge of this product in the same circumstances to air and water via the General Rule G2.11(a). This rule has not been translated across to the Proposed Coastal Plan. It is considered that the effect on the environment from the discharge of contaminants from the storage and transfer of animal feed cargo to air and water in the Port Air Zone is minimal and is essentially fish feed.</p> <p>Officers recommend granting the relief sought by amending the Activity Description of Rule 15 to read as follows:</p> <p><i>Storage and transfer of cargo materials within the Port Air Zone involving discharge of contaminants to air <u>or water</u>.</i></p> <p>Officers further recommend consequential amendments to broaden the scope of the rule to include water discharges to include additional conditions specific to water discharges. These include conditions on effects on aquatic life, and water quality after reasonable mixing.</p> | Support the Officers' recommendation. |
| Rule 16 – Storage or transfer of cargo materials within the Port air zone | | | | |
| 32 – Port Taranaki | 782 | <p>Amend</p> <p>Submitter seeks amendment to Rule 16 of the Plan to:</p> <ul style="list-style-type: none"> read: <i>Storage and transfer of cargo materials within the Port Air Zone involving discharge of contaminants to air <u>and water</u> that does not come within or comply with Rule 15.</i> amend the standard/terms/conditions to refer to discharges to water as per G2.11 of the operative Plan. | <p>Accept</p> <p>For the same reasons outlined in the submitter's requested relief for Rule 15, the submitter is seeking an equivalent change in Rule 16.</p> <p>Officers recommend granting the relief sought by amending the Activity Description of Rule 15 to read as follows:</p> <p><i>Discharge of contaminants to air or water during the storage or transfer of cargo materials within the Port Air Zone that does not come within or comply with Rule 15.</i></p> | Support the Officers' recommendation. |

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| | | OR Provide an exception for contaminant discharges from storage and transfer of animal feed cargo to water from storage and transfer to/from ships to wharves (such a rule could be placed before Rule 13). | | |
| Rule 17 – Other discharges to air | | | | |
| 47 – Fonterra | 784 | Support Retain Rule 17 of the Plan as notified. | Accept Support noted. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Rule 18 – Outfall structure placement | | | | |
| 32 – Port Taranaki | 788 | Amend Submitter seeks amendment to Rule 18(a) of the Plan to read: (a) structure has a maximum internal diameter of 150300 mm and extends a maximum of 0.5m seaward of the line of mean high water springs; [...] | Accept Submitter considers the maximum outfall diameter threshold is unreasonably low and seeks amendment to Rule 18(a). The submitter noted, in pre-hearing engagement that the current Plan allowed an internal diameter of 600mm. Officers agree with the views of the submitter and suggest that the environmental effects of the placement of small (i.e. less than 300mm diameter) outfall structures can be adequately addressed through the standards, terms and conditions of the Permitted Activity rule. Officers note that the discharge itself will be addressed under different rules. Officers therefore recommend amending Rule 18 as requested by the submitter. | Support the Officers' recommendation. |
| Rule 19 – Mooring structure placement in the Port | | | | |
| 58 – Te Atiawa | 800 | Support Retain Rule 19 of the Plan as notified. | Accept Support noted. Rule 19 is retained subject to minor amendments as requested by other submitters that do not change the rule's scope. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| NEW Rule 19A – Mooring structure placement in the Port | | | | |
| 43 – Royal Forest and Bird Protection Society | 801 | Amend Submitter seeks amendment to the Plan to include a new rule for mooring structure placement in the Port that cannot comply with Rule 19 as a Restricted Discretionary (or Discretionary Activity) and include a matter of discretion to consider the effects on indigenous biodiversity values. | Accept in part Officers refer the submitter to Rules 23 and 33 which are the catch-all rule for mooring structures not meeting the activity description or all the standards, terms and conditions. Rule 23 is a Controlled Activity rule for the Port and officers note that control is reserved over ecological values as directed in Condition (f). Rule 33 is a Discretionary Activity for any structure erection or placement that does not come within or comply with previous relevant rules. Officers recognise that the term “ecological effects” is meant to cover the protection of indigenous biodiversity. Officers recommend replacing the term “ecological values” with “indigenous biodiversity” to clarify that intent. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| Rule 20 – Mooring structure placement | | | | |
| 29 – Department of Conservation | 803 | Support The Department of Conservation often uses monitoring moorings in the coastal environment | Accept | Support the Officers' recommendation. |

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| | | during its operations and supports the permitted classification of mooring structure placement for monitoring or sampling equipment. Retain Rule 20 as notified. | Support noted. Rule 20 is retained subject to minor amendments as requested by other submitters that do not change the rule's scope. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Rule 21 – Navigation aid erection and placement | | | | |
| 29 – Department of Conservation | 813 | <p>Amend</p> <p>Submitter believes that the erection of maritime navigation aids should not be a permitted activity for any member of the public. Instead the activity should be permitted for only the Taranaki Regional Council or its agents, Maritime Mew Zealand or its agents, or Port Taranaki provided that these agencies agree to this responsibility. Submitter seeks amendment to Rule 21 of the Plan to include a new condition before condition (a) to read:</p> <p><i>The activity is undertaken by:</i></p> <p><i>(i) Taranaki Regional Council or its agents; or</i></p> <p><i>(ii) Port Taranaki; or</i></p> <p><i>(iii) Maritime New Zealand or its agents.</i></p> | <p>Accept</p> <p>Officers agree and recommend granting the relief sought by the submitter.</p> | <p>The tracked changes version of the Plan prepared for the Hearing reads:...(ii) Port Taranaki or its agents (within the Port); or...</p> <p>Port Taranaki could support the officers' recommendation if it was amended as follows: ...</p> <p>(ii) Port Taranaki or its agents; or...</p> <p>That is: remove the words "(within the Port)". It is noted that no submitter has requested the addition of (within the Port) and Port Taranaki was not consulted on the proposed change.</p> <p>The reason for the proposed deletion of (within the Port) is that Port Taranaki currently has one navigation aid outside the Port Coastal Management Area and may require more to be erected or placed there within the life of the Plan.</p> |
| Further submissions – Trans-Tasman Resources (6) | | Oppose | | |
| Further submissions –Port Taranaki Ltd (32) | | Support | | |
| Rule 22 – Network utility structure erection or placement | | | | |
| 45 – Powerco | 836 | <p>Support</p> <p>Retain Rule 22 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted</p> | Support the Officers' recommendation. |
| Further submissions –Port Taranaki Ltd (32) | | Support | | |
| Rule 23 –Port launching, mooring or berthing | | | | |
| 43 – Royal Forest and Bird Protection Society | 844 | <p>Amend</p> <p>Submitter seeks amendment to Rule 23 of the Plan to make the erection and placement of launching, mooring or berthing structures in the Port a Restricted Discretionary Activity (rather than a Controlled Activity).</p> | <p>Decline</p> <p>Officers recommend declining the relief sought by the submitter.</p> <p>Officers note that Rule 23 seeks to provide for the erection and placement of launching, mooring or berthing structures in the Port as a Controlled Activity. This is consistent with Policy 6 [Regionally important infrastructure] of the Plan, but is still subject to the appropriate management of adverse effects. Officers note that the Port is already a highly modified environment that provides a national and regionally important function whereby the movement of goods is dependent upon the erection and placement of launching, mooring and berthing structures. This is subject to complying with the standards, terms and conditions addressing the avoidance, remedying or mitigating of adverse effects (of which those relating to historic heritage and indigenous biodiversity are</p> | Support the Officers' recommendation. |
| Further submissions –Port Taranaki Ltd (32) | | Oppose | | |

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| | | | particularly pertinent). Officers sees no net environmental benefit to reducing business certainty in the Port by making the activity a Restricted Discretionary Activity. | |
| Rule 25 – Hard protection structure erection or placement | | | | |
| 32 – Port Taranaki | 852 | <p>Amend</p> <p>Submitter seeks amendment to Rule 25 of the Plan to provide for hard protection structures within the Port coastal management area as a Controlled Activity (rather than a Discretionary Activity).</p> | <p>Decline</p> <p>Officers recommend declining the relief sought by the submitter.</p> <p>Officers note that this Rule is an existing rule in the current Plan. Further, in accordance with the <i>New Zealand Coastal Policy Statement</i> and the policies of this Plan (particularly Policy 34), there is an expectation that hard protection structures will be discouraged and the use of alternatives promoted. This expectation is unlikely to be realised as a Controlled Activity.</p> | <p>See comments above on Policy 34.</p> <p>The Officer's recommendation is not supported because it does not take proper account of the NZCPS which provides for the protection of existing regionally important infrastructure from coastal hazards. The NZCPS states at Policy 27:</p> <p><i>(1) In areas of significant existing development likely to be affected by coastal hazards, the range of options for reducing coastal hazard risk that should be addressed includes:</i></p> <p>a) ...</p> <p>b) ...</p> <p>c) <i>Recognising that hard protection structures may be the only practical means to protect existing infrastructure of national or regional importance, to sustain the potential of built physical resources to meet the reasonably foreseeable needs of future generations;"...</i></p> <p><i>(2) Where hard protection structures are considered to be necessary, ensure that the form and location of any structure are designed to minimise adverse effects on the coastal environment.</i></p> <p>PTL suggested a controlled activity status in lieu of there being no restricted discretionary activities in the Proposed Coastal Plan. PTL agrees that the effects of hard protection structures on the coastal environment can be significant.</p> <p>A restricted discretionary activity status for hard protection structures at the Port would be acceptable to PTL and PTL offers its assistance in drafting appropriate matters for which the Council would restrict its discretion to.</p> <p>In respect to the Officers' comments, it is agreed that when a review of a plan is undertaken the operative plan is usually the starting point. However, a review requires consideration of changes to societal goals, economic considerations and environmental changes to be taken into account (amongst other things), since the operative plan was drafted and approved. Climate change and sea level rise has caused a paradigm shift in the way management at the coast occurs and this is reflected in the NZCPS and various other guidance documents provided by Central Government. As climate change and sea level rise continues and more frequent storms cause overtopping of the breakwaters, PTL will need to take a pro-active approach to protecting its assets within the Port Coastal Management Area. Full discretionary activity status for these activities will not enable agile responses and the proposals could be delayed through lengthy RMA processes.</p> <p>It is further noted that under section 1.7.4 and Policy 1(e) of the Plan, the Port Coastal Management Area is identified as already highly modified and</p> |

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| | | | | it is not appropriate to apply a one-size fits all approach for all hard protection structures within the CMA for the Port. |
| Rule 26 – Exploration or appraisal of well drilling in the Open Coast or Port | | | | |
| 25 - New Zealand Petroleum and Minerals | 858 | Support Retain Rule 26 of the Plan as notified. | Accept Support noted. Rule 26 is retained subject to amendments made to offer relief to other submitters. | PTL supports the officers' recommendation for Rule 26 subject to the additional relief recommended to include a new Rule 25A for the drilling of geotechnical bores. It is noted that Rule 25A only provides for the Port Coastal Management Area and it is unclear if this is an error or intentional. |
| Further submissions – Trans-Tasman Resources (6), Port Taranaki Ltd (32), Petroleum Exploration and Production Association of New Zealand (37) | | Support | | |
| Further submissions – Climate Justice Taranaki Inc (21) | | Oppose | | |
| NEW Rule 26A – Disturbance of seabed by mining | | | | |
| 6 – Trans-Tasman Resources Ltd | 878 | Amend Submitter seeks amendment to the Plan by including a new Rule 26A to explicitly address disturbance of the seabed by drilling, which would read as follows: <i><u>26A Disturbance of seabed by drilling</u></i> <i><u>Classification: Permitted activity</u></i> <i><u>Coastal management areas: Estuaries Unmodified, Estuaries Modified, Open Coast, Port</u></i> <i><u>Standards, terms and conditions</u></i> <i><u>(a) Drilling is confined to mud, silt, sand, gravel and other fine sediments;</u></i> <i><u>(b) drilling does not occur within the Schedule 2 locations or within 200m of the Schedule 2 locations;</u></i> <i><u>(c) spacing between drilling locations (other than a re-drill or twinning of a hole) is not less than 0.5 km;</u></i> <i><u>(d) recurrent drilling (other than a re-drill or twinning of a hole) at the same location does not occur more frequently than once every two months;</u></i> <i><u>(e) the volume of material removed from a drilling location does not exceed 0.3 m3;</u></i> <i><u>(f) the area of seabed disturbed at a drilling location does not exceed 3 m2;</u></i> <i><u>(g) drilling does not have an adverse effect on the values associated with historic heritage identified in Schedule 5 [Historic heritage];</u></i> <i><u>(h) drilling does not have an adverse effect on any threatened or at risk (declining) species, or any rare and uncommon ecosystem type, including those identified in Schedule 4 [Significant indigenous biodiversity] or any reef system; and</u></i> | Decline Officers do not believe this rule is necessary and suggest that Rule 26 already addresses the activity. Nor do officers consider it appropriate that drilling for seabed mining be a Permitted Activity. | Support the Officers' recommendation. |

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| | | <i>(i) Taranaki Regional Council is informed of the scale, location and timing of the activity at least five working days before work commences by entering details of the of the activity at www.trc.govt.nz/informcouncil.</i> | | |
| Further submissions – Climate Justice Taranaki Inc (21), Te Rūnanga o Ngāti Mutunga (40), Te Korowai o Ngāruahine Trust (41), Royal Forest and Bird Protection Society (43), Te Atiawa (58), Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose in part | | |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Neutral | | |
| Rules 26, 27 and 28 – Exploration or appraisal of well drilling in the Open Coast or Port | | | | |
| 21 – Climate Justice Taranaki | 879 | Amend Submitter seeks that drilling of any petroleum exploration or appraisal well and associated activities in the coastal marine area be a Prohibited Activity OR If this is not acceptable to Council, seek that the drilling of any petroleum exploration or appraisal well and associated activities in the Open Coast and Port be a Discretionary Activity (rather than Controlled Activity) and that consent applications be Publicly Notified (whether the activity is deemed Discretionary or Controlled) OR If Rule 26 retains its Controlled Activity status, seek that the setback distance of 1,000m from sensitive marine benthic habitat (Schedule 4B), reef system or boundary of Outstanding Value coastal management areas be increased to at least 6,000 m. | Decline Officers recommend declining the relief sought by the submitter. Officers note that the seabed drilling in the Open Coast and Port is a Permitted Activity under the current Plan but is proposed to be a Controlled Activity for which a resource consent is required. It is important to differentiate between hydrocarbon <u>exploration</u> activities and later <u>production</u> activities as they are totally different activities with totally different associated environmental effects, i.e. due to the increased scale of activities and therefore effects associated with the construction and operation of an offshore petroleum production installation. The drilling associated with seabed exploration should not result in more than minor adverse effects, subject to compliance with standards, terms and conditions set out in Rule 26. It is therefore considered inappropriate to make this activity a Discretionary Activity yet alone a Prohibited Activity. The submitter states that if the Controlled Activity status is retained, then they seek extended set back distances (from 1,000 m to 6,000 m) to be made from sensitive marine benthic habitat, reef systems or the boundary of Outstanding Value coastal management areas. No information has been provided to demonstrate why the proposed buffer distances are more appropriate compared to those adopted in the Rule and which were based on Cawthron recommendations set out in their advice entitled <i>Petroleum Drilling Activities: Buffer Distances From Outstanding Areas and Substrate Types Requiring Protection</i> . | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32), Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | | |
| Rules 26 to 30 – Exploration or appraisal well drilling | | | | |
| | 880 | Amend | Decline | Support the Officers' recommendation. |

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| 51 – Taranaki Energy Watch | | Submitter supports the bundling of consents in Rules 26 to 30 of the Plan and that activities that include an onshore and offshore component should be bundled together, however, opposes the use of bundling to make all petroleum activities a Controlled Activity in the coastal marine area. | Officers note the submitter's support in relation to bundling the onshore and offshore components of drilling. In relation to the submitter's opposition to bundling all petroleum activities as a Controlled Activity in the coastal marine area, officers note that the rules differentiate between hydrocarbon <u>exploration</u> activities and later <u>production</u> activities. Accordingly not "all" petroleum related activities have been bundled in this Rule. Separate rules apply recognising the different phases of hydrocarbon exploration and production activities and associated environmental effects, i.e. due to the increased scale of activities and therefore effects associated with the construction and operation of an offshore petroleum production installation. In relation to drilling activities, the 'bundled' activities identified in the Activity Description are incidental activities that would typically occur in association with any drilling activity. Their effects are considered and addressed as part of the standards, terms and conditions set out in the Rule. | |
| Further submissions – Port Taranaki Ltd (32), Petroleum Exploration and Production Association of New Zealand (37) | | Oppose | | |
| Further submissions – Te Korowai o Ngāruahine Trust (41) | | Support | | |
| Rule 29 – Petroleum production installation erection or placement in coastal management areas: Port and Open Coast | | | | |
| 25 – New Zealand Petroleum and Minerals | 896 | Support | Accept | Support the Officers' recommendation. |
| | | Retain Rule 29 of the Plan as notified. | Support noted. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Rule 30 – Petroleum production installation erection or placement in coastal management areas: Outstanding Value, Estuaries Unmodified and Estuaries Modified | | | | |
| 25 – New Zealand Petroleum and Minerals | 904 | Support | Accept | Support the Officers' recommendation. |
| | | Retain Rule 30 of the Plan as notified. | Support noted. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Rule 33 – Other structure erection or placement | | | | |
| 32 – Port Taranaki | 931 | Amend | Decline | Support the Officers' recommendation. See comments above in relation to Rule 25. |
| | | Submitter seeks amendment to Rule 33 of the Plan to provide for hard protection structures within the Port coastal management area not provided for in rules 18-32 to be a Controlled Activity. | Officers recommend declining the relief sought by the submitter. Officers note that this Rule is an existing rule in the current Plan that provides a consenting pathway to authorise activities not otherwise provided for in the preceding rules. Given it is too difficult to envisage or foresee every form or type of activity that might take place in the coastal marine area, a catch-all rule is considered appropriate. Officers do not consider it appropriate in such circumstances to differentiate between the Port and other activities given that, in accordance with the <i>New Zealand Coastal Policy Statement</i> and the policies of this Plan (particularly Policy 34), there is an expectation that hard protection structures will be discouraged and the use of alternatives | |

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| | | | promoted. This expectation is unlikely to be realised as a Controlled Activity. | |
| 32 – Port Taranaki | 932 | <p>Amend</p> <p>Submitter seeks amendment to Rule 33 of the Plan to provide an exception for Port Taranaki Ltd within the Port coastal management area for flood protection structures (similar or same definition as in the draft New Plymouth District Plan) to be Permitted Activities.</p> | <p>No relief necessary</p> <p>Officers do not believe any relief is necessary. Officers are unclear what flood protection structure exist within the Port Taranaki coastal management area noting that the rules are confined to the coastal marine area.</p> | Support the officers' recommendation |
| Rule 34 – Other structure erection or placement | | | | |
| 45 – Powerco | 944 | <p>Support</p> <p>Retain Rule 34 of the Plan as notified.</p> | <p>Accept</p> <p>Support noted. Rule 33 is retained subject to minor amendments sought by other submitters to better capture relevant activities.</p> | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | | |
| Rule 35 – Maintenance repair of existing lawfully established structures | | | | |
| 32 – Port Taranaki | 950 | <p>Amend</p> <p>Submitter seeks amendment to Rule 35 of the Plan to include the Port coastal management area to this rule.</p> | <p>Grant in kind</p> <p>Of note, the Plan includes a suite of Rules specific to Port structures (Rules 39, 40 and 41) which includes Permitted Activity Rule 39 [Port wharves or breakwaters and attached structures, maintenance, repair or alteration].</p> <p>In pre-hearing engagement, the submitter commented that it is not always evident which Rule applies to specific conditions and that a simpler cascade would assist Plan users and ensure that activities are managed consistently.</p> <p>Officers note that the standards, terms and conditions for Rule 39 is less directive than Rule 35. Rule 39 is also limited in its scope and only allows maintenance, repairs and alterations to the port wharves or breakwaters. Of note there are other structures in the Port coastal management area which may require maintenance and alteration. Officers consider that this distinction between different Port structures in the notified Plan was not necessary and that maintenance, alteration and extension of Port structures generally should be provided for as long as the appropriate standards, terms and conditions are met.</p> <p>Officers recommend granting an alternative relief to that sought by the submitter. Officers recommend including the Port within Rule 35 but also deleting Rule 39 to avoid unnecessary duplication between rules and confusion as to which rule applies to structures within the Port.</p> <p>Officers recommend further consequential changes elsewhere in the Plan to simplify the Rules cascade for Port structures. These changes involve combining Rules</p> | <p>The inclusion of the Port in this rule is supported and the inclusion of “repair” within the definition of maintenance in respect to this rule is also supported. The ability to use this rule for maintenance and minor alteration or minor extension of existing hard protection structures is also supported in principle.</p> <p>However, it is considered that there is still some confusion in relation to minor alteration and “alteration”. The definition of “alteration” does not allow for any change in external dimensions, so it is difficult to comprehend what a minor alteration would be.</p> <p>The definition of extension does allow modification to the external dimensions of a structure, and <u>minor</u> extensions can involve an increase in the length, width and height by up to and including 5% of the original size provided they are incidental to maintenance or <u>alteration</u> activities (my emphasis). Clarification of this proposed rule and definitions will be sought at the hearing.</p> <p>Overall, it is considered that if the rule is difficult to understand and needs the drafter to explain how it works, then greater clarity is required in the drafting of these rules and associated definitions in order to avoid interpretation issues later.</p> <p>It is further noted that under the definition of “extension” a reduction in the size of a structure would technically be classified as an extension as it would comprise a “modification”. While not intended, and a little unlikely, it is suggested that the definition should be clarified so that “modification” is changed to “increase”.</p> <p>Officers' recommendation indicates that it is the intention for minor alteration and minor extension of hard protection structures to be permitted under this rule and clarification of this is required.</p> |

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| 32 – Port Taranaki | 951 | <p>Amend</p> <p>Submitter seeks amendment to Rule 35 of the Plan to clarify the rule to enable clear determination of minor alteration as a Permitted Activity. The submitter seeks that any consequential amendments required to the rules to give effect to this submission point are also recommended by officers.</p> | <p>40 and 41 (and then deleting the now redundant Rule 41) to provide a similar drafting approach to Rule 35.</p> <p>Accept</p> <p>The submitter has concerns whether this rule would allow Port Taranaki Ltd to replace displaced akmons on the breakwaters and other areas within the Port. In pre-hearing engagement the submitter explained that akmons are often moved about during storms and that periodic maintenance of the breakwaters and other areas of the Port is required to ensure that Port infrastructure is safeguarded. The submitter is concerned that Rule 35 as drafted would not allow this activity, despite the inclusion of the Port within the coastal management areas because of the potential for the replaced akmons to be slightly outside the original external dimensions of the structure.</p> <p>In response to the concerns of the submitter (and others) in pre-hearing engagement in relation to the application of the suite of maintenance, alteration and extension rules, officers recommend realigning the rules to more clearly identify the activities encompassed within each rule. Of note, officers have recommended changes to the definition of 'maintenance', 'alteration' and 'extension', as well as redrafting of the rules.</p> <p>Officers consider the activity described by the submitter, and other similar activities, to be appropriate for a Permitted Activity, provided there are size thresholds is to ensure that incremental creep does not occur over time through 'maintenance', 'repairs' and 'minor alterations'.</p> | As per above. |
| Rule 36 – Hard protection structure repair, alteration, extension or removal and replacement | | | | |
| 32 – Port Taranaki | 960 | <p>Amend</p> <p>Submitter seeks amendment to Rule 36 of the Plan to provide for repair, alteration, extension or removal and replacement of existing lawfully established hard protection structures within the Port coastal management area as a Controlled Activity (rather than a Discretionary Activity) and provide a non-notification clause.</p> <p>The submitter seeks that any consequential amendments required to the rules to give effect to this submission point are also recommended by officers.</p> | <p>Grant in kind</p> <p>Officers note that there are three aspects to this submission point which will be addressed separately, (1) maintenance, alteration and extension of hard protection structures, (2) removal and replacement of hard protection structures and (3) notification.</p> <p>(1) In pre-hearing engagement, the submitter noted that the Port is an area that requires hard protection structures to ensure the safety of Port infrastructure as well as the ongoing operation of the Port which is considered regionally important and has a functional need to locate within the coastal marine area. Thus hard protection structures are expected to locate in this area and their maintenance and 'future proofing' should be appropriately provided for within the Plan.</p> <p>The submitter noted that hard protection structures are not always isolated structures and are generally integrated into other Port structures. The current regime would potentially require two consents to be sought (potentially with different activity classifications) for one</p> | <p>The Officers' recommendation to enable maintenance, alteration or extension of an existing lawfully established structure (including a hard protection structure) as a <u>controlled activity</u> within the Port (excluding the breakwaters) as per Rule 40 is generally supported.</p> <p>Of concern is the standards and terms for this rule which include standards that are not measurable, but rather would be part of an assessment of a resource consent. Hence the activity status is difficult to determine. It is considered that the status of an activity should be clear and certain, not subject to opinion and deliberation (standards (a)- (d) fall into this category).</p> <p>The Officers' recommendation to include a restricted discretionary activity rule (Rule 40A) for maintenance, alteration or extension of structures within the Port that do not fall within Rule 35 or 40 is supported.</p> <p>It is considered that maintenance, alteration or extension of hard protection structures is provided for as a restricted discretionary activity with no standards and terms under Rule 40A and renders Rule 42 redundant in respect to existing lawfully established hard protection structures <u>at the Port</u>. PTL seeks clarification that this is intended.</p> |

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| | | | <p>activity: one to address the hard protection aspect of the structure and another to address the structure itself. The submitter further noted that the Rules relating to maintenance, alteration, extension and removal and replacement of structures are confusing and unclear as to exactly which rule would apply for some activities. Officers note that the <i>New Zealand Coastal Policy Statement</i> discourages the use of hard protection structures and encourages the use of alternatives, however, it is officers view that discouragement should only apply to the initial placement or erection of the structure and does not stretch to the maintenance and alteration of legally established hard protection structures.</p> <p>Providing an appropriate pathway for the maintenance and upgrading to ensure the 'future proofing' of hard protection structures is necessary for good environmental outcomes and personnel safety. Further to this, officers note that maintenance and minor alteration of hard protection structures has already been provided for generally under Rule 35 as a permitted activity (hard protection structures are not excluded from the rule). For this reason, officers recommend an alternative relief that addresses the submitter's concerns to delete Rule 36 so that it is clear that maintenance, alteration or extension of hard protection structures are initially addressed under Rule 35 (for all structure types and coastal management areas as a permitted activity). If the activity cannot comply with Rule 35 then a higher regulatory process and consent will be required under Rules 37 and 37A (for network utility structures); and Rules 40 and 40A (for all Port structures). Other hard protection structure maintenance, alteration and extension that does not comply with rule 35 is addressed under Rules 42 (discretionary) and 43 (Non-complying) depending on the coastal management area involved.</p> <p>(2) In relation to the removal and replacement aspect of the submitter's concerns, officers note that there are potentially two pathways within the Plan for this activity, Through Rule 38 [Structure removal and replacement] or through Rules 44, 45 and 46 [Structure removal and demolition] and then the appropriate structure erection or placement rule (Rules 18 to 25).</p> <p>It is vital that the Plan provide a single clear pathway for Plan users. For this reason officers recommend deleting Rule 38 so that a plan user will have to consult the appropriate removal rule as well as the appropriate placement or erection rule. This will ensure an appropriate level of regulatory control depending on the activity. Permitted, controlled and discretionary pathways are all possible depending on the activity specifics.</p> | <p>In respect to non-notification clauses, PTL does not agree with officers that the Plan is not the place to include such matters. Many plans, both regional and district, have non-notification clauses. Non-notification clauses assist with expectations and reduce uncertainty where the activity status is low and the matters of control or restricted discretion are confined to technical matters.</p> |

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| | | | (3) Regarding the non-notification clause, officers consider that this level of detail is not necessary to be included within a Plan and is more appropriately set out within the RMA sections 95A to 95G. In order to ensure alignment with the RMA, officers recommend an alternative relief that deletes reference to consenting notification requirements in the Plan rules. | |
| Rule 37 – Network utility structure, repair, alteration or extension | | | | |
| 45 – Powerco | 970 | <p>Amend</p> <p>Submitter seeks amendment to Rule 37 of the Plan to read:</p> <p><i>Lawfully established network utility structure <u>maintenance</u>, repair, alteration or extension where the structure is:</i></p> <p><i>(a) a pipeline that is buried or attached to a bridge or access structure;</i></p> <p><i>[...]</i></p> <p><i>(d) a communication or electricity cable that is buried or attached to a bridge or access structure <u>or pole</u>; or</i></p> <p><i>[...]</i></p> <p><i>(d) discharge of sediment and does not come <u>within or</u> comply with Rule 35 [...]</i></p> | <p>Accept in part</p> <p>Officers note that there are multiple aspects to the submitter's request. Each is addressed in turn.</p> <ul style="list-style-type: none"> In relation to the inclusion of 'maintenance' officers recommend amending the Rule and note that there may be instances where a maintenance activity may not meet all of the standards, terms and conditions. In these instances, the activity may be addressed as a Controlled Activity under Rule 37. Officers recommend an alternative the relief to the amendment sought in relation to amending the Activity Description (d) to read as follows: <i>(d) a communication or electricity cable; or [...]</i> Regarding compliance with Rule 35, officers recommend declining the request and note that there may be instances where an activity does not come within the activity description of that Rule. Maintaining the current wording will ensure consistency with the rest of the Plan. | Support the Officers' recommendation to include 'maintenance' in the rule. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Rule 38 – Existing lawfully established structure removal and replacement | | | | |
| 13 – Spark New Zealand Trading Limited | 977 | <p>Amend</p> <p>Submitter seeks amendment to the standards, terms and conditions of Rule 38 [Existing lawfully established structure removal and replacement] of the Plan to read:</p> <p><i>[...]</i></p> <p><i>(f) the replacement structure is built in the same <u>or similar location</u> as the original structure;</i></p> <p><i>(g) The existing structure is removed completely with no waste being placed into the coastal marine area, <u>unless the removal of the structure is considered by a Suitably Experienced and Qualified Coastal Professional, in collaboration with the Regional Council, to have greater adverse effects on the environment than leaving it in place</u>;</i></p> <p><i>OR</i></p> <p><i>the standards, terms and conditions are amended to read:</i></p> | <p>Decline</p> <p>In response to other submitters, officers consider that Rule 38 is unnecessary as it addresses matters already covered through a different Rule pathway. Officers recommend deleting Rule 38 to avoid confusion for Plan users and instead rely on Rules 44, 45 and 46 for the removal aspect of the structure, and Rules 18 to 34 for the 'replacement' aspects of the structure.</p> | Support the Officers' recommendation to delete Rule 38 subject to clarification of the issues identified above with the amended and new rules in respect to structures recommended by the Officers'. |

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| | | <p>(f) the replacement structure, <u>except for submarine cables or lines</u>, is built in the same location as the original structure. <u>A replacement submarine cable or line must be laid or suspended within a horizontal distance of no more than three times the depth of water from the cable or line which is being replaced;</u></p> <p>(g) the existing structure is removed completely with no waste being placed into the coastal marine area, <u>unless the removal of the structure is considered by an independent suitably qualified and experienced coastal practitioner, to have greater adverse effects on the environment than leaving it in place. The reasoning for this must be provided to Taranaki Regional Council;</u></p> <p>[...]</p> | | |
| Further submissions – Port Taranaki Ltd (32), Powerco (45) | | Support in part | | |
| 47 – Fonterra | 986 | Support | Decline | Support the Officers' recommendation to delete Rule 38 subject to clarification of the issues identified above with the amended and new rules in respect to structures recommended by the Officers. |
| | | Retain Rule 38 of the Plan as notified. | Support noted, however, officers note that Rule 38 is recommended to be deleted in response to other submitter's requests due to duplication of Plan provisions. | |
| Further submissions – Port Taranaki Ltd (32) | | Support in part | | |
| Rule 39 – Existing lawfully established Port structure maintenance and repair | | | | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 991 | Amend | Grant in kind | Support the Officers' recommendation to delete Rule 38 subject to clarification of the issues identified above with respect to the amended and new structures rules recommended by the Officers. |
| | | Submitter seeks amendment to the Activity Description of Rule 39 of the Plan to read: <i>Existing lawfully established structure maintenance, repair or alteration where the activity relates to that part of the wharves or breakwaters that is normally above the water surface including any attached structures, and relates directly to port company operations and any associated: [...]</i> | Officers recommend granting the relief in kind. Officers note that amendments made to Rule 35 have made Rule 39 redundant due to duplication of provisions. As a result, Rule 39 is recommended to be deleted. Officers note that the concerns raised by the submitter and request to broaden the scope of Rule 39 to all port operations has already been provided for under Rule 35. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Rule 40 – Existing lawfully established Port structure maintenance and repair | | | | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 995 | Support | Accept | See discussion with respect to Rule 36 above. |
| | | Retain Rule 40 of the Plan as notified. | Support noted but note the inclusion of additional standards, terms and conditions. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Rule 41 – Existing lawfully established Port repair, alteration and extension | | | | |
| 40 – Te Rūnanga o Ngāti Mutunga | 998 | Amend | Decline | See discussion with respect to Rule 36 above; but generally support the sentiments expressed by Officers' in respect to retaining business certainty for the Port. |
| | | Submitter seeks amendment to Rule 41 of the Plan to make the maintenance, repair or alteration of structures in the Port that does not come within or comply with other related rules a | Officers recommend declining the relief sought. Officers note that the Port is already a highly modified environment that provides a national and regionally important function whereby the movement of goods is | |

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| | | Discretionary Activity (rather than a Controlled Activity). | dependent upon the ongoing maintenance, repair and alteration of Port structures. Subject to complying with the standards, terms and conditions, in accordance with Policy 6 the Council seeks to provide for such activities. The Council sees no net environmental benefit to reducing business certainty for the Port (by the potential of declining a resource consent application) by making the activity a Discretionary Activity. | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | Notwithstanding the above, officers note that in order to simplify the rules cascade relating to structure maintenance, alteration and extension Rules 40 and 41 have been merged and additional standards, terms and conditions inserted to address environmental effects to ensure the broader consideration of environmental effects. | |
| Rule 42 – Other structure repair, extension, removal or replacement | | | | |
| 32 – Port Taranaki | 1002 | Amend Submitter seeks amendment to Rule 42 of the Plan to: <ul style="list-style-type: none"> insert a new rule specifically for the Port coastal management area and in respect to Port activities providing Controlled Activity status for other structure repair, alteration, extension or removal and replacement that is not provided for in Rules 35 to 41 make any consequential amendments to other rules and objectives and policies to give effect to this relief OR <ul style="list-style-type: none"> provide another rule structure or amendment/additional rules to Rules 35-41 that delivers the same result for the port. | Accept in part Officers recommend accepting in part the relief requested by the submitter. Officers consider that regionally important infrastructure, which includes the Port, should be recognised within the Rules and provided for in a manner that promotes the maintenance and future proofing of infrastructure, subject to the appropriate regulatory controls and environmental outcomes. Officers recommend including two additional rules that provide a Restricted Discretionary pathway for maintenance, alteration and extension activities for the Port and for Network Utilities. These are new Rules 37A for network utility structures and 40A for Port structures. Officers note that Rules 35 and 37 already provide a Permitted and Controlled activity pathway for most maintenance, alteration and extension activities within the Port. Only in circumstances where the activity cannot comply with the standards, terms and conditions of these rules will a higher regulatory rule be required, i.e. Rule 40A. | Support the Officers' recommendation given that Rule 40A is the default rule for structures (including hard protection structures) within the Port Coastal Management Area and is a restricted discretionary activity. |
| Further submissions – Port Taranaki Ltd (32), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support | | |
| Rule 44 – Structure removal or demolition | | | | |
| 43 – Royal Forest and Bird Protection Society | 1016 | Support Retain Rule 44 of the Plan as notified. | Accept In relation to notification requirements proposed by the submitter, officers note that the rule includes a notification requirement to the Council under standard, term and condition (g). The Council have already agreed to pass the notification information onto interested iwi authorities. Officers recommend amending the rule to include an additional note under the Activity Description to indicate this for Plan users. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Rule 45 – Structure removal or demolition | | | | |
| 32 – Port Taranaki | 1022 | Amend | Accept | Support the Officers' recommendation. |

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| | | Submitter seeks amendment to Rule 45 of the Plan to read <i>[...] and the activity does not comply with Rule 45 44 [...]</i> : | Officers recommend granting the relief sought by the submitter. | |
| Rule 46 – Structure removal or demolition | | | | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1032 | Support | Accept | Support the Officers' recommendation. |
| | | Retain Rule 46 of the Plan as notified. | Support noted. Rule 46 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Rule 47 – Temporary occupation for community, recreational or sporting events | | | | |
| 43 – Royal Forest and Bird Protection Society | 1038 | Amend | Decline | Support the Officers' recommendation. |
| | | Submitter seeks amendment to Rule 47 of the Plan to make temporary occupation for community, recreational or sporting events a Controlled Activity (rather than a Permitted Activity). | Officers do not recommend granting the relief sought by the submitter. Officers note that the purpose of Rule 47 is to allow for community, recreational or sporting events to occur as much as possible without imposing unnecessary costs and constraints on the event associated with obtaining a resource consent. It potentially applies to such events as national and regional sailing, surf live saving, surfing, triathlons, swimming events and beach carnivals and is largely a continuation of an existing rule in the current Plan. | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| Rule 48 – Continued occupation | | | | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1047 | Support | Accept | Support the Officers' recommendation. |
| | | Retain Rule 48 of the Plan as notified. | Support noted. Rule 48 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | | |
| Rule 49 – Continued occupation | | | | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1054 | Support | Accept | Support the Officers' recommendation. |
| | | Retain Rule 49 of the Plan as notified. | Support noted. Rule 49 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | | |
| Rule 50 – Coastal occupation | | | | |
| 32 – Port Taranaki | 1061 | Amend | Accept | Support the Officers' recommendation. |
| | | Submitter seeks amendment to Rule 50 of the Plan's activity description to read: <i>[...] and the activity does not come within or comply with Rules 47 – 50 49 [...]</i> : | Officers recommend granting the relief sought by the submitter. | |
| Rule 51 – Clearance of outfalls, culverts and intake structures | | | | |
| 59 – KiwiRail | 1073 | Support | Accept | Support the Officers' recommendation. |
| | | Retain Rule 51 of the Plan as notified. | | |

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| Further submissions – Port Taranaki Ltd (32) | | Support | Support noted. Rule 51 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. | |
| Rule 52 – Collection of benthic grab samples | | | | |
| 6 – Trans-Tasman Resources Ltd | 1075 | Support Retain Rule 52 of the Plan as this rule appropriately enables monitoring of effects on benthic communities by providing for the removal of benthic material as a permitted activity where it is for scientific or monitoring purposes and where it meets the terms set out in the rule. | Accept Support noted. Rule 52 is retained subject to amendments to offer relief to other submitters' concerns where appropriate. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Further submissions – Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | | |
| Rule 56 – Dredging and spoil disposal (Open Coast) | | | | |
| 43 – Royal Forest and Bird Protection Society | 1093 | Support Retain Rule 56 of the Plan as notified. | Accept Rule 56 is retained as notified. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Rule 57 – Beach replenishment | | | | |
| 43 – Royal Forest and Bird Protection Society | 1100 | Support Retain Rule 57 of the Plan as notified. | Accept Support noted. Rule 57 is retained as notified. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Rule 60 – Other disturbance, damage, destruction, removal or deposition | | | | |
| 47 – Fonterra | 1115 | Support Retain Rule 60 of the Plan as notified. | Accept Support noted. Rule 60 retained as notified. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Rules 60 and 61 - Other disturbance, damage, destruction, removal, or deposition that is not provided for in Rules 51 to 59 | | | | |
| 6 – Trans-Tasman Resources Ltd | 1118 | Support Retain Rules 60 and 61 providing for other disturbance activities as Discretionary or Non-complying in more sensitive areas and suggests this is appropriate and consistent with the way in which the other rules have approached similar catch all provisions (Rules 13, 14, 33, 34, 42, and 43). | Accept Support noted. Rules 60 and 61 are retained with minor amendment to Rule 61 to remove the reference to the <i>Resource Management (National Environmental Standards for Electricity Transmission Activity Regulations 2009 (Appendix 6))</i> . | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Rule 63 – Other reclamation or drainage that is not provided for in Rule 62 (Estuaries Modified, Open Coast, Port) | | | | |
| 29 – Department of Conservation | 1126 | Support Retain Rule 63 of the Plan as notified. | Accept Support noted. | Support the Officers' recommendation. |

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| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Rule 65 – Taking or use of water, heat or energy | | | | |
| 6 – Trans-Tasman Resources Ltd | 1136 | Support Retain Rule 65 as this rule appropriately provides for the taking and use of coastal water as a permitted activity where the taking and use would not affect significant sites, species, or ecosystems. | Accept Support noted. Rule 65 is retained subject to amendments made to offer relief to other submitters' concerns where appropriate. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Further submissions– Te Rūnanga o Ngāti Ruanui Trust (61) | | Oppose | | |
| General standards 8.6.2 – Light | | | | |
| 43 – Royal Forest and Bird Protection Society | 1153 | Amend Submitter seeks amendment to General Standard 8.6.2 [Lights] of the Plan to include: <ul style="list-style-type: none"> standards for lights to be shielded or of a colour so that they do not attract or disturb seabirds new standard to avoid lighting near any seabird, including penguin, breeding areas new standards for navigational aids and safety to mitigate any adverse effects on seabirds. | Decline Officers recommend declining this relief sought by the submitter and note the following: <ul style="list-style-type: none"> General standard 8.6.2 already states that light sources will be shielded except for navigational aids and lights required under the Acts of Parliament. For navigational aids, a shielded light would lessen its effective over long distances and result in higher risks to vessels within the coastal marine area. A further consideration is that light colour is an important identifier of hazards and vessel pathways. Specific colours are required to comply with international regulations and standards. Lights in the coastal marine area are largely used for navigation and safety. As they are in the coastal marine area (and not on land) impacts on penguin breeding areas is likely to be minimal. Navigational aids are critical and ensure the safe passage of vessels within the coastal marine area and avoid incidents at sea, which, in turn are likely to have a much more significant impacts on seabirds and other marine life, e.g. marine oil spills. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| General standards 8.6.3 – Noise | | | | |
| 32 – Port Taranaki | 1156 | Support Retain the noise provisions in the Plan based on implementation of the Port Noise Standard and alignment between the New Plymouth District Plan and the Proposed Coastal Plan provisions as each go through their respective review processes. | Accept Support noted. General Standards 8.6.3 is retained as notified. | Support the Officers' recommendation. |
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| 4.6 Financial contributions, monitoring and review | | | | |
| Section 9 – Financial contributions | | | | |
| 32 – Port Taranaki | 1164 | Amend | Accept | Support the Officers' recommendation. |

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| | | Retain Section 9 of the Plan but seek amendment of the heading of Section 9 of the Plan to read: <i>9 - Financial contributions <u>and environmental compensation.</u></i> | Officers agree to the requested amendment as it more accurately describes the content of this section which is not limited to financial contributions but also includes environmental compensation. | |
| Section 9.1 – Purpose | | | | |
| 32 – Port Taranaki | 1167 | <p>Amend</p> <p>Submitter seeks amendment to Section 9.1 of the Plan to include wording that provides for environmental compensation to be applied wider afield than the immediate/adjacent site or surrounding area.</p> | <p>No relief necessary</p> <p>Officers note that Section 9 does not generally require environmental compensation to be applied in the immediate/adjacent site or surrounding area. The majority of situations described in Section 9.1 refer to “the general area” or “locality” and is not confined to “immediate or adjacent sites”. The only exception is Section 9.1.4 [Protection, maintenance or enhancement of visual amenity and landscape] which requires compensation to occur adjacent to the site to address visual amenity impacts. Officers consider these conditions to be appropriate and provides the necessary flexibility for Council to consider the effects of consenting a particular activity and the appropriateness of avoidance, mitigation and remediation measures to address adverse environmental effects. On occasion there may be a requirement to offset or mitigate any residual effects. Such matters necessarily need to be considered on a case-by-case basis having regard for the scale of the activity and the nature of the receiving location, including the surrounding landscape.</p> | Support the Officers' recommendation. |
| Section 9.1.8 – General – environmental compensation | | | | |
| 43 – Royal Forest and Bird Protection Society | 1171 | <p>Amend</p> <p>The submitter is uncertain as to how these provisions are to be applied and states that it is not appropriate to consider compensation for adverse effects which are to be avoided under the New Zealand Coastal Policy Statement. The submitter suggests compensation does not achieve protection of the values and characteristics to be protected. There must be limits to compensation to give effect to the <i>New Zealand Coastal Policy Statement</i>. Submitter seeks amendment to the Plan by deleting Section 9.1.8 [General environmental compensation]: <i>9.1.8 General – environmental compensation Purpose: To provide environmental compensation where an activity will have adverse effects, which will not be adequately avoided, remedied or mitigated by protecting, restoring and/or enhancing natural and physical resources and/or amenity values elsewhere in</i></p> | <p>Decline</p> <p>The submitter's comments are noted. However, officers note that environmental compensation is still subject to the objectives and policies of the Plan, which provide varying levels of protection including avoidance type policies. Environmental compensation cannot be considered in lieu of compliance with those policies. Officers recommend declining the relief sought. Environmental compensation may be a useful tool for activities unable to avoid adverse effects. This may be the case for necessary developments, upgrade or the placement of regionally important infrastructure which is provided for under the <i>Regional Policy Statement</i> (Section 15.2 [Providing for regionally significant infrastructure]). Further, the <i>New Zealand Coastal Policy Statement</i> does not require avoidance of all adverse effects. In such instances the Council may be required to “avoid significant adverse effects” or to “have regard to”. This language may introduce instances where financial contributions are acceptable, reasonable and recommended.</p> | Support the Officers' recommendation. |

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| | | the coastal environment in the same general locality. | It is important to recognise that these compensations can only be implemented when the policies within the Plan permit. Officers consider the policies within the Plan to be strong and to uphold the requirements of the New Zealand Coastal Policy Statement and therefore the compensations provided for here will be in alignment with requirements of the <i>New Zealand Coastal Policy Statement</i> . | |
| Further submissions – Trans-Tasman Resources Ltd (6), Port Taranaki Ltd (32) | | Oppose | | |
| 4.7 Definitions | | | | |
| Definitions – General | | | | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1177 | Support Retain the RMA definitions such as “best practicable option”, “coastal marine area”, “common marine and coastal areas”, “discharge”, “environment”, “structure”, and “industrial or trade premises”. | Accept Definitions for “best practicable option”, “coastal marine area”, “common marine and coastal areas”, “discharge”, “environment”, “structure”, and “industrial or trade premises” are retained as notified. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Definition – Adaptive management | | | | |
| 29 – Department of Conservation | 1180 | Support Retain the definition “adaptive management” as notified. | Decline Recent case law has highlighted adaptive management as an inappropriate method of managing activities that may produce impacts that are uncertain, little understood or potentially significantly adverse. As a result, officers recommend removing reference to adaptive management from the Plan entirely, including the definition of adaptive management. | Neutral on the Officers' recommendation. |
| Further submissions – Meridian Energy Ltd (20), Port Taranaki Ltd (32) | | Support | | |
| NEW Definition – Alteration | | | | |
| 57 – Heritage New Zealand | 1182 | Amend Alteration is referred to in a number of rules relating to structures in the coastal environment. This term can be interpreted in a variety of ways, so a specific definition would aid in Plan interpretation. Submitter seeks amendment to the Plan to include a new definition for “alteration” to read: <u>Alteration, in relation to buildings, means any changes to the fabric or characteristics of a structure involving, but not limited to, the removal and replacement of walls, windows, ceilings, floors or roofs, either internally or externally and includes any sign attached to the structure. In relation to structures, means any changes to function, layout, or appearance of a structure without changing its physical dimensions.</u> | Accept in part Officers agree that the interpretation and application of the Plan, particularly in relation to rules addressing structures in the coastal marine area, would be improved by defining the term “alteration”. Officers note that alteration may apply to many types of structures and is not restricted to buildings, therefore, for the purpose of the Plan, reads as follows: <u>Alteration in relation to a structure, means any modification to a structure that does not increase its external dimensions.</u> Officers note that change to the external dimensions of a structure is defined through the term “extension” which officers suggest should also be included within the definitions section for consistency. The definition of “extension” reads: <u>Extension in relation to a structure, means any modification to the external dimensions of a structure, including length, width and height.</u> | Concerns with the definition of “alteration” have already been expressed above in respect to the discussion on Rule 35. |
| Further submissions – Port Taranaki Ltd (32), Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | | | |

| Submitter | Submission Point | Submitter's requests | Officers' recommendation and response | Port Taranaki Limited Response |
|--|------------------|--|--|---------------------------------------|
| Definition – Amenity values | | | | |
| 43 – Royal Forest and Bird Protection Society | 1183 | Amend The submitter seeks clarity on whether “ <i>amenity values</i> ” includes visual amenity so that the areas identified in Policy 18 are recognised under the <i>National Environmental Standard for Plantation Forestry</i> and seeks that, if it does not include visual amenity, that the definition be amended to include visual amenity as part of amenity values. | Decline Under the <i>National Environmental Standard for Plantation Forestry</i> , visual amenity landscape means: “a landscape or landscape feature that – (a) is identified in a district plan as having visual amenity values, however described; and (b) is identified in the policy statement or plan by its location, including by a map, a schedule, or a description of the area.” Officers recommend declining the request to amend the definition of “ <i>amenity values</i> ”. Amenity values is defined by the RMA and officers do not consider it appropriate to amend the statutory definition. In addition, officers note that the use of “landscapes” in the suggested amendment provides a different meaning and application of the term “ <i>amenity values</i> ” meaning that only landscapes identified in plans or policy statements can be considered to have any amenity values, significantly reducing the locations where Policy 18 can be applied within the Plan. Notwithstanding the above, visual amenity is already implied within the current definition being a quality that contributes to “ <i>people’s appreciation of its pleasantness and aesthetic coherence</i> ”. | Support the Officers' recommendation. |
| Further submissions – Meridian Energy Ltd (20), Port Taranaki Ltd (32) | | Oppose | | |
| Definition – Biofouling | | | | |
| 16 – Ministry for Primary Industries | 1184 | Amend Submitter seeks amendment to the definition of “ <i>biofouling</i> ” to include the following words after aquatic environment: <ul style="list-style-type: none"> “<i>microfouling</i>” – a layer of microscopic organisms including bacteria and diatoms and the slimy substances they produce, Often referred to as a ‘slime layer’, microfouling can usually be removed by gently passing a finger over the surface. “<i>macrofouling</i>” – any organism not included in the definition of “<i>microfouling</i>”. | Grant in kind Officers recommend accepting the inclusion of definitions for macrofouling and microfouling but propose an alternative relief to that sought by the submitter. Officers suggest that the appropriate location of these definitions is not within the definition of biofouling and that each term should have its own, standalone definition following the alphabetical listing order that is within this section of the Plan and that the definition for “ <i>biofouling</i> ” should remain as notified. Refer to new definitions for macrofouling and microfouling within this section. | Support the Officers' recommendation. |
| Further submissions – Trans-Tasman Resources Ltd (6) | | Neutral | | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| 33 – New Zealand Defence Force | 1185 | Support Retain the definition of “ <i>biofouling</i> ” as notified. | Accept Definition of biofouling is retained as notified. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Definition – Coastal environment | | | | |
| | 1186 | Amend | Accept | |

| Submitter | Submission Point | Submitter's requests | Officers' recommendation and response | Port Taranaki Limited Response |
|---|------------------|--|---|--|
| 43 – Royal Forest and Bird Protection Society | | Submitter seeks amendment to the Plan by mapping the coastal environment for Taranaki and referencing this in an amended definition of “ <i>coastal environment</i> ” OR Alternatively delete the definition: <i>Coastal environment means the areas where coastal processes, influences or qualities are significant, including lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of these and includes the coastal marine area</i> | Officers recommend including an indicative line incorporated within the coastal mapping layers to help establish the extent of the coastal environment. Consequential amendments to the Plan include an amended definition of coastal environment to read: Coastal environment means: <i>(a) all of the coastal marine area;</i> <i>(b) areas landward of the coastal marine area and identified in a district plan or proposed district plan as being the coastal environment or equivalent (map link), however described; and</i> <i>(c) any other areas landward of the coastal environment line where coastal processes, influences or qualities are significant.</i> | Oppose the Officers' recommendation. Concerns expressed with this definition have been included in the discussion above in reference to Policy 4. |
| Further submissions – Meridian Energy Ltd (20) | | Oppose | | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose in part | | |
| NEW definition – Functional need | | | | |
| 26 – Transpower NZ Ltd | 1197 | Amend Amend Plan to include a new definition for “ <i>functional need</i> ” to read: <i>The locational, operational, practical or technical needs of an activity, including development and upgrades.</i> | Accept Officers recommend including a definition for “ <i>functional need</i> ” but noting that the definition must be aligned with the <i>National Planning Standards 2019</i> . The definition reads: Functional need means the need for a proposal of activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment. | It is considered that the Officer's recommendation can be supported to the extent that the proposed definition is consistent with the requirements of the National Planning Standards. However, it is considered that this definition has some issues in that it states “because the activity can <u>only</u> occur in that environment”. Traditionally it was considered that a Port can only occur straddling the CMA, but with Inland Ports it can be argued that a large proportion of the activities at coastal ports can occur elsewhere. The definition creates uncertainty for PTL and requires the support of “operational need” to reduce that uncertainty. |
| Further submissions – Meridian Energy Ltd (20) | | Support | | |
| Further submissions – Port Taranaki Ltd (32), Royal Forest and Bird Protection Society – (43) | | Oppose | | |
| Further submissions - Powerco (45), Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | | Support in part | | |
| Definition – Maintenance | | | | |
| 46 – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd | 1215 | Amend In requiring maintenance activities to restore an asset to its original authorised standard, the inference is that maintenance which is required to bring a standard up to a new standard is not provided for. This is opposed but could be readily addressed by amending the definition of “ <i>maintenance</i> ”. Submitter seeks amendment to the definition of “ <i>maintenance</i> ” to read: <i>Maintenance in relation to structures, includes replacement, repair, or renewal, activities for the purpose of keeping a structure in good condition and/or working efficiently which restore a structure or asset to its original authorised standard and purpose, and where the character, intensity and scale of the structure, or asset or site remains the same or similar. It excludes the</i> | Accept Officers note that the distinction between a maintenance activities and alteration activities may overlap in some instances, however, do not recommend including alteration within the definition of maintenance. Officers recommend that definitions differentiate between ‘ <i>maintenance</i> ’ and ‘ <i>alteration</i> ’. These definitions align with relevant rules, particularly Rules 35 to 43. The following amendments to the definition of “ <i>maintenance</i> ” are recommended: Maintenance in relation to a structure, means the ongoing and regular activities that aid in the preservation of a structure and includes repair works conducted for the purpose of keeping the structure in good condition and/or working efficiently and where the character, intensity and scale of the structure remains the same. Officers further note that alterations may not be restricted to alterations completed in order to bring a piece of | Support the Officers' recommendation. |

| Submitter | Submission Point | Submitter's requests | Officers' recommendation and response | Port Taranaki Limited Response |
|--|------------------|--|--|---|
| | | <i>extension. It excludes the extension or repair of structures or assets, or change in location.</i> | equipment up to a new standard and there may be other reasons for altering a structure and may include other modifications for other purposes. Officers consider that it is appropriate to leave the definition broad so that it can be applied to other scenarios. For the purpose of the Plan officers recommend that the definition of alteration read as follows: <u>Alteration in relation to a structure, means any modification to a structure that does not increase its external dimensions.</u> | |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Further submissions – Petroleum Exploration and Production Association of New Zealand (37) | | Support in part | | |
| NEW Definition – Major alteration or extension | | | | |
| 43 – Royal Forest and Bird Protection Society | 1218 | Amend Submitter seeks amendment to the Plan to include a new definition of “major alteration or extension” to mean any alteration or extension of a structure which does not meet the definition of a minor alteration or extension. | Accept in part Officers recommend giving partial relief to the request sought by the submitter involving reframing the maintenance, alterations, extensions and removal rules (to more clearly differentiate between the respective activities based upon changes in their external dimensions). Consequential changes are also proposed to the Plan definition for ‘maintenance’ and with new definitions for ‘alteration’ and ‘extension’ also proposed. However, officers do not believe it is necessary to include a definition for “major alteration”. Officers suggest that the distinction between major and minor alterations is determinable through the individual reading of relevant rules. Officers recommend that the following new definitions of “alteration” and “extension” be included in the Plan to read as follows: <u>Extension in relation to a structure, means any modification to the external dimensions of a structure, including length, width and height.</u> <u>Alteration in relation to a structure, means any modification to a structure that does not increase its external dimensions.</u> | Concerns with the definition of “alteration” and “extension” have already been expressed above in respect to the discussion on Rule 35. |
| Further submissions – Port Taranaki Ltd (32), Powerco (45) | | Oppose | | |
| NEW Definition – Microfouling | | | | |
| 29 – Department of Conservation | 1221 | Amend Submitter seeks amendment to the Plan to include a new definition of “microfouling” that reads: <u>Microfouling – is a layer of microscopic organisms including bacteria and diatoms and the slimy substances they produce. Often referred to as a ‘slime layer’, microfouling can usually be removed by gently passing a finger over the surface.</u> | Accept Officers recommend granting the relief sought by the submitter and to include a new definition of ‘microfouling’ to read as follows: <u>Microfoul is a layer of microscopic organisms including bacteria and diatoms and the slimy substances they produce. Often referred to as a ‘slime layer’.</u> With the following footnote: <u>Microfouling can usually be removed by gently passing a finger over the surface.</u> | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| NEW Definition – Minor alteration or extension | | | | |

| Submitter | Submission Point | Submitter's requests | Officers' recommendation and response | Port Taranaki Limited Response |
|--|------------------|--|--|--|
| 43 – Royal Forest and Bird Protection Society | 1223 | Amend | Accept in part | Concerns with the definition of “alteration” and “extension” have already been expressed above in respect to the discussion on Rule 35. |
| | | Submitter seeks amendment to the Plan to include a new definition of “minor alteration or extension” to read: <i>Minor alteration or extension means, the alteration of a structure where the alteration or extension is within the same footprint, does not result in an increase in adverse effects over effects generated from the operation and maintenance of the structure.</i> | Officers recommend giving partial relief to the request sought by the submitter involving reframing the maintenance, alterations, extensions and removal rules (to more clearly differentiate between the respective activities based upon changes in their external dimensions). Consequential changes are also proposed to the Plan definition for “maintenance” and with new definitions for “alteration” and “extension” also proposed. However, officers do not believe it is necessary to include a definition. Use of the term minor alteration is only used within Rule 35 of the Plan. This rule includes a number of standards, terms and conditions that establish the parameters for what would be considered ‘minor’. Officers note that activities that do not fit these standards, terms and conditions would not be considered to be ‘minor’ and would be considered under another rule. Officers recommend that the following new definitions of “alteration” and “extension” be included in the Plan to read as follows: <i>Extension in relation to a structure, means any modification to the external dimensions of a structure, including length, width and height.</i> <i>Alteration in relation to a structure, means any modification to a structure that does not increase its external dimensions</i> | |
| Further submissions – Port Taranaki Ltd (32) | Oppose | | | |
| Further submissions – Powerco (45) | | Oppose in part | | |
| Definition – Natural Character | | | | |
| 29 – Department of Conservation | 1225 | Amend | Decline | Support the Officers' recommendation to decline the relief sought by the submitter, although it is considered that the definition remains unhelpful. |
| | | Submitter seeks amendment to the definition of “natural character” to better reflect Policy 13 of the <i>New Zealand Coastal Policy Statement</i> . | Officers recommend declining the relief sought by the submitter. Officers note that the proposed definition of natural character would encompass all of the qualities identified in Policy 13 of the <i>New Zealand Coastal Policy Statement</i> and that Policy 13 is not an exhaustive list but merely identifies some characteristics that <u>may</u> (emphasis added) be recognised as natural character. For this reason, officers consider that a more generic and broader definition than that sought by the submitter is required in order to avoid a verbose Plan and the inclusion of an unnecessarily lengthy definition that do not capture all of the possible characteristics. Officers note that all of the characteristics listed in Policy 13 of the <i>New Zealand Coastal Policy Statement</i> are either natural elements, patterns or process or are the experiential perceptions of those processes. | |
| Further submissions – Meridian Energy Ltd (20) | Support | | | |
| Further submissions – Port Taranaki Ltd (32) | Support in part | | | |
| Further submissions – Powerco (45) | Oppose | | | |
| Definition – Natural feature | | | | |
| | 1227 | Amend | Decline | |

| Submitter | Submission Point | Submitter's requests | Officers' recommendation and response | Port Taranaki Limited Response |
|--|------------------|--|--|--|
| 29 – Department of Conservation | | Submitter seeks amendment to the definition of “ <i>natural feature</i> ” to better reflect Policy 15(c) of the <i>New Zealand Coastal Policy Statement</i> . | Officers recommend declining the relief sought by the submitter and note that the definition of “ <i>natural feature</i> ” encompasses those elements and characteristic identified in Policy 15 of the <i>New Zealand Coastal Policy Statement</i> . Officers note that Policy 15 of the <i>New Zealand Coastal Policy Statement</i> includes a list of features, characteristics and values that are components of a natural landscape which are either part of the physical character of the area (such as natural science factors, presence of water, vegetation and presence of wildlife), the perceptions of that character or associations with that area (such as the legibility or expressiveness of those characters, their aesthetic values, memorability and wild or scenic values), and cultural spiritual, historical and heritage associations (such as values of tangata whenua and historic heritage associations). | Support the Officers' recommendation to decline the relief sought by the submitter, although it is considered that the definition remains unhelpful. |
| Further submissions – Meridian Energy Ltd (20) | Support | | | |
| Further submissions – Port Taranaki Ltd (32) | Support in part | | | |
| Further submissions – Powerco (45) | Oppose | | | |
| Definition – Natural landscape | | | | |
| 43 – Royal Forest and Bird Protection Society | 1229 | Amend | Decline | Support the Officers' recommendation. |
| | | Submitter seeks amendment to the definition of “ <i>natural landscape</i> ” to include in the definition that protection of natural character of the coastal environment is set out in Policy 15 of the <i>New Zealand Coastal Policy Statement</i> . | Officers recommend declining the relief sought. Officers do not believe it necessary to specifically reference Policy 15 of the <i>New Zealand Coastal Policy Statement</i> and risks making the Plan overly verbose, particularly if this approach is adopted for other terms used in the <i>New Zealand Coastal Policy Statement</i> . | |
| Further submissions – Port Taranaki Ltd (32) | Oppose | | | |
| Definition – Port | | | | |
| 43 – Royal Forest and Bird Protection Society | 1247 | Amend | Accept | Support the officers' recommendation |
| | | Submitter seeks amendment of the definition of “ <i>Port</i> ” to state that the port is Port Taranaki OR Alternatively delete the definition. | The submitter contends that the current definition does not make sense given the common meaning of port. The submitter suggests Policy 1 sets out that the “port” is Port Taranaki and states the definition would be clearer if it said it was the Port of Taranaki. | |
| Further submissions – Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (46) | Oppose in part | Officers agree and recommend amending the definition of “ <i>Port</i> ” to read: <i>Port</i> refers to the coastal management area identified in Schedule 1 of the Plan <i>as Port Taranaki</i> . | | |
| Further submissions – Port Taranaki Ltd (32) | Oppose | | | |
| NEW Definition – Reclamation | | | | |
| 43 – Royal Forest and Bird Protection Society | 1252 | Amend | Grant in kind | Support the Officers' recommendation. |
| | | Submitter seeks amendment to the definition of “ <i>reclamation</i> ” to read (or similar): <u><i>The formation of permanent land located above mean high water springs that was formerly below the line of mean high water springs.</i></u> <u><i>Reclamation does not include:</i></u> <u><i>1 land that has arisen above the line of mean high-water springs as a result of natural processes, including accretion, or</i></u> | Officers recommend granting the relief sought by the submitter by amending the Plan to include a definition for “ <i>reclamation</i> ”, however, recommend aligning with the definition in the <i>National Planning Standards</i> , which reads as follows: <u><i>Reclamation means the manmade formation of permanent dry land by the positioning of material into or onto any part of a waterbody, bed of a lake or river or the coastal marine area; and</i></u> | |

| Submitter | Submission Point | Submitter's requests | Officers' recommendation and response | Port Taranaki Limited Response |
|---|------------------|--|--|---|
| | | <i>2. any infilling where the purpose is to provide beach nourishment, or</i> <i>3. structures such as breakwaters, moles, groynes or sea walls.</i> | <i>(a) includes the construction of any causeway; but (b) excludes the construction of natural hazard protection structures such as seawalls, breakwaters or groynes except where the purpose of those structures is to form dry land.</i> | |
| Further submissions – Port Taranaki Ltd (32) | | Oppose | | |
| Definition – Regionally important infrastructure | | | | |
| 45 – Powerco | 1263 | Support Retain the definition of “regionally important infrastructure” as notified but adopt the term “regionally significant infrastructure” (instead of the term “regionally important infrastructure”) to ensure consistency between the Plan and other planning documents such as the Regional Policy Statement. | Decline Officers recommend declining the relief sought to amend the Plan to refer to “regionally significant infrastructure” rather than “regionally important infrastructure” in the interests of aligning terminology with other regions (noting that similar terminology has been adopted in other recent second generation plans). | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support in part | | |
| Definition – Repair | | | | |
| 47 – Fonterra | 1269 | Support Retain the definition of “repair”. | Decline Several submitters have requested deletion of the definition of “repair”. Officers recommend deletion of the term. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Definition – Reverse sensitivity | | | | |
| 43 – Royal Forest and Bird Protection Society | 1271 | Support Retain the definition of “reverse sensitivity” as notified. | Grant in kind Support noted. The definition of reverse sensitivity is recommended to be amended in order to provide more clear direction to Plan users. However, the intent and scope of the definition is retained. | This definition does not appropriately discuss reverse sensitivity as an effect. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Definition – Well | | | | |
| 32 – Port Taranaki Ltd | 1293 | Amend Submitter seeks amendment to the definition of “well” to include wells and bores for other purposes, including for the purposes of geotechnical investigations AND provide for such investigations through a rule that permits test bores/wells for geotechnical investigative purposes subject to permitted conditions. The proposed definition of “well” would read as follows: <i>Well means a hole drilled for geotechnical investigation or for the purpose of exploring for, appraising or extracting hydrocarbons and includes: (a) any hole for injection purposes; (b) any down-hole pressure containing equipment; and (c) any pressure-containing equipment on top of the well.</i> | Accept in part Officers recommend declining the relief sought in relation to “well” which is deliberately framed to capture drilling for hydrocarbon exploration and production only. However, officers do agree to amend the Plan to include a Permitted Activity rule to provide for test bores and drilling on the seafloor and seabed for geotechnical investigative purposes. | Support the Officers' recommendation. However, the activity status in the tracked changes version of the Plan is “controlled activity”. PTL's support is contingent on the permitted activity status being confirmed. |
| 4.8 Schedules and appendices | | | | |
| Schedule 2 – Coastal areas of outstanding value | | | | |

| Submitter | Submission Point | Submitter's requests | Officers' recommendation and response | Port Taranaki Limited Response |
|--|------------------|---|--|---|
| 23 – New Plymouth District Council | 1311 | Support Submitter supports Schedule 2 as notified. | Accept Support noted. | Support the Officers' recommendation. |
| Further submissions – Port Taranaki Ltd (32) | | Support | | |
| Schedule 7A – Surf breaks | | | | |
| 32 – Port Taranaki Ltd | 1355 | Amend Submitter seeks amendment to Schedule 7A of the Plan to delete the “Breakwater” surf break from the list of regionally significant surf breaks, and delete references to it on associated maps. | Decline Officers assume that the submitter's concern relate to the levels of protection afforded to regionally significant surf breaks and the operational implications of recognising the “breakwater” as a regionally significant surf break. Officers suggest these issues are recognised and have been addressed in Policy 19(b) which recognises that strict avoidance of effects on regionally significant surf breaks by regionally important infrastructure such as the Port might not always be practicable (in which case a mitigation hierarchy to manage effects applies). | Oppose the Officers' recommendation. PTL has been unable to understand from the Officer's recommendations why this new surf break has been included at the tip of the main breakwater. PTL has been aware of the Belt Road surf breaks of regional significance for some time, however this new surf break was not included in the draft Proposed Plan and was notified without any knowledge of or engagement with PTL. A letter from Peter McCombs is attached to this evidence as Attachment B. PTL seek removal of this additional breakwater from the list of regionally significant surf breaks. |
| Schedule 8 – Port air zone | | | | |
| 32 – Port Taranaki Ltd | 1359 | Amend Submitter seeks amendment to Schedule 8 of the Plan (and associated maps) to include the wharves in the Port Air Zone and correspond to the online maps for the Port Air Zone. | Accept Officers recommend amending Schedule 8 to include wharves within the Port Air Zone to be consistent with the areal extent of maps online. | Support the Officers' recommendation. |
| Map 13 and online maps | | | | |
| 32 – Port Taranaki | | PTL was unaware of the identification of the breakwater surf break and does not support its inclusion as a regionally significant surf break. | As per comments for schedule 7A above | As per comments for schedule 7A above |

Attachment B – Letter from Mr McComb – Main Breakwater Surf Break

7 July 2019

Guy Roper, CEO
Port Taranaki Limited
2-8 Bayly Road
New Plymouth 4340

Dear Guy

RE: comments on the proposed RCP

Thank you for bringing to my attention the matter of the regionally significant surf break designated at the end of the Main Breakwater within the proposed Taranaki Regional Coastal Plan.

I am familiar with this break, having surfed it frequently during my years of PhD research on the wave and sediment dynamics adjacent to Port Taranaki. Indeed, one of the research topics published during those years was the way the breakwater shoal evolved between the dredging cycles, and what was the evidence for the accretionary process that we suspected was the dominant mechanism for this area¹. In later work for the Port, with colleagues we succeeded in developing a numerical model to simulate the growth of the shoal, and we used that model to examine alternative dredging patterns and control structures in the tip area. So, it is fair to say I know the wave physics and sediment dynamics of this spot quite well, plus have had the opportunity to enjoy some waves out there as well.

The Main Breakwater tip and the adjacent shoal plays a governing role in the harbour wave climate. Swell waves typically enter the harbour due to the processes of refraction and diffraction in the vicinity of the tip. The presence of the shoal actively enhances wave refraction because of the bulbous nature; causing a localised rotation of the swell wave direction and partial breaking on the shallow areas. Wave energy is directed into the harbour by this process, and also modified along the eastern side of the entrance too. For example, during low tides and SW swells, the heights measured at the wave tower tend to increase due to the effect of refraction on the tip shoal. I include a snapshot from a numerical simulation of this general process in Figure 1.

The surf break is located just inside the harbour entrance, where the waves have rotated some 100-120 degrees. Depending on the tide level and the wave period, energy is further directed into the harbour and also dissipated against the inside of the Main Breakwater wall. The surf break is entirely dependent on the combined presence of the Main Breakwater and the tip shoal, the latter of which has a considerable subtidal extent.

¹ McComb, P., Black, K., Atkinson, P., Lim, Y. and Healy, T. (1999). The accretion of a breakwater-tip shoal following dredging. Pacific Coasts and Ports '99, Perth, Australia, pp. 420-425.

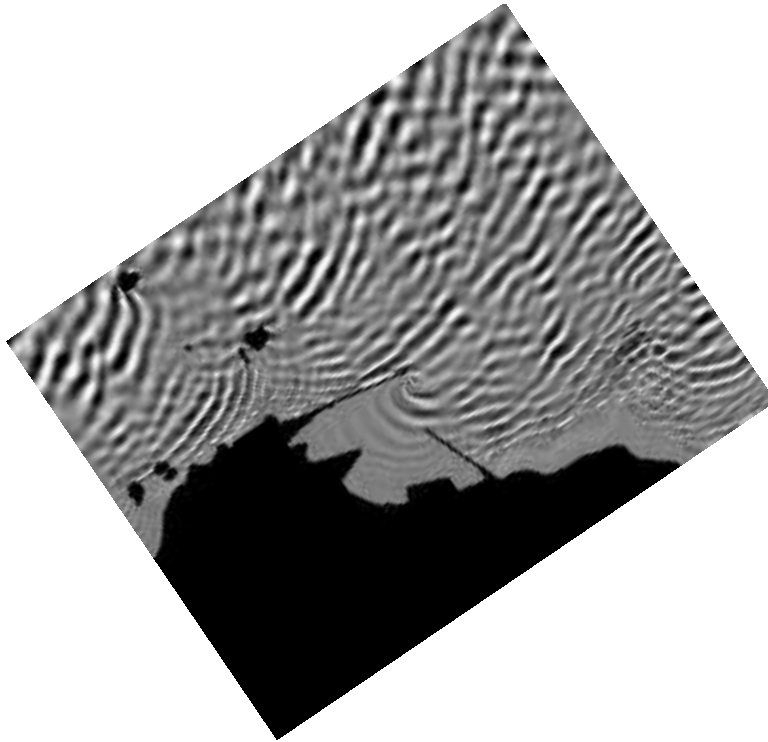


Figure 1. Numerical simulation of the swell wave transformations near Port Taranaki.

I was surprised to see the Breakwater surf break proposed for regionally significant status. My own opinion of the break is that it certainly has unique character, and provides the occasional opportunity to surf under certain conditions, but it is very inconsistent and does not merit a level of regional significance that puts it on a par with the likes of adjacent breaks at Belt Rd or Bog Works, for example. Wave uniqueness is defined as a recognition of the importance of the location to the regional surf resources in conditions when other breaks are not favourable. For the Breakwater tip, this is typically in long period swell conditions when W-SW winds make other breaks unfavourable. Tide is a factor here too, as the break is often better on the lower tides when the adjacent breaks like Belt Rd are not.

I note that 3.55% of the online survey respondents recorded this break (i.e. 12 people). Orchard (2017) details ten attributes that contribute to a surf break being important, and the results from five of those categories are presented in his report to Council (wave quality, wave consistency, wave uniqueness, wilderness, naturalness). Wave quality is considered the most essential attribute for regional significance. However, for the purposes of the Coastal Plan review it was recommended that Council adopt a cut-off value of 3.4 from at least one of the five attributes to produce the list of regionally significant surf breaks.

From the online survey, the Breakwater surf break had mean scores as follows:

- Quality 3.083
- Consistency 1.833
- Uniqueness 3.417
- Wilderness 2.000
- Naturalness 1.667

In the review, surf breaks with a mean score of 3.4 or higher are considered to best reflect those surf breaks that have an elevated status and are superior examples when compared to others within the Taranaki region. With the exception of uniqueness, the Breakwater surf break does not meet that threshold.

Wave quality has quite specific definitions (i.e. length of ride, wave shape characteristics, wave power characteristics, wave height range, and performance aspects under optimum conditions), and all of those attributes are influenced by the dredging regime. While the wave is short and sometimes intense and powerful, the measures of quality are strongly affected by the shape of the shoal – both at the breaker location and over the full extent of the hemispherical morphology. Dredging actively cuts away at the base of the shoal, particularly along the main axis of accretion (i.e. heading of ~150 degT from the tip) as well as in the regions where the shoal has encroached upon the shipping channel.

Good management of the shoal is an important aspect of sustainable dredging practice as it provides a significant reservoir for the natural sediment fluxes and the opportunity for harbour-bypassing through nearshore deposition. With some 75% of the annual harbour dredging volumes located within the shoal, for effective management the Port needs to retain the flexibility to dredge this area in a manner that suits the current and future operational requirements. It's my professional opinion that it would be inappropriate to have surfing amenity at this spot potentially govern the future dredging practices - not just because most of the key surf break indices lie well below the threshold of significance, but because there are other important regional benefits that stem from the Port having a sustainable dredging practice. The break is entirely anthropogenic and only exists in its present form because of the regular dredging.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Peter McComb".

Dr Peter McComb
Managing Director, Oceanum Ltd

**BEFORE THE PROPOSED COASTAL PLAN FOR TARANAKI
HEARINGS PANEL**

TARANAKI REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Coastal Plan for Taranaki

**STATEMENT OF REBECCA DAVIES
ON BEHALF OF NEW ZEALAND DEFENCE FORCE
SUBMITTER 33
16 July 2019**

STATEMENT OF REBECCA DAVIES ON BEHALF OF THE NEW ZEALAND DEFENCE FORCE (NZDF) – SUBMITTER 33, FURTHER SUBMITTER 33

INTRODUCTION

- 1 My name is Rebecca Davies and I am employed by New Zealand Defence Force, (NZDF) within Defence Estate and Infrastructure as Senior Environmental Officer (Statutory Planner). My role is national and “tri-service” which is to say I manage and engage in Resource Management Act statutory processes on behalf of Army, Navy and Air Force throughout New Zealand in relation to on-base and off-site infrastructure and activities.
- 2 NZDF is a government department, an element of the Crown, and provides military capability as required by Government. NZDF is empowered and authorised in its activities by The Defence Act 1990 and by output agreements with Government.
- 3 Today I would like to make a short statement, providing background to NZDF’s submission and evidence.
- 4 I am familiar with NZDF’s submissions and further submissions on the proposed Coastal Plan for Taranaki (pCPT) having directed consultants in preparation of those.

SUMMARY OF STATEMENT

- 5 Temporary military training activities (TMTA) are essential and in many respects are identical to training activities carried out by other emergency services and commercial organisations.
- 6 Noise resulting from discharge of ammunition or explosives is the only unique effect of temporary military training activities that warrants specific management through the pCPT.
- 7 NZDF has obtained specialist advice and has developed modern, effective and efficient controls for that noise. Those controls have been adopted by twelve District Councils in the review of their District Plans and a number

of Regional Coastal Plans, and are proposed for adoption in the Taranaki Coastal Plan.

- 8 The Council Officer has recommended more stringent noise standards than as sought through NZDF's submission. This is unwarranted and extremely problematic for NZDF because TMTA are an essential activity as explained below.

TEMPORARY MILITARY TRAINING ACTIVITIES - GENERAL

- 9 Section 5 of the Defence Act 1990 provides for the raising and maintenance of armed forces for various purposes, including for the defence of New Zealand, to protect the interests of New Zealand, to assist the civil power in times of emergency, and in the provision of any public service. Training is essential for the "maintenance" of armed forces.
- 10 NZDF undertakes Temporary Military Training Activities across the country as part of its function of maintaining the nation's security and providing for the well-being, health and safety of communities. TMTA are essential in maintaining capability so that NZDF is ready to respond to a wide range of national and international situations, including providing aid and assistance following emergencies such as earthquakes and major storm events, for example, the 2010 Christchurch and 2016 Kaikoura earthquakes and the flood event in Edgecumbe and Whakatane in 2017.
- 11 Training activities are carried out "off-base" for a variety of reasons and two of the important reasons are diversity and realism. Skills that are learned and practiced "on-base" must be tested or extended in unfamiliar contexts "off base". Training activities that are specifically military in nature are carried out "off-base" for a variety of reasons and one of the important reasons is diversity and the ability to train in a variety of simulated deployed environments. If personnel are unable to practice their skills in a variety of coastal and marine environments, they cannot do the job we all expect them to be able to do.

- 12 Many district and regional plans around the country have or are currently being reviewed and NZDF has engaged in those review processes to ensure that where training activities might be subject to control through a plan the controls are, as far as practicable, consistent and that compliance is simply achieved and simply assessed. In the last six years NZDF has made formal requests or submissions to 30 Councils including to Taranaki Regional Council in respect of the pCPT.
- 13 The proposals that NZDF has submitted to Council do not pre-empt a change in the nature or quantity of training likely to be conducted in the Taranaki region. Rather, we are seeking to simplify and modernise the rules applying to TMTA and to ensure that activities that are carried out in the area remain lawful. We have raised these issues now not because we want to change what we do, but rather in response to the proposed plan.
- 14 Live and blank firing activities are much less likely to take place than other essential, but rather more mundane, activities. Live and blank firing are included as part of a standard rule that NZDF is seeking be used consistently in Plans throughout the country.
- 15 Training activities may include the use of powered machinery, vehicles or aircraft and may involve weapons firing and the use of explosives, in addition to the deployment of personnel. In some exercises weapons may be carried or set up for realism but not fired. TMTA may be undertaken over a period of days or weeks on an intermittent or continuous basis, during both day and night, but typically an exercise would only take place in one locality for a period of a few days.
- 16 Larger exercises of greater duration are generally mobile; moving though the country in accordance with an exercise scenario. Such an exercise might begin with coastal activities and amphibious activities such as landings at a port or coastal area, move hundreds of kilometres over a period of days or weeks exercising various skills on the way; and might

conclude at an NZDF training area where live firing might be conducted. Exercise Southern Katipo is an international exercise which is the largest exercise of this type and is carried out every two years or more. The last two Exercise Southern Katipos were undertaken within the top quarter of the South Island, and reconnaissance work is being carried out to identify the area of the next Exercise, to be carried out in 2020.

TEMPORARY MILITARY TRAINING ACTIVITIES - COASTAL

- 17 To better reflect 'real world' scenarios, NZDF may need to undertake training activities in a wide range of environments – including the coastal environment. It is vital that training activities (which may include weapons firing/ explosives) are able to be undertaken at any time during both day and night to simulate real life scenarios. Many training activities carried out “off-base” by NZDF personnel are essentially similar to training activities conducted by other public service or commercial organisations such as NZ Police, Fire and Emergency NZ and various ambulance services.
- 18 Coastal activities may include beach landings by amphibious vehicles, use of portable water treatment units, helicopter landings, and, occasionally, live or blank weapons firing and the use of explosives.
- 19 As an example, a tri-service (that is, Army, Air Force, Navy) exercise, known as Exercise Joint Waka is carried out annually and is specifically aimed at training and testing NZDF's capabilities for amphibious operations.
- 20 Exercise Joint Waka was carried out in the Canterbury region in 2016, Whangaparaoa, Auckland in 2017 and around Devonport, Auckland this year. The exercise generally takes place over two weeks and involves Navy ships and support vessels, soldiers from various brigades, and Air Force helicopters and aircraft. It includes activities such as mock medical situations. The 'big picture' purpose of such exercises is to ensure that NZDF has a successful deployed joint force that can deal with any of the

contingencies NZDF faces at home and overseas including natural disasters and humanitarian crises.

- 21 Operation Hiko Ano is an example of a Navy training programme. This year, it involved Navy training activities in various areas such as the Hauraki Gulf, Coromandel, Marlborough Sounds and Napier. It included a simulated humanitarian and disaster relief mission, as well as navigation and communications training and weapons firing such as small arms live firing. These activities took place both during the day and night to simulate various scenarios, and included night-time gunnery.
- 22 Navy units include a Charge Clearance Diving Group, which is required to provide a Maritime Explosive Ordnance Disposal capability at 6 hours' notice to move in accordance with Defence Output requirements. Activities such as training with Improvised Explosive Device Disposal Disruptors are vital to the maintenance of this capability. The Disruptors are essentially a tube which contains water. The charge is electrically fired and propels the water at such speed that it "disrupts" the timing and power unit of the Improvised Explosive Device before it has time to detonate. It makes some noise, but significantly less than a normal shotgun.
- 23 It is essential that individuals qualifying as Maritime Improvised Explosive Device Disposal Operators are able to fire live weapons at the training devices in order to fully assess the operator's skills. An exercise using the Disruptors recently took place at Devonport, but the unit needs to be able to train in this activity anywhere, and at various times of day and night.
- 24 While those exercises did not take place in Taranaki, they serve as useful examples of activities that NZDF may need to undertake in Taranaki in the future.

NOISE MANAGEMENT

- 25 Activities involving discharge of ammunition generate noise that has quite specific characteristics and require specific management to avoid unnecessary effects on nearby residences. NZDF wishes to make sure that the noise standards included in the pCPT are up-to-date, appropriate for the type of noise generated, and are reasonably simple to understand, to plan for compliance and to assess compliance with. This includes ensuring that the pCPT enables weapons firing and use of explosives at night-time as this can be an essential component of training to simulate certain real-life scenarios.
- 26 To this end, NZDF has commissioned professional acoustic advice on appropriate standards to control noise effects from Temporary Military Training Activities. Mr Humpheson will provide detailed evidence on the acoustic standards proposed by NZDF. Based on specialist acoustic advice, NZDF has developed proposed permitted activity standards that provide a holistic means of managing and mitigating all the types of noise that might be generated by Temporary Military Training Activities conducted anywhere in the country, both on land and in the Coastal Marine Area. NZDF has been successful in having the proposed permitted activity standards adopted through plan review processes in various districts and is currently engaged in many plan reviews with that end in mind.
- 27 In summary our proposal achieves the following:
- a. Compliance with accepted noise limits to protect residential and other sensitive activities
 - b. Simplicity, transparency, effectiveness and efficiency in planning, management and compliance.
- 28 NZDF has been successful in having these bespoke permitted activity standards adopted through plan review processes in several District and Regional Coastal Plans (e.g. District Plans for Auckland, Southland,

Horowhenua, Rotorua and South Waikato, and Regional Coastal Plans for Auckland and Northland) and is currently engaged in many plan reviews with that end in mind. Thames Coromandel District Council decided that there was no need for any controls at all on noise from military training activities. Queenstown Lakes District Council also took this view.

- 29 The effect of NZDF's proposed planning approach is that for assessment of compliance, the compliance officer would simply have to measure the distance between the site of the activity and the site in relation to which the complaint has been made. This is very easily done either using a paper map or internet based tools such as the Council's own GIS. The compliance officer would not need a noise meter, would not have to attempt to measure a noise long gone, and would not need any acoustic knowledge.
- 30 In devising a training activity involving weapons firing or explosives use, NZDF's exercise planners generally prefer to select a location that complies with the first tier setback distances. This is not only easier from a practical perspective, but is also straightforward for a member of the public to determine whether the activity complies with the district plan rules, based simply on the location of the activity.
- 31 A further advantage to the setbacks is that weather conditions do not need to meet the prescribed standards for undertaking noise measurements.
- 32 The recommendation by the Council Officer to essentially adopt New Plymouth District Council's proposed noise standards does not appear to be a robust technical assessment of NZDF's proposals.
- 33 NZDF's proposal is different, but in our view, and in the view of the Councils which have already adopted it, the standards are entirely appropriate.

BIOFOULING

- 34 NZDF acknowledges that hull biofouling is a significant issue for New Zealand and participated over a period of several years in consultation with

the Ministry of Primary Industries (MPI) as they developed the Craft Risk Management Standard “Biofouling on Vessels Arriving to New Zealand” (CRMS). On 15 May 2018 the CRMS came into force and NZDF has committed to, and planned for, development and implementation of a Craft Risk Management Plan (CRMP) under section 24(k) of the Biosecurity Act to manage risk to the equivalent degree as required under the CRMS for its vessels.

- 35 However, NZDF’s Naval fleet contains a number of large and diverse vessels with unique operating profiles. With the introduction of pathway management plans around the country and restrictive regional cleaning rules in place in a number of locations, the ability to clean ships of biofouling outside of Auckland in accordance with regional rules is becoming a significant issue for NZDF.
- 36 The Council Officer has made recommendations on biofouling which are of concern to NZDF. NZDF requests that permitted activity standards (d) and (e) of Rule 9 be deleted and, instead, standards that better align with the recommendations contained in the Anti-fouling and In-Water Cleaning Guidelines 2013, page 12 should be included.
- 37 These Guidelines do not require cleaning to be limited to light fouling, and recommend that fouling be captured only in certain scenarios where that fouling would present a risk to the local marine environment. The Guidelines recommend that¹:
- a. *“Microfouling, regardless of origin, may be removed without the need for full containment of biofouling waste, provided the cleaning method is consistent with the coating manufacturer’s recommendations. Where microfouling is removed using a gentle, non-abrasive*

¹ Anti-fouling and In-Water Cleaning Guidelines 2013, page 12, “Recommendations for decision making on in-water cleaning”

cleaning technique, the contamination risk is likely to be acceptable.

- b. Macrofouling of regional origin (as defined by the relevant authority) may be removed without the need for full containment of biofouling waste provided the cleaning method is consistent with the coating manufacturer's recommendations and the contaminant discharges meet any local standards or requirements.*
- c. Macrofouling of domestic origin may be removed without the need for full containment of biofouling waste following risk assessment by the relevant authority. If the relevant authority determines containment of biofouling waste is required, the guidance provided in point 8 (above)² should be used. In either case, the cleaning method must be consistent with the coating manufacturer's recommendations and contaminant discharges must meet any local standards or requirements.*
- d. Macrofouling derived from international locations should only be removed using cleaning methods that minimise release of all organisms, or parts of organisms, and anti-fouling coating debris, using the guidance described in point 8 (above). The cleaning method must be consistent with the coating manufacturer's recommendations and contaminant discharges must meet any local standards or requirements."*

² Point 8 of the Guidelines states that "When in-water cleaning involves removal of macrofouling of domestic or international origin, methods to ensure minimal release of biological material into the water should be used. In-water cleaning technologies should aim to, at least, capture debris greater than 50 micrometres (µm) in diameter, which will minimise release of viable adult, juvenile and larval stages of macrofouling organisms. Any cleaning debris collected must be disposed of on land and in compliance with the waste disposal requirements of the relevant authority."

- 38 The Guidelines are risk based, in that fouling that is already located in the region can be cleaned without containment, as it would not pose a threat of new invasive species being introduced. Fouling of domestic origin can also be cleaned following a risk assessment by the relevant authority, if the assessment concludes that capture and containment is not necessary.
- 39 The standards recommended by the Council Officer add additional restrictions around what can be cleaned off the hulls of ships. E.g. standard (d) states that cleaning will only be permitted if the fouling on the ship is less than or equal to LOF2 (i.e “light fouling”) and standard (e) requires all fouling above 50 microns to be captured (aside from goose barnacles and microfouling).
- 40 With numerous regions around New Zealand introducing pathway management plans and some requiring clean hulls on entry to their waters, rules need to allow for ships to be able to clean local and low-risk macrofouling, so that ships can enter subsequent regions with a clean hull. This aims to isolate fouling to the location in which it is found and limit the transfer of marine pests between regions. The rules recommended for adoption in the pCPT are too restrictive as currently drafted and are unworkable for NZDF, creating a risk to NZDF’s operations and capability.

CONCLUSION

- 41 Temporary military training activities are essential and in many respects are identical to training activities carried out by other emergency services and commercial organisations.
- 42 NZDF has obtained specialist advice and has developed modern, effective and efficient controls for noise. Those controls have been adopted by several District and Regional Councils in the review of their Plans and are proposed for adoption in the pCPT.
- 43 Biofouling is a significant issue for NZDF. Overly stringent and impractical rules create a significant risk to NZDF’s operations and capability. The

rules in the pCPT are too restrictive as currently drafted and are unworkable for NZDF.

Rebecca Davies

16 July 2019

**BEFORE THE PROPOSED COASTAL PLAN FOR TARANAKI
HEARINGS PANEL**

TARANAKI REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Coastal Plan for Taranaki

**STATEMENT OF EVIDENCE OF DARRAN HUMPHESON
ON BEHALF OF NEW ZEALAND DEFENCE FORCE
SUBMITTER 33
16 JULY 2019**

STATEMENT OF PRIMARY EVIDENCE OF DARRAN HUMPHESON ON BEHALF OF THE NEW ZEALAND DEFENCE FORCE – SUBMITTER 33

INTRODUCTION

- 1 My full name is Darran Humpheson. I am a Senior Acoustics Specialist at Tonkin & Taylor Ltd (T+T).
- 2 I hold a Bachelor of Science degree with Honours in Applied Physics and a Master of Science degree in Environmental Acoustics. I am a Member of the Acoustical Society of New Zealand and a Member of the United Kingdom's Institute of Acoustics. I am a New Zealand representative of the International Standards Organisation (ISO) technical committee ISO/TC 43 SC1 "Noise".
- 3 I have been employed in acoustics since 1991, and I have previously held positions as a consultant for international firms AECOM (Associate Director 2013-2019), Bureau Veritas (Technical Director 2012-2013), RPS Group plc (Technical Director 2002-2012) and as a UK Ministry of Defence scientist working with the Royal Air Force (Head of the RAF's Noise and Vibration Division 1991-2002).
- 4 I have specialist experience of military training noise, specifically aviation and weapon noise.

CODE OF CONDUCT

- 5 I advise that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and have complied with it in preparing this evidence. I confirm that the issues addressed in this evidence are within my area of expertise and I have not omitted material facts known to me that might alter or detract from my evidence.

SUMMARY OF STATEMENT

- 6 I have been engaged by the New Zealand Defence Force (NZDF) to provide expert acoustics advice in relation to the proposed Coastal Plan

for Taranaki (pCPT). I am familiar with NZDF's original submission and further submission on this Plan.

- 7 Within its submission, NZDF has sought to standardise the noise rules included in proposed plans around New Zealand so that they maintain consistency across plans, are wholly relevant to the range of noise sources associated with Temporary Military Training Activities (**TMTA**), provide an appropriate level of amenity protection with respect to noise effects and provide certainty that the noise effects can be complied with. These noise standards equally apply to activities carried out within the authority of regional and district councils as the noise character will be similar regardless of whether the activities occur within or outside the coastal marine area (**CMA**). These noise controls have been adopted by twelve District Councils and a number of Regional Councils in the review of their plans and are proposed for adoption in the pCPT as outlined in NZDF's February 2019 submission (see Annexure 1).
- 8 The Council's s42A report recommends that the NZDF proposal be amended to promote integrated management between the Regional Council's general noise standard 8.6.3 (see Annexure 2) and the corresponding provisions from the proposed district plan for New Plymouth.
- 9 As I will explain, and as noted in the statements of Ms Davies and Ms McMillan, these recommendations are extremely problematic for NZDF because, if adopted, the permitted activity standards for noise would unnecessarily restrict certain forms of military training occurring within Taranaki's CMA. There is also the matter that unlike the NZDF submission, the s42A recommendation for weapon noise and use of explosives will fail to protect residential amenity value by adopting the wrong noise descriptor. Though not related to this hearing, these restrictions would equally apply to TMTA within the jurisdiction of New Plymouth District Council.
- 10 The proposed NZDF noise standards detailed in Annexure 1 should therefore be included un-amended within the pCPT.

TEMPORARY MILITARY TRAINING ACTIVITIES

- 11 NZDF has military interests throughout New Zealand including coastal areas. NZDF may undertake TMTA within the Taranaki district and specifically within the CMA as part of its duties to maintain the nation's security, maintaining NZDF operational capacity and providing for the well-being, health and safety of New Zealand's communities.
- 12 TMTA can include a range of exercises from indoor training to activities which mimic real-life situations such as military exercises which may utilise the CMA. These exercises can range in size and can involve training in search and rescue, infrastructure support, delivery of humanitarian aid, explosives and ordnance training, blank weapon firing and the deployment of personnel and equipment in a range of simulated military scenarios. Noise resulting from discharge of ammunition or explosives is the only unique effect of TMTA that warrants specific management through the pCPT.
- 13 Ms Davies recognises that TMTA is not a regular occurrence within Taranaki, but future training exercises, such as Exercise Waka, could occur. These training exercises could involve land, sea and air assets, beginning within naval activities, followed by beach landings, then shore and land based training.
- 14 TMTA by definition is temporary in nature and can vary in duration from a couple of hours to a number of weeks depending upon the scale of the exercise. Within the Taranaki district, TMTA in the coastal area is likely to also include land based activities too, as described by Ms Davies.

NOISE SOURCES

- 15 Not all TMTA include impulsive noise associated with weapon firing, grenades and "battle simulation" pyrotechnics. For much of the time, the noise associated from TMTA may be low level with occasional periods of higher levels of noise. TMTA is often undertaken in rural areas where there

is often a large setback or separation distance from the noise generating activities and neighbouring noise sensitive receivers (dwelling, residentially zoned site, or building used for residential, educational or healthcare purposes). These same principles apply to activities in the coastal area.

- 16 The noise generated by TMTA may be categorised by the following:
 - a. Mobile sources, such as amphibious vehicles, land based vehicles and earth moving equipment;
 - b. Fixed sources, such as power generators and water pumps;
 - c. Impulsive sources, such as live and blank firing and explosions; and
 - d. Helicopter landings.
- 17 These four categories of noise may occur in isolation or in combination and each category of noise has its own characteristics in terms of noise level (magnitude), duration (transient or continuous) and frequency (low or high frequency/pitch). The character of each noise source means that different noise assessment methods are relevant when controlling and assessing noise effects.
- 18 The scope of the NZDF proposal is limited to noise generated 'in air'; underwater noise is not considered as currently there is no proposal to set limits for underwater noise.
- 19 The following sections consider each type of noise category and the relief sought by NZDF.

Mobile noise sources

- 20 TMTA mobile sources can include amphibious vehicles, earthmoving equipment and personnel which are typically intermittent and infrequent. They will typically be present during daytime hours and have the same noise characteristics as vehicles and plant (earthmoving equipment) used on construction sites.

- 21 The standardised noise limits that NZDF uses to rate mobile TMTA sources are derived from the construction noise standard, NZS 6803:1999. This is because of the temporary nature of these sources, not only in terms of the definition of TMTA (i.e. temporary) but also the duration and variability in location during the training exercise. As part of pre-hearing engagement with Council, NZDF agreed that the noise limits in the notified pCPT for mobile noise sources were not inconsistent with NZS 6803 and were acceptable.

- 22 The s42A recommendation seeks to rate mobile sources, not as temporary sources, but by applying the same noise limits used to control permanent sources of noise (rule 8.6.3). Table 1 compares the noise limits in the notified pCPT (and agreed to by NZDF during pre-hearing engagement) and the amended limits proposed in the s42A report.

Table 1: Comparison of noise limits for mobile sources

| Source | time period | L _{Aeq(15min)} | L _{Amax} |
|-----------------|-------------|-------------------------|-------------------|
| pCTP (notified) | 0630 – 0730 | 60 | 75 |
| | 0730 – 1800 | 75 | 90 |
| | 1800 – 2000 | 70 | 85 |
| | 2000 – 0630 | 45 | 75 |
| pCPT (s42A) | 0700 – 1900 | 50 | - |
| | 1900 – 2200 | 45 | - |
| | 2200 – 0700 | 40 | 70 |

- 23 The NZDF noise limits are based on the same assessment periods of NZS 6803 as sensitivity to noise will vary with time of day and the limits apply at 1m from the residential façade. The s42A recommendation is between 5 dB (night time) and 25 dB more restrictive than that sought by NZDF (using the same assessment location).

Fixed noise sources

- 24 A fixed source could be a generator or water pump which has a static location. These types of sources are more easily controlled through careful selection and siting of the equipment on site, and through noise control methods such as screening. The noise effects from these sources are typically negligible.
- 25 The NZDF's noise standards (Annexure 1) seek to apply the same noise limits as for mobile sources. This approach is based upon the temporary nature of these sources and ensures consistency.

Weapons firing and/or the use of explosives

- 26 Live and blank firing activities are relatively infrequent and are recognised as being a unique source of noise, specific to certain forms of TMTA. Weapon firing and the detonation of explosives are typically performed

within designated training areas; however, firing of blank ammunition on land controlled by a private or public owner or in the CMA does occur and will more commonly be from small arms (rifles). Blank firing does not produce the same noise character as live firing (typically not as impulsive and at a perceptibly lower level of noise).

- 27 The s42A recommendation seeks to manage weapon firing and explosions using the $L_{Aeq(15min)}$ noise metric and to restrict this activity to 0700 – 1900 hrs. I set out below why this approach is not appropriate.
- 28 Unlike other sources of impulsive noise which commonly occur in the wider Taranaki district (bird scarers, alarms etc), impulsive noise from TMTA warrants a different assessment approach. In comparison to general environmental noise sources, TMTA impulsive noise has a strong low frequency component, has a very fast rise time and very short decay (very short duration), has a much greater magnitude and typically only lasts for a short period.
- 29 Weapon firing and explosions is therefore not a continuous sound. It includes short, sharp ‘blasts’ of noise. The use of an average weighted noise metric, such as L_{Aeq} , is therefore inappropriate because weapon noise and/or explosions will seldom breach the limits applied to average weighted metrics¹.
- 30 Limiting weapon firing and explosions to a limit of 70 dB $L_{Aeq(15min)}$ when measured 1m from a building used for accommodation will be considerably less restrictive than that being sought by NZDF’s requested amendment (Annexure 1).
- 31 A single firing or detonation of explosives resulting in 120 dBC² measured at a dwelling would roughly equate to 48 dB $L_{Aeq(15min)}$. The 22 dB ‘headroom’ (70 dB – 48 dB) could mean a further 160 firings or explosions

¹ due to the inability of these averaged weighted metrics to respond quickly to the fast rise time and short duration of impulse noise.

² This is the absolute limit specified in NZS 6803:2008 - Construction Noise.

(within a period of 15 minutes) would be allowed for before exceeding 70 dB $L_{Aeq(15min)}$. In my opinion, this situation would be wholly unacceptable and result in a significant loss of residential amenity.

32 As I will explain, NZDF are seeking a more restrictive control than that sought by the s42A recommendation.

33 Impulse noise from weapons and explosions is better measured using the C-weighted peak level, $L_{peak,C}$. Clause 1.2 of NZS 6802:2008 Acoustics – Environmental Noise sets out how that Standard was not designed to assess impulse type sounds such as gunfire and explosions. This New Zealand standard is used as the starting platform for setting regional and district plan noise limits within New Zealand. Of relevance to TMTA, NZS 6803:1999 Acoustics – Construction Noise sets out a guideline maximum “peak” sound level due to explosions. NZS 6803:1999 states at clause 8.1.4:

“Noise from use of explosives is also a special case. The adoption of good blasting practices will reduce the inherent and associated impulsive noise and vibration. Practices should conform with the provisions of documents such as AS 2187:Part 2 [Explosives—Storage and use Part 2: Use of explosives 2006], provided that the airblast noise limit shall be a peak sound level of 120 dBC measured at a suitable location as specified in 6.1.”

34 Malcolm Hunt Associates (MHA)³, on behalf of NZDF, prepared a noise report on TMTA weapon firing and use of explosives, which proposed the use of a separation distance to assist both in the planning of TMTA and for use within regional and district plans. Lower peak sound levels were proposed than that recommended in NZS 6803. Day time and night time

³ Re-Assessing Noise from Temporary Military Training in New Zealand District Plan Recommendations, Malcolm Hunt Associates, January 2013.

peak sound pressure levels of 95 dBC and 85 dBC were recommended to protect residential amenity.

- 35 For typical TMTA weapon firing during the day, a separation distance of 500 m corresponded to 95 dBC. During the night (1900 – 0700) a more rigorous setback of 1,250 m, corresponding to 85 dBC, is recommended. These distances are based on worst case positive downwind sound propagation conditions. In practice the resulting sound levels will be lower than these due to more favourable propagation conditions.
- 36 The s42A recommendation seeks to control weapon firing, firing of blanks and use of explosives by a dual set of controls; average weighted sound level of 70 dB $L_{Aeq(15min)}$ and a separation distance of 500 m. As I have explained, L_{Aeq} is the wrong noise descriptor to measure and rate impulse noise and separation distance of 500 m relates solely to a peak sound pressure level of 95 dBC. Using a similar calculation to the 120 dBC example above, a single event level of 95 dBC could mean that there would be almost 300 of these ‘events’ before exceeding 70 dB $L_{Aeq(15min)}$, which in my opinion would result in a significant loss of amenity.
- 37 Furthermore, there is no evidence to justify the use 70 dB $L_{Aeq(15min)}$ in combination with a separation distance of 500 m.
- 38 Noise from weapon firing is restricted within the s42A recommendation to the hours of 0700 to 1900, i.e. no provision for evening or night time. Night time training exercises are an essential part of TMTA as is the ability to fire weapons and use explosions after 1900 hrs. The inability to undertake weapon firing and use explosives will be a restriction as explained by Ms Davies.
- 39 Impulsive noise sources at night can lead to sleep disturbance. Sleep quality is dependent upon the sound level, frequency of events and the cumulative effects over multiple nights. A single night of ‘noise’ has been

shown by the World Health Organisation⁴ to have a negligible effect on sleep quality. Whereas multiple exposures will result in a gradual reduction in sleep quality. This observation also applies to general TMTA noise.

- 40 NZDF proposes to control the negative effects of weapon noise and use of explosives by adopting peak sound level limit of 95 dBC from 0700 to 1900 hrs and 85 dBC from 1900 to 0700 hrs and the use of corresponding separation distances of 500 m and 1,250 m. This approach allows NZDF personnel with no acoustics knowledge to plan where firing may occur without resulting in unreasonable noise. The use of separation distances also provides certainty to councils as the distance at which an activity can occur can be measured without the need to undertake compliance noise monitoring. A further advantage to the use of separation distances is that weather conditions do not need to meet prescribed standards for undertaking noise measurements.
- 41 The night time peak sound level limit is, in my opinion, sufficient to prevent loss of sleep quality and the use of a separation distance of 1,250 m, when planning TMTA provides additional assurance that this peak level will be achieved.

Helicopter Landings

- 42 Councils do not have the power to control noise from overflying aircraft when aircraft are not in the vicinity of a landing area. In these situations, Section 29A of the Civil Aviation Act 1990 can be used by the Civil Aviation Authority (CAA) to control noise from overflying aircraft. Councils do however have the power as consent authorities to control the movement of aircraft by managing the effects of aircraft noise in the vicinity of landing areas. For temporary landing areas (fewer than ten flights in any month) specific controls are not required as the effects are considered acceptable.

⁴ WHO, Environmental Noise Guidelines for the European Region, 2018.

- 43 For helicopter movements (above the noise levels quoted above and regardless of the number of movements) NZS 6807:1994 will apply. The NZDF and s42A recommendations adopt the use of this standard and compliance with NZS 6807:1994 will, in my opinion, result in reasonable levels of noise such that the noise effects from temporary helicopter landing areas will be acceptable.

OTHER MATTERS

- 44 The s42A recommendation requires noise to be measured, assessed and managed and controlled in accordance with the construction noise standard, NZS 6803. Although this standard is relevant to 'measure' and 'manage', if noise is 'assessed' using the standard, then the relevant noise limits would be those requested by NZDF (Annexure 1) and not the restrictive limits of the s42A recommendation.
- 45 The normal convention when measuring noise is to refer to the NZS 6801:2008 Acoustic – Measurement of environmental sound and not NZS 6803 (as proposed by the NZDF recommendation). Therefore the wording of the NZDF requested amendment is necessary.

CONCLUSION

- 46 NZDF is seeking to apply a standard set of rules to TMTA noise that can be consistently used in regional and district plans throughout the country.
- 47 Parts of the s42A recommendation fails to recognise the unique characteristics of TMTA in terms of the temporary nature of the noise sources and especially the impulsive nature of weapon firing and the use of explosives.
- 48 There is no allowance for night time firing or weapons or the use of explosives which will unnecessarily restrict the training benefit to NZDF personnel. The NZDF proposal includes appropriate controls to ensure that this activity can occur at night without resulting in adverse effects.

- 49 The proposed NZDF noise standards detailed in Annexure 1 should therefore be included un-amended within the pCPT.

Darran Humpheson

16 July 2019

Annexure 1 – NZDF’s requested amendment – February 2019

Temporary military training activities in the coastal marine area shall not create noise that exceeds the following when measured 1 m from any side of any building used for accommodation:

- (i) All activities (other than live weapons firing, firing of blanks, and use of explosives):

| time (any day) | Limits (dB) | |
|----------------|------------------|-------------------|
| | L _{Aeq} | L _{Amax} |
| 0630 - 0730 | 60 | 75 |
| 0730 - 1800 | 75 | 90 |
| 1800 - 2000 | 70 | 85 |
| 2000 - 0630 | 45 | 75 |

- (ii) Noise resulting from live weapons firing, firing of blanks, and the use of explosives:

| time (any day) | Limits (dBC) | Separation distance (metres) |
|----------------|--------------|------------------------------|
| 0700 – 1900 | 95 | 500 |
| 1900 – 0700 | 85 | 1,250 |

- (iii) Noise resulting from helicopter landing shall comply with NZS6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas.

Noise must be measured in accordance with the requirements of New Zealand Standard NZS6801:2008 Acoustics – Measurement of Sound

Annexure 2 – Taranaki Coastal Plan

General standards 8.6.3 Noise - Officers s42A recommendation – June 2019

Temporary military training activities in the coastal marine area will not create noise that exceeds the following noise limits when measured 1m from any side of any building used for accommodation:

- (i) All activities (other than live weapons firing, firing of blanks, and use of explosives):

| Time (any day) | Limits (dB) | |
|----------------|-------------------------|-------------------|
| | L _{Aeq(15min)} | L _{Amax} |
| 0700 - 1900 | 50 | - |
| 1900 - 2200 | 45 | - |
| 2200 - 0700 | 40 | 70 |

- (ii) Noise resulting from live weapons firing, firing of blank or use of explosives:

| time (any day) | Limits (dB) | | Separation (meters) |
|----------------|-------------------------|--|---------------------|
| | L _{Aeq(15min)} | | |
| 0700 – 1900 | 70 | | 500 |

- (iii) Noise resulting from helicopter landing shall comply with NZS6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas.

Noise must be measured, assessed, managed and controlled in accordance with the requirements of New Zealand Standard NZS6803:1999 Acoustics – Construction noise, as if the Temporary Military Training Activity noise was construction noise.

**BEFORE THE PROPOSED COASTAL PLAN FOR TARANAKI
HEARINGS PANEL**

TARANAKI REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Coastal Plan for Taranaki

**STATEMENT OF EVIDENCE OF SARA MCMILLAN
ON BEHALF OF NEW ZEALAND DEFENCE FORCE
SUBMITTER 33
16 JULY 2019**

**STATEMENT OF PRIMARY EVIDENCE OF SARA MCMILLAN ON
BEHALF OF THE NEW ZEALAND DEFENCE FORCE – SUBMITTER 33**

QUALIFICATIONS AND EXPERIENCE

- 1 My full name is Sara Kristy McMillan. I am a Senior Planner at Tonkin & Taylor Limited, and have thirteen years of planning experience in New Zealand. I hold the qualifications of a Bachelor of Science (Geography) and Master of Science (Environmental Science) with first class honours from the University of Auckland.
- 2 I am a full member of the New Zealand Planning Institute and a member of the Resource Management Law Association.
- 3 My experience spans most aspects of planning with a particular emphasis on policy advice and preparation of submissions on plan changes around New Zealand, and the preparation of resource consent applications. I have particular experience in the matter of temporary military training activities (**TMTA**) having given evidence to a number of Councils on this matter.

CODE OF CONDUCT

- 4 I confirm that I have read the Environment Court's Code of Conduct for Expert Witnesses set out in the Environment Court's Code of Practice Note 2014. Although this matter is not before the Environment Court, I agree to comply with this Code. I confirm that the issues addressed in this statement of evidence are within my area of expertise and that I have not omitted to consider any material facts known to me that might alter or detract from my opinions expressed in this evidence.

SCOPE OF EVIDENCE

- 5 I have been engaged by the New Zealand Defence Force (**NZDF**) to provide expert planning advice in relation to the proposed Coastal Plan for Taranaki (**pCPT**). I am familiar with NZDF's original submission and further submission on this Plan.

- 6 I am familiar with the pCPT to which these proceedings relate. I have read the section 42A report¹ as it relates to NZDF's submission.
- 7 Ms Rebecca Davies has explained the background to NZDF's original submission, including the nature of TMTA that NZDF may undertake within the coastal marine area (**CMA**). Mr Darran Humpheson has presented technical noise evidence explaining the noise standards requested by NZDF. My evidence relies on the evidence statements of both Ms Davies and Mr Humpheson.
- 8 My evidence addresses the key matters raised in NZDF's submission and further submission, as follows:
- i) Temporary military training activities;
 - ii) Biofouling; and
 - iii) Discharge of water and minor contaminants to the CMA.

SUBMISSION POINTS ACCEPTED IN SECTION 42A REPORT

- 9 Where NZDF has sought retention of proposed provisions or suggested amendments, and the section 42A report recommends accepting these submission points, I have generally not addressed these any further as no specific changes are required beyond what is recommended in the section 42A report.

INTRODUCTION TO TEMPORARY MILITARY TRAINING ACTIVITIES

- 10 Section 5 of the Defence Act 1990 provides for the raising and maintenance of armed forces for various purposes, including for the defence of New Zealand, to protect the interests of New Zealand, to assist the civil power in times of emergency, and in the provision of any public service. Proper training is absolutely fundamental to ensuring capability is maintained across a multitude of scenarios.

¹ Section 42A Report on Decisions Requested, dated 28 June 2019

- 11 Ms Davies has provided a description of the nature of TMTA in her evidence. In order to maintain capability for real-life situations, Ms Davies has explained the importance of training being undertaken in a range of environments and locations, including the Taranaki foreshore or territorial sea, during both the day and night. These training activities could involve amphibious beach landings, use of portable water treatment units, helicopter landings, and, occasionally, live or blank weapons firing and the use of explosives.
- 12 As Ms Davies has described, NZDF is undertaking a nationwide project to achieve consistency in TMTA planning rules, particularly in relation to noise. Aside from the operational difficulties created by variation in TMTA provisions nationwide, from a planning perspective I consider there to be little merit in each Plan having its own set of rules for TMTA. A nationally consistent approach, as promoted by NZDF, is in line with the Government's recent legislative reforms to the RMA that introduced a tranche of nationwide templates and strengthened national planning tools.
- 13 NZDF's requested noise standards for TMTA have been incorporated into the planning documents for a number of territorial authorities (with or without minor modifications), including the regional coastal plan provisions in the Auckland Unitary Plan and Proposed Regional Plan for Northland.

TEMPORARY MILITARY TRAINING ACTIVITIES – RULES 31 AND 32

- 14 Rule 31 of the pCPT permits temporary military training activities in most coastal management areas², subject to compliance with conditions. The section 42A report recommends a number of changes to these permitted activity conditions in response to NZDF's submission. With the exception of the general standards for noise

² Estuaries Unmodified, Estuaries Modified, Open Coast, and Port

(8.6.3 (c)), which I will discuss later, I consider the recommendations to be appropriate.

- 15 The Officers recommend changes to the wording of Rule 31 that I consider requires improvement. My suggested changes to the Officers' recommended wording is as follows (with deletions shown as strikethrough, and additions underlined):

Temporary ~~exclusive occupation of the common marine and coastal area including placement of a temporary structure for the purpose of military training activities that do not involve mechanical excavation or use of underwater explosives ~~except for the firing of blank rounds which are not excluded~~~~, and any associated:

(a) Occupation of space in the common marine and coastal area;

(b) Temporary structures;

(c) Noise;

(d) Disturbance of the foreshore or seabed;

(e) Deposition in, on or under the foreshore or seabed; and

(f) Discharge of sediment.

- 16 I consider that the readability of the rule is improved by listing 'occupation' and 'structures' with the other associated authorisations, rather than within the rule itself.
- 17 During pre-hearing engagement with Council, Council Officers clarified that explosives are proposed for exclusion from the permitted activity rule because of their potential noise effects. However, as airborne noise is already managed when Rule 31 standard (g) is met³, I consider weapons firing and the use of airborne explosives should be permitted. It would, however, be appropriate for *underwater* explosives use to be excluded from the permitted activity rule so that Council can

³ Rule 31 standard (g) requires compliance with the general noise standards in 8.6.3

assess these effects and impose appropriate consent conditions. My suggested wording to Rule 31 reflects this.

- 18 Rule 32 of the pCPT provides for TMTA that do not come within or comply with Rule 31 as a controlled activity. I generally support this rule. However, similar to Rule 31, I suggest the following changes to the wording that the Officers recommend:

~~Temporary exclusive occupation of the common marine and coastal area for the purpose of military training activities involving placement of temporary structures and any associated:~~

(a) Occupation of space in the common marine and coastal area;

(b) Temporary structures;

(c) Noise;

(d) Disturbance of the foreshore or seabed;

(e) Deposition in, on or under the foreshore or seabed; and

(f) Discharge of sediment.

- 19 A number of other submitters sought changes to Rules 31 and 32 that I consider would unnecessarily and excessively restrict NZDF from undertaking its essential training activities. I support the Officers' recommendations to decline the relief sought in those submission points.

TEMPORARY MILITARY TRAINING ACTIVITIES – NOISE STANDARDS

- 20 Rule 31 of the pCPT requires TMTA to comply with the noise standards in 8.6.3 (c) in order to qualify as a permitted activity.
- 21 NZDF's submission⁴ sought that the standards in 8.6.3 (c) be replaced with the noise standards that NZDF developed specifically for TMTA,

⁴ Submission point 1157

and that it seeks be included consistently in District and Regional Coastal Plans nationwide.

- 22 In the section 42A report, the Officers recommend accepting NZDF's requested relief only in part. The fundamental content of NZDF's noise standards is not recommended for adoption, and in fact some of the noise limits are recommended to be substantively reduced or altered from the notified version⁵. Rather than having a technical acoustic basis for the recommended change, the reason provided in the section 42A report is that it "*promotes integrated management through the management of noise between the Council and New Plymouth District Council*". While I strongly support the principle of consistency in noise provisions between Councils, I consider the adoption of NZDF's specific TMTA noise standards a more efficient and effective means of achieving national consistency. Furthermore, as New Plymouth District Council's Proposed District Plan is yet to be notified, the adoption of NZDF's requested noise standards in the Coastal Plan for Taranaki would not preclude the Officers' desire for integrated noise management with the District Council. On behalf of NZDF, I am currently seeking continued engagement with New Plymouth District Council in regard to its proposed TMTA noise standards, and I understand that NZDF intends to submit on this matter once the Plan is notified.
- 23 Mr Humpheson has explained the technical basis for his finding that the recommended noise standards would unnecessarily restrict certain TMTA from occurring within the Taranaki CMA. He has also explained that the recommended noise standards for weapon noise and use of explosives will fail to protect residential amenity value by adopting the wrong noise descriptor (L_{Aeq} rather than dBC).
- 24 I will now discuss the individual components of the noise standards in 8.6.3 (c) that I consider need to be changed. The replacement

⁵ Notably, the noise limits for activities other than weapons firing or use of explosives is recommended to be reduced by as much as 25 dB, and the unit of measurement for explosions to be changed from dBC to L_{Aeq}

standards that NZDF proposes, and that I support, are attached to my evidence as Annexure 1.

Mobile and fixed noise sources

- 25 In relation to noise from sources other than weapons firing and the use of explosives, NZDF's typical approach (and as requested in its submission) is to specify different limits for mobile and fixed noise sources. However, as part of pre-hearing engagement with Council, NZDF agreed that the noise limits in the notified pCPT for these noise sources⁶ were not inconsistent with those it requested in its submission and were acceptable. However, in the section 42A report the Officers now recommend significant reductions in these noise limits that Mr Humpheson considers fails to recognise the temporary nature of the activities. On this basis, I am of the strong opinion that either the notified version of standard 8.6.3 (c) (i) or the noise standards in NZDF's submission should be adopted, but that the Officers' recommended change to this standard be rejected.

Noise from live firing, firing of blanks, and use of explosives

- 26 I understand that weapons firing and the use of explosives is an infrequent but essential component of some training exercises. Mr Humpheson has explained that noise generated by such activities is unique in its characteristics, having a strong low frequency component and short, sharp blasts of noise, and it will therefore seldom breach limits applied to average weighted noise metric such as L_{Aeq} . The impulsive nature of these noise sources is therefore more appropriately controlled by the C-weighted peak level as proposed by NZDF in its submission.
- 27 Ms Davies has explained the importance of NZDF being able to undertake training involving weapons firing or the use of explosives at any time of day or night. Provided an activity complies with appropriate

⁶ 8.6.3 (c) (i)

noise standards, I see no planning basis to require a resource consent be obtained to enable this activity to be undertaken after 7pm.

- 28 NZDF proposes to control the negative effects of weapon and explosives noise through compliance with both a noise limit and a corresponding separation distance (500 m during the day, and 1,250 m at night). The inclusion of separation distances is not only easier for the exercise co-ordinators, but is also straightforward for Council or a member of the public to determine whether the activity complies with the Plan requirements, based simply on the location of the activity.
- 29 As part of pre-hearing engagement with Council, NZDF proposed an alternative version of notified standard 8.6.3 (c) (ii) that was also consistent with the noise limits sought in its submission. For the reasons I have set out, I consider that either that NZDF's proposed version of standard 8.6.3 (c) (ii) (refer Annexure 1) or the noise standards in NZDF's submission should be adopted.

Noise from helicopter landings

- 30 The section 42A report recommended standard 8.6.3 (c) (iii) requires noise resulting from helicopter landing to comply with the New Zealand Standard for helicopter landing areas (NZS6807:1994). Mr Humpheson considers this will adequately control the noise of temporary helicopter landing areas, and I support the s42A recommendation on this basis.

Management and measurement of noise

- 31 The notified and section 42A recommended versions of standard 8.6.3 (c) requires noise to be measured, assessed, managed and controlled in accordance with the New Zealand Standard for construction noise (NZS6803:1999). As Mr Humpheson has explained, this should instead require noise to be measured in accordance with the New Zealand Standard for measurement of sound (NZS6801:2008), as per NZDF's proposed standards (refer Annexure 1).

BIOFOULING

- 32 From time-to-time, NZDF may need to undertake in-water cleaning of vessel hulls within Taranaki's Port coastal management area. This activity is permitted by Rule 9 of the pCPT, subject to compliance with the listed conditions. In its submission, NZDF broadly supported Rule 9 and its permitted activity conditions.
- 33 The Officers recommend a number of substantive changes to these conditions in response to the Ministry for Primary Industries' submission⁷. Ms Davies has outlined that these changes are too restrictive, unworkable to NZDF, and would create a risk to NZDF's operations and capability.
- 34 Despite the Officers' recommended insertion of Note 2 that refers to the Anti-fouling and In-water Cleaning Guidelines (June 2013) for further guidance in relation to this rule, Ms Davies has explained that the recommended conditions impose restrictions that are above and beyond those in the Guidelines. In particular, I understand that the Guidelines do not require cleaning to be limited to light fouling (as is required by recommended condition (d)), and the Guideline requirements for capture relate to the origin of the macrofouling rather than its size (as is required by recommended condition (e)). In its recommended form, the pCPT would not permit macrofouling of regional origin to be undertaken (that is, macrofouling acquired in the same region that the in-water cleaning is proposed) without full containment of biofouling waste, despite there being no risk of introducing invasive species not already present in Taranaki waters.
- 35 On this basis, I consider that permitted activity conditions (d) and (e) recommended in the section 42A report be deleted (as per the notified pCPT) and replaced with conditions that better align with the Guidelines.

⁷ Submitter 16, submission point 736

DISCHARGE OF WATER AND MINOR CONTAMINANTS TO THE CMA

- 36 In response to NZDF's submission⁸, the section 42A report recommends a new rule (Rule 1A) that permits the discharge of water and minor contaminants to the foreshore, seabed and waters of the coastal marine area.
- 37 I support this rule and its permitted activity conditions as efficient and effective plan-making. I consider the conditions will appropriately limit the potential adverse effects of discharges to the CMA, while enabling discharges of minor contaminants (such as from NZDF's portable water treatment units) to occur without the need for a resource consent.

CONCLUSION

- 38 TMTA undertaken by NZDF contribute to maintaining the nation's security and ultimately provide for the well-being, health and safety of people and the community. In my opinion, the recommendations contained in the section 42A report together with the amendments requested above will enable NZDF to meet its obligations under the Defence Act 1990 while giving effect to the objectives and policies of the pCPT and Part 2 of the Resource Management Act.

Sara McMillan

16 July 2019

⁸ Submission point 776

Annexure 1 – NZDF’s requested noise standards for Temporary Military Training Activities (standard 8.6.3 (c))

Temporary military training activities in the coastal marine area shall not create noise that exceeds the following when measured 1 m from any side of any building used for accommodation:

- (i) All activities (other than live weapons firing, firing of blanks, and use of explosives):

| time (any day) | Limits (dB) | |
|----------------|-------------|-------------------|
| | LAeq | L _{Amax} |
| 0630 - 0730 | 60 | 75 |
| 0730 - 1800 | 75 | 90 |
| 1800 - 2000 | 70 | 85 |
| 2000 - 0630 | 45 | 75 |

- (ii) Noise resulting from live weapons firing, firing of blanks, and the use of explosives:

| time (any day) | Limits (dBC) | Separation distance (metres) |
|----------------|--------------|------------------------------|
| 0700 – 1900 | 95 | 500 |
| 1900 – 0700 | 85 | 1,250 |

- (iii) Noise resulting from helicopter landing shall comply with NZS6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas.

Noise must be measured in accordance with the requirements of New Zealand Standard NZS6801:2008 Acoustics – Measurement of Sound

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

The Proposed Taranaki Regional
Coastal Plan

STATEMENT OF EVIDENCE OF CAMERON MARSHALL MADGWICK

ON BEHALF OF

**THE PETROLEUM EXPLORATION AND PRODUCTION ASSOCIATION OF
NEW ZEALAND**

12 JULY 2019

INTRODUCTION

1. My full name is **CAMERON MARSHALL MADGWICK**.
2. I am the Chief Executive of the Petroleum Exploration and Production Association of New Zealand ("**PEPANZ**").
3. I have a Bachelor of Laws and a Bachelor of Arts from Victoria University of Wellington. I practised law in private practice and in-house for around 15 years with a focus on the energy sector before moving into a community engagement role in the oil and gas sector. Following that I was appointed the Chief Executive of PEPANZ.
4. PEPANZ represents the companies that explore for, and produce, New Zealand's natural hydrocarbon resources. PEPANZ's membership produce an estimated 95 percent of New Zealand's petroleum. Operators produce this petroleum under licence from the Crown, which owns New Zealand's petroleum resources.
5. My statement is given on behalf of PEPANZ in relation to our submission on the Proposed Taranaki Coastal Plan.

EXECUTIVE SUMMARY

6. The petroleum industry is integral to, has shaped, and continues to shape the communities in the Taranaki Region. It provides highly-skilled and well paid jobs and is a cornerstone of the region's economy.
7. Furthermore, hydrocarbons provide about half of New Zealand's total energy needs. Natural Gas and LPG are used extensively by businesses and around 400,000 households. Hydrocarbons are predicted to still account for more than half of all global energy consumption in 2040.
8. The petroleum sector is subject to robust and comprehensive regulation. The industry also adopts international good practice health, safety and environmental requirements to compliment this regulation.
9. The key driver for PEPANZ's involvement in the hearing for Proposed Coastal Plan is to ensure that the Taranaki Regional Council's planning regime continues to provide for the petroleum industry and the benefits it delivers, while at the same time ensuring appropriate management of the environment.

SCOPE

10. My statement addresses the following matters:
 - (a) an explanation of who PEPANZ represents, its role and purpose;
 - (b) an overview of the petroleum industry in the Taranaki Region and New Zealand;
 - (c) socio-economic considerations;
 - (d) some background information about seismic surveys: and
 - (e) a short conclusion.

OVERVIEW OF THE PETROLEUM INDUSTRY IN TARANAKI

History of development of the petroleum industry in Taranaki

11. The petroleum industry in the Taranaki region has a long history, commencing in 1865, when the Alpha well was drilled near New Plymouth. This was one of the first in the world.
12. Today there are approximately twenty producing hydrocarbon fields in New Zealand, all of them located in Taranaki.
13. The advancement of new technologies, such as seismic surveying and deep rotary drilling, resulted in the discovery of the large onshore Kapuni gas-condensate field in South Taranaki in 1959. This discovery encouraged further exploration (including the large offshore Māui gas-condensate field in 1969) and resulted in the development of a North Island gas transmission network, bringing gas directly to homes and businesses in nine urban centres including Auckland, Wellington and other regional centres.
14. The discovery of the McKee Oil Field in 1979 altered the perception that New Zealand was only rich in gas. McKee remains in production today and has produced almost 48 million barrels of oil to date. The offshore Maari and Tui oil discoveries were made more recently, in 1998 and 2003, respectively.
15. High quality 'sweet' and 'light' condensates that predominate in New Zealand conditions find premium prices on the international market, and are almost entirely exported - mostly to refineries in Australia and Singapore, where they are refined into petroleum.

16. 'Sweet' means the oil is relatively free of sulphur compounds, and 'light' means it flows freely and is light in colour – a relatively pure oil.
17. While the benefits of the petroleum industry are enjoyed throughout New Zealand, production is based solely in Taranaki, although exploration efforts are regularly carried out in other regions of New Zealand.
18. Given the New Zealand industry's reliance on Taranaki, it is critical that the region's planning provisions appropriately recognise and provide for it.

Operations in the Taranaki coastal marine area

19. There are a number of important petroleum exploration and production operations located in Taranaki's Coastal Marine Area, namely:
 - (a) OMV operates the aforementioned Maui field, which has been in production since 1979, and operates beyond the region's boundaries in the exclusive economic zone. Its pipeline runs to shore through the coastal marine area.
 - (b) OMV also operates the Pohokura gas field, which has been in production since 2006 and is located in the coastal marine area. The operation involves a wellhead platform and a subsea pipeline to shore.
 - (c) Beach Energy operates the Kupe gas field, which commenced production in 2009, and straddles the coastal marine area and exclusive economic zone. It utilises an unmanned offshore platform outside the coastal marine area with a subsea pipeline to shore that runs through the coastal marine area.
 - (d) Todd Energy operates petroleum exploration permit 60094, which was granted in 2015 for exploration. It straddles the exclusive economic zone and coastal marine area.
 - (e) Westside Corporation operates the Kaheru petroleum exploration permit, which was granted in 2017. This is in the coastal marine area and is adjacent to Westside's onshore Kauri and Rimu petroleum mining operations..

Continued role for the petroleum industry

20. Hydrocarbons provide about half of New Zealand's total energy needs and are predicted to still account for more than half of all global energy consumption in 2040. PEPANZ acknowledges and accepts the worldwide push to transition to a lower-emissions future. That is a worthy goal, but one that has to recognise the realities of

the journey ahead of us and that natural gas have lower emissions than some other traditional energy sources such as coal.

21. Despite some of the rhetoric, demand for petroleum is projected to increase significantly in the decades ahead as global demand for most sources of energy continues to increase, and alternatives are still maturing, particularly at the commercial scale.
22. A recent report by the International Energy Agency predicts demand for natural gas will increase by 45 percent by 2040.¹ Natural Gas is displacing higher emissions energy sources and is accordingly in high demand. It is predicted that \$US8.6 trillion of investment is required in the global gas supply to 2040 to ensure a secure and reliable supply.
23. In New Zealand, oil and gas have a wide variety of uses including transport (road, rail, air and ship), power generation, and manufacturing. Almost 400,000 households also directly use natural gas or LPG for heating and cooking.
24. The by-products of oil and gas are used in a huge range of products and services, including cosmetics, medical products, and appliances. They are essential in making our modern lifestyles possible and will continue to do so for the foreseeable future.

SOCIO-ECONOMIC CONSIDERATIONS

Regional and local economy

25. The petroleum industry generates investment into the regions in which it operates. Many millions of dollars are required to discover a hydrocarbon field, and then many millions more to turn it into production. This investment pays for the development of local support infrastructure: production stations, buildings, roads, piping, reticulation structures, and salaries of staff and support workers.
26. In the Taranaki region, the industry accounts for around 30 percent of regional Gross Domestic Product and directly generates around 7000 jobs for the region. It is a key reason that Taranaki has the second highest regional GDP per person in New Zealand of \$68,427, compared to a national average of \$58,778².
27. Supply of reliable natural gas is essential for many industries in Taranaki, including methanol production (produced by the two Methanex plants in North Taranaki), and

¹ International Energy Agency – World Energy Outlook 2017 <https://www.iea.org/weo2017/>

² Regional incomes: *Statistics New Zealand* March 2018 <https://www.stats.govt.nz/information-releases/regional-gross-domestic-product-year-ended-march-2017>

urea fertiliser for agriculture (produced by the Ballance Agrichemical plant at Kapuni in South Taranaki) and as a fuel to support dairy processing (at a co-generation plant at Fonterra's Whareroa plant in South Taranaki). These industries are all almost entirely dependent on a ready supply of reliable natural gas. Equally, contractors and suppliers are employed to maintain and provide materials for the sector. Finally, staff, contractors, and suppliers live, provide services and support local communities and schools.

28. In Taranaki the energy industry also plays a strong social investment role in sponsoring and supporting a range of community initiatives, including Coastguard Taranaki, the WOMAD festival, the Len Lye centre, Taranaki rugby and community services (including scholarships and learning to swim programmes), facilities (including the TSB Hub in Hawera) and conservation efforts throughout the province (for example the Paper4Trees, Taranaki Mounga Project, and East Taranaki Environment Trust).
29. Companies in the sector work hard to build and maintain durable and constructive relationships with iwi and hapū, landowners and the wider communities in which they operate.

National economy

30. The upstream petroleum industry is a significant contributor to New Zealand's economy, contributing on average annually around \$2.5 billion to New Zealand's Gross Domestic Product. Oil exports are, on average, worth approximately \$1.5 billion per year.
31. Approximately 42 percent of all profit from new producing fields is returned to the New Zealand Government in the form of royalties and income tax. As a result, the Government earns approximately \$500 million in royalties and tax from the sector every year.
32. The industry generates around 11,000 jobs nationally, many of which are highly skilled and specialised. Local workers earn twice the national average salary and create seven times the average income earned per annum, resulting in money spent in local communities.
33. Natural gas is also crucial to electricity systems as it provides backup cover for renewable generation at times when demand exceeds supply, or when hydro lakes are low. Gas-fired power stations ensure New Zealand's electricity supply is reliable and reduces the possibility of blackouts. By way of illustration, the gas-fired McKee

Peaker Plant can provide electricity to approximately 70,000 homes. This is roughly the population of Taranaki.

34. Gas is also critical to a range of other economic activities that require heat, such as furnaces, milk drying and timber processing.
35. By way of summary, the development of New Zealand's petroleum resources over the last fifty years has generated income for New Zealand and New Zealanders, underpinned New Zealand's energy system, and enabled the development of a range of nationally significant industries.

OUR SUBMISSION OF THE PROPOSED TARANAKI REGIONAL COASTAL PLAN

36. Drilling and seismic surveys may be needed in future to facilitate continued development and expansion of the producing assets, and seismic surveys and exploration drilling are likely needed if the exploration operations are to make discoveries and be developed.
37. PEPANZ accepts the need for regulation of these activities under the RMA, and, as Dr Mitchell explains in his planning evidence, we support the vast majority of the Proposed Taranaki Regional Coastal Plan
38. PEPANZ considers that several amendments should be made, as also set out in Dr Mitchell's evidence.
39. One matter that has attracted some comment from submitters relates to seismic surveys and their environmental effects. To assist the Panel, the following paragraphs provide a succinct summary of the factual situation.

Overview of seismic surveying

40. Seismic surveying is a geophysical technique used to produce detailed images of the earth's subsurface to deliver information about the location and scale of oil and gas reservoirs.
41. Marine seismic surveys involve a specialised vessel with an acoustic source releasing bubbles of compressed air. When these bubbles collapse, a directionally focused low frequency sound wave is sent towards the seafloor – and the returning soundwave is picked up by hydrophones attached to 'streamers' which are towed behind the vessel.
42. Seismic surveying is an established scientific technique that has been used worldwide for more four decades of use and has been the subject of many research

projects (both in New Zealand and world-wide) to assess environmental effects, particularly those relating to marine mammals – a subject that is sometimes cited in the media. The reality of the situation is that the industry is required to comply with the Department of Conservation’s Code of Conduct for minimising acoustic disturbance to marine mammals, and does so willingly.

43. Under the Code of Conduct, operators undertaking a seismic survey are required to:
- (a) Undertake a Marine Mammal Impact Assessment
 - (b) have present two independent trained marine mammal observers and two passive acoustic monitoring operators.
 - (c) record all observations/sightings of marine mammals before and during operations.
 - (d) have regard to the mitigation zones. 1.5km radius for species of concern with young, 1km for species of concern without young, and 200m for all other species. The acoustic source must be stopped if any marine mammals enter the relevant mitigation zones.
 - (e) use the lowest practical acoustic source volume for the survey that will still achieve survey objectives.
 - (f) conduct 30 minutes of pre-observation prior to commencing the soft-start procedures, which slowly builds up the source volume over a period of 20 minutes.
44. These measures have and continue to be effective, and PEPANZ and its members are committed to continuing to work closely with the Department of Conservation and others on these matters.

CONCLUSION

45. The petroleum industry is integral to, has shaped, and continues to shape the communities in the Taranaki Region. It provides highly-skilled and well paid jobs and is a cornerstone of the region’s economy.
46. Furthermore, hydrocarbons provide about half of New Zealand’s total energy needs. These are used extensively by businesses and around 400,000 households use natural gas or LPG directly. Hydrocarbons are predicted to still account for more than half of all global energy consumption in 2040.

47. The key driver for PEPANZ's involvement in the hearing for Proposed Coastal Plan is to ensure that the Taranaki Regional Council's planning regime continues to provide for the petroleum industry and the benefits it delivers, while at the same time ensuring appropriate management of the environment.
48. PEPANZ supports the vast majority of the Proposed Taranaki Regional Coastal Plan but considers that several amendments should be made, as set out in Dr Mitchell's evidence.

Cameron Marshall Madgwick
16 July 2019

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

The Proposed Taranaki Regional
Coastal Plan

PRIMARY STATEMENT OF EVIDENCE OF PHILIP HUNTER MITCHELL

ON BEHALF OF

**THE PETROLEUM EXPLORATION AND PRODUCTION ASSOCIATION OF
NEW ZEALAND**

12 JULY 2019

1. INTRODUCTION

1.1 My full name is Philip Hunter Mitchell.

QUALIFICATIONS AND EXPERIENCE

1.2 I hold the degrees of Bachelor of Engineering (Hons) and Doctor of Philosophy, both from the University of Canterbury.

1.3 I am employed by Mitchell Daysh Limited, an environmental consulting practice with offices in seven locations around New Zealand that I co-founded in 2016. Previously I was a Director of Mitchell Partnerships Limited, an environmental consultancy I established in 1997, and which was merged with another firm to form Mitchell Daysh Limited. Prior to that, I was the Managing Director of Kingett Mitchell & Associates Limited, a firm that I co-founded in 1987.

1.4 I am a past president and founding executive committee member of the Resource Management Law Association, a full member of the New Zealand Planning Institute and in 2015 was a recipient of the New Zealand Planning Institute's Distinguished Service Award.

1.5 I have practiced in the field of resource management for the past 34 years during which time I have had a lead resource management role in many significant projects throughout New Zealand, a number of which are in the Taranaki Region.

1.6 I have acted on several Ministerial advisory panels established to review aspects of the Resource Management Act 1991 ("**RMA**") and was a member of the Technical Advisory Group established to review sections 6 and 7 of the RMA.

1.7 My principal areas of practice include providing resource management advice to the private and public sectors; facilitating public consultation processes; undertaking planning analyses; managing resource consent acquisition projects; and developing resource consent conditions.

- 1.8 I have acted as a Hearings Commissioner on some 40 occasions, many in the role of Chair, for both resource consent and planning hearings.
- 1.9 I was appointed jointly by the Minister for Canterbury Earthquake Recovery and the Christchurch City Council as a Hearings Commissioner for the replacement of the Christchurch City District Plan (the district plan that is intended to facilitate the rebuilding of Christchurch), and have recently been appointed to chair the upcoming hearings on the Proposed Waikato District Plan.
- 1.10 I have been involved in many resource consent and plan review processes and have presented evidence in relation to such activities on many occasions. In that role I have been involved in numerous resource consent applications for energy and industrial related activities, including a significant number in the Coastal Marine Area ("**CMA**").
- 1.11 Whilst I note that this is not an Environment Court hearing, I confirm that I have read and am familiar with the Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2014. I agree to comply with that Code. Other than where I state I am relying on the evidence of another person my evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

SCOPE OF EVIDENCE

- 1.12 I have been asked by the Petroleum Exploration and Production Association of New Zealand (**PEPANZ**) to provide evidence in relation to their submissions and further submissions on the Proposed Taranaki Regional Coastal Plan (**Proposed Plan**).
- 1.13 My evidence is relatively brief because:
- The Proposed Plan, as notified, generally made appropriate provision for the matters relating to the activities undertaken by **PEPANZ's** members (**oil and gas sector**); and

- Many of the matters raised in PEPANZ's submission and further submission have been incorporated into the revised version of the Proposed Plan contained in the Council's section 42A report.

1.14 Accordingly, my evidence is confined to addressing the following matters:

- Briefly summarising the general approach that the Proposed Plan has taken in managing the activities undertaken by the oil and gas sector;
- Identifying those few matters where I consider that some further amendment is required; and
- Explaining the specific amendments I consider to be appropriate and the rationale for them.

2. OVERVIEW OF THE PROPOSED PLAN (AS IT RELATES TO THE OIL AND GAS SECTOR)

2.1 It is clear to me that the authors of the Proposed Plan and the section 42A report have acknowledged the importance of the oil and gas sector to the Taranaki Region and New Zealand as a whole, while at the same time recognising that the environmental effects of the sector's activities need to be appropriately assessed, managed and monitored.

2.2 In that regard, the Proposed Plan contains various objectives, policies and rules that apply to the sector's activities, noting that where I refer to the Proposed Plan in my evidence, I am referring to the version contained in the section 42A report, unless stated otherwise.

Overall Objectives and Policies Framework

2.3 There are a large number of objectives and policies in the Proposed Plan that frame how the various uses of the coastal environment and the environment itself will be assessed and managed.

2.4 By way of summary, they address matters that include:

- Integrated management of the coastal environment;
- Safeguarding the mauri and life supporting capacity of the coastal environment;
- Preserving and protecting natural character;
- Protecting natural features and landscapes;
- Maintaining and enhancing biodiversity and protecting areas of significant biodiversity;
- Taking the principles of the Treaty of Waitangi, including: mai te maunga Taranaki kite tai a Kupe, whakapapa, kaitiakitanga, manaakitanga, whanaungatanga, kawanatanga and rangatiratanga;
- Protecting cultural and historic heritage;
- Maintaining and enhancing public use and enjoyment of the coastal environment; and
- Managing coastal hazard risks.

2.5 Additionally, there are a series of policies that relate to discharges; structures and occupation of space, disturbance, deposition and extraction on the seabed; reclamation and drainage; management of using water, heat and energy; and noise.

Objectives and Policies of Direct Relevance to Oil and Gas-related Activities

2.6 The Proposed Plan contains the following objectives and policies that directly relate to activities undertaken by the oil and gas sector:

- Objective 2** Which contemplates the efficient use and development of natural and physical resources in the coastal marine area

- Objective 3** Which recognises the use and ongoing operation of regionally important infrastructure and other lawfully established activities should be protected from “reverse sensitivity” effects.
- Policy 5** Which further articulates the requirements of Objective 2.
- Policy 6** Recognises the benefits of regionally important infrastructure, as per Objective 3.
- Policy 29** Which addresses how the impacts of drilling and production activities are to be managed.
- Policy 36** Which provides for the maintenance and minor extensions to existing structures and how effects are to be managed.
- Policy 37** Which provides for major alterations or extensions to existing structures and how effects are to be managed.
- Policy 38** Which relates to the removal of coastal structures and which generally requires removal once operations cease.
- Policy 39** Which requires structures and activities to not unreasonably restrict public access.

Rules of Direct Relevance to Oil and Gas-related Activities

- 2.7 Although oil and gas-related activities would be subject to a variety of rules in the proposed plan, those of direct relevance are:

- Rules 12, 12A and 13** Which manage bathymetric and seismic surveys.

Rules 26 and 27 Which manage exploration drilling activities.

Rule 29 Which manages petroleum production installations.

- 2.8 As already stated, PEPANZ considers that the overall thrust of the Proposed Plan is appropriate, as are the vast majority of the specific provisions that have been proposed. I agree.
- 2.9 Therefore, the balance of my evidence addresses where I consider that some refinements are needed, all of which relate to policies and rules, rather than the objectives.

3. **POLICY 14A**

- 3.1 The notified version of the Proposed Plan included one policy (Policy 14) that addressed the topic of “Indigenous Biodiversity”. That policy stated:

Policy 14: Indigenous biodiversity

Protect significant indigenous biodiversity in the coastal environment by:

- (a) avoiding adverse effects of activities on:
- (i) indigenous taxa that are nationally threatened or at risk, or regionally distinctive, including those identified in Schedule 4A;
 - (ii) taxa that are internationally threatened including those identified in Schedule 4A;
 - (iii) indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare, as identified in Schedule 4A;
 - (iv) habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;
 - (v) areas containing nationally significant examples of indigenous community types; and
 - (vi) areas set aside for full or partial protection of indigenous biological diversity under other legislation; and
- (b) avoiding significant adverse effects and avoiding, remedying and mitigating other adverse effects of activities on:
- (i) areas of predominantly indigenous vegetation in the coastal environment;
 - (ii) habitats in the coastal environment that are important during the vulnerable life stage of indigenous species including:
 - i. estuaries;
 - ii. spawning areas (e.g. snapper-trevally spawning area in the North Taranaki Bight between Mōhakatino River and Pariokariwa Point);
 - iii. areas that provide passage for diadromous species;
 - iv. marine mammal resting, feeding and breeding areas; and

- v. bird roosting and nesting areas;
- (iii) indigenous ecosystems and habitats found only in the coastal environment and which are particularly vulnerable to modification including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass, saltmarsh, and sensitive marine benthic habitats as identified in Schedule 4B;
- (iv) habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;
- (v) habitats, including areas and routes, that are important to migratory species; and
- (vi) ecological corridors and areas important for linking or maintaining biological values identified under this policy.

3.2 That policy essentially mirrors Policy 11 of the New Zealand Coastal Policy Statement 2010 (“**NZCPS**”). It therefore “gives effect to” the NZCPS, as section 67(3)(b) of the RMA directs it must.

3.3 In response to submissions, the Proposed Plan now:

- Has amended Policy 14 so that it now on refers to “**Significant Indigenous Biodiversity**”;
- Made several consequential wording changes to Policy 14;
- Added a new Policy 14A that deals with “Indigenous Biodiversity”; and
- Added a new Policy 14B that deals specifically with “Taonga Species”, to which I have no objection.

3.4 My concern is confined to the new proposed Policy 14A, which states:

Policy 14A: Indigenous biodiversity

Maintain and enhance indigenous biodiversity generally in the coastal environment by:

- (a) as far as is practicable, avoiding, remedying and mitigating the adverse effects of activities on indigenous biodiversity; and
- (b) when assessing adverse effects on indigenous biodiversity, having regard to the extent of effects, including consideration of:
 - (i) the association of the ecological site and values with other interrelated, but not necessarily contiguous, ecological sites and values;
 - (ii) the nature, location, extent and design of the proposed development and the effects of these factors on indigenous biodiversity;

- (iii) the degree to which indigenous biodiversity values will be lost, damaged, destroyed, or enhanced, recognising that;
 - i. the scale of the effect of an activity is proportional to the size and sensitivity of the ecological area and associated indigenous biodiversity values;
 - ii. discrete, localised or otherwise minor effects not impacting on the ecological area may be acceptable; and
 - iii. activities with transitory effects may be acceptable, where they can demonstrate the effects are not long-term and/or irreversible.

3.5 In my opinion, proposed Policy 14A goes well beyond “giving effect to” the NZCPS, and, instead serves to place indigenous biodiversity on an inappropriately high pedestal, such that virtually any activity in the coastal environment, and particularly the CMA, will fall foul of the policy.

3.6 Given the wide-ranging definition of “indigenous biodiversity”, and the requirement in proposed Policy 14A to “maintain and enhance” it, any proposal that occurs in proximity to any native species will, in my opinion, be compromised, unless the effects are “transitory”, “not long term” and/or “reversible”. This concern is exacerbated by proposed Policy 3, which directs that a precautionary approach should be taken, where the effects of activities are uncertain, as is often argued in situations in the CMA.

3.7 For all these reasons, Policy 14A should, in my opinion, be deleted, and the consequential changes made to Policy 14.

3.8 In addition, I note that clause (a) of proposed Policy 14A requires that adverse effects on indigenous biodiversity are to be “**as far as practicable**, avoid[ed], remed[ied] or mitigate[d]”. Section 5 of the RMA directs that all effects on the environment are to be avoided, remedied or mitigated, with mitigation being accepted as requiring a “lessening of the severity” of effects, not mitigated “as far as practicable”. In my opinion, the “as far as practicable” wording goes beyond what the RMA requires, and if Policy 14A was to be maintained those words would need to be deleted.

4. POLICY 29

- 4.1 The section 42A report version of Proposed Policy 29, has changed the types of activities that it relates to and includes a new clause (aa). The relevant aspects of the proposed policy are as follows:

Policy 29: Impacts from ~~offshore petroleum~~ drilling and production

Activities associated with drilling and production in the coastal marine area must be managed to avoid, remedy or mitigate adverse environmental effects associated with accidental any discharges by:

....

(aa) in relation to offshore production activities, adopting adequate separation and buffer distances having regard to the values and sensitivity of the environment;

- 4.2 As notified, this policy specifically referred to “offshore petroleum drilling and production” but the reference to offshore petroleum has been removed in the section 42A report version, so that the policy now also relates to all drilling and production. I understand the rationale for this change, but in my opinion, greater clarity would be provided if Policy 29 only related to offshore petroleum activities, as it did originally, and a separate, more general policy was drafted to address all other (i.e. non-oil and gas) activities.
- 4.3 In my opinion clause (aa) goes too far in requiring “adequate separation and buffer distances” for offshore production activities. That wording implies that a separation distance AND a buffer distance both be provided. As such, once a proposed activity was sited an appropriate distance from important resources/values/activities, an additional buffer distance would also be required.
- 4.4 In my opinion, these two terms are interchangeable, in that they are designed to achieve the same purpose – i.e. to locate activities an appropriate distance from important resources/values/activities that need to be protected. Requiring both a separation distance and a buffer distance is therefore superfluous and, unduly onerous. In my opinion, use of the term “separation distance, to the extent necessary” is the preferred term and the reference to “buffer distances” should be deleted.

5. POLICY 38

5.1 The revised version of Policy 38 in the section 42A report states:

Policy 38: Removal of coastal structures

Decommissioning and removal of any new structure must be considered as part of the initial design and installation and removal will generally be required.

When assessing the appropriateness of allowing a structure, a part of a structure, or material associated with a structure to be left in situ or elsewhere in the coastal marine area, at least one of the following must apply:

- (a) removal of the structure would cause greater adverse effects on the environment than leaving it in place;
- (b) the structure is an integral part of an historic heritage site or landscape;
or
- (c) the structure, or part of the structure, is permanent (32) or has reuse value that is considered appropriate in accordance with Policy 5;
- (d) the removal of the structure is technically unfeasible; or
- (e) the removal of the structure poses unreasonable risk on human health and safety.

5.2 I accept and agree with the intended approach to this policy – that being that once an activity has concluded, adverse effects on the environment should cease. That said, proposed Policy 38 should, in my opinion, be amended to do two complementary things:

- Remove the reference to “removal generally being required”, so as to make the requirement less directive; and
- Include a new clause (f), to the effect that removal of all or part of a structure is not needed if the retention of all or part of the structure has either beneficial, or minimal adverse, effects on marine ecology and coastal processes – one example being retention of a structure below the seabed.

5.3 My suggested wording is as follows:

Policy 38: Removal of coastal structures

~~Decommissioning and removal of any new structure must be considered as part of the initial design and installation and removal will generally be required.~~

When assessing the appropriateness of allowing a structure, a part of a structure, or material associated with a structure to be left in situ or elsewhere in the coastal marine area, at least one of the following must apply:

- (a) removal of the structure would cause greater adverse effects on the environment than leaving it in place;
- (b) the structure is an integral part of an historic heritage site or landscape;
or
- (c) the structure, or part of the structure, is permanent or has reuse value that is considered appropriate in accordance with Policy 5;
- (d) the removal of the structure is technically unfeasible; ~~or~~
- (e) the removal of the structure poses unreasonable risk on human health and safety; or
- (f) the structure, or part of the structure, will have either beneficial, or minimal adverse, effects on marine ecology and coastal processes.

6. RULES 12 AND 12A

Introduction

- 6.1 The notified version of the Proposed Plan contained a permitted activity rule for seismic and bathymetric surveys (Rule 12), and a discretionary activity rule (Rule 13) that applied to seismic and bathymetric surveys that did not meet the permitted activity standards.
- 6.2 The section 42A report has:
 - 6.2.1 Modified permitted activity Rule 12 so that it only now applies to bathymetric surveys;
 - 6.2.2 Deleted the permitted activity status for seismic surveys and added a new Rule 12A that makes seismic surveys a controlled activity; and
 - 6.2.3 Retained Rule 13 with minor modifications (i.e. essentially unchanged), that ascribes discretionary activity status to activities that do not meet the permitted or controlled activity standards.
- 6.3 I do not oppose the approach of including a controlled activity rule for seismic surveys, but consider that the current wording of Rules 12 and

12A requires amendment in order to be comply with the requirements of the RMA, for reasons I will now explain.

- 6.4 First and foremost, the standards that must be complied with if an activity is to be assessed as a either a permitted activity or controlled activity, must be clear, unambiguous and certain. Also, standards must not reserve a determination of what the standard requires to a subsequent decision-maker.

Rule 12

- 6.5 The notified version of permitted activity Rule 12 achieved that requirement, in that for a seismic or bathymetric survey to be a permitted activity:

- Compliance was required with the *2013 Code of Conduct for Minimising Disturbance to Marine Mammals from Seismic Survey Operations* – administered by the Department of Conservation; and
- The operator was required to provide prior notice to the Council.

- 6.6 The standards applicable to the modified Rule 12 contained in the section 42A report has deleted both these matters and replaced them with the following:

- (a) the activity **does not have an adverse effect on** any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant indigenous biodiversity];
- (b) the activity **does not have a significant adverse effect on** the values associated with taonga species identified in Schedule 4C [Taonga species]. **[My emphasis]**

- 6.7 In respect of a) in paragraph 6.6 above, what constitutes an “adverse effect on any threatened ... species” (or any of the other matters listed) requires a values-based assessment, and an opinion to be made, firstly by the person proposing the activity and secondly by the Council, if a Certificate of Compliance was sought. Furthermore, even if the Council

determined that an effect was not adverse, it could be subject to review in the High Court.

- 6.8 The same issue arises in respect of b) in paragraph 6.6.
- 6.9 In my opinion, the standards in the notified version of Rule 12 (which now only relates to the very low impact activity of bathymetric surveys) should be retained. However, it would be appropriate for the rule to be amended by adding a clause (c) to the effect that permitted activities would only apply in the Open Coast and Port coastal management areas (i.e. those identified as not having any special qualities) and not in the Outstanding Value, or either of the two Estuaries coastal management areas.

Rule 12A

- 6.10 Notwithstanding that a controlled activity rule is now proposed for seismic surveys, I note that the operative Taranaki Regional Coastal Plan contains a permitted activity rule that has, in my understanding, successfully managed seismic surveys in Taranaki's CMA over the past 20 plus years. I am not aware of any definitive technical reason justifying a departure from permitted activity status for seismic surveys.
- 6.11 While I do not oppose the use of a controlled activity rule, the same problems arise with standards (b) and (c) of proposed controlled activity Rule 12A. They state:

Standards/Terms/Conditions

- (a) The activity complies with *2013 Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations*.
- (b) The activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant indigenous biodiversity]; and
- (c) the activity does not have a significant adverse effect on the values associated with taonga species identified in Schedule 4C [Taonga species]; and
- (d) the activity complies with the general standards in Section 8.6.

6.12 In my opinion, clause (b) should be deleted altogether and clause (c) replaced as follows, or to similar effect:

~~(b) The activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant indigenous biodiversity]; and~~

(c) The activity does not have a significant adverse effect on the values associated with taonga species identified in Schedule 4C [Taonga species] occur within 1000 metres of Mean High Water Springs; and

6.13 I expect that provisions of this type would achieve the same overall result as that contemplated in the section 42A report's version of Rule 12A's standards but would do so in a way that was sufficiently certain and enforceable.

7. RULE 26

7.1 Proposed Rule 26 is a controlled activity rule that relates to the drilling of exploration or appraisal wells. I support the use of a controlled activity rule for these activities, but similar issues arise in respect of the "standards" as discussed in Section 6 above.

7.2 As currently drafted, two of the standards in proposed Rule 26 that a controlled activity must satisfy (one being clause (d) and the second a new clause (da) recommended in the section 42A report), state:

(d) the activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A [Significant species and ecosystems];

(da) the activity does not have a significant adverse effect on the values associated with taonga species identified in Schedule 4C [Taonga species];

7.3 In my opinion, those clauses should be deleted, as they are uncertain and subjective, noting also that:

7.3.1 There are various other definitive standards that an activity must satisfy in order to be controlled; and

7.3.2 The list of matters over which control is reserved for the decision-maker to decide is extensive and wide-ranging.

7.4 I do not oppose the matters of control listed in proposed Rule 26.

8. RULE 27

8.1 As drafted currently, any drilling activity that does not meet one or more of the standards in Rule 26 becomes a discretionary activity under proposed Rule 27.

8.2 The issues that need to be assessed when considering drilling activities are well-understood and comprise those matters over which control has been reserved in proposed Rule 26. However, if an activity does not meet one or more of the standards in proposed controlled activity Rule 26, proposed Rule 27 (as a fully discretionary activity rule) provides no limitation on, nor guidance about, the matters that should / can be considered.

8.3 In my opinion, a new Rule 26A should be included to the effect that if an activity does not meet any one of the standards in proposed Rule 26, the activity would become a **restricted discretionary** activity, with the matters over which discretion is restricted being the same the same list of matters over which control has been reserved in proposed Rule 26. In that way, the assessment of drilling operations will be required to remain focussed on the specific matters that need to be assessed, rather than those that may be extraneous.

9. CONCLUSIONS

9.1 In my opinion, the Proposed Plan, as notified, has generally made appropriate provision for the matters relating to the activities undertaken by the oil and gas sector.

9.2 Additionally, many of the matters raised in PEPANZ's submission and further submission have been incorporated into the revised version of the Proposed Plan contained in the Council's section 42A report.

9.3 Accordingly, my evidence has focused on identifying those few matters where I consider that some further amendment is required, and then

explaining the specific amendments I consider to be appropriate and the rationale for them.

- 9.4 In my opinion, the amendments I have proposed are necessary to achieve the purpose of the RMA, give effect to the NZCPS and ensure that the policies and rules are the most appropriate, efficient and effective way to achieve the Proposed Plan's objectives, as required by section 32 of the RMA.

**BEFORE THE HEARING COMMISSIONERS
AT NEW PLYMOUTH**

IN THE MATTER of the Resource Management Act 1991
(**the Act**)

AND

IN THE MATTER of the Proposed Taranaki Regional
Coastal Plan

**LEGAL SUBMISSIONS ON BEHALF OF PETROLEUM EXPLORATION AND
PRODUCTION ASSOCIATION OF NEW ZEALAND (PEPANZ)**

1 AUGUST 2019

 **ATKINS | HOLM | MAJUREY**

Mike Holm
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INTRODUCTION

1. The following submissions are made on behalf of the Petroleum Exploration and Production Association of New Zealand (**PEPANZ**).
2. The relevant legal framework pursuant to the Resource Management Act has been addressed in detail in the Section 42A Report and it is not proposed to repeat the analysis outlined.
3. The overall purpose of the Resource Management Act 1991 is worth repeating, as it most importantly establishes the overall legal context and perspective for this Coastal Plan hearing.
4. Section 5(1) states that the purpose of the Act is “to promote the sustainable management of natural and physical resources.”
5. Section 5 makes it clear that included in the meaning of sustainable management is the “use” and “development” of natural and physical resources...which enables “people and communities”...to “provide for their economic wellbeing.”
6. In addition, and again to provide broad legal context, it is worth noting that the RMA does not mandate a “no risks” approach to sustainable management of natural and physical resources. Nor does the Act prohibit adverse effects on the environment or require that all environmental effects be ‘internalised’.
7. Finally, it is relevant to note that fears and perceptions are not effects. Any party asserting an effect needs to provide supporting probative evidence. Fears and perceptions are not probative evidence of an effect and can be given no weight by decision makers.

THE ECONOMIC IMPORTANCE OF THE OIL AND GAS INDUSTRY

8. The Chief Executive of PEPANZ has submitted a statement which outlines the national and regional importance of the oil and gas industry to Taranaki and New Zealand.
9. To briefly highlight salient points:
 - (a) In the Taranaki region, the oil and gas industry accounts for approximately 30% of regional GDP and directly generates around 7,000 jobs for the region. It

is the key reason that Taranaki has the second highest GDP per person in New Zealand.

- (b) The upstream petroleum industry makes a significant contribution to New Zealand's economy – contributing on average annually around \$2.5 billion to New Zealand's GDP. The Government earns approximately \$500 million in royalties and tax each year. Some 11,000 jobs are generated nationally.
 - (c) The development of New Zealand's petroleum resources, both on and offshore, based in Taranaki, over the last fifty years has generated substantial jobs; underpinned New Zealand's energy system; and enabled development of a range of nationally significant industries.
10. As noted by Mr Madgwick, drilling and seismic surveys will be needed in future in Taranaki coastal waters to facilitate continuing development and expansion of existing wells. Seismic surveys and exploration drilling are also likely to be needed if currently authorised exploration activities are to make discoveries and be developed. Such activities are subject to comprehensive environmental management in the Proposed Plan policies and rules.
11. In general, oil and gas exploration and development activities and operations have had minimal long term environmental effects in Taranaki coastal waters where many years of exploration and development has taken place. This includes operational installations for oil and/or gas recovery such as Maui (EEZ and coastal marine area), Pohokura (coastal marine area) and Kupe (EEZ and coastal marine area), as well as exploration activities such as drilling and seismic surveys in coastal waters.
12. Seismic surveying is a well-established scientific technique that has been used worldwide for more than 70 years and has been the subject of many research projects to assess environmental effects – particularly those related to marine mammals. As noted by Mr Madgwick, the industry willingly complies with Department of Conservation Code of Conduct for minimising acoustic disturbance to marine mammals.

THE NEED FOR REGULATORY CERTAINTY

13. The exploration and development activities undertaken by the oil and gas industry are capital intensive and involve

considerable financial outlays and risks. While careful and responsible environmental management is accepted as an essential and integral part of all activities, it is crucial to the success of the industry that there is certainty in relation to environmental regulatory requirements and obligations.

14. Any lack of clarity and precision, or unpredictable subjectivity, in regulatory rules or requirements can potentially create scope for a costly and unpredictable decision making process - particularly delay - to unfold in practice.
15. Similarly, a lack of certainty or precision, or open ended subjective decision making discretions, present an open invitation to determined third parties to delay decision making through appeals and/or review litigation.

ENVIRONMENT CONCERNS BEYOND RMA JURISDICTION

16. It is important that any concerns in relation to the potential for climate change to require limitations on the oil and gas industry are not considered legally relevant to this Coastal Plan hearing. Greenhouse gas emissions of petroleum operations are managed and accounted for under the Emissions Trading Scheme.
17. Any decisions in relation to future regulatory or policy curbs or restrictions on the future of the existing oil and gas industry in New Zealand are solely matters for central government of the day policy/political decisions.
18. This hearing is not the forum for debate or decision making in relation to the future of the oil and gas industry, or whether New Zealand is now, or in the future, regarded as in some form of transition from fossil fuels to other sources of energy.

SPECIFIC POLICIES AND RULES WHERE LACK OF CERTAINTY AN ISSUE

19. As noted in the evidence of Dr Mitchell, the authors of the Proposed Plan and the associated S42A Report have acknowledged the importance of the oil and gas sector to the Taranaki Region and New Zealand – while at the same time recognising that the environmental effects of the sector's activities need to be appropriately assessed, managed and monitored.
20. As also noted by Dr Mitchell, the Proposed Plan has a comprehensive environmental management framework applying to users of the coastal environment, such as the oil

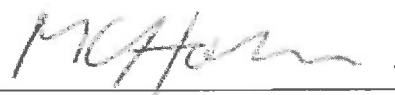
and gas industry. While at times there may have been principled debate between the industry and regulators, this has largely been in relation to detail – in particular matters of clarity and certainty – rather than any questioning of the industry's fundamental obligations to adopt responsible environmental protection in its various operations and accept a comprehensive regulatory environmental management regime.

21. As noted in Dr Mitchell's evidence, the differences over detail in relation to the Proposed Plan largely turn on the very important issue of whether a particular activity or operation is regulated as a "controlled" or "discretionary" activity.
22. In essence, a "controlled" activity status provides a far larger measure of certainty and timeliness on decision making over a "discretionary" activity status.
23. A controlled activity status allows a resource user in coastal waters to know well in advance what considerations will be relevant to a particular activity or operation, and enables preparation and planning in advance without the prospect of public notification and associated delays or other litigation.
24. Dr Mitchell covers in his evidence specific policies and rules of direct relevance to oil and gas related activities. He makes a number of recommendations for amendments.
25. With respect to Policy 14A, Dr Mitchell notes that the Policy, as written, appears to go beyond the scope of the RMA and the New Zealand Coastal Policy Statement 2010.
26. In brief:
 - (a) Rules 12, 12A and 13 – Seismic and Bathymetric Surveys;
 - (b) Rules 26 and 27 – Exploration drilling;
 - (c) Rule 29 – Petroleum production installations;
 - (d) Policy 14A – Indigenous Biodiversity;
 - (e) Policy 29 – Buffer distances; and
 - (f) Policy 38 – Removal of Coastal Structures.
27. It is submitted that given the comprehensive broad framework of environmental management requirements embedded in the Proposed Plan, the changes Dr Mitchell suggests do not in

any way fundamentally change or diminish the level of responsible environmental protection and management of the natural resources and environmental qualities of coastal waters.

28. The changes are basically about improving clarity, certainty and avoiding unnecessary delays in decision making – recognising the fundamental economic importance of the industry to Taranaki and New Zealand.

DATE: 1 August 2019



Mike Holm
Counsel for **Petroleum Exploration and
Production Association of New Zealand (PEPANZ)**

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

The Proposed Taranaki Regional
Coastal Plan

SUPPLEMENTARY STATEMENT OF EVIDENCE OF

PHILIP HUNTER MITCHELL

ON BEHALF OF

**THE PETROLEUM EXPLORATION AND PRODUCTION ASSOCIATION OF
NEW ZEALAND**

5 AUGUST 2019

1. INTRODUCTION

1.1 My full name is Philip Hunter Mitchell.

QUALIFICATIONS AND EXPERIENCE

1.2 My experience and qualifications were set out in Section 1 of my primary evidence dated 12 July 2019, prepared on behalf of the Petroleum and Exploration Association of New Zealand ("**PEPANZ**").

1.3 Although this is not an Environment Court hearing, I confirm that I have read and am familiar with the Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2014. I agree to comply with that Code. Other than where I state I am relying on the evidence of another person my evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

2. SCOPE OF SUPPLEMENTARY EVIDENCE

2.1 The purpose of my evidence is to address one minor drafting issue in proposed **Rules 12A and 13** that arises from the way Council staff have recast these Rules in the redlined version of the proposed Taranaki Regional Coastal Plan ("**Proposed Plan**"), and which I did not address in my primary evidence. These rules relate to the management of seismic surveys.

3. THE ISSUE

3.1 The notified version of the Proposed Plan used the term "seismic surveying" in the activity description column of the rules table. As such, the rules related to the entire operation of seismic surveying.

3.2 In the redlined version of the Proposed Plan, the activity description in Rules 12A and 13 were amended to relate only to the "discharge of energy from the activity of seismic surveying". That is logical, insofar as it is the emission of sound that has potential effects on the environment, and which is the activity that needs to be carefully managed.

- 3.3 The unintended consequence of this change is that any activity other than the “discharge of energy” is now no longer covered by the proposed rules. The concern in that regard is that the rules now no longer provide for any placement of “geophones” on the seabed, these being the devices used to measure the returned acoustic signals from that release of energy/sound, and which are, therefore, essential elements of a seismic survey.
- 3.4 Geophones are only placed on the seabed in very limited circumstances – they are usually towed behind the survey vessel and, as such do not require resource consent – and are only ever placed on the seabed for a very short time, have minimal effects on the seabed, and are removed once the survey has been completed.
- 3.5 I have therefore proposed some minor redrafting of Rules 12A and 13, as set out below.

4. PROPOSED REDRAFTING

- 4.1 Given the above, I propose the following amendments to Rules 12A and 13, using the base document as the version of the rules that were set out in my primary evidence and with the latest changes shown in redlining. Please note that I have only included those aspects of the rules table that require amendment, and not those that do not.

Table 1 Proposed amendments to Rules 12A and 13

| Activity | Rule Number | Classification | Standards/Term Conditions |
|---|-------------|----------------|---|
| Discharge of energy for the purpose of seismic surveying into water in the coastal marine area; and any associated noise; and the placement and use of associated monitoring equipment. | 12A | Controlled | (a) The activity complies with <i>2013 Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations</i> ; and (b) the activity discharge of energy does not occur within 1000 metres of Mean High Water Springs; and |

| | | | |
|---|----|---------------|--|
| | | | (c) the activity complies with the general standards in Section 8.6. |
| Discharge of energy / water or contaminants into water or onto land in the coastal marine area and the discharge does not come within or comply with Rules 19 to 12A, any other Rule in this Plan excluding discharges regulated by <i>the Resource Management (Marine Pollution) Regulations 1998</i> (Appendix 5); and includes the placement and use of associated monitoring equipment. | 13 | Discretionary | |

4.2 The only point I consider I need to emphasise is that the reason for the amendment to the “standard” in Rule 12A is to only limit the discharge of energy to a location more than 1 km from Mean High Water Springs, but not to limit the placement of geophones in that area.

5. CONCLUDING COMMENT

5.1 I trust the above is clear, but if the Hearings Committee or Council staff have any questions, I would be happy to address them.

**BEFORE THE HEARING COMMISSIONERS
AT STRATFORD**

IN THE MATTER of the Resource Management Act 1991
(**the Act**)

AND

IN THE MATTER of the Proposed Taranaki Regional
Coastal Plan

**LEGAL SUBMISSIONS ON BEHALF OF TRANS-TASMAN RESOURCES
LIMITED**

30 July 2019



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INTRODUCTION AND OVERVIEW

1. Coastal areas are of fundamental importance to an island nation like New Zealand. They are places where people live, work and play. They are also places of rich resource, which, when sustainably managed, can provide for New Zealanders' wellbeing both now and into the future. This is particularly true for Taranaki, which in addition to its significant gas and petroleum resources, also has a world class iron sand resource, with enormous and currently untapped economic potential. These resources are key elements to transitioning to low carbon emissions energy production.
2. The proposed Taranaki Coastal Plan (**Proposed Plan**) seeks to strike a balance between enabling people to make use of such coastal resources while at the same time, managing the potential effects of such uses on the environment. Trans-Tasman Resources Limited (**TTR**) considers that the Taranaki Regional Council (**Council**) has largely got that balance right. TTR does however consider that further changes are required to ensure that the Proposed Plan has a sufficient evidential basis, is clear, consistent and effects based, and appropriately provides for both existing and planned future activities.

Evidence and legal submissions

3. TTR has provided evidence (in affidavit format) from Mr Daniel Govier, the Technical Discipline Manager – Marine Science at SLR in support of its position. While Mr Govier is unable to attend the hearing in person, Mr Govier has undertaken to respond to any questions the Commissioners may have in writing and/or to make himself available by phone.
4. Similarly, these legal submissions are being tabled by counsel, rather than counsel attending in person. However, counsel is available to respond to any questions the Commissioners may have by phone, skype or email.

Outline

5. These submissions are organised as follows:
 - (a) TTR overview and position;
 - (b) remaining concerns; and

(c) conclusion.

TIR OVERVIEW AND POSITION

6. TIR is a New Zealand based and managed company established in 2007 to explore and develop New Zealand's offshore mineral sand deposits.
7. TIR holds three minerals mining permits (under the Crown Minerals Act 1991) for areas within the South Taranaki Bight.¹
8. Permit 55581 is for the extraction of iron sand from a 65.67km² area of the exclusive economic zone (EEZ).² The Environmental Protection Authority granted TIR marine and discharge consents (under the EEZ and Continental Shelf (Environmental Effects) Act 2012) for the iron sand mining activity in this area in August 2017. While the grant of these consents has been challenged, and appeals are still in train,³ TIR wishes to ensure that the Proposed Plan appropriately provides for its planned future activities in the coastal marine area (CMA). These activities include:
 - (a) monitoring – including the placement of mooring structures housing in-situ instruments to monitor a suite of environmental parameters and telemeter back to shore in real time;
 - (b) benthic grab sampling - to collect sediment samples for macro fauna analysis and sediment physical and chemical characteristics; and
 - (c) resource definition – this involves taking core samples of the seabed to understand the quality and composition of the sand.
9. While a minerals mining permit is held for an area within the CMA,⁴ TIR has not applied for resource consents for iron sand extraction within this area. Accordingly, the relief sought by TIR is to facilitate the monitoring, sampling and resource

¹ Mining Permit 55581. TIR also holds mineral mining permits for adjoining areas within the EEZ (50753 and 60510.01) but marine and discharge consents have not been sought for these areas.

² Mining Permit 55581. TIR also holds mineral mining permits for adjoining areas within the EEZ (50753 and 60510.01) but marine and discharge consents have not been sought for these areas.

³ Appeals to the Court of Appeal are scheduled to be heard in September this year.

⁴ Mining permit 54068.

definition work required as part of its proposed activities within the EEZ.

TIR position

10. TIR made a submission and further submissions on the Proposed Plan on 23 April 2018 and 2 August 2018 respectively. These submissions supported many of the Proposed Plan provisions but also sought a number of amendments.
11. The officers' s.42A report (**s.42A Report**) has recommended changes to a number of the provisions that TIR submitted on. TIR is comfortable with many of the changes proposed, and in particular supports those relating to the following:
 - (a) 3.2.6 – as the additional text (“*where and when it is appropriate to do so*”) provides an important qualifier to public access and use of the coast;
 - (b) objective 12 – as the addition of the word “*appropriate*” provides an important qualifier to public access;
 - (c) policies 5(b), (f), and (g) – as the changes to these policies are consistent with what TIR sought in its submissions;
 - (d) policy 11 – as the changes more clearly recognise the differences between “enhance” and “maintain”;
 - (e) policy 20 – as this is consistent with what TIR sought in its submissions;
 - (f) policy 29 – as the changes have broadened the policy to recognise that drilling is not just limited to offshore petroleum activities; and
 - (g) the deletion of the definition for “adaptive management” given the inherent difficulties in appropriately defining such a term.
12. TIR does however consider that some further changes are necessary to ensure that the Proposed Plan:
 - (a) is sufficiently certain and clear;
 - (b) has a robust evidential base; and

- (c) appropriately provides for activities such as TTR's planned monitoring, sampling and resource definition work, which have negligible effects, but which are necessary to reap the economic and social benefits of iron sand extraction within the EEZ.

REMAINING CONCERNS

Policy 44: Extraction or deposition of material

13. In its further submission, TTR opposed the submission of Ms Pratt, who sought that an additional clause be added to prevent extraction or deposition of material in biodiversity hotspots.
14. The s.42A Report accepted this request in part and included the additional clause of "(b) *not occur close to moderate or high relief offshore reefs*".⁵
15. As the evidence of Mr Govier notes the inclusion of this provision creates uncertainty since there are no definitions or guidance provided as to what the terms "close" or "moderate or high relief offshore reef" mean.⁶
16. TTR considers that clause (b) should be deleted or amended to:
- (a) replace the term 'close' with a set distance – with the exact distance to be based on clear evidence as the likelihood of effect; and
 - (b) delete reference to the term 'moderate or high relief offshore reef' and replace it with reference to the existing reefs identified in Schedule 2.

Rule 12: Bathymetric analysis

17. TTR supports the recommendation in the s.42A Report to include separate rules for bathymetric analysis and seismic surveying.⁷
18. TTR maintains support for the permitted activity status of the Bathymetric rule, as Mr Govier's evidence confirms that the

⁵ S.42A Report p 210.

⁶ Affidavit of Daniel Govier on behalf of TTR, 16 July 2019, at [81].

⁷ S.42A Report p 268.

collection and analysis of bathymetric data will have no adverse effect on the marine environment.⁸ However, TIR is concerned with the changes made to the standards for this rule. In particular:

- (a) while TIR accepts bathymetric activities should not have adverse effects on species which are threatened, at risk, or regionally distinctive, and ecosystems which are rare or uncommon; the requirement in this standard goes further than that. It requires that the activity have no adverse effects on all of the species identified in Schedule 4A – some of which are categorised as non-resident native, not threatened, data deficient, and not listed.⁹ If TIR's relief in relation to Schedule 4A is not accepted (refer below), TIR considers this standard should be amended to refer to only those species within Schedule 4A that are threatened, at risk, or regionally distinctive, as well as the ecosystems which are rare or uncommon.
- (b) as Mr Govier's evidence notes the requirement that the activity does not have a significant adverse effect on the values associated with taonga species, lacks certainty as to how effects on the values are to be determined and by whom.¹⁰ TIR is also concerned with the sheer number of taonga species included, and questions whether there is a sufficient evidential basis to justify the inclusion of all such species. As noted by Justice Williams, in the Wai 262 report, taonga species are not all species, but are specific species for which there is a "kōrero *tuku iho*":¹¹

"First, we do not consider the environment as a whole to be a taonga, in the sense that the term is used in the Treaty.

⁸ Affidavit of Daniel Govier on behalf of TIR, 16 July 2019 at [46].

⁹ **Non-resident native:** far-east m ew, humpback whale; **Not threatened:** the grey-faced petrel, New Zealand fur seal, short-beaked common dolphin, banded kokopu, coastal kowhai, coastal tree daisy, coastal woodrush, flat-leaved rush, kauri sedge, koromiko, Ngaio, parahebe, paritūtū korokio, peperomia, pinatoro, saltmarsh ribbonwood, shore hard fern, koromiko; **Data deficient:** fin whale, sperm whale, pygmy blue whale; and **Not listed:** Otakeho woollyhead.

¹⁰ Affidavit of Daniel Govier on behalf of TIR, 16 July 2019, at [88].

¹¹ Waitangi Tribunal, A report into Claims Concerning New Zealand Law and Policy Affecting Maori Culture and Identity, Wai 262, Volume 1, Waitangi Tribunal Report 2011, at page 269.

Such an all-encompassing interpretation devalues the status of taonga and the rights and obligations that flow from them. In mātauranga Māori, the environment is the manifestation of the atua themselves – Ranginui, Papatūānuku, Tāne-mahuta, Hāumia-tiketike, and so on – who transcend and have dominion over taonga. Thus, taonga are the particular iconic mountains, rivers, for example, or specific species of flora and fauna. Whether a resource or a place is a taonga can be tested, as it can for taonga species (we have discussed this in chapter 1, too, in relation to taonga works). Taonga have mātauranga Māori relating to them, and whakapapa that can be recited by tohunga. Certain iwi or hapu will say that they are kaitiaki. The tohunga will be able to say what events in the history of the community led to that kaitiaki status and what obligations this creates for them. In sum, a taonga will have kōrero tuku iho (a body of inherited knowledge) associated with them, the existence and credibility of which can be tested."
[my emphasis]

Accordingly, TIR considers that this standard should either be deleted or amended to include just those species for which there is a sufficient evidential basis (such as those recognised in Deeds of Settlement as suggested in the s.42A Report)¹² and to address the uncertainty in the wording.

Rule 20: Mooring structure placement

19. TIR continues to support the permitted activity classification recommended in the s.42A report for this rule, which Mr Govier's evidence has confirmed is appropriate.¹³ However, for the reasons given above, TIR remains concerned about the inclusion of a standard relating to effects on values associated with taonga species. TIR considers that this standard should either be deleted or amended as noted above.

(new) Rule 26A: Disturbance of the seabed by drilling/core sampling

20. In its submission, TIR sought the inclusion of an additional rule enabling drilling/core sampling as a permitted activity. The s.42A Report declined the new rule, stating that such an activity is already provided for under Rule 26. The Report also

¹² S.42A Report pp 495-6.

¹³ Affidavit of Daniel Govier on behalf of TIR, 16 July 2019 at [94].

noted that it would not be appropriate to enable drilling for seabed mining as a permitted activity.¹⁴

21. The s.42A Report appears to have misunderstood the purpose of the rule. The rule is intended to provide for the taking of core samples of the seabed to understand the quality and composition of the sand. The activity is for sampling purposes only - and is distinct from both the activities provided for in Rule 26 and seabed mining. Such activities are required to be undertaken as part of the work programme associated with the minerals mining permit.
22. Mr Govier's evidence confirms that at this scale of disturbance there should be no adverse effects on the marine environment, given the footprint of disturbance would be negligible, and given the standards proposed by TIR.¹⁵ If such a rule is not included, there will be a lacuna in the rules, since the other discretionary and non-complying drilling rules are related to petroleum activities. TIR therefore considers that it is both necessary and appropriate to provide for such sampling as a permitted activity. TIR also suggests that the rule be renamed to "core-sampling" to make it more explicit what activities the rule covers.

Rule 52: Collection of benthic grab samples

23. TIR continues to support a permitted activity status for benthic grab sampling, and Mr Govier's evidence confirms that such a classification remains appropriate.¹⁶ However, for the reasons given above, TIR remains concerned about s.42A recommendation for the inclusion of a standard relating to effects on values associated with taonga species. TIR considers that this standard should either be deleted or amended as noted above.

Rule 65: Take or use of water

24. The s.42A Report has retained the permitted activity status for the taking and use of coastal water but added two additional standards:

¹⁴ S.42A Report p 328.

¹⁵ Affidavit of Daniel Govier on behalf of TIR, 16 July 2019 at [97] and [98].

¹⁶ Affidavit of Daniel Govier on behalf of TIR, 16 July 2019 at [112].

- (a) that the taking or use is not at a quantity or rate that would cause significant adverse environmental effects; and
 - (b) the activity does not have an adverse effect on the values associated with taonga species.
25. Mr Govier's evidence is that given the volume of the ocean, no activity is foreseeable that would result in significant adverse effects.¹⁷ Accordingly, TIR considers that this standard is not necessary. TIR's concerns regarding the effects on values associated with taonga species has been noted above.

Schedule 4A: significant species and ecosystems

26. The s.42A Report has explained the reasons why such a Schedule has been included – to better manage effects and to be consistent with higher order policy documents. While TIR generally accepts this rationale, TIR remains concerned that the list:
- (a) is overly broad – given it currently includes species which are non-resident native, not threatened, data deficient, and not listed; and
 - (b) may become out of date - given the threat classification status of species are reviewed every three years whereas the coastal plan is expected to have a 10-year lifespan.
27. TIR considers amendments should be made to remove any non-resident native, not threatened, data deficient, and not listed species, and to advise plan users (by way of advice note) of the potential for classifications to change over the life of the Plan.

CONCLUSION

28. The Proposed Plan is the rulebook that will apply to coastal activities in Taranaki for the next 10 years. It is therefore important that the Proposed Plan is fit for purpose, is clear, certain and robust, and that it caters for existing activities as

¹⁷ Affidavit of Daniel Govier on behalf of TIR, 16 July 2019 at [118].

well as planned future activities which provide for people's economic and social wellbeing.

29. Making the changes sought by TIR will ensure that the Proposed Plan achieves these aims and that ultimately the sustainable management purpose of the Act is met.

DATE: 30 July 2019

A handwritten signature in blue ink, appearing to read "Vicki Morrison-Shaw", is written over a horizontal line.

Vicki Morrison-Shaw
Counsel for the Applicant
Trans-Tasman Resources Limited

**BEFORE THE HEARING COMMISSIONERS
AT STRATFORD**

IN THE MATTER of the Resource Management Act 1991
(the Act)

AND

IN THE MATTER of the Proposed Taranaki Regional
Coastal Plan

**AFFIDAVIT OF DANIEL GOVIER ON BEHALF OF TRANS-TASMAN
RESOURCES LIMITED
(MONITORING)
AFFIRMED 16 JULY 2019**



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EXECUTIVE SUMMARY

1. My evidence covers an assessment of the policies and rules associated with environmental monitoring in the s42A Officers Report on the Proposed Coastal Plan for Taranaki. This assessment also considers the submission by Trans-Tasman Resources Limited (TTR) and the environmental monitoring requirements they have within the South Taranaki Bight. Other submissions of relevance were also considered.
2. Four Rules within the Proposed Coastal Plan for Taranaki are directly relevant to environmental monitoring within the Coastal Marine Area (CMA) and were included in my assessment. In addition TTR proffered a new rule for inclusion. However, this rule was declined within the s42A Officers Report, which I also discuss.
3. The four rules considered as part of my assessment of the Proposed Coastal Plan for Taranaki include:
 - (a) Rule 12 – Bathymetric analysis;
 - (b) Rule 20 – Placement or erection of a mooring structure for monitoring or sampling equipment that does not require mechanical excavation of the foreshore or seabed;
 - (c) Rule 52 – Benthic grab sampling; and
 - (d) Rule 65 – Take or use of water.
4. I discuss the types of activities associated with each of these rules, the potential environmental effects from these activities and conclude with my opinion on the classification.
5. To summarise, for each of the rules I considered, there was general agreement with the recommendations made



within the s42A Officers Report and the Proposed Coastal Plan.

6. There are some new inclusions of standards, terms and conditions incorporated into the Proposed Coastal Plan for Taranaki based on submitter's requests. However, I have made some recommendations on these conditions within my evidence based on the uncertainty they currently create.

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I, Daniel Govier, of Nelson, Technical Discipline Manager – Marine Science, solemnly and sincerely affirm:


INTRODUCTION

Qualifications and experience

1. My full name is Daniel Govier.
2. I hold a Bachelor of Science (Zoology) and a Post Graduate Diploma in Marine Science, University of Otago, 2000. I hold a Master of Science (Marine Science), University of Otago, 2002.
3. I am the Technical Discipline Manager – Marine Science at SLR Consulting New Zealand Ltd (SLR). SLR is an environmental consultancy that specialises in Impact Assessments (IAs), consent applications and marine environmental monitoring.
4. Prior to joining SLR, I held a number of relevant roles. I was the Managing Director of Environmental Offshore Services (2013-2014), specialising in IAs of the offshore marine environment around New Zealand. Environmental Offshore Services was acquired by SLR in October 2014.
5. I was an environmental consultant at Resource and Environmental Management Ltd (2010-2013), where I prepared a number of IAs for activities in New Zealand's offshore marine environment. During this time I was involved with reviewing, presenting and interpreting environmental monitoring programmes and results for offshore petroleum operators.
6. I was the Operations Manager at Challenger Scallop Enhancement Company (2009-2010). This role involved the management of the commercial dredge scallop fishery at the top of the South Island and scallop stock assessments through dredge surveys.



7. I was a Marine Ecologist at the Cawthron Institute in Nelson (2006-2008). In this role I completed a number of IAs for the aquaculture industry and completed many ecological monitoring programmes for marine farms. During this time I was involved in the monitoring of all salmon farms in the Marlborough Sounds. This monitoring included water physicochemical testing and sediment physical and chemical properties to evaluate the occurrence and effects from the deposition of excess food and excrement at distances away from the farms. I undertook extensive subtidal surveys utilising van-veen grabs, sediment cores, drop-camera technology, remotely operated vehicles, acoustic doppler current profilers (**ADCPs**), diver transect/quadrat surveys, side-scan and bathymetric surveys, and produced a number of scientific reports utilising these results largely for the purpose of compliance monitoring.
8. I was a Marine Ecologist at the Taranaki Regional Council (TRC) (2002-2006). At TRC I led all the marine ecological compliance monitoring programmes along the entire Taranaki coastline which included intertidal reefs, subtidal habitats and estuaries. I established and managed a monitoring programme for near-shore sand dispersal (part of a capital and maintenance dredging programme within Port Taranaki). Fine sand was dispersed into a near-shore environment to introduce the sand into the natural littoral drift in an attempt to replenish the sand levels on the beaches to the north of Port Taranaki. The monitoring programme involved subtidal and intertidal ecological surveys using both qualitative and quantitative methodologies.
9. In summary, I have undertaken numerous subtidal and intertidal marine ecological surveys over a diverse range of habitats and regions which include Taranaki, Marlborough

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Sounds, Golden Bay, Tasman Bay, Fiordland, Dunedin and Stewart Island. As a result I have a very good understanding of the different monitoring methodologies available and which should be used for compliance monitoring.

10. I confirm the contents of this evidence are true and correct to the best of my knowledge and belief.

Background to my involvement

11. I was engaged by TIR to prepare a Pro-Commencement Environmental Monitoring Plan (**PCEMP**) and the Environmental Monitoring and Management Plan (**EMMP**) for its South Taranaki Offshore Iron Sand Extraction and Processing Project within the Exclusive Economic Zone (**the Project**).
12. The intention of the PCEMP is to validate information in the IA, to collect further data to complement baseline data and to refine the methodologies, 'Response Limits' and 'Compliance Limits' proposed in the **EMMP** which would be implemented once iron sand extraction commences.
13. I was asked to provide some guidance to TIR on the monitoring methodologies proposed within the PCEMP and EMMP, specifically those that were proposed for implementation within the Coastal Marine Area (**CMA**) as part of the submission process on the Proposed Coastal Plan for Taranaki.
14. I have prepared this statement of evidence at the request of TIR.
15. In preparing this evidence I have reviewed the following:
- (a) TIR's submission on the proposed plan change;
 - (b) Operative Regional Coastal Plan for Taranaki;

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- (c) TRC Officers Report on decisions requested – proposed Coastal Plan for Taranaki;
- (d) Section 42A report for the hearing – proposed Coastal Plan for Taranaki; and
- (e) Track changes version for the hearing – Proposed Coastal Plan for Taranaki.

Purpose and scope of Evidence

- 16. I was engaged by TTR to review the Proposed Coastal Plan for Taranaki in regard to the activity rules associated with environmental monitoring within the CMA.
- 17. In my evidence I will focus on TTR's submission in regard to environmental monitoring and assess the reporting officer's responses within my area of expertise. This assessment and scope of evidence is based on my previous experience conducting and managing extensive environmental monitoring surveys in the offshore marine environment, particularly of relevance to this hearing, in the Taranaki region.
- 18. I have structured my evidence into the following sections:
 - (a) TTR's environmental monitoring requirements;
 - (b) Existing environment;
 - (c) Environmental monitoring under the Operative Regional Coastal Plan for Taranaki;
 - (d) Environmental monitoring under the Proposed Coastal Plan for Taranaki; and
 - (e) Review of s42A report.
- 19. TTR were granted Marine Consents and Marine Discharge Consents in accordance with the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ

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Act) in August 2017 for the activities associated with extraction and processing of seabed material containing iron ore. Those consents were subsequently appealed and TTR are still going through an appeal process. Therefore, I will not discuss the appeal process or the Project within my scope of evidence and will only focus on environmental monitoring requirements accepted during the Marine Consent application process.

Code of conduct

20. I confirm that I have read the expert witness code of conduct set out in the Environment Court's Practice Note 2014. I have complied with the Code of Conduct in preparing this evidence and agree to comply with it while giving oral evidence before the Court. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

TTR'S ENVIRONMENTAL MONITORING REQUIREMENTS

21. The PCEMP will run for two years to confirm the current understanding of seasonality and natural variability of environmental parameters that will be monitored in the South Taranaki Bight (**STB**).
22. Environmental data collected will be used to validate the Operational Sediment Plume Model (**OSPM**) to predict the sediment transportation processes in the STB. The OSPM will determine background suspended sediment concentration (**SSC**) levels in the STB.
23. To collect a continuous data set, in-situ instruments are placed on the seabed to monitor a suite of environmental parameters (i.e. sedimentation, light levels and oceanographic conditions), and telemetered back to

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shore in real time. These results are compared with modelled predictions to enable regular calibration of the OSPM.

24. Five monitoring stations were identified for collecting continuous environmental data to monitor for compliance and OSPM calibrations. Mooring structures will be required to house these in-situ monitoring instruments at each monitoring station, all of which are located within the CMA. Mooring structures for environmental monitoring is discussed in **Paragraphs 47-60**.
25. Continuous monitoring at these locations will be supplemented with synoptic surveys, which include grab sampling and water column sampling and are discussed in **Paragraphs 62-69** and **Paragraphs 70-77** respectively.
26. TTRs environmental monitoring programmes were developed on recognition of the key habitats and ecosystem components of the STB (both within the Exclusive Economic Zone (EEZ) and CMA) and their interactions with the primary impact sources from the Project (i.e. turbidity and sedimentation).
27. A wide range of monitoring programmes and methodologies are included within the PCEMP and EMMP. These programmes were specifically designed to capture spatial and temporal components of the Project at geographic and ecological scales appropriate for the subsequent assessment of potential effects.
28. Monitoring locations are specific for each environmental parameter; however, a number of locations overlap, enabling a full suite of environmental data to be collected from each site.
29. Monitoring stations were selected based on NIWA sediment plume modelling. This incorporated the extent, gradients

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and intensity of the sediment plumes linked to the Project in terms of suspended sediment concentrations (SSC) and sediment deposition within the STB.

30. In addition, monitoring stations were allocated to ensure representation of the different benthic community types (i.e. worm fields, inshore reefs, offshore biogenic habits) and to reflect the different environmental parameters being monitored (i.e. benthic communities, water column characteristics, sensitive sites etc.).
31. Based on the sampling design and allocation of monitoring stations, environmental monitoring will take place in the waters of the EEZ and the CMA within the STB.
32. The NIWA SSC plot during iron sand extraction activities taking place with the monitoring stations overlaid is provided in **Appendix A**. The CMA boundary is also shown.
33. An overview of TTR's environmental monitoring programmes is provided in **Appendix B**. This summarises the key indicators and parameters that will be assessed.

EXISTING ENVIRONMENT

34. The STB is a high energy environment exposed to southerly and westerly storms that travel across the Tasman Sea resulting in large swells, initiating active bed transport and resuspension of sediments. Wave heights in excess of 2 m are routinely experienced throughout the STB (TTR, 2016) which contribute to the high coastal erosion and natural sand inundation events that occur along the Taranaki coastline.
35. Rainfall is moderate in the Taranaki region due to the influence of Mount Taranaki. Four large rivers flow into the STB, (i.e. Patea, Whangarei, Rangitikei and Manawatu) which can provide significant inputs of sediment into the

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marine environment during the rainfall events, increasing SSC and reducing optical water quality.

36. The STB is subject to regular storm-related disturbance, and biota in the water column and benthic assemblages are relatively tolerant to the dynamic and exposed environment in which they live, where benthic communities are often exposed to sedimentation.
37. In the STB soft sediment habitats and mudstone outcrops are characteristically low in species abundance and diversity, while the harder rock outcrops support more abundant and diverse macrobenthic assemblages.
38. Within the operative Regional Coastal Plan for Taranaki, the North and South Traps are recognised as an area of Outstanding Natural Character (**ONC**) in the STB. I note that the Project Reef has been included as an ONC within the Proposed Coastal Plan for Taranaki.
39. Diver surveys conducted on the North and South Traps have indicated they are characterised by rocky outcrops and ridges dominated by sea urchins and low growing red and brown macroalgae and fish species. No rare or vulnerable ecosystems or habitat of threatened species have been identified at the North and South Traps.

ENVIRONMENTAL MONITORING UNDER THE PROPOSED COASTAL PLAN FOR TARANAKI

40. I have reviewed the Proposed Coastal Plan for Taranaki and the rules that I have considered within my evidence include:
 - (a) Rule 12 – Bathymetric analysis;
 - (b) Rule 20 – Placement or erection of a mooring structure for monitoring or sampling equipment

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that does not require mechanical excavation of the foreshore or seabed;

- (c) Rule 52 – Disturbance and removal of the foreshore or seabed for the purpose of the collection of benthic grab samples for scientific or monitoring purposes; and
- (d) Rule 65 – Taking or use of coastal water.


Summary of conclusions

41. In my opinion the following will have no adverse environmental effects on the marine environment or associated biota:

- (a) The collection of bathymetric data;
- (b) the deployment or erection of a mooring structure;
- (c) the collection of seabed samples using grab samplers; and
- (d) the collection of seawater for scientific monitoring purposes, given relatively small volumes are required.

Rule 12 – Bathymetric analysis

42. Bathymetric surveys are primarily used for mapping of the seabed and can be undertaken using both single beam and multi-beam echo sounders (MBES). MBES emits a fan of multiple high energy soundwaves that reflect off the seafloor and return back to the transducer on the vessel. The delay between sending and receiving the signal provides a measurement of the depth of water, which then enables an accurate image of the seafloor. This information is then collated to provide a swathe of the

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seafloor in high resolution, enabling high resolution mapping of the seabed features.

43. MBES is most commonly used for acquiring bathymetry data. Higher frequencies are used in shallower water depths (i.e. within the CMA), as this creates a better return signal and produces higher resolution data. Higher frequency sound waves dissipate much faster in the water column than low frequencies, and higher frequencies tend to have less interference with marine mammal communications systems and echolocation.
44. Large parts of New Zealand's EEZ and extended continental shelf have had MBES data acquired. This has primarily been conducted by NIWA, as shown in **Appendix C**. **Appendix C** also shows a schematic of a MBES taking place, and the typical seabed bathymetry images.
45. Seabed bathymetry can influence water currents and waves that move past any significant seabed feature. TTR's EMMP requires MBES to be conducted to ensure the pits and deposition mounds do not influence the oceanographic conditions within the SIB.
46. In my opinion the collection of bathymetric data will have no adverse environmental effects on the marine environment.

Rule 20 – Placement or erection of a mooring structure for monitoring or sampling equipment that does not require mechanical excavation of the foreshore or seabed.

47. The use of standardised, long-term data sets on coastal water quality and environmental conditions are critical to assessing and monitoring the health of coastal receiving waters and are used to identify any potential environmental changes that may be occurring in response to a range of anthropogenic stressors (Ellis et al., 2012).

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- Obtaining long term data sets is achieved through permanently deployed instruments on mooring structures. The use of mooring structures for deploying scientific instruments is widely used around New Zealand and has deepened the understanding of the marine environment.
48. Ellis *et al.* (2012) undertook a review of all deployed moored instruments within the CMA for the purpose of obtaining continuous, long-term data on physical and biological parameters. It was found that approximately 30 monitoring locations have such monitoring take place, as indicated in **Appendix D**.
 49. Placing mooring structures in high energy environments requires sufficient weight to hold the scientific instruments and surface buoy in place during adverse conditions. Insufficient weight or a mooring chain too short (or light) can result in the mooring 'bunny hopping' away from the mooring location due to the buoyancy contained within the surface buoy, lifting the weight from the seabed.
 50. Railway wheels are commonly used to deploy moorings in the marine environment, as they settle into the seabed making them less prone to horizontal movement. Each railway wheel weighs ~1,000 kg and has a benthic footprint of ~0.6 m². Depending on the size of the surface buoy a mooring array can commonly have two railway wheels with a bridle arrangement to moor the surface buoy. Alternatively concrete blocks specifically made for deployment under water can be used.
 51. A review of moorings in the Marlborough Sounds by Morrissey *et al.* (2018) concluded that the relatively small size, low profile of mooring weights, mean that mooring weights tend to have very localised and negligible influences on water circulation within the Marlborough Sounds. These water depths are similar to what is found

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within the STB CMA, so similar conclusions can be assumed on water circulation.

52. A typical mooring configuration with a telemetered surface buoy is provided in **Appendix E**
53. The mooring in **Appendix E** has heavy ground chain from the mooring weight which is then attached to a lighter-gauge medium chain. The medium chain is attached to a lighter chain and then a swivel, which then transitions to a heavy nylon rope going up to the surface buoy. The weight of the chain reduces the angle of pull on the mooring weight, and dampens the force of waves, currents and wind on the surface buoy impacting on the mooring weight.
54. There may be some chain scour on the seabed surrounding the anchor location but there does need to be an allowance for tidal rise and fall, as well preventing lift and shock loading from the surface buoy. There may be a circular area around the mooring weight where the chain sweeps, but how much is present will depend on the mooring design and the use of sub-surface floats.
55. There are currently no national or regional marine-industry standard designs for moorings in New Zealand; however, a number of Councils have collaborated to develop mooring guidelines (Morrisey *et al.*, 2018).
56. Installation of mooring weights on the seabed used for the deployment of scientific instrument may provide settlement habitat for benthic invertebrates in an otherwise homogenous seabed. However, the areas of available habitat will depend on the size and type of mooring weight and whether it settles into the substrate. In some areas of the Taranaki CMA where high sediment transportation is present, the abrasive nature of mobile iron sand is unlikely to allow the establishment of biota on any mooring



- structure due to scouring or smothering effects. Similarly, the deployment of a mooring array would have a very small impact on the seabed habitat, even with two wagon wheels it only equates to 1.2 m² plus some additional area for the chain depending on what the mooring design is.
57. The surface buoy on mooring systems used for monitoring purposes generally have to be large enough to house batteries to power instruments on the seabed, appropriate radar reflectors, special lights (flashing yellow), communication systems for real time communication and data transfer and be large enough to handle the environmental conditions. A typical monitoring buoy required for deployment in the offshore Taranaki CMA is provided in **Appendix F**.
58. Within TIR's environmental monitoring programmes there are five proposed permanent mooring locations within the Taranaki CMA. Each mooring would have an array of scientific instruments deployed for monitoring water quality and water column parameters as well as sediment characteristics. The permanent mooring locations are placed at sites to assess for compliance with SSC thresholds as shown in **Appendix G**.
59. Regular servicing of moorings ensures high quality data is collected, and equipment is working correctly. It also reduces the risk of gear failure through regular maintenance programmes.
60. Any mooring deployed would have a Notice to Mariners issued through fortnightly New Zealand Notices to Mariners published by Land Information New Zealand. This notifies all maritime users of the mooring locations that are signed up to receive the notices or the notice can be heard on the broadcast warnings that are included as part of weather updates on VHF radio.

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61. in my opinion the deployment or erection of a mooring structure will have no adverse environmental effects on the seabed or marine biota.

Rule 52 – Benthic Grab Sampling

62. Benthic grab sampling is commonly used around the world to collect sediment samples for macrofauna analysis and sediment physical and chemical characteristics.
63. A modified double Van-Veen grab sampler (**grab sampler**) is typically used for collecting sediment samples, where the double grab allows two undisturbed samples to be collected side by side, reducing the number of deployments at each sample location. This enables sediment physico-chemical samples and infauna/macrofauna samples to be collected from independent buckets without reducing the volume of either set of samples required. A typical grab sampler is shown in **Appendix H**.
64. To provide scientific rigour and replication for statistical analysis and comparison purposes, triplicate sampling is commonly undertaken at each sampling station. Three samples for biological analysis and three samples for sediment physical and chemical analysis.
65. As an example for the area of disturbance, the grab sampler shown in **Appendix H** has been used to calculate the area of disturbance and volume of sediment removed when undertaking sampling. Each deployment disturbs an area of seabed of approximately 0.21 m² (0.32 m x 0.44 m) and removes approximately 0.026 m³ of sediment.
66. For triplicate sampling, this results in 0.63 m² of seabed disturbance and 0.078 m³ of sediment removed per sampling station.



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67. TTR's proposed environmental monitoring programmes have grab sampling undertaken at the monitoring stations indicated in **Appendix A**.
68. Triplicate sampling during TTR's proposed environmental monitoring programme within the CMA (i.e. 19 sample stations) will disturb approximately 11.97 m² of seabed, and remove approximately 1.48 m³ of sediment per monitoring event. However, ~90% of the sediment removed by the grab is not retained (due to sub-sampling and sample sieving), and is deposited back over the site close to where it was collected.
69. In my opinion the collection of seabed samples using grab samplers, in a relatively high energy and mobile seabed environment will have no adverse environmental effects on the seabed or marine biota.

Rule 65 – Take or use of water

70. Monitoring water quality within the marine environment requires the taking of water for analysis of different parameters to further understand the state of the environment or for compliance monitoring. Water column monitoring provides a 'snap shot' of data for what is happening at that time point in time, and is the reason it dovetails so well with long term monitoring programmes, as it enables validation of permanently moored scientific instruments. To gain an understanding of seasonality with point source data, monthly sampling would be recommended.
71. Water quality monitoring is undertaken all around the New Zealand coastline, in both marine and freshwater environments. This monitoring is conducted for compliance monitoring, state of the environment monitoring, baseline monitoring, and scientific research.

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72. Water samples can be collected just above the seabed (i.e. 1 m), just below the sea surface, and depending on the depth of the water column, samples are collected throughout the water column. Rosette samplers or van dorn samplers are used for water column sampling, and can be triggered manually or electronically to collect water samples at the required water depth. The captured water sample is returned to the surface for sub-sampling and sample preservation for analysis. Images of typical water sampling instruments are provided in **Appendix I**.
73. Large volumes of sea water are not required to conduct a full suite of analyses for all parameters that would be tested for any compliance monitoring or research programme.
74. A standard suite of parameters commonly tested include metals, nutrients, chlorophyll-a, pH, SSC, dissolved oxygen, ecotoxicology, and acid volatile sulphide.
75. TTR would undertake water column monitoring at both surface and near-seabed locations at each of the monitoring locations shown in **Appendix A**.
76. At each station it is estimated that approximately 10 L of seawater is required per sample station, per sampling event (includes surface and seabed samples). This equates to 190 L of seawater taken from across the STB CMA every month for water quality analyses.
77. In my opinion the collection of seawater for scientific monitoring purposes, given relatively small volumes are required, will have no adverse environmental effects on the marine environment or associated biota.

REVIEW OF S42A REPORT

78. I have reviewed the s42A report for the hearing and the recommended changes for the Proposed Coastal Plan for




Taranaki. I have addressed those rules that are relevant to the environmental monitoring requirements of TTR in the above evidence and summarised the proposed environmental monitoring stipulated in TTR's conditions that would be classified under those rules.

79. I wish to comment on the s42A report in relation to TTR's submission, on matters relating to environmental monitoring. It is noted that TTR's submission was focused on ensuring the Proposed Coastal Plan for Taranaki appropriately provides for their current and future monitoring and sampling activities in the CMA that will be required as part of the commitments to the mining permit TTR hold within the STB.
80. I will provide the relevant policy or rule as a sub-heading below and my discussion will follow.

Policy 44 – Extraction or deposition of material


81. TTR submitted in support of Policy 44, with the exception of Clause (f), which they requested was deleted. However, TTR provided a further submission that opposed the submission of Ms Pratt, who sought amendments for additional considerations of extraction or deposition around moderate to high relief offshore reefs or unique geological features within the STB.
82. The Officers Report accepted this request in part and included the additional clause of "not occur close to moderate or high relief offshore reefs".
83. In my opinion there is uncertainty around this additional clause without any definitions around what defines 'close' and what defines 'moderate or high relief offshore reef'. There needs to be more certainty about how this policy would be applied if it is going to stay within the Coastal Plan for Taranaki.

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84. The offshore marine environment within the STB is already addressed by the existing clauses with the main offshore reefs included under Clause (b), but uncertainty arises for the rest of Taranaki's CMA where reefs are more common, but not classified under Clause (b).
85. In my opinion, Clause (ba) is ambiguous, and essentially it is already addressed across all of the existing clauses. The addition of Clause (ba) without any further criteria could create uncertainty for decision makers in the future.

Rule 12 – Seismic surveying and bathymetric testing

86. TTR submitted in support of Rule 12, stating that surveys and tests are important for some existing and proposed activities within the coastal environment, the effects are minor and transitory, and the surveys and tests are useful in establishing or monitoring key aspects in the coastal environment.
87. The Officers Report recommended that Rule 12 be split in two and subsequently Rule 12 was developed for bathymetric surveys (classified as permitted), and Rule 12A for seismic surveying which is now classified as controlled.
88. TTR will need to undertake bathymetric surveys to accurately map and monitor the seabed post-extraction activities as discussed within **Paragraphs 42-45**. I agree with the Officer Reports recommendation, that given the environmental effects on the marine environment and associated receptors are negligible from MBS, the permitted activity classification is appropriate.
89. The Officers Report accepted in part some of the submissions received, which resulted in two new standards, terms and conditions to Rule 12, which include:

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- (a) The activity does not have an adverse effect on any threatened or at risk, or regionally distinctive species, or any rare and uncommon ecosystem type including those identified in Schedule 4A (significant indigenous biodiversity); and
 - (b) The activity does not have a significant adverse effect on the values associated with taonga species identified in Schedule 4C (taonga species).
90. The new clause around taonga species is very ambiguous in the way it is currently written and appears subjective. In my opinion, this provision requires greater certainty around how to apply the criteria, and the criteria need to be defined. Particularly, what is a significant adverse effect on the values associated with taonga species, and who determines that the effects on those values are significant.
91. I note that this clause has been used throughout a number of the rules within the Proposed Coastal Plan for Taranaki, but in my opinion, there needs to be more certainty and more defined criteria around this clause so that it is clear that an activity can comply with this, and that the activity can be classified as Permitted.

Rule 20 – Mooring structure placement

92. TTR submitted in support of Rule 20 as this rule recognises that some monitoring and sampling activities may require mooring structures, and appropriately provides for them as a permitted activity.
93. The Officers Report noted TTR's support and retained Rule 20, subject to minor amendments as requested by other submitters; however, it was the reporting officers opinion that it did not change the Rule's scope.

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94. This amended Rule 20 now includes the additional clause that the activity does not have any significant adverse effects on the values associated with taonga species identified in Schedule 4C. However, as discussed in **Paragraphs 89-91**, there is ambiguity in this clause, no definition and uncertainty as to who determines the level of significance for an adverse effect on the values associated with taonga species.
95. I have discussed the activities associated with deploying moorings in **Paragraphs 47-60** and how this relates to TTR's proposed environmental monitoring programmes. However, my evidence in relation to Rule 20 is applicable to any environmental monitoring programme where permanent moorings are deployed.
96. Based on my experience from deploying many scientific moorings, I consider that the classification of permitted for such an activity is appropriate. Therefore, I support the recommendations made within the officer's report and what is provided in the Proposed Coastal Plan for Taranaki – track changes version, noting the issue raised in **Paragraph 94**.

Rule 26A – Disturbance of the seabed by drilling

97. TTR sought an amendment to the Proposed Coastal Plan for Taranaki by introducing Rule 26A - disturbance of seabed by drilling. Rule 26A was proposed to define offshore mineral resources within Permit Areas
98. The Officers Report declined the proposed rule and stated that this rule was not necessary as Rule 26 already addressed the activity. In addition, the reporting officer does not consider that drilling for seabed mining should be a permitted activity.

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99. TTR's submission proffered clauses for the area and volume of seabed disturbance, location of disturbance, and ensuring no significant ecological effects result on ecologically important sites. TTR's proposed clauses of particular relevance to reducing environmental effects on the marine environment include:
- (a) Spacing between drilling locations (other than a re-drill or twinning of a hole) at the same location is not less than 0.5 km;
 - (b) Recurrent drilling (other than twinning of a hole) at the same location does not occur more frequently than once every other two months;
 - (c) The volume of material removed from a drilling location does not exceed 0.3 m³; and
 - (d) The area of seabed disturbance at a drilling location does not exceed 3 m².
100. If these clauses are complied with, at this scale of disturbance there should be no adverse effects on the marine environment, as the footprint of disturbance would be negligible. Essentially there would be no difference to the scale of seabed disturbance to what would result from grab sampling.
101. Classifying this activity as 'seabed mining' as stated in the Officers Reports response as a reason for not providing it with a permitted activity status, does not seem appropriate. As I understand it, what TTR is proposing, is that the drilling be used for sampling purposes only to define the resource, so effectively taking core samples of the seabed to understand the quality and composition of the iron sand.
102. The temporal and spatial clauses proposed between sampling events will ensure seabed disturbance will have



disappeared, in what is a high energy, mobile seabed environment in the iron sand deposit areas of the STB.

103. Within the waters of the EEZ, similar activities are classified as 'Exploration' under the Exclusive Economic Zone and Continental Shelf (Environmental Effects – Permitted Activities) Regulations 2012 (**Permitted Activities**).
104. Within the Permitted Activities Regulations, exploration:
- (a) Is any activity (including research) undertaken for the purpose of:
 - i. Identifying mineral deposits or occurrences;
 - ii. Evaluating the feasibility of mining particular deposits or occurrences of one or more minerals; and
 - (b) Includes any drilling except drilling for petroleum, any dredging, or any excavation (whether surface or subsurface) that is reasonably necessary to determine the nature or size of a mineral deposit or occurrence; but
 - (c) Excludes seismic surveying.
105. Under the Permitted Activities Regulations, low impact activities do not require Marine Consent if they comply with the thresholds set in the regulations, and as such are classified as permitted as long as the notification and reporting requirements are adhered to.
106. To summarise this assessment of the EEZ Act, it shows that activities similar to what TTR proffered in Rule 26A can be undertaken as permitted activities in the EEZ but under the Proposed Coastal Plan for Taranaki, they are a controlled activity within the CMA.



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107. For the activities that would be included under Rule 26A (i.e. seabed core samples and drilling), I do not consider any potential disturbance related impacts from these activities should be classified under Rule 26 - Drilling of an exploration or appraisal well, and be subject to the same matters of control and discretion.
108. The amount of environmental disturbance associated with drilling or core sampling in accordance with the clauses of Rule 26A would have a negligible environmental effect on the marine environment.
109. Based on significant experience in consenting and monitoring of both petroleum and mineral exploration activities, I consider that Rule 26A, if it was reconsidered, should be considered a permitted activity under the Proposed Coastal Plan for Taranaki. This is based on the fact that there is likely to be minimal seabed disturbance and negligible environmental effects on the marine environment and surrounding biota as a result of those activities.

Rule 52 – Collection of benthic grab samples

110. TTR submitted in support of Rule 52 as this rule appropriately enables monitoring of effects on benthic communities. This is achieved by providing for the removal of benthic material using a grab sampler as a permitted activity where it is for scientific or monitoring purposes, and meets the terms set out in the rule. TTR proposed one change to Clause (g) around the species classifications, which was declined in the Officers Report due to not being considered consistent with the Regional Policy Statement.
111. I have discussed benthic grab sampling activities, and typical areas of seabed disturbance and volume of seabed removed from a single grab sample deployment in

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Paragraphs 62-69. Triplicate sampling is commonly undertaken to provide replication and scientific rigour when conducting either compliance monitoring or scientific studies so the area and volume of seabed disturbance is scaled up accordingly to enable comparison to the standards, terms and conditions provided in Rule 52.


112. TTR would undertake benthic grab sampling for assessment of effects as part of their environmental monitoring programme. Grab sampling is a robust way of determining whether activities are having any adverse impacts on the receiving environment beyond the Permil Area.
113. This rule now includes the additional clause that the activity does not have any significant adverse effects on the values associated with taonga species identified in Schedule 4C. However, as discussed in **Paragraphs 89-91**, there is ambiguity in this clause.
114. Based on my experience from conducting benthic grab sampling programmes around New Zealand and similarly observing seabed effects after such sampling events through video observations, I consider that the classification of permitted for such an activity is appropriate. Therefore, I support the recommendations made within the officer's report and what is provided in the Proposed Coastal Plan for Taranaki – track changes version, noting the issue raised in **Paragraph 113**.

Rule 65 – Taking or use of water, heat or energy

115. TTR submitted in support of Rule 65 as this rule appropriately provides for the taking and use of coastal water as a permitted activity where the taking and use would not affect significant sites, species or ecosystems.

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116. The officer's report noted this support and Rule 65 was retained with some amendments provided to offer relief to other submitters concerns.
117. Those amendments include two additional clauses:
- (a) The taking or use of water is not at a quantity or rate that would cause significant adverse environmental effects; and
 - (b) The activity does not have an adverse effect on the values associated with taonga species identified in Schedule 4C (Taonga species).
118. I do not foresee any issue with the additional clarification to the clause around take or use; however, given the volume of the ocean I could not foresee any activity that would require a water take that the volume or rate of the take would result in significant adverse effects.
119. Similarly, in regard to the taonga species, this rule now includes the additional clause that the activity does not have any adverse effects on the values associated with taonga species identified in Schedule 4C. However, as discussed in **Paragraphs 89-91**, there is ambiguity in this clause.
120. TTR will need to collect water samples as part of the environmental monitoring requirements, as discussed within **Paragraphs 70-77**. However, given the volumes of water required per sampling station (i.e. 10 L), which is at the upper end of any typical water quality monitoring programme, this rule is trivial for the requirements of most water quality monitoring programmes for compliance monitoring, state of the environment monitoring or scientific research that would be conducted in the Taranaki CMA.
121. Based on my experience from collecting many water samples around New Zealand, especially around the

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Taranaki coastline, I consider that the classification of permitted for such an activity is appropriate. Therefore, I support the recommendations made within the officer's report and what is provided in the Proposed Coastal Plan for Taranaki – Track changes version, noting the issue raised in **Paragraph 119**.

ADDITIONAL OBSERVATIONS

122. Whilst it is not an issue raised by TTR as part of their submission or further submission, during my review of the Proposed Coastal Plan for Taranaki – Track Changed Version, I noted a small typo on Schedule 4B – Sensitive marine benthic habitats on page 170.
123. Table 2 notes the sensitive marine benthic habitats found within or in the vicinity of the Taranaki CMA, and the right hand column of the table heading is "Present within 200 m of the Taranaki Coastal Marine Area". This should be present within 200 km of the Taranaki Coastal Marine area (Johnston, 2016).
124. As discussed in **Paragraphs 89-91**, the new clause has been added to a number of the rules around taonga species. However, there is a discrepancy between the wording on a number of these clauses. For example in Rule 47 Clause (aa) states: the activity does not have an adverse effect on the values identified in Schedule 4C (Taonga species).
125. Whereas in Rule 52, Clause (ga) states: the activity does not have a significant adverse effect on the values associated with taonga species identified in Schedule 4C (Taonga species).
126. As I have already discussed there is a lot of uncertainty with this clause, but to have differences between adverse effects and significant adverse effects creates even more ambiguity. Including significant in this clause requires there

to be some form of statistical analysis to demonstrate compliance.

CONCLUSIONS

127. Following an extensive review of the s42A Officers Report and the Proposed Coastal Plan for Taranaki, I completed a detailed assessment of the environmental monitoring policies and rules, as well as the submissions and responses.
128. TTR have environmental monitoring requirements as part of their (appealed) Marine Consent conditions, and these span the waters the EEZ and CMA within the SIB. TTR submitted on the Proposed Coastal Plan for Taranaki, and I focused on the environmental monitoring components of this submission where relevant to my expertise.
129. The s42A Officer Report included a new standard for a number of the rules for Taonga species (**Paragraph 89(b)**). However, more certainty is required if such a clause is to be included, as there is no criteria currently defined as to what is considered a significant adverse effect on the values associated with taonga species.
130. Following my assessment of the rules within the Proposed Coastal Plan for Taranaki associated with environmental monitoring, the potential for the marine environment and associated biota to be exposed to any significant adverse effects from these activities would be negligible.
131. As such, I consider that the classification of permitted activity status is appropriate for the activities associated with environmental monitoring (i.e. Rules 12, 20, 52 and 65).
132. Therefore I support the classification recommendations made within the s42A Officer's Report and the Proposed Coastal Plan for Taranaki – track changes version for the rules mentioned above.

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133. In addition, I do not consider that environmental monitoring within the CMA will result in any significant adverse environmental effects if undertaken in accordance with the standards, terms and conditions defined within the Proposed Coastal Plan for Taranaki.

AFFIRMED at Nelson
This 16th day of July 2019

)
) 
) **Daniel Govier**

before me:



A solicitor of the High Court of New Zealand

Hamish Kennedy
Solicitor
Richmond

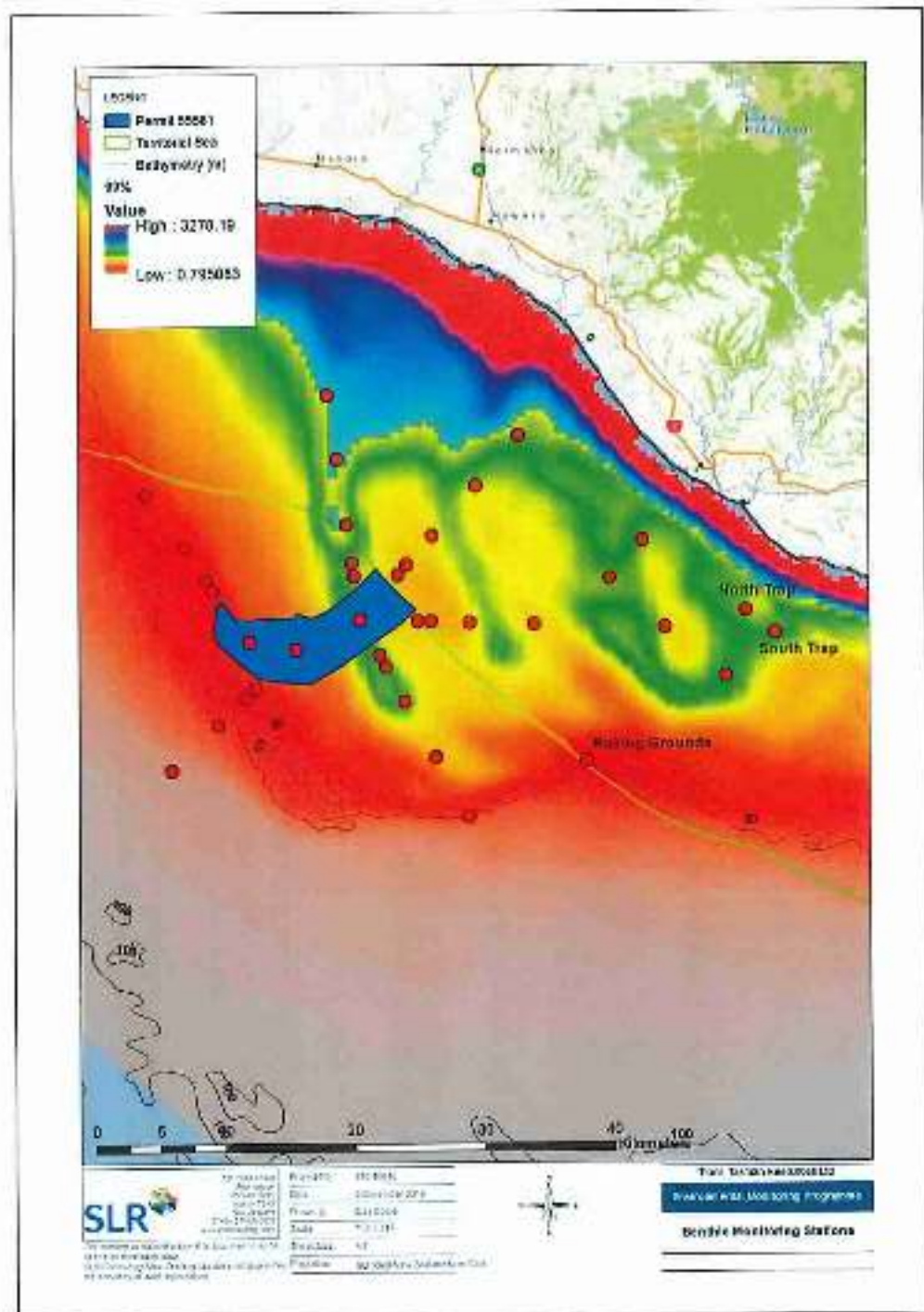
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COASTAL MONITORING
PLATFORMS
IN HAWKE'S BAY

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APPENDIX A – MONITORING STATIONS WITH SSC MODELLING OVERLAID



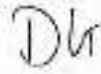
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APPENDIX B – OVERVIEW OF ITR MONITORING PROGRAMMES AND METHODOLOGIES

| Monitoring Programme | Objectives | Methods |
|---------------------------------|---|--|
| Water Quality and Sedimentation | <p>Provide an early warning indicator of potential for impact on sensitive receptors due to deteriorating water quality.</p> <p>Provide contextual water quality and sedimentation data in the investigations of recorded impacts on benthic and reef ecosystems.</p> <p>The continued collection of water quality data in conjunction with the PCEMP that accounts for spatial and temporal variability of turbidity typical for the STB.</p> <p>Monitoring of sedimentation rate.</p> | <p>Deployed Mooring Turbidity PAR Temperature Conductivity Depth Gross Sedimentation (settlement tubes)</p> |
| Model Validation | <p>Provide high quality data for the validation of the sediment plume model results.</p> <p>Provide calibration and validation data for the enhancement of the Hydrodynamics and Sediment Transport models that will be run in Hindcast mode to simulate actual conditions during the Project – the OSPM.</p> <p>Provide high quality temporal and spatial resolution of the currents and turbidity characteristics during the Project to support validation of numerical models under a range of conditions.</p> <p>Obtain time-series of in-situ suspended sediment concentrations, particle size distributions and settling velocity along with current and wave measurements to allow determination of critical shear-stresses for re-suspension and settling as well as differentiation between background and extracted material suspended sediment concentrations.</p> | <p>Turbidity / moored sensors and profiles Sedimentation Currents / moored and vessel based transects Waves / moored instruments Particle size and settling velocity / moored instruments and profiles</p> |
| Oceanography | <p>Detect changes or trends in oceanographic processes that could not be identified via coastal processes;</p> <p>Detection of any significant negative coastal processes attributable to the Project;</p> | <p>Deployment of ADCP for measuring waves</p> |

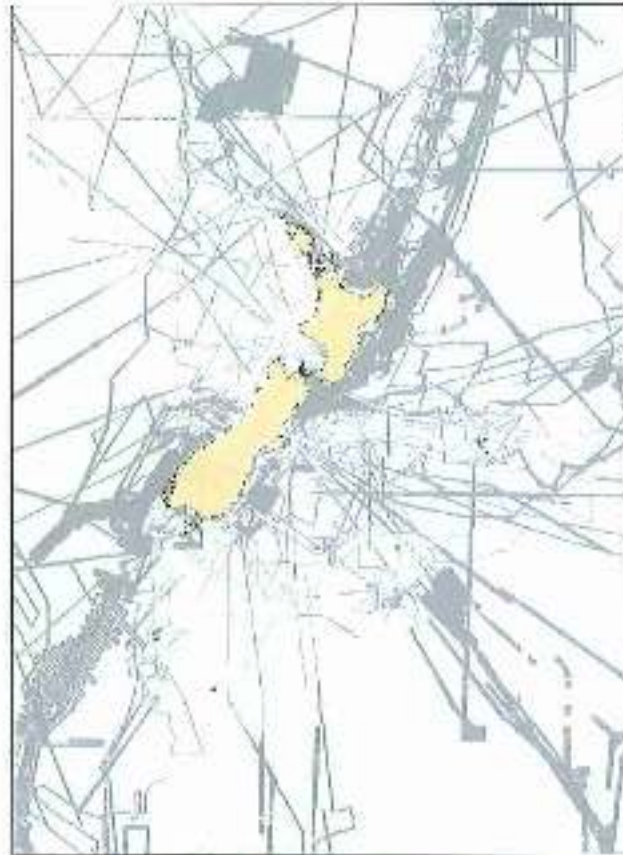
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| Monitoring Programme | Objectives | Methods |
|----------------------|--|---|
| Primary Productivity | <p>Early detection of any significant coastal processes to allow the Project to be adapted or the implementation of management measures;</p> <p>Validation of the sediment plume transport model and informing the real-time sediment plume model during the iron sand extraction phase of the project; and</p> <p>Provision of a long-term data set of oceanographic data within the STB.</p> <p>Investigate the potential effects of iron sand extraction and deposition on primary productivity by plankton.</p> <p>Determine how primary productivity indicators respond to gradient of effect with distance from operational Project areas</p> | <p>Deployment of AWAC for measuring currents</p> <p>Phytoplankton community composition, Chlorophyll-a levels in the water column, micro-zooplankton community composition, chlorophyll-a in surficial sediments, Light availability - PAR logger</p> <p>Turbidity - NTU logger</p> |
| Zooplankton | <p>Assess the potential effects of iron sand extraction on the biomass, abundance and diversity of zooplankton communities.</p> <p>Assess the potential effects of iron sand extraction on water colour, clarity, and compare data to zooplankton abundance, diversity and biomass results.</p> <p>Investigate the potential effects of iron sand extraction on the abundance and diversity of soft-bottom infauna and epifaunal communities within and surrounding the extraction area;</p> <p>Determine whether there are significant changes in sediment characteristics (sediment grain size, redox potential (ORP) and pH) following iron sand extraction; and assess how any changes affect abundance and diversity of soft bottom communities; and</p> <p>Follow the subsequent recovery of any infauna and epifauna communities that may be impacted and relate this to depth of sedimentation, nature of sediment and ORP.</p> <p>Determine the recolonisation of the de-oiled sediment after it has been deposited back on the seabed.</p> | <p>Zooplankton diversity, abundance and distribution</p> <p>Surface water colour and clarity</p> <p>Ecological benthic sampling programme</p> <p>Abundance and diversity of infauna and epifauna</p> <p>Sediment physico-chemical characteristics</p> <p>Microphytobenthos</p> |
| Subtidal Benthos | <p>Investigate the potential effects of iron sand extraction on the abundance and diversity of soft-bottom infauna and epifaunal communities within and surrounding the extraction area;</p> <p>Determine whether there are significant changes in sediment characteristics (sediment grain size, redox potential (ORP) and pH) following iron sand extraction; and assess how any changes affect abundance and diversity of soft bottom communities; and</p> <p>Follow the subsequent recovery of any infauna and epifauna communities that may be impacted and relate this to depth of sedimentation, nature of sediment and ORP.</p> <p>Determine the recolonisation of the de-oiled sediment after it has been deposited back on the seabed.</p> | <p>Zooplankton diversity, abundance and distribution</p> <p>Surface water colour and clarity</p> <p>Ecological benthic sampling programme</p> <p>Abundance and diversity of infauna and epifauna</p> <p>Sediment physico-chemical characteristics</p> <p>Microphytobenthos</p> |

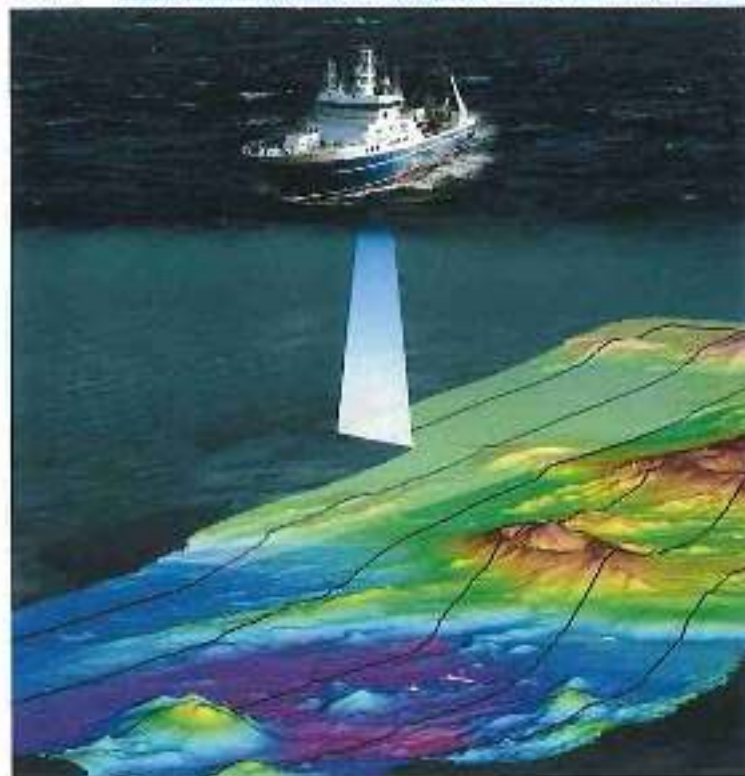



| Monitoring Programme | Objectives | Methods |
|-------------------------------|--|---|
| Subtidal and Intertidal Reefs | <p>Investigate the potential effects of iron sand extraction on the abundance and diversity of selected subtidal and intertidal reef communities in the STB.</p> <p>Investigate the levels of sand inundation/depletion around selected intertidal reef systems and by conducting beach profile surveys along the STB coastline.</p> | <p>Intertidal and subtidal ecological surveys using both quantitative and qualitative methods.</p> <p>Drop camera photoquads.</p> <p>Diver surveys</p> <p>Beach profile surveys</p> |
| Marine mammals | <p>To ground-truth the predicted impacts of iron sand extraction on marine mammals; and</p> <p>To conduct surveys to describe the variability of marine mammal relative abundance and distribution in the STB during and after iron sand extraction.</p> | <p>Incidental sightings</p> <p>Systematic observations</p> <p>Aerial surveys</p> <p>Acoustic surveys</p> <p>Vessel strike monitoring</p> <p>Post-mortem examinations</p> <p>Fur seal counts</p> |
| Underwater Noise | <p>Establish underwater noise characteristics at selected locations within STB relative to the noise contour established by way of marine consent condition.</p> | <p>Fixed-point underwater noise surveys</p> <p>Underwater noise: vessel surveys</p> |
| Recreational Fish | <p>Monitor and report on impacts to key recreationally targeted fish species to determine if changes to recreational fishing and fish catch occur from the Project.</p> | <p>Catch per unit effort, total abundance, size, Vessel counts</p> |
| Biofouling and Biosecurity | <p>Early detection of new marine pests introduced into the STB.</p> <p>To allow implementation of marine pests emergency response where any Introduced Marine Pests are detected.</p> | <p>Invasive species presence or absence</p> |

APPENDIX C – MULTIBEAM BATHYMETRIC SURVEY AND MULTIBEAM SWATHS AROUND NEW ZEALAND WATERS



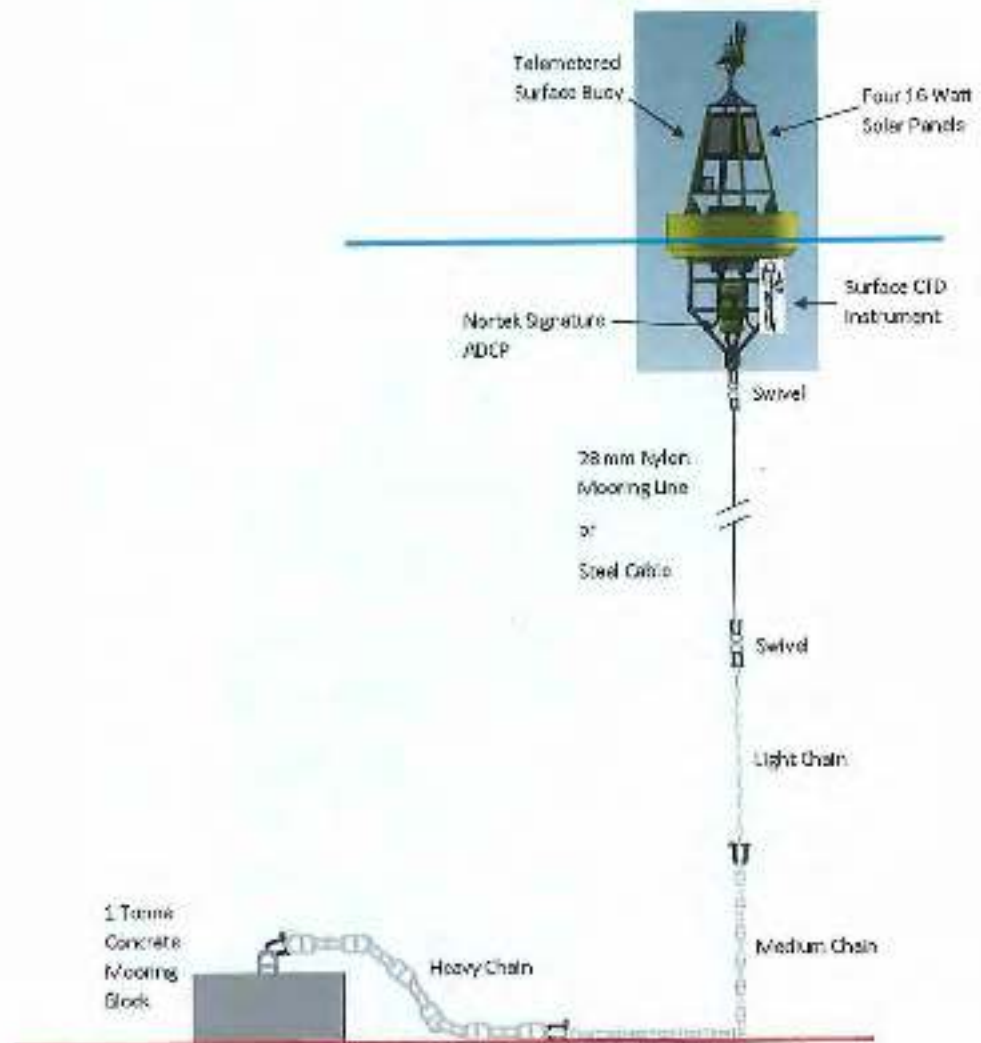
Source: <https://www.niwa.co.nz/our-science/oceans/bathymetry/further-information>



Source: <https://www.niwa.co.nz/our-science/oceans/bathymetry/further-information>

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APPENDIX E – TYPICAL OFFSHORE MOORING CONFIGURATION



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APPENDIX F – MONITORING BUOY DIAGRAM



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APPENDIX G – FIXED MOORING LOCATIONS



DL

APPENDIX H – DOUBLE VAN-VEEN GRAB SAMPLER



K Dr

APPENDIX I – ROSETTE WATER SAMPLER & VAN DORN WATER SAMPLER



Source: European Geosciences Union



Source: www.insciencetech.com

AP D6

BEFORE THE TARANAKI REGIONAL COUNCIL

**HEARING ON THE PROPOSED COASTAL PLAN FOR TARANAKI TO BE HELD ON
22nd and 24th July 2019 at the TARANAKI REGIONAL COUNCIL OFFICES,
STRATFORD**

UNDER the Resource Management Act
1991

IN THE MATTER of the proposed Coastal Plan for
Taranaki

**WRITTEN STATEMENT TO HEARING ON THE PROPOSED COASTAL PLAN
FOR TARANAKI**

INTRODUCTION AND BACKGROUND

1. First Gas owns and operates more than 2500 kilometers of high pressure gas transmission pipelines and stations that supply natural gas from Taranaki to industrial consumers throughout the North island. Their gas distribution network supplies more than 60,000 commercial and residential customers.
2. As a key Network Utility Provider, these pipelines are nationally and regionally significant infrastructure.
3. First Gas made a submission on the Proposed Coastal Plan for Taranaki on 27 April 2018 because the First Gas network crosses through the Coastal Marine Area in places – generally at river mouths and within estuaries – and accordingly these Network Utilities may be affected by the proposed plan.
4. The key theme of the submission was that First Gas seeks differentiation of their transmission activities from petroleum installations because the transmission network serves a different purpose to that of petroleum prospecting, exploration and production. The infrastructure serves downstream communities, and the plan needs to cater to network operational and maintenance activities in a timely manner.

CONSULTATION

5. First Gas appreciate the efforts made by officers of the Taranaki Regional Council (TRC) to consult on the submissions made, and to consider and make changes to address the concerns raised.

SUBMISSION TO HEARINGS PANEL

6. In the following paragraphs, the Submission Points referred to are those in the *"S42A report on decisions requested Proposed Coastal Plan for Taranaki"* dated 28 June 2019. The rules referred to are as numbered in the *"Proposed Coastal Plan for Taranaki, Track Changes Version for the Hearing"*.

SUBMISSION POINT 941

7. First Gas sought amendment to Rule 34 of the Plan to make network utility underground pipelines or pipelines attached to existing bridge or access structures in Outstanding Value coastal management area a Controlled Activity, rather than Non-complying. TRC Officers recommend *"granting an alternative relief to that sought by the submitter that provides a similar outcome to that which has been requested. Officers recommend amending Rule 22 [Network utility structure erection or placement] to include Outstanding Value coastal management areas as a Controlled Activity"*.
8. **First Gas support the officers recommendation for submission point 941.**

SUBMISSION POINT 967

9. First Gas sought amendment to Rule 37 of the proposed Plan to make network utility pipeline repair, alteration or extension a Permitted Activity (rather than a Non-complying Activity) and sought to extend the Rule to include Outstanding Value coastal management areas.
10. In the section 42A report Officers recommend *'granting the relief in kind by including a new Restricted Discretionary Rule addressing network utilities, including those in Outstanding Value areas, not covered by Rule 35 and 37. Officers note that most maintenance and minor alteration activities associated with network utilities can be*

addressed as a Permitted Activity under Rule 35. Other alteration and extension activities associated with network utilities can be addressed under Rule 37’.

11. Furthermore, the s42A report states that; *‘Officers note that, for those activities not covered by Rule 35 and 37, would be addressed under a new rule, Rule 37A, whereby alteration and extension of network utilities can be addressed as a Restricted Discretionary Activity. This is part of a framework that better recognises and provides for regionally important network utilities’.*
12. **First Gas support the officers recommendation for submission point 967.**

SUBMISSION POINT 982

13. First Gas sought that network utility pipeline removal and replacement within coastal management areas: Outstanding Value and Estuaries Unmodified, Estuaries Modified and Port be classified as a Permitted Activity and be included under Rule 38 (or under a separate rule).
14. In the section 42A report,; *Officers note that the Activity Description of Rule 38 deliberately excludes petroleum production installations and pipelines because of the higher environmental risks involved.....Officers recommend deleting Rule 38 to avoid confusion for Plan users and for resource users to instead rely on Rules 44, 45 and 46 for the removal aspect of the structure, and Rules 18 to 34 for the ‘replacement’ aspects of the structure.*
15. This approach is accepted in principle by First Gas, however it is noted that Rules 44 and 45 (Structure removal aspects) do not differentiate between First Gas Network Utility pipelines and petroleum activities. The rules referred to exclude ‘petroleum production installations and pipelines’, thus making the removal aspects discretionary under Rule 46. As mentioned previously, it is considered that capturing network utilities alongside petroleum activities is inappropriate, and this separation has been accepted by council and reflected in the other proposed rules.

16. Accordingly it is sought that either the removal of Network Utility structures be allowed for in Rule 45 (i.e. not excluded along with Petroleum Production Installations and pipelines), or a new rule be inserted, to make the removal of network Utility Structures within Outstanding Value, Estuaries Modified, Estuaries unmodified, Open Coast and Port coastal areas a Controlled Activity.
17. Either approach would align the proposed 'removal' rules with the relevant 'replacement' rule (proposed Rule 22, discussed below), and with the relevant 'maintenance, alteration or extension' rule – proposed Rule 37 .
18. In relation to the 'replacement' aspects, proposed Rule 22 appropriately allows for Network Utility pipelines, making the (re)placement of pipelines a controlled activity.
19. **First Gas agree in principle with the officers recommendation for submission point-982 but disagree that the wording entirely addresses First Gas's submission.** For consistency and to separate Network Utility Pipelines from Petroleum Activities, changed wording is requested.

CONCLUSION

20. First Gas appreciate the opportunity to present this written statement to the hearing on the Proposed Proposed Coastal Plan for Taranaki.
21. First Gas support the officers recommendations for Submission Points 941 and 967, and support the recommendations for 982 in principle. We trust that the relief sought in paragraph 16 is able to be accommodated in the decisions version of the Proposed Coastal Plan for Taranaki.

Kathryn Hooper, Landpro Limited

On Behalf of First Gas Limited

HEARING



TELEPHONE 0800 327 646 | WEBSITE WWW.FEDFARM.ORG.NZ

To: Taranaki Regional Council
Coastal Plan Hearing Panel

Hearing on: **Proposed Coastal Plan for Taranaki**

Date: 4 July 2019

Presented by: **TARANAKI FEDERATED FARMERS**

Address for service: **DR LISA BREWER**
REGIONAL POLICY ADVISOR
Federated Farmers of New Zealand
PO Box 422, 15 Young St, New Plymouth
M: 021 627936
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Federated Farmers Taranaki appreciates the opportunity to present material to the hearing panel today. Given that we are generally happy with where the s42 reports have landed on our key issues and in the interest of lightening the workload of Council during the hearing, we have elected to table this hearing statement by email rather than appear in person.

PUBLIC ACCESS

We support the recommended wording changes (e.g. to Objective 12, Policy 5(g), Policy 17(b) & (c)(ix)). These ensure that public access provisions are about facilitating *appropriate* public access *where a demand exists*, while imposing a restriction on public access, where it is necessary to ensure *a level of security for lawfully established activities*.

We would still have preferred references to the 'Coastal Environment' be replaced by the 'Coastal Marine Area' (e.g. in Objective 12), as being the area traditionally reserved for public use. However, we accept the assurances of council officers that these provisions will not result in an increase in problems experienced by coastal farmers; as already detailed in our submission, a number of farmers report damage and disruption caused by people crossing their land to reach the beach, or (mis)using land without permission of the landowner.

SIGNIFICANT SURFING ZONE

We strongly support the officers' recommendation to move the inland boundary of the Significant Surfing Zone down to mean high water springs. This addresses our concern that (as the Surfing Zone included significant amounts of farmland, including paddocks and buildings), there would be potential

and probably unintended restrictions on normal farming activities. We believe it is very sensible to make sure that farmland is not captured in a Zone designed to manage effects on surf breaks.

BIODIVERSITY

In our further submission, we opposed submissions by Forest and Bird, who proposed significance criteria and additional policy on biodiversity. We were particularly concerned that significance criterion b(ii) in F&B's appendix 3 (relating to vegetation and habitat supporting a 'threatened' or 'at risk' species), potentially made maintenance of regenerating pasture on the coast more difficult for farmers.

We explained that our concern stemmed from the fact that manuka, kanuka and rata have recently been re-classified as 'threatened', as a precautionary measure, following the arrival in New Zealand of the disease myrtle rust. Otherwise these plants are common and often behave as agricultural weeds.

We therefore support the recommendation to decline that submission, as regards significance criteria.

We would have further comment to make on the recommendation by officers that a new Policy 14(a) be introduced, but as the rules of this Coastal Plan will not apply on farmland, we will let this lie.

We recognise that protection of coastal vegetation is important. However, we would ask that the panel bear in mind the importance of enabling the clearance of regenerating pasture in the coastal environment, during their deliberations.



**Before the Hearings Panel
Appointed by Taranaki Regional Council**

IN THE MATTER of the Resource Management
Act 1991

AND

IN THE MATTER of Taranaki Regional Council
Proposed Coastal Plan for
Taranaki

**STATEMENT OF EVIDENCE OF CAROLINE ELIZABETH RACHLIN ON BEHALF OF
HERITAGE NEW ZEALAND POUHERE TAONGA**

PROPOSED COASTAL PLAN FOR TARANAKI

Planning Statement

12 JULY 2019

1.0 INTRODUCTION

- 1.1 My name is Caroline Elizabeth Rachlin. I have a Bachelor of Arts (in History and Geography) from the University of Canterbury, and a Master of Resource Studies (in Environmental Planning) from Lincoln University. I am a Planner for Heritage New Zealand Pouhere Taonga (Heritage New Zealand) for the Central Region Office. My role includes providing statutory planning advice in relation to proposals under the Resource Management Act (RMA). I have been in this role for eight months.
- 1.2 I have 13 years' experience in planning in New Zealand and five years' experience in planning in the United Kingdom. Before being employed by Heritage New Zealand, I held senior planner positions at Upper Hutt City Council and Christchurch City Council, where my work primarily focused on the preparation of Council led plan changes (under the RMA). During my work at Christchurch City Council I was involved in the proposed Christchurch Replacement District Plan, including assisting in drafting of chapter proposals (including for Natural and Cultural Heritage) and providing evidence before the Independent Hearings Panel.
- 1.3 Before these positions, I was employed in planning positions in the United Kingdom in development control (similar to New Zealand resource consents planning), and by the Selwyn District Council in a policy planner role. I am an associate member of the New Zealand Planning Institute.
- 1.4 Although this evidence is not prepared for an Environment Court hearing I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and have complied with it in when preparing this evidence. I have considered all the material facts that I am aware of that might alter or detract from the opinions I express. This evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

2.0 SCOPE OF EVIDENCE

- 2.1 Heritage New Zealand made a submission on the proposed Coastal Plan. I was not involved in preparing the submission but I have familiarised myself with the submission. I have been asked by Heritage New Zealand to assist by providing planning evidence on the proposed Coastal Plan.
- 2.2 In preparing this evidence I have read the Section 42A Officers' Report (**Officers' Report**) on Decisions Requested for the Proposed Coastal Plan for Taranaki (**proposed Plan**), prepared for the Taranaki Regional Council together with the Track changes version of the proposed Plan (**track changes version**). I have been informed by a number of key documents including the proposed Coastal Plan for Taranaki and Section 32 Evaluation report, the New Zealand Coastal Policy Statement 2010 (**NZCPS**), and the Regional Policy Statement for Taranaki 2010 (**RPS**). I have further been informed by the New Zealand Historic Places Trust Sustainable Management of Historic Heritage Guide No.2 for Regional Plans.¹

¹ Now Heritage New Zealand Pouhere Taonga

2.3 My evidence is structured by Plan section. I outline under each section the points where I support the Officers' recommendations for the reasons stated in the Officers' report. In parts of my evidence I expand on this support. My evidence focuses on the areas where I do not agree with the Officers' recommendations.

3.0 SECTION 3.2 - COASTAL MANAGEMENT, SECTION 4 – OBJECTIVES, AND SECTION 5 – POLICIES

3.1 Heritage New Zealand made submission points in support or support with amendments to Section 3.2, objectives, policies and methods. I support and endorse the recommendations in the Officers' report for the reasons stated on the points listed below.

- Section 3.2 – Matters to be addressed (submission number #84)
- Objective 9 – Relationship of tangata whenua with the coastal environment (#155)
- Objective 11 – Treaty of Waitangi (#161)
- Section 5.1 (#182)
- Policy 15 - Historic Heritage (#396)
- Policy 16(b): Relationship of tangata whenua (#406)
- Section 5.2 Activity-based policies – introduction (#465)
- Activity-based policies: Policy 32 (#544); Policy 34; Policy 42 (#598); policy 43 (#602); policy 44 (#608); and policy 46 (#616).

3.2 The decisions sought in the submission at paragraph 3.1 primarily relate to matters of historic heritage and the relationship of Māori and their culture and traditions with the coastal environment. However, a change was also sought to Section 5.2 to include content in this introduction to the activity-based policies to detail a precedence of the general policies: as follows: “... *Where a policy in this section conflicts with a general policy in 5.1, the general policy takes precedence.*”

3.3 The new wording introduced in the track changes version (shown below as underlined) integrates this change, with a minor wording change. In my view this addition to the introduction will assist in Plan interpretation in relation to how the policies are to be read and applied. It provides clarity that there is a hierarchy between the general and activity-based policies. I consider this is important when considering the content of the general policies which include section 6 matters of national importance under the Resource Management Act (RMA), and the direction for these matters under the NZCPS and RPS.

“5.2 Activity-based policies

(...)

The activity-based policies must be considered alongside the general policies and never in isolation. Where a policy in this section is inconsistent with a general policy in 5.1, the general policy takes precedence.

3.4 Linked to this, I consider the inclusion of this wording negates the need for new wording to be included in the activity-based policies on historic heritage (as sought through the Heritage New Zealand submission on the activity-based policies outlined in paragraph 3.1 above). The Officers' recommendations point to historic heritage matters being adequately

addressed under other provisions of the Plan, including the general policies. I agree with this and find this is particularly the case within the context of the change to the introduction to Section 5.2.

4.0 SECTION 6 - METHODS OF IMPLEMENTATION

4.1 Submissions were made by Heritage New Zealand on the historic heritage methods under Section 6.5. On the two submission points below I support and endorse the Officers' recommendations which included setting out in the response and recommendations the consultation occurring with tangata whenua.

- Method 29 (#658)
- Method 31 (#659)

4.2 A new method was also sought for a regular review and update of the Schedules to reflect latest information (#652). I agree with the Officers' recommendations in that this relief is addressed by other parts of the Plan. This includes at a high level under Section 10.2 Review of the Plan.

4.3 I consider that combined with other methods under 6.5 Historic heritage², (for example, a role for Heritage New Zealand and other organisations and stakeholders to maintain and regularly update databases and records of historic heritage³), that there is a clear framework to initiate a review on a case by case basis if an issue and new information arises to necessitate a review outside of the statutory ten year time frame for a review of the Plan. I note that the Officers' recommendations refer to Method 16, but this method is under 6.4 Natural Heritage. However, this does not alter my view that the relief is addressed by other parts of the Plan.

4.4 A new method was sought under submission number 653 of:

"Consider opportunities for collaboration with stakeholders on the protection and conservation of historic heritage."

4.5 The Officer's response includes directing to Method 22. Method 22 provides:

"Actively support as and when appropriate surveys, research and investigation into identifying historic heritage in the region."

4.6 In my view the relief sought, relates to methods which could extend more broadly than the matters in method 22 and this could be achieved for example through non-regulatory methods such as education, advice and assistance relating to identification or protection. The method sought would appropriately expand the historic heritage specific methods and further appropriately integrate with the general methods at section 6.1, which include a method on advice and information, and guidelines.

² Proposed to be titled 'Historic and cultural heritage' in the track changes version.

³ Under Method 21

5.0 SECTION 8 – REGIONAL RULES

- 5.1 I support the Officers' response and recommendation to accept the amendment to Rule 51 relating to clearance of outfalls, culverts and intake structures (#1071). However, I note that this had been incorporated as new standard (ac) which is concerned with not having an adverse effect on the values associated with historic heritage identified in Schedule 5A and 5B. This is opposed to the decision sought which related to the disturbance to not occur within a site in Schedule 5. For similar reasons to the paragraphs below on Rule 31(j) I have concerns with this standard not being amended through the track changes version as sought (including the potential for irreversible effects and the need to be more targeted or prescriptive within this standard).
- 5.2 Heritage New Zealand sought new wording to be added to proposed standard (j) of Rule 31 for temporary military training ((submission #918). This was so that structures and activities could not be placed at any site identified in Schedules 5.
- 5.3 I recognise that the scheduled places as a whole traverse a large area of the coastline (a matter covered in the Officer's response). In my view there is the potential for adverse effects on historic heritage, including irreversible effects from the activity. This could be, for example, through damage to any structure or feature in the schedule from how a structure is placed on or attached to the feature. A more targeted standard would reduce the risk of significant and irreversible adverse effects to the features and values of the places within Schedules 5.
- 5.4 In forming this view I have considered the range of features and places within the Schedules 5 and further requirements under the Heritage New Zealand Pouhere Taonga Act 2014 including those which apply where works may modify or destroy an archaeological site. Moreover, the other standards in the rule including (and as amended in the track change version) the limitation of the duration of the activity in any one year (which I note would not prevent the activity occurring in repeated years in one location) and the standard requiring notification to the Council before the activity occurs. There is the potential risk over the longer-term to sites and features in these Schedules from a less prescriptive standard to more directly manage this activity in relation to the places in these schedules. Further, I consider there are issues with some reliance on the notification of the activity. It is not clear that an assessment or report must be provided and the process of consideration of that information to determine if there are adverse effects.

6.0 DEFINITIONS

- 6.1 I support the Officers' recommendations for the reasons stated, and the changes as shown in the track changes version, with regard to the following definitions to which Heritage New Zealand sought as new or amended definitions. The set of changes introduce more clarity and certainty and aid in Plan interpretation and implementation. Although the maintenance definition does not include the wording protective care in the definition, in my view the wording is appropriate to cover protective care.

- Alterations (#1182)
- Maintenance (#1216)
- Repairs (#1270)

7.0 SCHEDULES 5A AND 5B AND PLANNING MAPS

- 7.1 A set of submission points made by Heritage New Zealand concerned matters of clarity with respect to Schedule 5A – Archaeological sites of significance and historic areas and the planning maps (#1333, #1334, #1335).
- 7.2 I support the Officers' recommendation to introduce built heritage into the title of Schedule 5A (under submission #1333), and to add information to the planning maps which would assist in navigation between the schedules and planning maps. I further note that Officers' have added additional information and an exercise was undertaken to check certain information relating to the schedules.
- 7.3 No changes have been introduced to the planning maps in the revised version in response to the relief seeking addressing the lack of mapped extents for schedules sites (as relates to Schedule 5A).
- 7.4 I am of the opinion that to define the extent and/or any buffer would be assisted by a research or ground-truthing as appropriate in the context, (that is considering the range of sites in the schedules with different features and values). In the absence of such further detailed work and amendments to the planning maps there remains a risk of uncertainty in interpretation of the maps and associated provisions. However, I acknowledge this may form a set of more extensive and detailed investigations and as such may be more appropriately undertaken through a future programme of work and be integrated in further updates and reviews of the places in the schedule (including through any periodic reviews based on new information and issues which have arisen).
- 7.5 Submission points were made by of Heritage New Zealand on Schedule 5B - Sites of Significance to Maori and to the Ohunuki Map (Ngāruahine) (#1341 and #1342). I acknowledge the response and support the recommendations in the Officers' report for the reasons stated.



Caroline Elizabeth Rachlin

Planner

12 July 2019

BEFORE THE

Taranaki Regional Council Hearing
Commissioners

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of Proposed Coastal Plan for Taranaki

**STATEMENT OF JANEEN ANNE KYDD-SMITH
ON BEHALF OF MERIDIAN ENERGY LIMITED
(Submitter No. 20)**

12 JULY 2019

INTRODUCTION

1. My name is Janeen Anne Kydd-Smith. I am a Director and Principal Planner of Sage Planning HB Limited, in Napier.

Qualifications and Experience

2. I have the following qualifications and experience relevant to the evidence I shall give:
 - a) I have a Bachelor of Arts (Geography) and a Master of Regional Resource Planning from the University of Otago;
 - b) I have over 28 years' experience as a Planner working in local government and the private sector;
 - c) I am an accredited Commissioner (with Chair Endorsement) under the Ministry for the Environment 'Making Good Decisions' programme.
3. I have the following relevant experience:
 - a) Development Planner, Hastings District Council (February 1992 – July 1992);
 - b) Policy Planner, Hastings District Council (July 1992 – April 1996);
 - c) Senior Policy Planner, Hastings District Council (April 1996 – May 1998);
 - d) Development Manager, Hastings District Council (June 1998 – September 2001);
 - e) Environmental Planner, MWH New Zealand Limited (September 2001-January 2002);
 - f) Planning Manager, MWH New Zealand Limited (January 2002 – December 2002);
 - g) Senior Environmental Planner, Environmental Management Services Limited (February 2003 – August 2014);

- h) Director, Kydd-Smith Environmental Planning Limited (September 2014 to 31 March 2017); and
 - i) Director and Principal Planner, Sage Planning HB Ltd (1 April 2017 – present).
4. I have been engaged by Meridian Energy Limited (**Meridian**) to prepare and present planning evidence in relation to their submissions and further submissions on the Proposed Coastal Plan for Taranaki (**PCP**).
 5. I am familiar with the PCP documents (as notified) and I was also initially engaged by Meridian to assist them with the preparation of their submissions and further submissions.

EXPERT WITNESS CODE OF CONDUCT

6. I confirm that I have read the 'Expert Witnesses Code of Conduct' contained in the Environment Court of New Zealand Practice Note 2014. My evidence has been prepared in compliance with that Code in the same way as I would if giving evidence in the Environment Court. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

PURPOSE AND SCOPE OF EVIDENCE

7. This evidence provides a response to the Taranaki Regional Council's Reporting Officers' Section 42A Report for the hearing.
8. In preparing my evidence I have reviewed the following:
 - relevant sections of PCP;
 - relevant sections of Meridian's submissions and further submissions;
 - section 42A Officers' Report, particularly in relation to the relevant parts of Meridian's submissions and further submissions; and
 - the New Zealand Coastal Policy Statement 2010 (**NZCPS**)

EXECUTIVE SUMMARY

9. For the reasons given by the Reporting Officers in their section 42A report, I concur with the Officers' recommendations in relation to:
- Objective 1: Integrated management;
 - Objective 3: Reverse sensitivity;
 - Objective 7: Natural features and landscapes,
 - Objective 11: Historic heritage;
 - Objective 13: Coastal hazard risk and public health and safety;
 - Policy 1: Coastal management areas;
 - Policy 2: Integrated management;
 - Policy 5: Appropriate use and development;
 - Policy 6: Activities important to the well-being of people and communities;
 - Policy 7: Impacts on established activities;
 - Policy 9: Natural character and natural features and landscapes;
 - Policy 15: Historic heritage;
 - Policy 17: Public access;
 - Policy 18: Amenity values;
 - Policy 19: Surf breaks and Significant Surfing Area;
 - A new definition of 'Subdivision';
 - Definition of 'Amenity values'; and
 - A new definition of 'Functional need'.
10. In relation to Objective 6: Natural character, while I support the addition of the word 'subdivision', I do not support the other amendments recommended by the Officers.
11. In terms of Policy 3: Precautionary approach, I do not support the Officers' recommendation to delete reference to 'adaptive management' and delete the definition of 'Adaptive management' in Section 4.7 of the PCP, as I consider that specific reference to it within Policy 3 and the

definition may be helpful to PCP users, by making it clear that it is a precautionary approach that may be considered.

12. With respect to Policy 4: Extent and characteristics of the coastal environment, I consider that the Officers' recommended amendments are appropriate as an interim response, until such time as the coastal environment or equivalent has been mapped in each of the relevant district plans or proposed district plans in the Taranaki Region. However, once mapping in the district plans has been completed, I consider that clause (b) will no longer be necessary or appropriate. I therefore recommend that clause (b) of Policy 4 and the definition of 'Coastal environment' in Section 4.7 of the PCP are amended to reflect that.

EVIDENCE

SECTION 4.2: OBJECTIVES

Objective 1 – Integrated management

13. The submission from Meridian (Submission 20) requested that Objective 1 be amended to refer to 'subdivision' (in addition to 'use and development') to more accurately reflect Policy 4(c)(i) of the NZCPS on Integration. The Officers recommend that Meridian's submission be accepted and that a new definition of 'Subdivision' be added to the definitions section of the PCP. They also recommend that a consequential amendment be made to clause (g) of Policy 2 [Integrated management] to recognise subdivision alongside use and development in areas beyond the coastal marine area (**CMA**). I consider that the recommended amendments and new definition are appropriate, for the reasons given in the Meridian submission and by the Officers.

Objective 3 – Reverse sensitivity

14. The submission from Meridian requested that Objective 3 be amended to refer to 'subdivision', as well as 'use and development', to accurately reflect Objective 6 and Policy 7(1)(b) of the NZCPS. The Officers recommend that Meridian's submission be accepted. The Officers also recommend (in response to Transpower NZ Ltd's submission (26)) that the title of Objective 3 be amended (to "Impacts on established

operations and activities”), that some other minor and inconsequential changes be made to the objective, and that a new definition of ‘subdivision’ be added to the definitions section of the PCP. I consider that the recommended amendments to Objective 3 are appropriate, for the reasons given by the Officers.

15. I note that the Officers have recommended that Objective 3 be amended by deleting the words “nationally and” so that it only refers to “regionally important infrastructure”. I consider that this is appropriate, as there is a definition of Regionally Important Infrastructure provided in the PCP, which includes “infrastructure of regional and/or national importance”.

Objective 6 – Natural character

16. The submission from Meridian requested that Objective 6 be amended to refer to ‘subdivision’, as well as ‘use and development’ to better reflect Policy 13(1) of the NZCPS, and that the words “and is restored where appropriate” be deleted from the objective, as Policy 10 of the PCP more appropriately addresses the issue.
17. The Officers recommend that Meridian’s submission be accepted, but only insofar as Objective 6 (and Policy 8 [Areas of outstanding value] is amended to refer to ‘subdivision’ and a new definition of ‘subdivision’ is added to the PCP. However, the Officers also recommend other ‘minor and inconsequential amendments’ (shown in blue) and an amendment in response to the submission of the Royal Forest and Bird Protection Society (Submission 43) (shown in red), as follows:

Objective 6: Natural character

The natural character of the coastal environment is preserved and protected from inappropriate subdivision,⁽²⁰⁾⁽⁴³⁾ use and development and is restored enhanced where ~~appropriate degraded~~⁽⁴³⁾.

18. The Officers recommend the above amendments (in blue and red) so that the objective provides more certainty around what requires protection and restoration, and there is a link to Policy 12 [Restoration of coastal water quality] and Schedule 3 [Coastal water quality].
19. While I consider that the Officers’ recommendation in response to Meridian’s submission is appropriate, I consider that the other recommended amendments are inappropriate. In my opinion, the recommended words “and enhanced where degraded” will have the

effect of requiring all elements of the natural character of the coastal environment (i.e. not only coastal water quality) to be enhanced where they are degraded, which is not consistent with Policy 14 of the NZCPS and Policy 10 [Restoration of natural character] of the PCP, which are to 'promote' the restoration of natural character of the coastal environment.

20. I also consider that the restoration of natural character (generally), and the enhancement and restoration of coastal water quality (specifically) are already adequately addressed under Policy 10 [Restoration of natural character], Policy 11 [Coastal water quality] and Policy 12 [Restoration of coastal water quality] of the PCP. Furthermore, it will not be appropriate or practicable in every case to restore or enhance natural character. On that basis, I consider that Objective 6 should be amended to read as follows:

Objective 6: Natural character

The natural character of the coastal environment is preserved and protected from inappropriate subdivision,⁽²⁰⁾⁽⁴³⁾ use and development ~~and is restored where appropriate.~~

Objective 7 – Natural features and landscapes

21. The submission from Meridian requested that Objective 7 be amended to refer to 'subdivision' (in addition to 'use and development') to more accurately reflect Policy 15 of the NZCPS on Natural features and natural landscapes. The Officers recommend that Meridian's submission be accepted and that a new definition of 'Subdivision' be added to the definitions section of the PCP. I concur with the Officers' recommendation.

Objective 11 – Historic heritage

22. The submission from Meridian requested that Objective 11 be amended to refer to 'subdivision' (in addition to 'use and development') to more accurately reflect Policy 17 of the NZCPS on Natural features and natural landscapes. The Officers recommend that Meridian's submission be accepted and that a new definition of 'Subdivision' be added to the definitions section of the PCP. I concur with the Officers' recommendation.

23. However, in response to the submission from Te Rūnanga o Ngāti Ruanui Trust (Submission 162), the Officers recommend that Objective 11 be amended further by changing the title of the objective to “Cultural and historic heritage” and amending the reference to “historic heritage” to “cultural historic heritage”, to broaden the scope of the objective so that it addresses aspects of cultural heritage values that are not necessarily captured within the Resource Management Act 1991 (**RMA**) definition of ‘historic heritage’ (e.g. taonga species). I consider that this recommended amendment is appropriate as it provides clarification, while not being inconsistent with the definition of ‘historic heritage’ in the RMA.

Objective 13 – Coastal hazard risk and public health and safety

24. Meridian requested in their submission that Objective 13 should be amended to refer to ‘subdivision’ in addition to ‘use and development’ to reflect Policy 25 of the NZCPS, and to refer to the ‘coastal environment’ instead of the CMA (which forms part of the coastal environment) to achieve consistency with Policy 20 [Avoidance of increasing coastal hazard or public safety risk] of the PCP.
25. While the Officers agree that the objective should address the wider coastal environment, they consider that the reference to the CMA at the end of the objective should be retained, noting that the relevant PCP rules only address use and development in the CMA. I concur with the Officers’ recommendation, for the reasons given by the Officers.

SECTION 5.2: GENERAL POLICIES

Policy 1 – Coastal management areas

26. The introductory comments under Section 5.1 General policies of the PCP state that the section provides the overall direction for achieving integrated management of significant values and matters in the ‘coastal environment’ (which includes the CMA). Meridian requested in their submission that the first paragraph of Policy 1 be amended by replacing the reference to ‘coastal marine area’ with ‘coastal environment’.
27. The Officers recommend that Meridian’s submission be accepted, but also consider that consequential amendments be made to the second

paragraph of the policy to clarify that the coastal management areas are restricted and only apply to the CMA. I concur with the Officers' recommendation, for the reasons given by the Officers.

Policy 2 – Integrated management

28. In their submission, Meridian considered that clauses (b) and (e) of Policy 2 could be interpreted as referring to regional plans outside the Taranaki Region, and they requested that the clauses be amended to refer to the 'Taranaki Region'. Meridian also requested that clause (c) of Policy 2 be amended to clarify what is meant by "cross-media effects".
29. The Officers accept the relief sought by Meridian and recommend that clauses (b) and (e) be amended to clarify that the Taranaki Region is the area being managed.
30. The Officers advise that 'cross-media effects' refer to effects that may traverse environmental domains e.g. activities that occur on land such as a discharge that have an impact on water quality. The Officers recommend that Policy 2 be amended to clarify the concept of cross-media effects by deleting clause (c) and inserting a new clause (aa).
31. I concur with the Officers' recommendations, for the reasons given by the Officers.

Policy 3 – Precautionary approach

32. Policy 3 is to adopt a precautionary approach, which may include using an adaptive management approach, where the effects of any activity on the coastal environment are uncertain, unknown, or little understood, but potentially adverse. Meridian requested in their submission that Policy 3 be retained as publicly notified.
33. The Officers recommend that Policy 3 be retained, but with minor amendments requested by other submitters, which the Officers consider will not change the intent of the policy. This includes the deletion of the reference to "adaptive management", which is in response to the submission of the Royal Forest and Bird Protection Society (Submission 43) that noted that adaptive management is not referenced within the

NZCPS and is not inherently precautionary, because it is a trial and error approach.

34. The Officers note that case law has determined that adaptive management can correctly be applied in relation to the requirements of the NZCPS, even though it is not provided for within the NZCPS itself, and may be useful for the management of some activities (particularly those that are protracted and involve a number of decisions to be made throughout the life of the activity). However, the Officers consider that the reference to “adaptive management” should be deleted as it is not necessary to explicitly reference it within Policy 3 and deleting it will not preclude it being considered as part of resource consent applications under appropriate circumstances.
35. I note that in the case *Sustain Our Sounds Inc v The New Zealand King Salmon Co Ltd* [2014], the Supreme Court considered the question of whether any adaptive management regime can be considered consistent with a precautionary approach. That case considered conditions requiring the gathering of baseline information for the assessment as to whether new salmon farms in the Marlborough Sounds could be built and stocked, and extensive monitoring and remedial actions taken if water quality was compromised. The Supreme Court decision refers to “adaptive management” as a precautionary approach allowing for an activity to proceed in incremental stages, with monitoring, reporting and assessment of any adverse effects taking place before the next stage of activity progresses.
36. While adaptive management is a precautionary approach for allowing an activity to proceed, I consider that specific reference to it within Policy 3 may be helpful to PCP users and resource consent applicants, by making it clear that it is an approach that may be considered.

Policy 4 – Extent and characteristics of the coastal environment

37. Meridian supported in part the Royal Forest and Bird Protection Society’s submission (Submission 43) to remove ‘case-by-case’; and capture the extent and characteristics in Policy 1 of the NZCPS, or amend Policy 4 to refer to the extent of the coastal environment set out on the planning maps and the maps identify landward extent as per

Policy 1 of the NZCPS. Meridian requested that Policy 4 be amended to clarify that the coastal environment will be identified on the Planning Maps of the District Plans for the Taranaki Region and amended to capture the extent and characteristics of the coastal environment in Policy 1(2) of the NZCPS.

38. The Officers note that the Regional Council has worked with the New Plymouth and South Taranaki District Councils in identifying and mapping coastal areas of outstanding natural character and outstanding natural features and landscapes. Both district councils have commenced or are about to commence their district plan reviews, which includes a coastal protection/environment zone. The Officers recommend that Policy 4 be amended as follows:

Policy 4: Extent and characteristics of the coastal environment

Determine the inland extent of the coastal environment for the purposes of policies under Section 5.1 of the Plan ~~on a case by case basis by having regard to:~~

- (a) having particular regard to areas identified in a district plan or proposed district plan as being the coastal environment or equivalent (map link); and*
- (b) on a case by case basis recognising:*
 - (i) areas ^{(2) (29) (35) (43) (45)} landward of the coastal environment line ⁽⁴⁶⁾ where coastal processes, influences or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands and the margins of these areas; and*
 - (ii) the geographic extent to which activities within the coastal marine area may cause adverse effects on significant values and characteristics landward of the coastal marine area.*

39. I consider that the recommended amendments are appropriate as an interim response, until such time as the coastal environment or equivalent has been mapped in each of the relevant district plans or proposed district plans in the Taranaki Region. However, once mapping in the district plans has been completed, I consider that clause (b) will no longer be necessary or appropriate. On that basis, I consider that Policy 4 should be amended further to reflect that, so that it reads as follows:

Policy 4: Extent and characteristics of the coastal environment

Determine the inland extent of the coastal environment for the purposes of policies under Section 5.1 of the Plan by:

- (a) *having particular regard to areas identified in a district plan or proposed district plan as being the coastal environment or equivalent (map link); and*
- (b) *where the coastal environment or equivalent is not identified in a district plan or proposed district plan, on a case by case basis recognising:*
 - (iii) *areas landward of the coastal environment line where coastal processes, influences or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands and the margins of these areas; and*
 - (iv) *the geographic extent to which activities within the coastal marine area may cause adverse effects on significant values and characteristics landward of the coastal marine area.*

SECTION 5.1.2 USE AND DEVELOPMENT OF RESOURCES

Policy 5 – Appropriate use and development in the coastal environment

40. The submission from Meridian requested that Policy 5 be amended to refer to ‘subdivision’, as well as ‘use and development’, to accurately reflect Policy 25 of the NZCPS. The Officers recommend that Meridian’s submission be accepted. The Officers also recommend that other amendments be made to Policy 5 in response to other submissions. I consider that the recommended amendments to Policy 5 are appropriate, for the reasons given by the Officers.
41. I note that the Officers have recommended that a new clause (aa) be added to Policy 5 that refers to “regionally important infrastructure”. I consider that this is appropriate, as there is a definition of Regionally Important Infrastructure provided in the PCP, which includes “infrastructure of regional and/or national importance”.

Policy 6 – Activities important to the well-being of people and communities

42. Meridian requested in their submission that Policy 6 be retained as publicly notified.
43. The Officers recommend that the policy be retained subject to minor amendments requested by other submitters that do not change the policy intent. I consider that the recommended amendments are appropriate, for the reasons given by the Officers.

Policy 7 – Impacts on established operations and activities

44. Meridian requested in their submission that Policy 7 be retained as publicly notified.
45. The Officers recommend that the policy be retained subject to minor amendments requested by other submitters that do not change the policy intent. I consider that the recommended amendments are appropriate, for the reasons given by the Officers.

Policy 9 – Natural character and natural features and landscapes

46. In their submission, Meridian requested that clause (a)(i) of Policy 9 be amended to refer to “maintains or contributes to the enhancement or restoration of natural character” to be consistent with Policy 14 of the NZCPS. Meridian also considered that the reference to historic heritage in clause (a)(vi) of Policy 9 was not relevant to natural character and natural features and landscapes and should be deleted.
47. The Officers agree that Policy 9(a)(i) should be amended to refer to the maintenance of natural character alongside enhancement and restoration and accept this part of the relief sought by Meridian.
48. However, in relation to deleting Clause (a)(vi), the Officers consider that it is appropriate for activities to have regard for, amongst other things, maintaining the integrity of historic heritage. They note that the definition of ‘Historic heritage’ refers to any natural and physical resources that contribute to an understanding and appreciation of New Zealand’s history and cultures and includes the wider surroundings. The Officers therefore recommend that Policy 9(a)(vi) is retained but amended to include historic “and cultural” heritage.
49. I consider that the amendments to Policy 9 recommended by the Officers are appropriate for the reasons given by the Officers, noting that Policy 14 and Policy 15 of the NZCPS recognise historic heritage and cultural landscape values as being relevant to natural character, natural features and natural landscapes.

New Policy 9A – Criteria for identifying areas of outstanding or high natural character

50. In its further submissions, Meridian opposed the submission of the Royal Forest and Bird Protection Society that requested the insertion of a new Policy 9A, as Meridian considered the matters to be included the new policy were already appropriately addressed under Policy 8, Policy 9 and the definition of “Outstanding Value”, and there was not requirement in the NZCPS to identify areas of High Natural Character.
51. I concur with the Officers’ recommendation to decline the Submitter’s request to insert new Policy 9A, for the reasons given by the Officers.

Policy 15 – Historic heritage

52. Meridian requested in its submission that Policy 15 be amended to refer to ‘subdivision’ (in addition to ‘use and development’) to more accurately reflect Policy 17 of the NZCPS. The Officers recommend that Meridian’s submission be accepted and that a new definition of ‘Subdivision’ be added to the definitions section of the PCP. I concur with the Officers’ recommendation, for the reasons given by the Officers.

Policy 17 – Public access

53. In their submission, Meridian requested that Policy 17 be amended to refer to the CMA instead of the coastal environment, otherwise the policy would be more stringent than Policy 19 of the NZCPS. The Officers recommend that the policy be amended as requested. I concur with the Officers’ recommendation.

Policy 18 – Amenity values

54. In their submission, Meridian requested that clause (d) of Policy 18 be deleted as historic heritage sites do not necessarily have amenity values, and appropriate historic heritage matters are already covered under Policy 15 of the PCP. In their further submissions, Meridian also opposed the submission of the Royal Forest and Bird Protection Society, which requested that the policy be amended to recognise amenity values associated with protecting indigenous vegetation, as it is already addressed under Policy 14 of the PCP.
55. I support the Officers recommendation to decline Meridian’s request to delete clause (d) of Policy 18 and to amend Policy 18 (in response to

other submissions) to better recognise and provide for historic heritage sites that also have amenity values. The recommendation recognises 'historic heritage' (including sites of significance to Maori) is commonly associated with high amenity values and there are a number of historic sites and places identified in Schedule 5 of the PCP that overlap with amenity values.

Policy 19 – Surf breaks and Significant Surfing Area

56. Meridian requested in their submission that the PCP Planning Maps be amended to show the locations of Locally Significant Surf Breaks. The Officers recommend that the Planning Maps be amended as requested. I concur with the Officer's recommendation, as it will provide clarity and certainty for Plan users.

SECTION 4.7 DEFINITIONS

Adaptive management

57. In their further submissions, Meridian opposed the submission from the Royal Forest and Bird Protection Society which requested that the definition of "adaptive management" be deleted from the PCP.
58. The Officers recommend that the definition of "adaptive management" be deleted from Section 4.7 of the PCP, as they consider that recent case law has highlighted adaptive management as an inappropriate method of managing activities that may produce impacts that are uncertain, little understood or potentially significantly adverse.
59. As I have noted above, in relation to Policy 3 [Precautionary Approach], the Supreme Court has referred to "adaptive management" as a precautionary approach allowing for an activity to proceed in incremental stages, with monitoring, reporting and assessment of any adverse effects taking place before the next stage of activity progresses. The Court, however, recognises that before endorsing an adaptive management approach it would have to be satisfied that¹:

“(a) there will be good baseline information about the receiving environment

¹ Sustain Our Sounds Inc v The New Zealand King Salmon Co Ltd [2014] NZSC 40 [2014] 1 NZLR 673 at [133].

- (b) *the conditions provide for effective monitoring of adverse effects using appropriate indicators*
- (c) *thresholds are set to trigger remedial action before the effects become overly damaging*
- (d) *effects that might arise can be remedied before they become irreversible.”*

60. An adequate evidential foundation is therefore required to provide reasonable assurance that the adaptive management approach will achieve its goals of sufficiently reducing uncertainty and adequately managing any remaining risk.
61. Therefore, I consider that adaptive management is a legitimate option that can be considered by decision makers and may be appropriate in some circumstances. As I have mentioned above, I consider that including specific reference to adaptive management within Policy 3 recognises that it is an approach that may be considered. On that basis, I consider that it is also appropriate to include a definition of ‘Adaptive management’ in Section 4.7 of the PCP.

Amenity values

62. In their further submissions, Meridian opposed the submission from the Royal Forest and Bird Protection Society which requested that the definition of ‘Amenity values’ be amended to include visual amenity as part of amenity values. Meridian requested that the definition be retained as publicly notified.
63. The Officers recommend that the Submitter’s request be declined, as they do not consider it appropriate to amend the statutory (RMA) definition used in the PCP and visual amenity is already implied within the current definition, being a quality that contributes to “*people’s appreciation of its pleasantness and aesthetic coherence*”. I concur with the Officers’ recommendation for the reasons given by the Officers.

Coastal environment

64. In their further submissions, Meridian opposed the submissions of the Royal Forest and Bird Protection Society (Submission 43) and Z Energy Ltd, BP Oil Ltd and Mobil Oil NZ Ltd (Submission 46) requesting that the definition of ‘Coastal environment’ be amended, as it considered it

appropriate that each District Council within the Region identify and map the extent of the coastal environment within their District.

65. The Officers recommend including an indicative line incorporated within the coastal mapping layers to help establish the extent of the coastal environment, and to amend the definition.
66. On the basis of the comments I have made above, in relation to Policy 4 [Extent and characteristics of the coastal environment], I consider that the definition of 'Coastal environment' should be amended further, to read as follows:

Coastal environment means:

- (a) all of the coastal marine area;*
- (b) areas landward of the coastal marine area and identified in a district plan or proposed district plan as being the coastal environment or equivalent (map link), however described; and*
- (c) where the coastal environment or equivalent is not identified in a district plan or proposed district plan, any other areas landward of the coastal environment line were coastal processes, influences or qualities are significant.*

Functional need

67. In their further submissions, Meridian supported Transpower NZ Ltd's submission (Submission 26) to include a new definition of "Functional need" in the PCP. The Officers recommend that a new definition be inserted into the PCP, but that the wording be amended to align with the definition in the *National Planning Standards 2019*. I concur with the Officers' recommendation.



Janeen Kydd-Smith

12 July 2019

Before Hearing Panel – Proposed Taranaki Regional Coastal Plan

Under The Resource Management Act 1991 (the Act)

In the matter of Proposed Coastal Plan for Taranaki

Between Taranaki Regional Council

Local Authority

And Transpower New Zealand Limited

Submitter and Further Submitter

Statement of evidence of Pauline Mary Whitney

Dated 12 July 2019

Qualifications and Experience

- 1 My full name is Pauline Mary Whitney.
- 2 I am a Senior Planner and Senior Principal of Boffa Miskell Ltd, a national firm of consulting planners, ecologists and landscape architects. I hold the qualification of Bachelor of Resource and Environmental Planning (Hons). I am a Full Member of the New Zealand Planning Institute and have over 22 years' experience as a resource management planner.
- 3 I have been a planning consultant based in Wellington for the past 17 years, providing consultancy services for a wide range of clients around New Zealand, including local authorities, land developers, and the infrastructure and power sectors. Prior to that I was employed with local authorities in New Zealand and the United Kingdom for 5 years. My experience includes:
 - Work on the preparation of plan changes for councils and private clients and review of numerous regional policy statements, regional plans and district plans on their behalf; and
 - Preparing resource consent applications and notices of requirement for a wide range of development and infrastructure projects.
- 4 Specific to Transpower New Zealand Limited ('Transpower'), I have been involved with preparing submissions/ hearing evidence on over 17 planning documents (including district plans, regional plans, regional policy statements and plan changes) over the past 8 years.
- 5 My evidence is given in support of Transpower's submission on the Proposed Coastal Plan for Taranaki ("PCPT").
- 6 In this matter, Boffa Miskell Ltd was engaged by Transpower to provide planning expertise through the submission process, as well as to prepare this evidence on the PCPT.
- 7 I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Consolidated Practice Note (2014), and I agree to comply with it. My

qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

- 8 My evidence covers all the submission points lodged by Transpower to the PCPT.

Scope of Evidence

- 9 My evidence will address the following:

- 9.1 The planning background for Transpower's submission, and an outline of the need to provide sufficient recognition of the national importance of the National Grid, particularly in the context of higher level planning policy documents such as the National Policy Statement on Electricity Transmission 2008 ("NPSET"), the New Zealand Coastal Policy Statement 2010 ("NZCPS"); the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 ("NESETA"); and the Regional Policy Statement for Taranaki 2010 ("RPS");
- 9.2 An overview of Transpower's submission on the PCPT;
- 9.3 Key issues in the PCPT in relation to relief sought by Transpower; and
- 9.4 My responses to the recommendations within the Section 42A Report on Transpower's submission points.

Summary of Evidence

- 10 Transpower owns and operates the National Grid, which transmits electricity throughout New Zealand from energy generation sources to distribution networks and direct-connect customers. The need to operate, maintain, develop and upgrade the electricity transmission network is recognised as a matter of national significance through the National Policy Statement on Electricity Transmission 2008 ("**NPSET**"). This significance applies universally across the country regardless of the nature of the specific National Grid asset.
- 11 Within the Taranaki Region, Transpower's assets include a number of transmission lines and associated infrastructure such as substations. A summary of these assets is

outlined in paragraph 22 of this evidence. A map of the specific assets is attached as Appendix A to Mr Campbell's evidence. Specific to the Coastal Environment, there are no existing National Grid assets within the Coastal Marine Area ("CMA") as identified in the PCPT. However, there are assets within the Coastal Environment (as identified in the applicable district plan). These are discussed in paragraph 23 of this evidence and also addressed by Mr Campbell.

- 12 Given the existing Transpower assets are outside the CMA, they are not subject to the PCPT rules. However, the PCPT objectives and policies would be a consideration should any works on the existing assets trigger resource consent under NESETA in the wider coastal environment. In addition, the PCPT rules and policies would be relevant for any new assets within the CMA and the wider coastal environment.
- 13 In relation to any new National Grid assets, Transpower is responsible for the long term strategic planning for transmission assets. This is particularly relevant in light of emerging discussions regarding new energy supplies, and the need for new National Grid connections for the transmission of the energy from generation to distribution. Policy 14 of the NPSET requires that the regional council must include provisions in the PCPT to facilitate long term planning for investment in transmission infrastructure.
- 14 Within the PCPT, the National Grid is identified as Regionally Important Infrastructure ("RII") rather than being specifically identified or provided for. In my experience this is a common approach and one that I am generally supportive of, provided the Grid is appropriately recognised and provided for through the PCPT provisions, and the NPSET is given effect to in the PCPT. To achieve the outcome of giving effect to the NPSET and recognising the national significance of the Grid, there are instances where specific provisions for the National Grid are required.
- 15 As the Hearing Panel will be aware, Section 67(3) of the RMA obliges regional councils to 'give effect' to the NPSET in their regional plans. The requirement to 'give effect' is a strong statutory directive to Councils compared to other directives in the RMA and was interpreted in the *EDS v New Zealand King Salmon* Supreme Court case¹ as meaning "to implement". A copy of the NPSET is attached as **Appendix A**.
- 16 Notwithstanding its general support of the PCPT, Transpower sought a number of amendments to the PCPT provisions in its submissions to better reflect the direction

¹ Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd [2014] NZSC 38

and scope of the NPSET.

- 17 Transpower lodged some 78 individual submission points (44 original and 34 further), the majority of which were points in support (or support in part) of the notified PCPT provisions.
- 18 I support or accept the majority of the Section 42A Report recommendations in respect of Transpower's submission. Attached as **Appendix B** is a summary of the officer recommendations that I support or accept.
- 19 As summarised in paragraph 59 of my evidence, there are a number of outstanding recommendations that I either oppose (Rule 34) or accept in part (Policy 5). My evidence outlines the reasons for my outstanding concerns, and my recommendations for resolving them. There are also a number of recommendations on policies which I support (policies 6, 8, 9, 14), conditional on the officer's recommended Policy 6A being accepted by the panel.
- 20 Overall, I consider the provisions recommended in the Section 42A Report, as modified by my recommended changes, would give effect to the NPSET. In my view, they provide an effective policy and regulatory framework in which to recognise and provide for the operation, maintenance, upgrade, and development of the National Grid.
- 21 My evidence should be read together with the legal submission of Ms Rebecca Tompkins and the evidence of Mr Dougall Campbell who addresses the nature of Transpower's assets in the region, Transpower's approach to implementing the NPSET, and potential development of the National Grid.

The National Grid and Transpower's Assets in the Taranaki Region

Assets within the Region

- 22 Transpower owns and operates a wide range of infrastructure assets associated with the National Grid within the Taranaki Region. Details of the existing assets and current asset upgrades and developments are provided in the evidence of Mr Campbell. A plan of the specific existing National Grid assets within the region is attached as Appendix A to Mr Campbell's statement.

Asset Relationship to Proposed Taranaki Regional Coastal Plan

- 23 In terms of the relationship of the assets to the PCPT, none of Transpower's existing structures are located within Taranaki's Coastal Marine Area ("CMA") as identified in the PCPT. The Transpower assets nearest to the CMA are the New Plymouth (approx. 160m distance) and Motunui Substations (approximately 78m from the CMA). There are existing assets within the Coastal Environment as identified in the draft New Plymouth District Plan. While there are existing National Grid assets within proximity of the coastline within the South Taranaki District, there are no assets within the defined Coastal Environment within that District Plan.
- 24 While the New Plymouth substation itself is outside any areas of identified significance, one of the lines coming out of the substation traverses a part of one of the identified areas of Outstanding Natural Character ("ONC") and Outstanding Natural Landscapes and Features ("ONFL"), near the base of Paritutu: the Ngā Motu (Sugar Loaf Islands) and Tapuae ONC3, ONFL2. However, it is noted that the line and support structure are outside the indicative CMA line as identified in the PCPT, and so in accordance with paragraph 1.4.2 of the PCPT, these assets are not subject to the rules in the PCPT. Rather, the outstanding values would be a policy consideration should any other rule be triggered. Attached as **Appendix C** to my evidence is a plan showing the existing assets at New Plymouth, and relationship to the CE, CMA and Outstanding Value areas (noting the Outstanding Value area does extend beyond the CMA but is not shown in the attached plan).

Higher Level Planning Policy Documents

National Policy Statements

- 25 National policy statements are at the top of the hierarchy of planning instruments under the RMA. Of particular relevance to the PCPT and Transpower's submission is the NPSET and the NZCPS. Addressing the interface between these two policy statements and how they are read together is a key aspect of the relief sought by Transpower.

The National Policy Statement on Electricity Transmission 2008

- 26 The NPSET sets out the one objective and 14 policies to direct the management of the electricity transmission network under the RMA. A copy of the NPSET is appended to

my evidence as **Appendix A**.

- 27 Section 67(3) of the Resource Management Act (“RMA”) requires that a regional plan must ‘give effect’ to the NPSET which is a strong statutory directive. Therefore, the NPSET must be implemented when drafting regional policy and plan provisions and considered in making decisions on submissions, resource consent applications and designations.
- 28 The NPSET confirms the national significance of the National Grid and establishes a clear national policy direction that recognises the benefits of electricity transmission, the effects of and on the National Grid, and the need to appropriately manage activities and development under and in close proximity to it.
- 29 The Preamble to the NPSET includes useful background, or rationale, for the NPSET. It states that “the efficient transmission of electricity on the national grid plays a vital role in the well-being of New Zealand, its people and the environment”. It notes that the National Grid has particular physical characteristics and operational/security requirements that have been challenging to manage under the RMA and acknowledges the potential significance of some effects of transmission lines (including the inability for these to be avoided or mitigated), along with the significant constraints that others’ activities and development can place on the network. It also notes that adverse effects of the National Grid are experienced at the local level, while benefits are regional or national, requiring a balanced consideration of effects.
- 30 The sole objective of the NPSET is as follows:
- To recognise the national significance of the electricity transmission network by facilitating the operation, maintenance and upgrade of the existing transmission network and the establishment of new transmission resources to meet the needs of present and future generations, while:*
- *Managing the adverse environmental effects of the network; and*
 - *Managing the adverse effects of other activities on the network.*
- 31 This objective recognises that the electricity transmission network itself potentially gives rise to adverse effects, and, conversely, that other activities can potentially adversely affect the network.
- 32 The NPSET policies give direction on how to achieve the objective in providing for the

recognition of the benefits of electricity transmission, as well as the management of the environmental effects of electricity transmission and the adverse effects of other activities on the transmission network. As such, the NPSET policies impose obligations on both decision-makers (including regional councils) and Transpower itself.

33 Policy 1 specifies that decision-makers **must recognise and provide** for the national, regional and local benefits of sustainable, secure and efficient electricity transmission. Explicit reference is made to the benefits of security of supply, efficient transfer of energy and enhanced supply.

34 Policies 2 to 9 relate to management of the environmental effects of transmission. In particular, Policy 2 states:

In achieving the purpose of the Act, decision-makers must recognise and provide for the effective operation, maintenance, upgrading and development of the electricity transmission network.

35 Policies 3 to 5 contain matters which decision-makers must consider, including technical and operational constraints, the route, site and method selection process, and operational requirements. Policy 6 seeks to reduce existing adverse effects where appropriate, while Policies 7 and 8 relate to effects on urban and rural environments respectively. Policy 9 specifically relates to health standards.

36 Policies 2 to 9 are particularly relevant to the PCPT as they provide the policy framework for managing the environmental effects of electricity transmission in recognising and providing for the ongoing operation and development of the National Grid.

37 As outlined in the evidence of Mr Campbell, Transpower is conscious that the anticipated decarbonisation of New Zealand's economy is likely to ultimately require sustained investment in Transpower's assets to connect and reliably distribute new forms of electricity generation. In my opinion, it is important that, in context of the NPSET, the Taranaki Regional Coastal Plan provides an appropriate and enabling framework for the ongoing operation, maintenance, upgrading and, also importantly, the development of the National Grid. Such a framework would in my opinion, give due effect to the NPSET.

38 Policies 10 and 11 are also relevant considerations. These policies act as the primary guide to inform how adverse effects on the National Grid are to be managed through

planning provisions.

New Zealand Coastal Policy Statement 2010

- 39 The statutory purpose of the NZCPS is to state objectives and policies “in order to achieve the purpose of [the RMA] in relation to the coastal environment of New Zealand”.
- 40 The policies in the NZCPS establish a comprehensive regime for managing the effects of activities on the coastal environment. Policy 6 specifically addresses activities in the coastal environment, with some marine activities addressed more explicitly in Policies 8 and 9. Policy 7 addresses the need for a strategic planning approach. Policies 11, 13 and 15 address high value natural areas. Critically, those policies require adverse effects of activities on the ‘highest value’ natural areas to be avoided.

Policy Statement Relationship

- 41 As national policy statements, I understand that both the NPSET and NZCPS sit at the top of the RMA plan hierarchy with neither document having supremacy over the other. The relationship between the directives within these two documents needs to be carefully assessed in that some The NZCPS policies provide for ‘avoidance’ outcomes, while the NPSET is largely ‘enabling’ with a ‘seek to avoid’ directive within high value natural areas.
- 42 The submission of Ms Tompkins, legal counsel for Transpower, addresses this issue and concludes that, to manage these tensions, detailed and specific National Grid policies are recommended. The reporting officer recommends such an approach, through a National Grid specific policy (6A) and a policy framework to address the tensions in such a way that gives effect to both policy statements. I support such an approach.

The Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009

- 43 The NESETA addresses the objectives and policies of the NPSET, particularly the policies related to the existing transmission network, by providing a national framework of permissions and consent requirements for activities involving existing high voltage electricity transmission lines (but not substations). However, in this instance, the NESETA is not directly relevant given there are no existing Transpower assets within

the CMA that would be governed by the NESETA. However, the PCPT objectives and policies would be a consideration should any works on the existing assets trigger resource consent under NESETA in the wider coastal environment.

Regional Policy Statement for Taranaki

44 The Taranaki Regional Policy Statement (“RPS”) was made operative in 2010. Section 67(3)(c) of the RMA requires that a Regional Plan must give effect to any Regional Policy Statement.

45 The RPS refers to “Network Utilities’ and ‘Regionally Significant Infrastructure’ with neither term defined. Reference is also made to ‘regionally significant infrastructure (including where this is of national importance)’. The National Grid would be included within all three terms.

46 The Coastal Environment is addressed within Chapter 8 of the RPS. Both Objective 1 and 2 refer to the ‘appropriateness’ of subdivision, use, development and occupation in the coastal environment. Policy 2 provides the framework for assessing appropriateness with criteria including:

(d) the need for development or occupation to occur in the coastal environment;

(e) where it is likely that an activity will result in significant adverse effects on the environment, any possible alternative locations or methods for undertaking the activity, and where the activity involves the discharge of any contaminant, any possible alternative methods of discharge;

(j) the provision of adequate services, particularly the disposal of wastes;

(l) the benefits to the community of the use, development or occupation of the coastal marine area;

47 The explanation to Policy 2 notes the RMA does not preclude appropriate use and development in the coastal environment. Instead, what is ‘appropriate’ or ‘inappropriate’ use and development will depend not only on the activity but also upon the part of the coast where they occur. Policies 4 and 5 relating to protection of natural character, features and land use also refer to appropriateness.

48 Chapter 14 recognises Taranaki’s energy resources as nationally significant and the use and development of these resources rely on infrastructure such as the National Grid to transmit these resources to other regions. It also recognises many of these

energy resources and potential future resources (e.g. tidal generation) could be located within the coastal environment, requiring connection to the National Grid. The policy framework within Chapter 14 focuses on energy that enables communities to provide for their economic and social wellbeing, energy efficiency, promotion of renewable energy, and, specific to the National Grid, recognition and protection of energy corridors. Method 4 relates to provisions in regional plans and provides:

ENE METH 4 - Include provisions in regional plans that make appropriate provision for the exploration, development, production, transmission and distribution of energy.

- 49 Chapter 15.2 of the RPS relates to Regionally Significant Infrastructure. Issue 1 specifically identifies the need to recognise and provide for the establishment and continued operation of regionally significant infrastructure (including where this is of national importance). Objective 1 and Policy 1 are:

INF OBJECTIVE 1

To provide for the continued safe and efficient operation of the region's network utilities and other infrastructure of regional significance (including where this is of national importance), while avoiding, remedying or mitigating adverse effects on the environment.

INF POLICY 1

Provision will be made for the efficient and effective establishment, operation, maintenance and upgrading of network utilities and other physical infrastructure of regional significance (including where this is of national importance) and provision for any adverse effects of their establishment to be avoided, remedied or mitigated as far as is practicable.

- 50 The explanation to INF Policy 1 refers to the need for assessment within sensitive environments on a case by case basis.
- 51 The remaining objectives and policies relate to buffer corridors, integrated planning and adverse effects on the infrastructure.
- 52 In my opinion, the RPS contains a strong policy directive to recognise the benefits of the National Grid (as a form of regionally significant infrastructure), and its continued operation (including establishment), as well as its protection from incompatible activities through the PCPT. Specific to activities in the Coastal Environment, the appropriateness of the proposed use and development is a key consideration under the RPS. The relevant provisions are attached as **Appendix D**.

Transpower Submission on the Proposed Taranaki Regional Coastal Plan

53 Given the number of submission points within Transpower's submission, I consider it helpful to briefly summarise the general nature of Transpower's submission on the PCPT, noting that Transpower sought to retain a large number of the notified provisions. Overall, the two main themes within Transpower's submission were that:

- The NZCPS and the NPSET should be given equal consideration to reflect their equal standing under the RMA – they should be read together; and
- By having a restrictive policy, objective and rule framework for nationally and regionally important infrastructure, particularly the National Grid, the PCPT does not give full effect to the RPS or the NPSET.

54 Specific submission points related to:

54.1 **Definitions:** While the majority of the definitions are supported, amendments were sought to the definition of 'regionally important infrastructure' to align with 'regionally significant infrastructure' as provided for in the RPS and NPSET, and to the definition of the National Grid.

54.2 **Introduction:** Retention of the introduction with a minor amendment to acknowledge National Grid technical, operational or locational constraints which mean some activities are required to be located in the CMA.

54.3 **Objective:** The majority of objectives were supported, specifically objectives 6 and 7 relating to natural character and features and landscapes which refer to 'inappropriate'. Amendment was sought to Objective 2 to refer to technical, operational and locational requirements. An amendment was sought to the title of Objective 3 to better reflect the objective text.

54.4 **Policies:** Two of the policies were specifically supported, while amendments were sought to 11 policies within the PCPT, as follows:

- *Section 5.1.1 Management of the Coastal Environment:* amend Policy 2 to

refer to 'recognise and provide' for wellbeing, and in addition to locational constraints, recognise 'technical and operational' constraints.

- *Section 5.1.2 Use and Development of Resources General:* amend Policy 5 to recognise technical, operational and locational constraints, and to Policy 6 to include reference to national importance and benefits.
- *Section 5.1.3 Protection, maintenance or enhancement of naturel, and historic heritage and values:* insertion of a specific reference to the National Grid consistent with the 'seek to avoid' wording of Policy 8 of the NPSET, and amendment to Policy 14 to recognise that in respect of regionally significant infrastructure, significant adverse effects may not be able to be avoided.
- *Section 5.1.4 Public use and enjoyment:* amend Policy 19 to refer to the route, site and method selection process.
- *New policy:* As an alternative to an amendment of Policies 8, 14 and 19, Transpower supports the provision of a stand-alone policy specific to the National Grid to give effect to NPSET policies 2, 3, 4, 8 and 10.
- *Section 5.2.2 Coastal structures and occupation of space in the CMA:* Minor amendment to Policies 31, 32, 41 and 45 to better reflect the NPSET though use of terms such as 'enable', 'development' and 'technical, operational and locational requirements'.

54.5 **Regional Rules:** Transpower sought amendments to seven of the Regional Rule sections, as follows:

- Reference to NESETA: Delete reference to the NESETA as there are no existing National Grid assets within the CMA.
- Activity status for new National Grid Infrastructure: That new National Grid infrastructure (and associated works) be a discretionary activity within areas of Outstanding Values or Estuaries unmodified, and not non-complying as notified (Rules 34 and 61).

Pre-Hearing Meeting and Response to the Section 42A Report

- 55 In November 2018, Transpower and I met with regional council officers to discuss Transpower's submission on the PCPT and draft officer recommendations, the national policy guidance specific to the National Grid (being the National Policy Statement on Electricity Transmission 2008) and specific policy and rule provisions within the PCPT.
- 56 To assist Council in further understanding what Transpower considers the appropriate policy and regulatory response to the National Grid within the region, in January 2019 Transpower provided a revised set of specific National Grid provisions for inclusion within the PCPT.
- 57 The following section responds to the section 42A report recommendations on Transpower's submission points. Also included in my response below are specific cross references to the section 42A report.

Recommendations supported or accepted

- 58 Full details of the 23 officer recommendations I support or accept are provided in **Appendix B**. For the avoidance of doubt, officer recommendations on Transpower's further submissions are accepted or supported unless otherwise stated in this evidence.

Recommendations conditional support, accepted in part, or rejected

- 59 The following recommendations (relating to 8 provisions of the PCPT) are either accepted in part, conditionally supported or opposed within my evidence:

Conditional Support for s42A Report Recommendations

- Policy 6 Benefit of Regionally important infrastructure
- New Policy 6A Management of adverse effects of the National Grid
- Policy 8 Areas of Outstanding value
- Policy 9 Natural Character and natural features and landscapes
- Policy 14 Significant indigenous biodiversity

- Policy 19 Surf breaks and Significant Surfing Area

Accept in part s42A Report Recommendation

- Policy 5 Appropriate use and development

Oppose s42A Report Recommendation

- Rule 34 Non-complying rule

60 The following section of my evidence addresses specific section 42A report recommendations I oppose, accept conditionally or accept in part only.

Conditionally Supported for s42A Report Recommendations

61 The following points are supported on the basis that Policy 6A as recommended in the section 42A report is accepted.

Policy 6 Benefits of Regionally Important Infrastructure

Submission point 26/299, s42A Report pg 108, and Further submission point to 43/305, s42A Report pg 110

62 In its submission, Transpower noted its support for the intent of Policy 6 but raised concern that infrastructure that is 'nationally significant' may not be interpreted to also be 'regionally significant', and also sought recognition of the benefits of a 'reliable, secure and efficient supply of electricity'. In its further submission, Transpower supported the submission point by Forest and Bird that it is '*appropriate to include policy direction to give effect to the NPS for Electricity Transmission (which provides direction for new and existing national grid infrastructure) and the National Environmental Standard for Electricity Transmission Activities (which provides regulations for the operational, maintenance and minor upgrading of existing national grid infrastructure).*'

63 While the relief sought in Transpower's submission is not entirely met by the officer's recommendation, the intent of the relief sought would be met in that Policy 6A as recommended would apply to 'existing and new' and include the requirement to 'recognise' and 'provide'. The policy as recommended is supported on the basis that, while it is not specific to the National Grid, it does give effect to the NPSET through the terminology used. In particular, the policy gives effect to NPSET policies 1, 2, 5 and 8.

64 While recommended Policy 6 is supported, in response to Transpower's further

submission point 43/305 which raises concern with the provision for new infrastructure within Policy 6, as an alternative, I would support a policy specific to the National Grid within Policy 6A as follows: (Refer underline and strikethrough text. Note: s42A Report recommended changes have been incorporated into the text provided below and are not shown as strikethrough or underline text).

Policy 6

Policy 6: Benefits of regionally important infrastructure

Recognise the benefits of ~~new and~~ existing regionally important infrastructure, (including the development of the National Grid), to the social, economic and cultural wellbeing of people and communities in Taranaki, and provide for the safe and efficient operation of regionally important infrastructure subject to the appropriate avoidance, remediation or mitigation of adverse environmental effects.

65 I also note Policy 6 only applies to regional benefits and does not relate to national benefits. For completeness, reference to national benefits would be supported.

New Policy 6A Management of adverse effects of the National Grid

Submission point 26/325, s42A Report pg 116 and Submission point 26/626, s42A Report pg 217

66 In its submission, Transpower sought specific recognition of the National Grid through a policy framework which clearly recognises that the planning and development of electricity transmission infrastructure should 'seek to avoid' rather than 'avoid' adverse effects on the values and characteristics of outstanding natural landscapes, areas of high natural character and significant indigenous biodiversity. This amendment would make the PCPT policies consistent with the directions in the NPSET. The relief sought could be achieved through amendments to Policies 8, 14, and 19, or, by including a new policy in the PCPT specific to the National Grid (my preference).

67 The section 42A report recommends amending the PCPT to include a new National Grid specific policy that addresses the concerns raised by Transpower and, in my opinion, gives effect to the NPSET.

68 Of particular relevance in considering the appropriateness of the recommended new policy 6A is the relationship between the NZCPS and the NPSET, in particular within 'high value natural areas' (i.e. matters of national importance in section 6 of the RMA being outstanding nature character areas and features and landscapes, and significant indigenous biodiversity).

- 69 As noted, the RMA provides for a hierarchy of policy statements and plans. Both the NPSET and the NZCPS sit at the top of that hierarchy with neither document prevailing over the other. Instead, users must give effect to both policy statements. It is acknowledged there is a potential tension between the NZCPS policies for the protection of high value natural areas (policies 11, 13, 15 - an “avoid” approach), and the NPSET policies for managing the effects of the National Grid on high value natural areas (policy 8 - a “seek to avoid” approach). Policy 8² of the NPSET provides that rather than applying a strict ‘avoid’ approach, the National Grid should ‘seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities’. Transpower’s favoured approach to manage the policy tensions within the above national policy documents (which I support) is to provide a detailed National Grid-specific policy framework which addresses the circumstances in which National Grid projects can locate in high value natural areas.
- 70 The recommended policy approach does not ‘allow’ the National Grid to be located within the CMA, but rather sets the policy framework for the effects of the National Grid in the coastal environment to be assessed in a considered manner. The policy framework enables a case-by-case merits assessment of specific National Grid projects in high value natural areas through the resource consent process. This approach will allow decision-makers to have proper regard to both the NPSET and the NZCPS. The National Grid specific policy acknowledges that some areas should be avoided because of their values, but that this should be determined through the resource consent process as opposed to through a policy directive. When considering the effects of new National Grid Infrastructure, Policies 3 and 4 of the NPSET (which also apply to any resource consent process) require consideration of the constraints imposed by technical and operational requirements of the network, and require regard be had to the extent which any adverse effects have been avoided, remedied or mitigated by the route site and method selection process. As outlined in the evidence of Mr Campbell, this is a very robust and comprehensive process that is undertaken by Transpower when carrying out major upgrades to or constructing new national grid infrastructure.

² POLICY 8 In rural environments, planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities.

- 71 As outlined in the legal submission of Ms Tompkins, the approach promulgated by Transpower, is a planning policy and rule approach that relies on detailed process-oriented policies. This approach has been the subject a number of council hearing and court processes, and has been applied across various planning documents to date. Policy 6A as recommended in the section 42A report reflects Transpower's preferred approach and is in my opinion an appropriate way to reconcile the two national policy statements. In particular, Policy 6A reflects the recently operative Policy 4.3.6 of the Otago RPS. The Southland RPS and Bay of Plenty Regional Coastal Plan have also adopted specific 'seek to avoid' National Grid policies, and a similar policy approach is emerging through recently issued consent orders in relation to proposed district plans.
- 72 Transpower supports Policy 6A being specific to the National Grid as opposed to regionally important infrastructure, given the policy is in specific response to, and to give effect to, the NPSET, which is a higher order policy document.
- 73 On this basis, the section 42A Report recommendation is fully supported and new Policy 6A gives effect to the relief sought in Transpower's submission.

Policy 8 Natural form and functioning

Submission point 26/325, s42A Report pg 116

- 74 In its submission, Transpower raised two concerns with Policy 8, being:
- 74.1 the directive nature of clause a) which does not give effect to Policy 8 of the NPSET; and
 - 74.2 the impact of clause b) given the uncertainty in the application of clause b) in that seascapes, visual corridors and views are not included or identified as values within Schedule 1 or Schedule 2, or any other schedules.
- 75 The reporting officer has recommended a minor amendment to Policy 8. The recommendation is accepted on the basis that the Policy 6A provides specific recognition of the National Grid and a 'seek to avoid' directive for Areas of Outstanding Value as opposed to an absolute 'avoid' directive.
- 76 However, should new policy 6A not be accepted, I support the specific reference to the National Grid within Policy 9 as sought in the Transpower submission. This would give effect to the NPSET.

Policy 9 Natural character and natural features and landscapes

Further Submission Point 26 to 45/344, s42A Report pg 124

- 77 Whereas Policy 8 relates to Outstanding value areas, Policy 9 focuses on those areas not identified as of Outstanding value.
- 78 Transpower further submitted in support of an original submission point by Powerco seeking reference to regionally important infrastructure in Policy 9. On the basis that the recommended National Grid specific Policy 6A is accepted, the further submission point will not be pursued. However, should new policy 6A not be accepted by the hearings panel, I seek the reference within Policy 9 as sought in the original submission by Powerco on the basis of the importance of regionally important infrastructure (which includes the National Grid).

Policy 14 Significant indigenous biodiversity

Submission point 26/373 s42A Report pg 134

- 79 The amendments sought to Policy 14 reflect the relief being sought by Transpower for Policies 8 and 9. In its submission, Transpower sought recognition of regionally important infrastructure in Policy 14, and acknowledgment that in order to recognise and provide for the development of the National Grid, significant adverse effects may not always be able to be avoided.
- 80 The reporting officer has recommended the relief sought be granted on the basis of recommended new Policy 6A. The provided reasoning is *'As an alternative, noting that the policy intent of different national policy directions such as the NZCPS and NPSET need to be balanced and weighed against each other, officers recommend the inclusion of a new Policy 6A that more explicitly addresses the management of adverse effects arising from the National Grid'*. This approach is supported as it gives effect to the NPSET and provides a constructive and a nationally consistent approach to provide for the National Grid.
- 81 On the basis that Policy 6A is accepted, the submission point on Policy 14 will not be pursued. However, should new policy 6A not be accepted, I support the reference within Policy 14 as sought in the Transpower submission to recognise that significant adverse effects of the National Grid may not always be able to be avoided.

Policy 19 Surf breaks and Significant Surfing Area

Submission point 26/451, s42A Report pg 167

- 82 In its submission, Transpower sought amendments to Policy 19 to include the wording “practicable” in replacement of “possible” in accordance with NPSET Policy 8 given the direction “seek to avoid” for the National Grid does not place an absolute requirement on Transpower to avoid all high value coastal environments. The word “possible” has a very confined meaning and conveys only technical requirement whereas there may be a variety of other reasons why adverse effects cannot be avoided. Transpower also sought amendment to ‘adverse effects’ rather than just ‘avoidance of effects’, to clarify it is adverse effects which are the issue.
- 83 The reporting officer has recommended amendment to Policy 19 to give effect to the Transpower submission and others in that references to ‘practicable’ are inserted.
- 84 On the basis that the new National Grid specific Policy 6A is accepted, the recommendation on the submission point is accepted.

Accept in part s42A Report Recommendation

Policy 5 Appropriate use and development

Submission point 26/275, s42A Report pg 100, and Further submission to 43/281 s42A Report pg 102

- 85 In its submission, Transpower supported the intent of Policy 5 but sought:
- 85.1 amendments to replace ‘Determine’ with ‘Provide’; and
 - 85.2 an inclusion of reference to ‘technical, operational and/or locational requirements’ within clause a). In its further submission, Transpower opposed the relief sought in original submission 43/281 by Forest and Bird.
- 86 Having reviewed the officer’s recommendation, on the basis that amendments to Policy 6 and the new recommended Policy 6A are accepted, the recommended amendment to Policy 5 is accepted in part.
- 87 Specifically, the recommendation is accepted in that clause a) now includes reference to ‘operational need’. This reference is supported as it appropriately recognises that some activities require a coastal location due to their technical or operational characteristics or constraints (i.e. ‘operational need’ as defined in the PCPT).
- 88 Policy 3 of the NPSET requires that *‘When considering measures to avoid, remedy or mitigate adverse environmental effects of transmission activities, decision-makers*

must consider the constraints imposed on achieving those measures by the technical and operational requirements of the network'. As an example of 'operational need' (which includes technical or operational constraints), while Transpower may not currently have a functional need to locate in Taranaki's coastal environment, it may have an operational need to locate within the coastal environment in order to provide for the transmission of electricity from generation to the distribution network i.e. provide the connection between the generators and distributors. Specifically, at New Plymouth Port, Transpower has existing assets which may be required at a future date to be utilised as a part of a coastal electricity generation activity.

89 While the addition of 'operational need' to Clause a) is supported, the recommendation is opposed in part in that it fails to appropriately recognise or provide for new National Grid infrastructure within the Coastal Environment (i.e. those areas outside the CMA but within the CE). In my opinion, there is a gap in relation to the policy recognition of the operational need within the Coastal Environment. Other provisions do not address the operational need of the National Grid. Specifically:

- Clause a) provides for 'operational need' but it only applies to the CMA and does not recognise operational need within the wider CE. All other clauses within Policy 5 apply to the CE and not just the CMA.
- Clause (aa) relates to regionally important infrastructure within the CE, but it does not apply to new infrastructure.
- Policy 6 relates to benefits and safe and efficient operation. However, it does not explicitly provide for consideration of operational need.
- While Policy 6A is specific to the National Grid, it relates to the assessment of adverse effects in the context of the more sensitive environments and does not relate to the wider CE.

90 Based on the above I would support amendment to Clause (aa) to recognise the development of the National Grid, as follows: (Refer underline text. Note: section 42A report recommended changes have been incorporated into the text provided below and are not shown as strikethrough or underline text).

Policy 5

Determine whether subdivision and use and development of the coastal environment is

in an appropriate location and form, and within appropriate limits, by having regard to:

(a) the functional need or operational need for the activity to be located in the coastal marine area. Activities that do not have a functional need or operational requirement to be located in the coastal marine area generally should not be located there (unless the non-marine related activity complements the intended use and function of the area);

(aa) whether the activity relates to the use, operation, maintenance and alteration of regionally important infrastructure, or the development of the National Grid;

.....

Opposed s42A Report Recommendation

New Rule 34A Structure erection or replacement, and Rule 61 Disturbance, damage, or destruction or foreshore or seabed

Submission point 26/946, s42A Report pg 356 and 26/1123 s42A Report pg 425

- 91 In its submission, Transpower supported in part Rule 34 as notified but sought an amendment to the rule framework to provide for new structures associated with the National Grid as discretionary activities within areas identified as Outstanding Values or Estuaries Unmodified.
- 92 The officer's recommendation is that the submission point be rejected on the basis that:
- 92.1 regionally important infrastructure should not be differentiated from other activities;
- 92.2 the areas have significant/exceptional values and therefore it is appropriate they have high levels of protection; and
- 92.3 applications for a resource consent for Regionally Important Infrastructure may still be considered under Rule 34 as a non-complying activity.
- 93 I do not accept the officer's recommendation or reasoning in relation to the National Grid. However, I acknowledge any new rule should apply to the National Grid as opposed to all regionally important infrastructure. I support a discretionary activity National Grid specific rule for the following reasons:

- The PCPT is required to give effect to the NPSET. Policy 8 of the NPSET directs that, within rural environments, planning and development of the National Grid should seek to avoid adverse effects on certain identified environments (being outstanding natural landscapes, area of high natural character and recreation values and amenity and existing sensitive activities). The wording of NPSET Policy 8 (“should seek to avoid”) does not impose an absolute requirement for the National Grid to avoid all adverse effects. Rather, the NPSET recognises total avoidance is not always possible given the technical and operational requirements of the National Grid (as recognised in Policy 3 of the NPSET). On this basis, given the locational, operational and technical constraints of the National Grid, the recognition of the provision of infrastructure and functional need within Policy 6 of the NZCPS, and the national significance of the National Grid (as provided for in the NPSET), I support a discretionary activity status for new structures associated with the National Grid within areas identified as Outstanding Values or Estuaries Unmodified.
- As a discretionary activity, a full assessment of effects of any proposed National Grid related activity would be required as well as a robust route, site and method selection process (as required by NPSET Policy 4), appropriate conditions imposed, and the application able to be granted or declined. A discretionary activity status would also give effect to the “seek to avoid” Policy 6A, sought by Transpower and recommended by the reporting officer, with the seek to avoid policy directive imbedded within the policy.
- A discretionary activity status is consistent with that provided in the Bay of Plenty Regional Coastal Plan which was resolved through the High Court³. The Bay of Plenty Regional Coastal Plan provides a discretionary activity status for the National Grid within Indigenous Biological Diversity Area A or an Area of Outstanding Natural Character.
- As a non-complying activity, the activity would be required to pass the S104 ‘gateway test’ for a non-complying activity. I acknowledge the new

³ [CIV 2017-470-57 Royal Forest & Bird Protection Society v BOPRC - Judgement dated 12 December 2017](#)

“seek to avoid” Policy 6A appropriately provides for the National Grid. However, in my opinion the directive nature of the other ‘protect’ policies within the PCPT, combined with the reality that any new National Grid development would likely generate more than minor adverse effects that cannot be fully avoided, remedied or mitigated, may pose difficulties for any National Grid development to pass the S104 ‘gateway test’. The policy and rule framework as notified would not in my opinion give effect to the NPSET.

- In my opinion, the provision of a non-complying activity status infers such activities are inappropriate. As provided on the Quality Planning Website⁴, “*non-complying activities are those that the RMA, regulations (including a national environmental standard), or a plan describes as non-complying. This activity status is often reserved for those activities where the potential adverse effects are great but do not necessarily warrant prohibition*”. In my opinion, given the national significance of National Grid as outlined in the NPSET and the enabling policies within the NPS, the National Grid is not the type of activity which is one level below prohibition, and a non-complying activity status would not give effect to the NPSET. Conversely, a discretionary activity status in my opinion applies to those activities which may not be suitable in all locations in a zone but may be suitable in some locations. As also outlined on the Quality Planning Website, “*Other reasons that may give rise to an activity being classed as discretionary in a plan: where it is not suitable in all locations in a zone, where the effects of the activity are so variable that it is not possible to prescribe standards to control them in advance; where an activity defaults to discretionary because it cannot meet all the standards for a permitted activity, where activities are not suitable in most locations in a zone or part of a zone but may be suitable in a few locations*”.
- While Policies 11, 13, and 15 of the NZCPS require protection, in my opinion, these policy directives need to also be read and applied alongside the more enabling provisions of the NPSET, which recognise

⁴ <https://www.qualityplanning.org.nz/index.php/node/611>

the national significance of the National Grid and the need to operate, maintain, develop and update the electricity transmission network.

- 94 Based on the above, in my opinion, to give effect to the NPSET, and new recommended Policy 6A, I recommend a new discretionary rule specific to the National Grid as follows:

| <u>Activity Rule</u> | <u>Rule</u> | <u>Coastal management area</u> | <u>Classification</u> |
|---|-----------------|--|-----------------------|
| <u>Structure erection or placement associated with the National Grid and any associated works:</u> <u>(a) occupation of space in the common marine and coastal area</u> <u>(b) disturbance or damage of the foreshore or seabed</u> <u>(c) deposition in, on or under the foreshore or seabed</u> <u>(d) discharge of contaminants and does not come within or comply with Rules 18 to 32</u> | <u>Rule 34A</u> | <u>Within Outstanding Value</u> <u>Estuaries Unmodified</u> | <u>Discretionary</u> |

- 95 Related to Rule 34, in applying the rules as notified, it was unclear if the associated disturbance and damage provided for under Rule 61 was captured by Rule 34 or would require a separate consent. The recommendation of the reporting officer to include associated disturbance and destruction within Rule 34 clarifies this point and addresses Transpower’s concerns in relation to associated activities. The recommended approach accords with that taken for other rules within the PCPT which include associated activities.

Part 2 of the RMA

- 96 The purpose of the RMA is to achieve the sustainable management of natural and physical resources, with corresponding obligations relating to the use, development

and protection of resources while providing for the wellbeing and health and safety of people.

97 In the context of the National Grid and regionally significant infrastructure, I consider that the amendments sought through my evidence (and for those recommendations I support within the Section 42A Report) more appropriately reflect the purpose of the RMA in relation to sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations, having particular regard to:

97.1 the role of, and reliance on, electricity within our society and the increasing demand for it;

97.2 the need to operate, maintain, upgrade and develop the National Grid;

98 In relation to section 5(2)(c), I am satisfied the amendments sought by Transpower would enable the effects of activities on electricity transmission lines to be appropriately managed.

99 Section 6 “Matters of National Importance” of the RMA states:

“In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance.”

100 The matters under Section 6 considered relevant to this proposal are:

101 (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:

102 (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:

103 (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:

104 Any proposal for works for activities would have to take into account the above matters. The

105 Section 7 “Other Matters” of the RMA states:

- 106 *“In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—”*
- 107 Section 7 includes a number of matters that are of potential relevance.
- 108 Section 8 requires the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) to be taken into account when considering proposals.
- 109 Having considered the officers’ recommended changes to the PCPT, I am of the opinion that the recommendations proposed in the section 42A report in conjunction with the changes outlined in my evidence accord with provisions of Part 2 of the RMA and will enable the sustainable management of natural and physical resources to be achieved in Taranaki’s coastal environment.

Section 32 Evaluation

- 110 Section 32AA(1)(c) of the RMA requires a further evaluation to be undertaken at a level of detail that corresponds to the scale and significance of the change. The nature of the changes sought in my evidence are of a relatively discrete nature with no substantive policy changes proposed.
- 111 On the basis the majority of the Section 42A report recommendations are supported, the only provision which I evaluate further is the sought discretionary activity status as (opposed to non-complying) under Rule 34. The following evaluation addresses the sought activity status change.

Relationship to the Objective

- 112 In my opinion Objective 2 Use and Development and Objective 7 Natural Feature and Landscapes are the primary objectives in considering the appropriate activity status for new National Grid infrastructure. I acknowledge there are other relevant objectives in the PCPT. However, the focus is centred on Objectives O2 and O7 as they specifically relate to activities with an operational need, and natural features and landscapes. In my opinion the objectives give effect to the higher order policy document, including the NPSET and the RMA. Of specific relevance, O2 refers to ‘operational need’ and O7 refers to ‘inappropriate’ activities. The sought discretionary activity status would give effect to the objectives in that the National Grid is subject to operational needs and O7 recognises that the appropriateness of the activity is a relevant consideration within

valued areas.

Costs and Benefits, Efficiency and Effectiveness

- 113 In considering the sought activity status, it is also important to consider the costs and benefits, efficiency and effectiveness. As with any regulation there are benefits and costs associated with the different options.
- 114 In terms of benefits, there is a major economic benefit to the district, region and nation in having a secure electricity supply, and RSI overall that is able to be effectively operated, managed, upgraded and developed.
- 115 Aside from the costs to Transpower, the impact on other RSI providers and the general public of having a compromised electricity transmission system which is dependent on the operation, maintenance and development of the Grid are significant.
- 116 Any social, environmental or cultural costs of better recognising and providing for the National Grid through a discretionary activity status are, in my opinion, minimal given the overall environmental framework provided in the PCPT and that a robust consenting evaluation remains through a discretionary activity status.
- 117 In terms of amendments recommended by the reporting officer and refinements sought in this evidence, I am of the opinion that these are the most efficient and effective method in which to achieve the objectives of protecting natural features and landscapes from inappropriate activities, and providing for the effective operation maintenance, upgrade and development of the National Grid.

Conclusion

- 118 The National Grid is recognised as a matter of national significance through the NPSET, which seeks to ensure a nationally consistent approach to managing this important national resource.
- 119 As the Hearing Panel will be aware, Section 67(3) of the RMA obliges Councils to 'give effect' to the NPSET in their plans and proposed plans. The requirement to 'give effect' is a strong directive to Councils and requires positive, demonstrable implementation.
- 120 I therefore consider it important and appropriate to ensure that the PCPT makes

appropriate allowance for the development of new transmission assets as well as the operation, maintenance and upgrade of existing in line with the policy direction provided in the NPSET. The activity status and associated policy framework relating to Transpower's activities are therefore of importance, and consideration is required as to the specific effect of the PCPT provisions on the National Grid, identified as a matter of national significance through a national policy statement.

- 121 I am generally supportive of the reporting officer's recommendations. In particular, I support the recommended new Policy 6A on the basis it appropriately recognises the National Grid and gives effect to both the NPSET and NZCPS. In my opinion, the recommended policy 6A provides a framework which effectively reconciles the directives of both national policy statements. The policy approach has been adopted recently in other policy documents across New Zealand and is therefore a nationally consistent approach.
- 122 I have also sought a refinement to Policy 5 to recognise the development of the National Grid within the coastal environment.
- 123 For the reasons outlined in my evidence, there is one recommendation in the section 42A Report that I do not agree with (being the non-complying activity status of National Grid activities in areas of outstanding value). I have provided a rule amendment that would address my concerns.
- 124 The amendments I have outlined in this evidence will, in my opinion, ensure that the PCPT gives appropriate effect to the NPSET.
- 125 In my opinion, the relief sought through this evidence would appropriately recognise and provide for the significance of the National Grid for both Taranaki and for New Zealand as a whole.

Pauline Mary Whitney

12 July 2019

Appendix A - National Policy Statement on Electricity Transmission 2008

NATIONAL POLICY STATEMENT

on Electricity Transmission

Issued by notice in the Gazette on 13 March 2008

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Preamble

This national policy statement sets out the objective and policies to enable the management of the effects of the electricity transmission network under the Resource Management Act 1991.

In accordance with section 55(2A)(a) of the Act, and within four years of approval of this national policy statement, local authorities are to notify and process under the First Schedule to the Act a plan change or review to give effect as appropriate to the provisions of this national policy statement.

The efficient transmission of electricity on the national grid plays a vital role in the well-being of New Zealand, its people and the environment. Electricity transmission has special characteristics that create challenges for its management under the Act. These include:

- Transporting electricity efficiently over long distances requires support structures (towers or poles), conductors, wires and cables, and sub-stations and switching stations.
- These facilities can create environmental effects of a local, regional and national scale. Some of these effects can be significant.
- The transmission network is an extensive and linear system which makes it important that there are consistent policy and regulatory approaches by local authorities.
- Technical, operational and security requirements associated with the transmission network can limit the extent to which it is feasible to avoid or mitigate all adverse environmental effects.
- The operation, maintenance and future development of the transmission network can be significantly constrained by the adverse environmental impact of third party activities and development.
- The adverse environmental effects of the transmission network are often local – while the benefits may be in a different locality and/or extend beyond the local to the regional and national – making it important that those exercising powers and functions under the Act balance local, regional and national environmental effects (positive and negative).
- Ongoing investment in the transmission network and significant upgrades are expected to be required to meet the demand for electricity and to meet the Government’s objective for a renewable energy future, therefore strategic planning to provide for transmission infrastructure is required.

The national policy statement is to be applied by decision-makers under the Act. The objective and policies are intended to guide decision-makers in drafting plan rules, in making decisions on the notification of the resource consents and in the determination of resource consent applications, and in considering notices of requirement for designations for transmission activities.

However, the national policy statement is not meant to be a substitute for, or prevail over, the Act’s statutory purpose or the statutory tests already in existence. Further, the national policy statement is subject to Part 2 of the Act.

For decision-makers under the Act, the national policy statement is intended to be a relevant consideration to be weighed along with other considerations in achieving the sustainable management purpose of the Act.

This preamble may assist the interpretation of the national policy statement, where this is needed to resolve uncertainty.

1. Title

This national policy statement is the National Policy Statement on Electricity Transmission 2008.

2. Commencement

This national policy statement comes into force on the 28th day after the date on which it is notified in the *Gazette*.

3. Interpretation

In this national policy statement, unless the context otherwise requires:

Act means the Resource Management Act 1991.

Decision-makers means all persons exercising functions and powers under the Act.

Electricity transmission network, electricity transmission and transmission activities/assets/infrastructure/resources/system all mean part of the national grid of transmission lines and cables (aerial, underground and undersea, including the high-voltage direct current link), stations and sub-stations and other works used to connect grid injection points and grid exit points to convey electricity throughout the North and South Islands of New Zealand.

National environmental standard means a standard prescribed by regulations made under the Act.

National grid means the assets used or owned by Transpower NZ Limited.

Sensitive activities includes schools, residential buildings and hospitals.

4. Matter of national significance

The matter of national significance to which this national policy statement applies is the need to operate, maintain, develop and upgrade the electricity transmission network.

5. Objective

To recognise the national significance of the electricity transmission network by facilitating the operation, maintenance and upgrade of the existing transmission network and the establishment of new transmission resources to meet the needs of present and future generations, while:

- managing the adverse environmental effects of the network; and
- managing the adverse effects of other activities on the network.

6. Recognition of the national benefits of transmission

POLICY 1

In achieving the purpose of the Act, decision-makers must recognise and provide for the national, regional and local benefits of sustainable, secure and efficient electricity transmission. The benefits relevant to any particular project or development of the electricity transmission network may include:

- i) maintained or improved security of supply of electricity; or
- ii) efficient transfer of energy through a reduction of transmission losses; or
- iii) the facilitation of the use and development of new electricity generation, including renewable generation which assists in the management of the effects of climate change; or
- iv) enhanced supply of electricity through the removal of points of congestion.

The above list of benefits is not intended to be exhaustive and a particular policy, plan, project or development may have or recognise other benefits.

7. Managing the environmental effects of transmission

POLICY 2

In achieving the purpose of the Act, decision-makers must recognise and provide for the effective operation, maintenance, upgrading and development of the electricity transmission network.

POLICY 3

When considering measures to avoid, remedy or mitigate adverse environmental effects of transmission activities, decision-makers must consider the constraints imposed on achieving those measures by the technical and operational requirements of the network.

POLICY 4

When considering the environmental effects of new transmission infrastructure or major upgrades of existing transmission infrastructure, decision-makers must have regard to the extent to which any adverse effects have been avoided, remedied or mitigated by the route, site and method selection.

POLICY 5

When considering the environmental effects of transmission activities associated with transmission assets, decision-makers must enable the reasonable operational, maintenance and minor upgrade requirements of established electricity transmission assets.

POLICY 6

Substantial upgrades of transmission infrastructure should be used as an opportunity to reduce existing adverse effects of transmission including such effects on sensitive activities where appropriate.

POLICY 7

Planning and development of the transmission system should minimise adverse effects on urban amenity and avoid adverse effects on town centres and areas of high recreational value or amenity and existing sensitive activities.

POLICY 8

In rural environments, planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities.

POLICY 9

Provisions dealing with electric and magnetic fields associated with the electricity transmission network must be based on the International Commission on Non-ionising Radiation Protection *Guidelines for limiting exposure to time varying electric magnetic fields (up to 300 GHz)* (Health Physics, 1998, 74(4): 494-522) and recommendations from the World Health Organisation monograph *Environment Health Criteria* (No 238, June 2007) or revisions thereof and any applicable New Zealand standards or national environmental standards.

8. Managing the adverse effects of third parties on the transmission network

POLICY 10

In achieving the purpose of the Act, decision-makers must to the extent reasonably possible manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised.

POLICY 11

Local authorities must consult with the operator of the national grid, to identify an appropriate buffer corridor within which it can be expected that sensitive activities will generally not be provided for in plans and/or given resource consent. To assist local authorities to identify these corridors, they may request the operator of the national grid to provide local authorities with its medium to long-term plans for the alteration or upgrading of each affected section of the national grid (so as to facilitate the long-term strategic planning of the grid).

9. Maps

POLICY 12

Territorial authorities must identify the electricity transmission network on their relevant planning maps whether or not the network is designated.

10. Long-term strategic planning for transmission assets

POLICY 13

Decision-makers must recognise that the designation process can facilitate long-term planning for the development, operation and maintenance of electricity transmission infrastructure.

POLICY 14

Regional councils must include objectives, policies and methods to facilitate long-term planning for investment in transmission infrastructure and its integration with land uses.

Explanatory note

This note is not part of the national policy statement but is intended to indicate its general effect

This national policy statement comes into force 28 days after the date of its notification in the *Gazette*. It provides that electricity transmission is a matter of national significance under the Resource Management Act 1991 and prescribes an objective and policies to guide the making of resource management decisions.

The national policy statement requires local authorities to give effect to its provisions in plans made under the Resource Management Act 1991 by initiating a plan change or review within four years of its approval.

Appendix B – Officer Recommendations Accepted or Supported

General

Use and application of terms CMA and CE

Submission Point 26/26 and FS 43/39, s42A Report pg 20

1. The retention of the definitions for CMA and CE and their use within the plan is accepted. Transpower supports the recommended clarification within Section 1.4 that the rules only apply to activities within the CMA.

Definitions

Functional Need

Submission Point 26/1197, s42A Report pg 451

2. In its submission Transpower sought a definition of ‘functional need’ on the basis the term is used in the PCPT but is not defined. The officer recommendation to insert a definition that reflects the National Planning Standards is supported as it provides certainty for plan users and will assist in plan interpretation and application. Given the recommended definition, Transpower also supports the recommendation for a definition of ‘Operational need’ that also reflects the National Planning Standards, and which differs from ‘functional need’ in that it relates to technical or operational characteristics or constraints.

Regionally Important Infrastructure

Submission Point 26/1258, s42A Report pg 471

3. In its submission Transpower sought reference to “regionally significant infrastructure” instead of “regionally important infrastructure”. The officer’s recommendation to reject the submission point is accepted on the basis that ‘important’ is used in other regional planning documents. Notwithstanding the title terminology, Transpower supports the definition, and in particular clause c) relating to the National Electricity Grid.

New Definition – National Grid

Submission Point 26/1258, s42A Report pg 471

4. The submission by Transpower had two points specific to the definition of the National Grid. The first component sought amendment to the definition within Clause c) of the definition of Regionally Important Infrastructure. The

recommendation to reject the submission point is accepted as while the amendment sought by Transpower would clarify the term used, it is accepted that the proposed reference is technically correct and achieves the same outcome.

5. The second component of the relief sought was for a new stand alone definition for the National Grid, on the basis of the relief sought by Transpower in subsequent submission points to provide specific recognition of the National Grid in the PCPT, to give full effect to the NPSET. While considered beneficial, it is accepted a definition is not imperative.

Section 1. Introduction

Provision: 2.1.2 National policy statements and environmental standards

Submission Point 26/55, s42A Report pg 29

6. The retention of the reference to the NESET is supported on the basis it clearly articulates the importance of these documents and the need for the PCPT to give effect to the objectives and policies contained within those instruments. and reflects the relief sought by Transpower. The recommendation reflects the relief sought by Transpower in its submission.

Provision: 3.1 Appropriate use and development

Submission Point 26/72, s42A Report pg 34

7. In its submission Transpower sought reference to 'technical, operational or locational constraints' within the CMA so as to make it clear within the PCPT that there are also technical, locational and/or operational reasons why an activity requires a coastal location which are not based solely on the use of the coast resource itself. Such recognition is consistent with Policy 1 of the NPSET which requires decision-makers to recognise and provide for the national, regional and local benefits of efficient electricity transmission, which may rely upon the location of National Grid assets within the coastal marine area, and Policy 3 of the NPSET which requires consideration of the constraints imposed by technical, operational and/or locational requirements when considering measures to avoid, remedy or mitigate adverse environmental effects of the National Grid.
8. On this basis Transpower supports the reporting officer's recommended wording to insert reference to 'technical need or operational need', noting the definition of 'operational need' reflects the National Planning Standards.

9. It is noted the section 42A Report refers to inclusion of 'functional need' within the paragraph but this reference has not been included in the amended provisions. However, given reference is included to 'operational need' Transpower's concerns are addressed.

Provision: 3.2 Managing the Taranaki Coastal Environment

Submission Point 26/81, s42A Report pg 38

10. The retention of the matters identified in Section 3.2 is supported and reflects the relief sought by Transpower. In particular Transpower supports clause 3 "Recognising and providing for the role of appropriate use and development of natural resources in the coastal environment and its contribution to the social, economic and cultural well-being, and health and safety of people and communities". This provision is consistent with Policy 1 of the NPSET which requires decision-makers to recognise and provide for the national, regional and local benefits of efficient electricity transmission, which may rely upon the location of National Grid assets within the coastal environment.

Section 3. Objectives

Provision: Objective 2 Use and development

Submission Point 26/101, s42A Report pg 43

11. In its submission Transpower sought an amendment to Objective 2 to reference technical, operational and/or locational requirements thereby making it clear that activities (such as the National Grid) which may have technical, operational and/or locational constraints and are required to be located in the coastal environment due to these requirements, are recognised. As notified, the objective inferred that only those activities utilising the coastal resource are provided for.
12. The reporting officer's recommendation to insert reference to 'functional need or operational need' is therefore supported and gives effect to Policy 6 of the NZCPS, as well as Policies 2, 3 and 5 of the NPSET. The amendment to the title is also accepted.

Provision: Objective 3 Impacts on established activities and operations

Submission Point 26/116, s42A Report pg 46

13. Transpower supports the recommended wording as it is consistent with Policy 10 of the NPSET which states that decision-makers must, to the extent reasonably possible, manage activities to avoid reverse sensitivity effects on

the electricity transmission network, and to ensure the operation, maintenance, upgrading, and development of the electricity transmission network is not compromised by other inappropriate activities. While the exact wording does not reflect the NPSET, the intent of Objective 3 is supported.

Provision: Objective 6 Natural character

Submission Point 26/136, s42A Report pg 51

14. The retention of Objective 6 is supported and reflects the relief sought by Transpower in its submission. The objective recognises that not all activities are inappropriate in the coastal environment.
15. Objective 6 is consistent with Objective 6(a) of the RMA which refers to 'inappropriate subdivision, use and development'. Guidance as to what is meant by 'appropriate' is provided in Section 3.1 of the PCPT Appropriate Use and Development, noting that Transpower supports amendment to Section 3.1 to clarify that activities with technical, operational and/or locational requirements are also appropriate. While the wording has been amended in that natural character 'is enhanced where degraded', on the basis of Policy 10 which provides for the promotion of restoration as opposed to an outright requirement for recommendation, the recommendation on Objective 6 is accepted.

Provision: Objective 7 Natural features and landscapes

Submission Point 26/144, s42A Report pg 53

16. The retention of Objective 7 is supported and reflects the relief sought by Transpower in its submission. The reference to 'inappropriate' in Objective 7 recognises that not all activities are inappropriate in the coastal environment. The objective is consistent with Objective 6(a) of the RMA which refers to 'inappropriate subdivision, use and development'. Guidance as to what it 'appropriate' is provided in Section 3.1 of the PCPT Use and Development.

Policies

Provisions: Policy 1 Coastal management areas

Submission Point 26/189, s42A Report pg 68

17. In its submission Transpower supported the retention of Policy 1. While recommended to be modified, the amended policy is accepted as it provides clarity as to the various coastal management areas and provides an appropriate management structure for the policy and regulatory framework of the PCPT. In particular Transpower supports reference to Schedule 1(a) in

relation to area of 'Outstanding value' as it provides clarity as to the identified outstanding areas. This management framework will assist in the implementation of the NPSET, particularly policies 7 and 8 in terms of the planning and development of the transmission system in relation to areas of high value.

Provision: Policy 2 Integrated management

Submission Point 26/226, s42A Report pg 82

18. Transpower sought amendment to Policy 2(f) to ensure the policy has a stronger directive approach: that is, "to recognise and provide for" (rather than "has regard to") ... the benefits and the functional, locational and/or operational need to be within the CMA. The officer's recommendation to amend Policy 2 is supported as it gives effect to Policy 1 of the NPSET, and reflects the more directive wording within the NPSET. The sought reference to 'operational' and 'technical' gives effect to Policy 3 of the NPSET.

Provision: Policy 7 Impacts on established operations and activities

Submission Point 26/316, s42A Report pg 112, and Further submission to 45/318

19. In its submission Transpower sought the retention of Policy 7. The officer has recommended an amendment to the policy to make it specific to reverse sensitivity effects. The officer's recommendation is accepted on the basis the amendments provide greater detail and therefore assist with plan interpretation. It is noted Transpower has no existing assets within the CMA that would be subject to the policy (as the policy would only be triggered by a rule for a new activity within the CMA).

Provision: Policy 31 Structures that support safe public access and use, or public or environmental benefit

Submission Point 26/526, s42A Report pg 189

20. In its submission Transpower supported Policy 31 but sought amendment to the wording. The officer recommendation to replace the words "will be allowed" with "enable" is supported as it clarifies that the policy does not predetermine the resource consent process.

Provision: Policy 32 Placement of structures

Submission Point 26/537, s42A Report pg 191

21. Transpower's submission sought amendment to Policy 32 to refer to technical, operational and locational requirements. The officer recommendation to amend

the policy (by inserting of 'operational need') is supported as it gives effect to Policy 3 of the NPSET. It is noted there are other policies within the PCPT protecting outstanding and significant value areas to give effect to the NZCPS.

Policy 41 Provision for disturbance, deposition or extraction activities that provide public or environmental benefit

Submission Point 26/585, s42A Report pg 204

22. Policy 41 relates to foreshore activities that provide public or environmental benefit. Transpower sought amendment to clause (g) to include 'development'. This has not been accepted by the reporting officer, but the preface text of the policy has been amended to extend the policy to not only nationally and regionally important infrastructure, but to any activity that provides public or environment benefit, including (but not limited too) nationally and regionally important infrastructure. The officer's recommendation is accepted on the basis that Policy 41 could also be applied to the development of new nationally and regionally significant infrastructure.

Policy 45: Appropriateness of reclamation or drainage

Submission Point 26/610, s42A Report pg 212

23. Transpower supported Policy 45 Clause (d) on the basis that it recognises the benefits of nationally and regionally important infrastructure. Policy 45 gives effect to Policy 1 of the NPSET which requires recognition and provision of the benefits of sustainable, secure and efficient electricity transmission. However, concerns were raised by Transpower with the term 'not be allowed' as it infers the decline of a resource consent and such wording could be interpreted as predetermining a resource consent process outcome. The officer recommendation to amend the submission point is supported on the basis it provides clarity.

Chapter 5. Regional Rules

Provision: Rules 11, 13, 14, 33, 34, 35, 37, 38, 42, 43, 44, 45, 46, 50, 60, 61

Submission Point s 26/ 748, 770, 779, 930, 940, 948, 965, 980, 1001, 1008, 1011, 1020, 1029, 1059, 1112, and 1120

24. In its submission Transpower sought the removal of reference to the Resource Management NESETA in the PCPT rules, , on the basis there are no existing assets within the CMA and new assets would not be subject to the regulations. It is further noted that Rules 45, 46, and 50 refer to the 1998 regulations, and the references to Appendix 5 and 6 within the PCPT do not relate to the

NESETA. The officer's recommended removal of reference to the NESETA in the rules is therefore supported.

Provision: Controlled Activity Rule 22 Network utility structure erection or placement

Submission Point 26/828, s42A Report pg 304

25. In its submission Transpower sought confirmation that Rule 22 relates to the cable only and not support structure. The officer's recommendation (with no changes recommended to this rule) on this point is supported as it clarifies that Rule 22 only relates to the cable.

Provision: Discretionary Activity Rule 33 Other structure erection or placement in Estuaries Modified, Open Coast and Port not provided for in Rules 18 to 32

Submission Point 26/930, s42A Report pg 351

26. Transpower supports Rule 33 which details that structure erection or placement of any structure not provided for in Rules 18 to 32 is deemed to be a Discretionary Activity in the Estuaries Modified, Open Coast and Port area. Transpower sought removal of the reference to the NESETA as the regulations are not applicable, and the deletion of that reference is therefore supported. A discretionary activity status is also supported as it enables a full assessment of effects.

Provision: Discretionary Activity Rule 60 Other disturbance, damage, destruction, removal or deposition in Estuaries Modified, Open Coast and Port, that is not provided for in Rules 51 to 59

Submission Point 26/1112, s42A Report pg 421

27. Transpower supports Rule 60 which details any disturbance, damage or destruction of the foreshore or seabed is deemed to be a Discretionary Activity in the Estuaries Modified, Open Coast and Port area. A discretionary activity status is supported as it enables a full assessment of effects.

Planning Maps and Schedule

Provision: Map 44 and Schedule 2

Submission Point 26/1312, s42A Report pg 486

28. Transpower sought amendment to Schedule 2 of the PCPT and associated planning maps so that the Indicative coastal marine area boundary line on Map 44 is retained, but the Outstanding Value area landward of the Indicative coastal marine area boundary line is moved to align with the Indicative coastal marine area boundary line.

29. The officer's reason for the rejection of the submission point is accepted and the submission point is not pursued.

Appendix C – Map showing Transpower assets at New Plymouth

This plan has been prepared by Boffa Miskell Limited on the specific instructions of our Client. It is solely for our Client's use in accordance with the agreed scope of work. Any use or reliance by a third party is at that party's own risk. Where information has been supplied by the Client or obtained from other external sources, it has been assumed that it is accurate. No liability or responsibility is accepted by Boffa Miskell Limited for any errors or omissions to the extent that they arise from inaccurate information provided by the Client or any external source.



- Indicative CMA Boundary Line
- ▲ Double Circuit Steel Tower
- National Grid Line
- Coastal Environment Area
- Site of Significance to Māori
- Outstanding Value

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Appendix D – Relevant provisions from the Taranaki Regional Policy Statement

8. Coastal environment

This section identifies resource management issues of regional significance, which have their primary effect on Taranaki's coastal environment. 'Coastal environment' refers to "...an environment (surroundings) in which the coast is a significant element or part, but because of Section 6(2), it now specifically includes all of the coastal marine area.⁶ What constitutes the coastal environment will vary from place-to-place. It will include open coastal water, tidal waters, foreshore and seabed, dunes and beaches and may include estuaries, cliffs and other land areas near the coast.

These issues are grouped under the headings of:

- protecting the natural character of our coast
- maintaining and enhancing coastal water quality
- maintaining and enhancing public access to and along the coast environment.

Under the Resource Management Act 1991 a Regional Policy Statement must give effect to the New Zealand Coastal Policy Statement. The Minister of Conservation has prepared and approved a New Zealand Coastal Policy Statement. The purpose of the New Zealand Coastal Policy Statement is to state policies in order to achieve the sustainable management purpose of the Act in relation to the coastal environment of New Zealand. In preparing this Regional Policy Statement and identifying issues, and developing, objectives, policies and methods in relation to the coastal environment, the Taranaki Regional Council has given effect to the policies in the New Zealand Coastal Policy Statement.

8.1 PROTECTING THE NATURAL CHARACTER OF OUR COAST

Background to the issue

The Taranaki region has a long 295-kilometre coastline, comprising of rocky shores and cliffs, sandy beaches, a marine protected area, sub tidal reefs, river mouths and estuaries. Because of the rugged nature of the Taranaki coastal environment has meant that much of the coastline has retained its distinctive natural character marine area.

The natural character and associated values of the coastal environment of Taranaki make a significant contribution to the region's distinctive and unique character. These values or characteristics are

important aspects of the quality of life of the Taranaki community, contributing to people's enjoyment and appreciation of the environment. Such characteristics are also important for the tourism industry in the region. Natural features of Taranaki's coastal environment that contribute to its natural character include natural coastal processes, marine life and ecosystems including indigenous flora and fauna (including those distinctive to the Taranaki coast) and biodiversity values, coastal landscapes and seascapes, surfbreaks and areas of forest, shrub land, open space and farmland. Wāhi tapu and other sites of spiritual or cultural significance to Māori, and places or areas with special historical, scientific, ecological or other heritage values or recreational and other amenity values also contribute to the natural character of the coastal environment. Natural character therefore includes a wide range of landscape, cultural, amenity and biodiversity values. The protection of the natural character of the coast will require managing the use, development and protection of resources in a way that allows those natural processes that contribute to the natural character, to occur.

Some parts of the Taranaki coastal marine area are considered to be of outstanding coastal value. The most notable of these are the Sugar Loaf Islands Marine Protected Area and the Parininihi Marine Reserve, both of which have statutory protection and are managed for conservation purposes. However, there are also other areas without formal protection, which are considered by the Taranaki community to be of outstanding coastal value and these include the Tongaporutu and Mohakatino coastline in the north and the Waitotara and Whenuakura estuaries in the south.

Most stretches of the coastline are untouched by significant developments, which might have a detrimental effect on the natural character of the coast. However, some areas such as Port Taranaki have been substantially modified and there is increasing pressure on coastal areas from urban development and subdivision.

The pressures of urban development on the coast are increasing with growing interest in subdivision and development in coastal locations. The most modified parts of the coastline are in and around the city of New Plymouth and Oakura. The north Taranaki coastline from New Plymouth to Urenui in the north, and Okato in the south, and some parts of the south Taranaki coastline, are becoming increasingly popular for residential living.

⁶ Department of Conservation: 'Report and recommendations of the Board of Inquiry into the New Zealand Coastal Policy Statement'. 1994.

Protecting natural coastal character does not mean no coastal development – rather the focus is on protecting natural character from inappropriate, subdivision, use and development. Some parts of the coast particularly in rural areas and areas at the end of rural roads, are more vulnerable to development that may be of a type or scale that leads to a gradual loss in the natural character, and scenic and amenity values that attracted people and development to the area in the first place. Inappropriate development may also degrade water and air quality, and increase natural hazard risks or accelerated erosion.

The occupation and use of the foreshore or the seabed may also adversely affect the natural character of the coast. These activities include reclamations, building or removal of structures, removal of sand and shingle, deposition of material and other disturbances to the foreshore and seabed, the allocation of coastal space for use and development (e.g. marina or aquaculture development) and the occupation of the foreshore and seabed. Some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities. Functionally, certain activities such as ports, reclamations, offshore production platforms for the oil and gas industry and other structures can only be located on the coast or in the coastal marine area. Marine electricity generation and associated pipelines, cables and onshore substations may also be located in the coastal environment. Taranaki's coastal environment has potential for marine electricity generation and this form of electricity generation may become an increasingly important way to meet New Zealand's electricity demand in future.

The protection of the values of the coastal environment need not preclude appropriate use and development in appropriate places or where adverse effects can be avoided, remedied or mitigated. In Taranaki, the number of coastal structures in Taranaki is relatively small and many, such as coastal protection structures, pipelines and boat ramps, provide wider benefits to the community. However, adverse impacts may include the degradation of amenity, landscape, cultural, recreational and commercial values associated with the coast.

The significant issue in relation to protecting the natural character of the coastal environment is:

**CNC
ISS 1 Managing the adverse effects of
subdivision, use, development and
occupation on the natural character of**

Taranaki's coast.

**CNC
ISS 2 Providing for appropriate subdivision, use,
development and occupation of the coastal
environment.**

OBJECTIVES

CNC OBJECTIVE 1

To protect the natural character of the coastal environment in the Taranaki region from inappropriate subdivision, use, development and occupation by avoiding, remedying or mitigating the adverse effects of subdivision, use and development in the coastal environment.

CNC OBJECTIVE 2

To provide for appropriate, subdivision, use, development and occupation of the coastal environment in the Taranaki Region.

POLICIES

Natural character of the coast

CNC POLICY 1

Management of the coastal environment will be carried out in a manner that protects the natural character of the coastal environment from inappropriate subdivision, use, development and occupation and enhances natural character where appropriate.

In determining the natural character of the coastal environment, matters to be considered will include:

- (a) the degree of modification from a natural state;***
- (b) the amenity values of the environment, which collectively give the coastal environment its natural character including rural amenity value;***
- (c) the importance of landscapes, seascapes and landforms, including visually or scientifically significant geological features and wild and scenic areas;***
- (d) the contribution of Taranaki's historic heritage to the natural character of the coastal environment;***
- (e) the degree to which the coastal environment provides for the continued functioning of ecological and physical processes including consideration of the diversity, productivity, variability and importance of marine ecosystems and marine ecosystems typical or representative of the region, and links between marine and terrestrial ecosystems;***
- (f) the natural quality of water and air; indigenous biodiversity values; the characteristics of special spiritual, historical or cultural significance to tangata whenua; and***
- (g) the degree of integration of human use, development and subdivision with the above components.***

Appropriate subdivision, use, development and occupation

CNC POLICY 2

The protection of the natural character of the coastal environment shall be achieved by having regard to the following criteria in determining appropriate subdivision, use, development or occupation of the coastal environment:

- (a) the degree and significance of actual or potential adverse effects on the natural character of the coastal environment, including cumulative effects, and the efficacy of measures to avoid, remedy or mitigate such effects;
- (b) the extent to which the subdivision, use, development or occupation recognise and provide for the relationship of tangata whenua and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga;
- (c) the degree to which adverse effects on those historic heritage values that can contribute to natural character can be avoided, remedied or mitigated;
- (d) the need for development or occupation to occur in the coastal environment;
- (e) where it is likely that an activity will result in significant adverse effects on the environment, any possible alternative locations or methods for undertaking the activity, and where the activity involves the discharge of any contaminant, any possible alternative methods of discharge;
- (f) the degree to which the subdivision, use, development or occupation will avoid adverse effects at alternative non-coastal locations;
- (g) the degree of existing modification of the coastal environment from its natural character;
- (h) the degree to which the subdivision, use, development or occupation will disrupt natural processes or will be threatened by, or will contribute to, the occurrence of natural hazards, particularly coastal erosion;
- (i) the degree to which the subdivision, use, development or occupation can be accommodated near existing developments and in spatially compact forms and the extent of further modification of the natural character of the coastal environment through sprawling and sporadic development;
- (j) the provision of adequate services, particularly the disposal of wastes;
- (k) the need to protect habitat (in the coastal marine area) of species including mobile species and those that are important for commercial, recreational, traditional or cultural purposes;
- (l) the benefits to the community of the use, development or occupation of the coastal marine area;

- (m) the degree to which financial contributions associated with any subdivision, use and development can be used to off set potential or actual unavoidable adverse effects arising from those activities; and
- (n) the benefits to be derived from the use and development of renewable energy sources, including national, regional and local benefits.

Port Taranaki

CNC POLICY 3

Appropriate recognition should be given to Port Taranaki to ensure its efficient operation and to enable appropriate development and diversification to occur to meet changing needs.

Protection of areas in the coastal environment of importance to the region.

CNC POLICY 4

Areas in the coastal environment of importance to the region will be identified and priority given to protection of the natural character, ecological and amenity values of such areas from any adverse effects arising from inappropriate subdivision, use and development.

In the assessment of areas of importance, matters to be considered will include:

- (a) wetlands, estuaries or coastal lagoons and coastal turf, forest and shrublands of regional, national or international importance;
- (b) their importance for marine mammals or birds, invertebrates and lizards for breeding, roosting or feeding, or habitats of threatened indigenous bird species;
- (c) the existence of regionally or nationally outstanding ecosystems or communities or nationally threatened plant or animal species;
- (d) scenic sites and recreational sites of outstanding or regional or national significance;
- (e) historic heritage values, including archaeological sites of national or outstanding significance;
- (f) the existence of nationally significant or outstanding coastal and marine landforms, landscapes, scientific features and associated processes;
- (g) the cultural and spiritual values of tangata whenua;
- (h) wāhi tapu and sites of importance to tangata whenua; and
- (i) the existence of marine protected areas.

Protection of other coastal areas of value

CNC POLICY 5

Recognition will be given to the protection where appropriate of other areas, features or landscapes in the coastal environment not covered by Policy 4 above, but still important to the region for one or more of the following reasons:

- (a) recognition of the special value of estuaries, including the unique physical processes that occur as a result of the interaction of coastal and river dynamics; and the importance of estuaries in providing spawning areas and nursery areas for juveniles of aquatic species;
- (b) amenity and scenic values;
- (c) recreational and historic areas;
- (d) biodiversity and the functioning of ecosystems;
- (e) scientific and landscape features; and
- (f) cultural features of significance to *tangata whenua*.

Explanation of the policies

The coastal environment as a whole has distinctive features, including natural character that are to be protected from inappropriate subdivision, use and development under section 6 of the Act and in accordance with the New Zealand Coastal Policy Statement.

Policy 1 lists those matters to be considered in determining an area's natural character and, therefore, the controls or measures to be adopted to avoid, remedy or mitigate adverse effects on that natural character.

Policy 2 lists those matters to be considered in determining appropriate use and development. Although it is a matter of national importance to preserve the natural character of the coastal environment, the Resource Management Act does not preclude appropriate use and development. The *New Zealand Coastal Policy Statement* further establishes the requirement for the *Regional Policy Statement for Taranaki* to define what form of subdivision, use, development or occupation would be appropriate in the coastal environment and where it would be appropriate.

Policy 3 recognises that Port Taranaki is of regional and national significance. It is the only deep water port on the west coast of New Zealand and makes a significant contribution to the social, economic and cultural wellbeing of people and communities. It is important for the region and for New Zealand that the Port is able to operate efficiently and that appropriate development and diversification is able to occur to meet changing demands. Policy 3 recognises or gives effect to a number of the matters listed in Policy 2 and in particular Policy 2 (c), (d), (e), (g) and (j). Other policies in this Regional Policy Statement will also apply.

Policy 4 recognises that certain parts of the coastal environment are important to the region having regard to their ecological, scientific, landscape, historic, cultural and spiritual, recreational, amenity and other

values, and are deserving of added protection. Some of these areas which are of local, regional and national importance are shown in Appendix II. The areas shown on the maps in Appendix II have been sourced from Taranaki Regional Council's 'Inventory of coastal areas of local or regional significance in the Taranaki region' (2004) which is a non-statutory document. Some areas are in the coastal marine area and will be identified in the Regional Coastal Plan while others where the landward component is predominant will be identified in district plans. This Regional Policy Statement is required to identify such areas and afford them protection in accordance with the New Zealand Coastal Policy Statement.

Policy 5 recognises that other areas, features or landscapes in the coastal environment may also be important or valued having regard to the attributes and values listed and that recognition should be given to their protection.

Related policies

All policies in **Section 5** [Land], **Section 6** [Freshwater] and **Section 7** [Air]; Policy 1 of **Section 8.2** [Coastal water quality]; Policy 1 of **Section 8.3** [Public access to and along the coastal environment]; all the policies in **Section 9.1** [Indigenous biodiversity], **Section 10** [Natural features and landscapes and historic heritage]; **Section 11.1** [Natural hazards]; **Section 12.1** [Waste management]; **Section 13** [Minerals]; **Section 14.1** [Energy]; **Section 15.1** [Built environment]; and **Section 16** [Issues of significance to iwi].

METHODS OF IMPLEMENTATION

The Taranaki Regional Council will:

CNC METH 1 Maintain the *Regional Coastal Plan for Taranaki* with objectives, policies and methods of implementation addressing the adverse effects of use and development on the natural character of the coastal marine area.

CNC METH 2 Apply **regional rules** that recognise different coastal processes, values, and uses, and which allow, regulate or prohibit activities in:

- (a) areas of outstanding coastal value;
- (b) estuaries;
- (c) the open coast; and
- (d) Port Taranaki.

CNC METH 3 Consider the need to make provision for the **allocation of coastal space**, the need for aquaculture management areas, and whether or not **coastal occupation charges**

should be included in the Regional Coastal Plan.

CNC METH 4 Provide **advice and information** to generally promote awareness of the need for the protection of the natural character of the coastal environment and the importance and values of areas of outstanding coastal value and other coastal areas of value, including rare and distinctive indigenous flora and fauna species.

CNC METH 5 **Gather or collate information** on the resources and values of the coastal environment of Taranaki including flora and fauna in the coastal environment and where possible make this available in easily accessible forms including electronic forms.

CNC METH 6 In considering applications for coastal permits for reclamation, the removal of sand, shingle, shell or other natural materials for commercial purposes, and rights to occupy, **have regard to any alternatives** available to the applicant and the reasons for making the proposed choice.

CNC METH 7 Participate as appropriate, in central government **planning** for a network of **marine protected areas** around New Zealand.

CNC METH 8 **Advocate** when appropriate, to relevant agencies, the establishment of **marine protected areas** including marine reserves to preserve the natural character of the coastal environment.

CNC METH 9 Assist, when appropriate, with the **integrated management** of marine protected areas.

CNC METH 10 **Notify** Maritime New Zealand and the Hydrographic Office of the Royal New Zealand Navy when a coastal permit is granted for a new structure or other harbour work and when that structure or work is completed.

Territorial authorities may wish to consider the following method:

CNC METH 11 **Include in district plans and resource consents**, provisions or conditions to protect the natural character of the coastal environment from inappropriate subdivision, use and development of the coastal environment.

Principal reasons for adopting the objective, policies and methods

The preservation of the natural character of the coastal environment, and protection of this area from inappropriate subdivision, use and development, is a matter of national importance.

The objective, policies and methods of implementation give effect to the purpose and principles of the Resource Management Act and establish a policy framework for maintaining and enhancing natural character and associated values of the coastal environment of Taranaki as well as providing for appropriate subdivision, use and development of the coastal environment.

The policies and methods focus on regulatory and non-regulatory methods that have regard to different values and uses that apply to different parts of the coast. What is 'appropriate' or 'inappropriate' use and development will depend not only on the activity but also upon the part of the coast where they occur. The methods and approach have proven to be successful to date in terms of public acceptance and the achievement of desired environmental outcomes. They are also considered appropriate having regard to their efficiency and effectiveness and their benefits and costs.

Environmental results anticipated

CNC ER 1

Preservation of the natural character of the coastal environment of Taranaki.

CNC ER 2

Provision for appropriate subdivision, use and development of the coastal environment.

14. Energy

14.1 SUSTAINABLY MANAGING ENERGY

Background to the issue

Energy is essential to the way we live our lives. Energy is only a resource insofar as other natural and physical resources (for example natural gas) may have their stored or potential energy released to do useful work. Energy, as a resource, is used to provide electricity, heat and transport. Energy enables people to provide for their well-being, health and safety, and is a key factor in the regional (and national) economy.

Taranaki contains very good sources of renewable and non-renewable energy. However, the region is nationally significant in that it is currently New Zealand's only hydrocarbon producing area. Taranaki is also a significant contributor to New Zealand's electricity generation and distribution infrastructure. Major generators include four hydroelectricity power stations (Mangorei, Motukawa, Patea and Opunake), the New Plymouth gas-fired Power Station, the Taranaki Combined Cycle Power Station at Stratford and several smaller generators and co-generation plants. Major gas and electricity transmission lines also traverse the region.

As New Zealand's energy consumption increases, the country faces specific challenges in relation to securing reliable and affordable energy supplies. In response to these challenges, Taranaki can, under the Resource Management Act, promote energy efficiency, energy conservation and the use of renewable energy resources. Changes made to the Resource Management Act in 2004 mean that energy efficiency and the use and development of renewable energy are matters to which the Council must have particular regard under Section 7 of the Act. Given the national context, it is important for local government to recognise the use and development of renewable energy and increasing energy efficiency and energy conservation as important resource management issues. In Taranaki, there is potential to develop renewable energy from wind, solar, marine, geothermal, and biomass energy sources and further opportunities to develop micro and mini hydroelectricity generation. The use and development of renewable energy can be in a number of forms. At the domestic scale there are various passive approaches including correct orientation of buildings towards the sun to assist passive heating, cooling and natural lighting. Significant gains can be made through solar water heating or solar panels in dwellings and there is potential for small scale wind generation.

Of the different renewable energy options currently commercially viable in New Zealand and overseas, the indication is that at the utility scale, wind energy is one that is likely to be given effect to in coming years. Parts of the region contain good in-situ wind resources as well as land capacity for wind energy facilities. Other options such as large scale solar generation, geothermal, biomass or wave energy may become more viable in the future. The technologies associated with some of these resources such as biomass and tidal, wave and ocean current are still developing. Possibilities for energy from biomass include ethanol for transport fuels from grain crops and electrical energy from biomass from forestry sources. Other probabilities are biomass from livestock farming and associated processing industries and from sewage and solid waste.

There is some remaining hydroelectricity generation potential in Taranaki mainly in mini, small and medium scale projects and potential also in energy from geothermal resources. However, it is likely that the temperatures and flow rates obtained from geothermal sources would be too low for electricity generation and would be more suited to direct use applications such as timber drying, dairy processing, horticulture, space heating and other applications. Temperatures in some abandoned oil and gas exploration wells are sufficient for a range of direct use applications provided adequate flows can be obtained.

Developments of renewable energy facilities can occur at a large scale or in environmentally sensitive areas and can potentially have adverse environmental effects. Particular issues include landscape and amenity effects or effects on river flows and instream ecology. Wind energy facilities for example by necessity are located in open or in elevated locations in coastal or rural areas and such facilities can have effects on landscape and amenity values that need to be assessed and considered.

Promoting energy efficiency involves making better use of energy resources and conserving energy resources. Making better use of energy can reduce demands on energy resources and energy costs and thereby delay the need for investment in new energy supplies and infrastructure. It can also improve energy security by reducing the possibility of energy demands exceeding the supply of energy that is economically or physically available.

Energy efficiency can also be promoted by reducing losses in the transmission of energy by, for example, locating energy production closer to points of use or demand.

There are other resource management issues relating to energy use, development and consumption. These issues relate to avoiding adverse environmental effects (including the effects of climate change) and providing for the safe and efficient operation of network utilities and other infrastructure of regional significance. These issues are not, however, unique to the energy sector and have been addressed in other sections of the Regional Policy Statement.

Energy is specifically identified under the RMA as a natural and physical resource whose sustainable management is to be promoted. To promote the sustainable management of energy it is necessary to promote an adequate supply of energy to enable people and communities to provide for their economic and social wellbeing and for their health and safety. It is also necessary to promote renewable energy and efficiency in the production, use and transmission of energy.

In addition one of the functions of regional council's under the RMA is the strategic integration of infrastructure with land use through objectives, policies and methods. This will assist in the efficient production, transmission and supply of energy in Taranaki.

Regional Councils and territorial authorities also address the environmental effects of energy production, transmission and supply. These issues are addressed elsewhere in this Regional Policy Statement.

The significant issues for the Taranaki region in relation to the sustainable management of energy under the Resource Management Act are:

| | |
|----------------------|--|
| ENE ISS 1 | Promoting an adequate supply of energy to Taranaki and New Zealand. |
| ENE ISS 2 | Promoting efficiency in the use, production and transmission of energy. |
| ENE ISS 3 | Promoting the use and development of renewable energy resources. |

OBJECTIVES

ENE OBJECTIVE 1

To promote the exploration, development, production, transmission and distribution of energy to meet the energy supply needs of the region and New Zealand in a manner that avoids, remedies or mitigates adverse effects on the environment.

ENE OBJECTIVE 2

To promote the use and development of renewable sources of energy in a manner that avoids, remedies or mitigates adverse effects on the environment.

ENE OBJECTIVE 3

To increase efficiency in the exploration, development use, production, transmission and distribution of energy.

POLICIES

Energy supply

ENE POLICY 1

Provision will be made for the exploration, development, production, transmission and distribution of energy in Taranaki to enable people and communities access to an adequate supply of energy and thereby to provide for their economic and social wellbeing and for their health and safety.

Energy efficiency

ENE POLICY 2

Efficiency in the use, production and transmission of energy by users of natural and physical resources will be encouraged as far as is practicable and appropriate having particular regard to:

- (a) energy requirements of urban form, subdivision patterns and site orientation;*
- (b) the design, location and operation of buildings and other structures;*
- (c) transport modes and patterns;*
- (d) use of appropriate energy saving technologies in industrial, commercial and residential situations;*
- (e) waste management including the minimisation, recovery, re-use and recycling of solid wastes and other contaminants, provided that the energy required to carry out these measures is less than that required to produce new products or materials;*
- (f) research into, and development of, alternative energy sources and more energy efficient methods (both traditional and alternative) in the production and transmission of energy; and*
- (g) the respective roles, functions, and responsibilities of particular agencies.*

Promotion of renewable energy

ENE POLICY 3

The use and development of renewable energy resources will be promoted whilst avoiding, remedying or mitigating adverse effects on the environment as far as practicable.

Energy Transmission

ENE POLICY 4

Provisions shall be included that appropriately recognise the importance of corridors to facilitate the ongoing operation, maintenance, upgrading and

development of energy transmission and the need to protect such corridors from activities that impede their efficient operation.

Explanation of the policies

Policies 1 to 4 give effect to the requirements of the Resource Management Act. In particular, they address matters set out in section 7 of the Resource Management Act – namely, the efficient use and development of natural and physical resources (section 7(b)), efficiency of the end use of energy (section 7(ba)) and the benefits to be derived from the use and development of renewable energy (section 7(j)).

Policy 1 seeks to ensure that Taranaki has an adequate supply of energy to meet the needs of people and communities in Taranaki and New Zealand. These energy needs may be met from either non-renewable or renewable sources.

Policy 2 seeks to encourage energy efficiency, thereby reducing the possibility of energy demands exceeding the economically or physically available supply of energy. Efficient use of energy is defined as consuming the minimum amount of energy for the maximum desired output. Policy 1 identifies a number of areas where (by reducing demands on energy resources or adopting energy conservation measures) regional and district councils can contribute to promoting energy efficiencies. The Government has adopted a target of at least a 20% improvement in economy-wide energy efficiency by 2012.

Policy 3 recognises that renewable sources of energy must be developed and maximised to ensure the secure supply of energy. Possible sources of renewable energy in Taranaki include hydro, wind, marine, solar, geothermal and biomass.

The Government has adopted a series of programme related targets for energy efficiency which seek to achieve 30 PJ of savings in non-transport energy per year by 2025, 9.5 PJ of additional direct use renewable energy per year by 2025 and 20 PJ of energy savings in the transport sector by 2015.

Encouraging the use and development of renewable energy resources under Policy 3 will also require consideration of the actual or potential adverse effects on the environment from development of renewable energy resources (including effects on people and communities), as well as the benefits to be obtained from such use and development. However, avoiding, remedying or mitigating adverse environmental effects as far as practicable under Policy 3 does not necessarily mean that any use and development of resources that avoids, remedies or mitigates adverse environmental effects as far as practicable, will be

acceptable - adverse environmental effects must be managed in a way that gives effect to the Act's sustainable management purpose. Adverse effects may include impacts on areas of high landscape value; the amenity values enjoyed by nearby residents and communities; the natural character and ecological values of coastal areas and water bodies and effects on other competing uses of the same resource (such as recreational use of rivers and coastal areas and water abstraction for industry or community supply). The potential benefits of renewable energy include: added security and reliability of energy supply; reduction in greenhouse gas and other emissions to air; reductions in dependence on the national grid; reduction in transmission losses; economic development opportunities for the district or region and contribution to New Zealand's renewable energy target. An overall balancing of costs and benefits will be required but the use of renewable energy resources should promote the overall sustainable management of resources. The matters that may be considered in this regard include: the scale of the proposal (small, large, widespread, site-specific); the degree of effect (extent, coverage, magnitude); the type of effects (variety, characteristics); benefits (local, regional, national); the environmental values affected and whether these values are of local, regional or national significance; and the extent to which effects can be avoided, remedied or mitigated.

Because of the circumstances around the development of specific renewable energy proposals will vary widely according to the individual proposal and its location, consideration of all other related issues, objectives and policies in this Regional Policy Statement will be required. These matters will be considered in more detail when regional and district plans are prepared or reviewed or when individual development proposals are being considered.

The National Grid is a dynamic and linear inter-regional network. With structures of such a significant scale there is a reduced ability to avoid, remedy or mitigate adverse effects. Corridors are important for the efficient transmission of energy. The operation, maintenance and future development of the transmission network can be significantly constrained by the adverse environmental impact of encroaching activities and development (reverse sensitivity). Interference with these corridors from vegetation planting or the construction of buildings and other structures near lines can cause power outages or disruption to power supplies that can affect the reliability of supply to users and the overall efficiency of transmission. Recognition of the existing transmission line corridors within the Taranaki region would ensure that non-compatible land uses are kept away from the lines and any potential adverse effects on the lines are avoided, remedied or mitigated

thereby ensuring that the corridors can continue to meet the ongoing energy needs of the community. Additionally, it will ensure that adverse effects of the transmission lines are avoided, remedied or mitigated and that the security of electricity within the district and beyond is maintained. Policy 4 highlights the need to recognise this issue in resource management and is also directly promoted by Policies 2 and 5 of the National Policy Statement on Electricity Transmission (NPSET) 2008.

Related policies

All policies in **Sections 5.1** [Soil erosion]; **Section 5.2** [Soil health]; **Section 5.3** [Hazardous substances and contaminated sites]; **Section 6.1** [Sustainable water allocation]; **Section 6.2** [Surface water quality]; Policy 1 in **Section 6.5** [Land drainage and associated diversions]; all the policies in **Section 6.6** [Use of river and lake beds] and **Section 6.7** [Public access to rivers and lakes]; Policy 1 in **Section 7.1** [Air quality]; Policy 1 in **Section 7.2** [Climate change]; all the policies in **Section 8.1** [Natural character of the coastal environment]; **Section 8.2** [Coastal water quality]; and **Section 8.3** [Public access to the coastal environment]; Policies 1 and 2 in **Section 9.1** [Indigenous biodiversity]; all the policies in **Section 10.1** [Natural features and landscapes]; **Section 10.2** [Historic heritage]; **Section 10.3** [Amenity values]; **Section 11** [Natural hazards]; **Section 12** [Waste management]; **Section 13** [Minerals]; **Section 15.1** [Sustainable urban development]; **Section 15.2** [Regionally significant infrastructure]; and **Section 16** [Issues of significance to iwi].

METHODS OF IMPLEMENTATION

The Taranaki Regional Council will:

- ENE METH 1** **Advocate**, as appropriate, to:
- (a) (central government that it:
- develop and implement national policies and strategies or codes of practices that contribute to sustainable management of energy;
 - support innovation and research in energy efficiency and renewable energy technologies, practices and processes;
 - facilitate research and development in order to enable New Zealand to continue to meet its energy needs; and
 - ensure reliable and affordable energy supply;
 - district councils that district plans are consistent with the objectives, policies and methods of the Regional Policy Statement regarding energy efficiency and the promotion of

- renewable energy; and
- relevant industries, agencies and other groups on proposed developments, policies or management strategies that are likely to have a particularly significant impact on the sustainable management of energy and associated natural and physical resources.

ENE METH 2 Participate, as appropriate, in central government initiatives in the formulation and implementation of a **New Zealand energy strategy**, consistent with the Council's statutory functions.

ENE METH 3 Support the development of industry **code of practices** for renewable energy production.

ENE METH 4 Include provisions in **regional plans** that make appropriate provision for the exploration, development, production, transmission and distribution of energy.

ENE METH 5 Have regard to opportunities, and provide appropriate encouragement for the use and development of renewable energy in the preparation and review of **regional plans**.

ENE METH 6 Support the provision of **advice and information** to landowners, resource users and the public and in the management of the region's natural and physical resources:

- (a) generally promote awareness of sustainable energy issues;
- (b) promote the conservation and efficiency of use of energy; and
- (c) promote the use and development of renewable energy.

ENE METH 7 Continue to **gather information** on the state of technology and potential future technologies for energy efficiency and the use and development of renewable energy.

ENE METH 8 Maintain and implement as appropriate:

- (a) the **Regional Land Transport Strategy for Taranaki** that encourages and promotes the efficient use of energy in the transport sector; and
- (b) the **Regional Waste Management Strategy for Taranaki** that seeks to promote waste minimisation and recycling.

ENE METH 9 Consider membership of the **Communities for Climate Change Protection (New Zealand)**, which would involve the Council taking actions including the implementation, monitoring and reporting of an action plan to increase energy efficiency and reduce greenhouse gas emissions.

Territorial authorities may wish to consider the following methods:

ENE METH 10 Include provisions in **district plans** that make appropriate provision for the exploration, development, production, transmission and distribution of energy.

ENE METH 11 Include provisions in **district plans** promoting energy efficient urban forms and travel patterns, subdivision patterns and site orientation.

ENE METH 12 **Encourage** energy efficient building design.

ENE METH 13 Include provisions in **district plans** that encourage the development of renewable energy resources.

ENE METH 14 Advocate for **efficiency in the use of energy** at the domestic, household residential level as well as on a larger commercial scale.

ENE METH 15 Develop and implement **district land transport programmes** that give appropriate consideration to the efficient use of energy in the transport sector.

management of sustainable energy development as well as providing appropriate guidance to district councils. Through the provision of advice and information, advocacy and the consideration of energy related matters when developing policy in this Regional Policy Statement and in regional plans, the Taranaki Regional Council will support and encourage energy efficiency and the use and development of renewable energy. Territorial authorities, through their control of land use and urban development, and their functions under the Building Act, have further opportunities to encourage energy efficiency and the use and development of renewable energy. Broader advocacy methods are also consistent with the matters of energy efficiency and conservation and increased use of renewable energy included in Section 7 of the Act. This Statement is to have particular regard to the benefits to be derived from the use and development of renewable energy. This is to be considered within a wider context of central government project and policy frameworks to address climate change, continued improvement in energy efficiency and an increase in consumer energy to be supplied from renewable sources. Parts of the region could provide significant renewable energy resources (for example from wind) and these have the potential to contribute significantly to renewable energy development in New Zealand.

Provisions in regional and district plans could be developed to reflect differences in scale, and therefore environmental effects of renewable energy projects. For example, domestic or small scale developments such as domestic solar or wind or micro hydro developments, with minor or acceptable environmental effects, could be provided for in plans (subject to appropriate conditions) to promote such developments. Whilst renewable energy developments provide recognised environmental and economic benefits they can also have potential adverse environmental effects that must be considered. The development of some renewable energy sources such as wind energy facilities need to occur at specific locations. These locations may include ridgelines, hilltops or other elevated positions or coastal or rural locations. There are numerous variables that need to be considered when a site is being assessed for renewable energy developments such as wind facilities. Of significance is the presence of a viable resource. However other important aspects include constructability, access via transmission to the national grid or local electricity distribution network, environmental factors, land tenure and the potential scale of development. All these aspects may combine to limit the availability of commercially viable wind energy and other renewable energy facility sites. This can lead to potential conflict with landscape and amenity values and the nature, scale and intensity of development. However, renewable energy

Principal reasons for adopting the objective, policies and methods

The objective, policies and methods of implementation establish a policy framework for promoting energy efficiency and the use and development of renewable energy sources.

It is not considered appropriate in the Regional Policy Statement to impose regulatory management of energy generation or transmission beyond the requirements set out in the Resource Management Act (e.g. the control of abstractions and discharges). The Ministry of Economic Development, Electricity Commission and the Energy Efficiency and Conservation Authority, are primarily responsible for national energy policy setting, and for regulating and providing information on the sustainable management of energy. However, regional councils have an important leadership and integration role within the region in supporting, planning for, and in the

developments such as wind energy facilities may be able to successfully co-exist if adverse effects on the environment, including the natural character of the coast, ecological, heritage, landscape and amenity values and cumulative impacts are appropriately avoided, remedied or mitigated. Most of these potential conflicts will need to be carefully managed and assessed on a case-by-case basis via district plan provisions. For larger scale developments with more significant environmental effects, plans could clearly set out the matters that the Councils would consider in assessing such projects.

The policies and methods build on current approaches to this issue. They have proven to be acceptable to date in terms of promoting effective integrated management and achieving desired environmental outcomes and are considered appropriate having regard to their efficiency and effectiveness and their benefits and costs.

Environmental results anticipated

ENE ER 1

An adequate supply of energy to meet the needs of people and communities in Taranaki and New Zealand.

ENE ER 2

Increased public awareness of energy conservation and efficiency.

ENE ER 3

Increased use and development of renewable energy resources.

- SUD METH 7** **Encourage** the use of corridors for public network utilities where feasible and practical and where the use of corridors does not conflict with specific coverage objectives of a utility provider so as to contain the geographic effects on amenity values of such utilities to a defined and limited area. The use of corridors should also recognise that conflicts can occur between various utilities.
- SUD METH 8** Grant **rate relief** on land mandatorily or voluntarily protected, for the purpose of maintaining or enhancing landscape or heritage values.
- SUD METH 9** Provide, as appropriate, **works and services** within the district to modify the causes or effects or both, of natural hazards.
- SUD METH 11** Generally **promote** good planning, building design and urban design that give effect to the New Zealand Urban Design Protocol (2005) including the strategic integration of local, regional and national infrastructure and land use.

Principal reasons for adopting the objective, policies and methods

The objective, policies and methods establish a policy framework for the promotion of sustainable urban development in the Taranaki region. Their aim is to address the adverse effects of urban development or associated with a lack of urban development.

Through the implementation of the policies and methods, the Council can promote sustainable urban development. The policies and methods build on current approaches. They have proven to be successful to date in terms of achieving desired environmental outcomes and are considered appropriate having regard to their efficiency and effectiveness and their benefits and costs.

Environmental results anticipated

SUD ER 1

Avoid, remedy or mitigate adverse effects associated with urban development or a lack of urban development.

15.2 PROVIDING FOR REGIONALLY SIGNIFICANT INFRASTRUCTURE

Background to the issue

The region's network utilities and other infrastructure are physical resources of considerable importance to Taranaki. They support human settlements and enable people and communities to meet their social,

economic and cultural needs. Some network utilities and other infrastructure are of national as well as regional importance.

Network utilities are utilities which form part of a network and include the supply and distribution of gas, electricity, telecommunications, radio communications, water, stormwater, sewerage and wastewater systems, roads, railways, airports, navigational aids, and meteorological operations and associated support structures throughout the region.

Taranaki is generally well connected and serviced from a roading infrastructural perspective relative to its size and population. However, there are roading and transport infrastructure issues that require ongoing attention if Taranaki is to meet its current and anticipated growth and development needs. Some of these issues concern route security and reliability (particularly in relation to State Highway 3 north and south and State Highway 43), network efficiency and capacity (for example in relation to our rural roads and urban New Plymouth) and safety issues such as passing opportunities, road and bridge widths etc.

Taranaki has approximately 2,700 kilometres of sealed rural roads, including state highways, in Taranaki. In addition, there are many kilometres of sealed roads in urban areas and other roads throughout the region. These provide vital access and communication links to and within the region. The Marton to New Plymouth and Stratford to Taumarunui railway connects the region with the national rail network and provide an important freight transport service. Port Taranaki is the only major deep-water port on the west coast of New Zealand and is a facility of regional significance. New Plymouth Airport is the only fully commercial air freight and passenger airport in the region.

The region also contains an extensive network of oil and gas and associated product pipelines. These pipelines run from various oil and gas field to production stations, the Maui and Kapuni gas treatment plants, the Omata Tank Farm, Port Taranaki, major industrial petrochemical processing plants, thermal power stations in New Plymouth and Stratford and to domestic consumers throughout the North Island. High voltage electricity transmission lines also run from the New Plymouth and Stratford power stations to various locations throughout the North Island. In addition, a network of power transmission lines service hydroelectricity stations and other electricity generators.

The region's telecommunication and radio communication network provides an important everyday and emergency facility to the people of the region and to the business community. Other

examples include the region's flood protection and land drainage schemes, which are important for the protection of individual and community assets, productive capability, community safety and other utility networks. Hydroelectric dams on the Waiwhakaiho, Manganui, Patea, Waiaua rivers are also significant.

There is a need to recognise the positive social, economic and environmental benefits that accrue nationally and regionally from the establishment and continued operation of network utilities and other regionally significant infrastructure. There is also a need to manage the potential for certain activities to disrupt, or risk disruption to, the safe and efficient operation of network utilities and other regionally significant infrastructure. Where incompatible activities have been allowed to establish too close to certain regionally significant infrastructure, e.g. electricity transmission lines there is increased exposure to adverse effects such as the accumulation of dust on conductors, risk to structural integrity of pylons, restricted access for maintenance, and reduction in safety distances or public safety generally.

As with other forms of use and development, there are also issues associated with avoiding, remedying and mitigating adverse effects on the environment arising from the construction, use and maintenance of regionally significant infrastructure. However, such matters are addressed elsewhere in this Regional Policy Statement.

The significant issues in relation to Taranaki's regionally significant infrastructure are:

**INF
ISS 1** **Recognising and providing for the establishment and continued operation of regionally significant infrastructure (including where this is of national importance), particularly where they provide benefits and/or physically cross district and or regional boundaries.**

**INF
ISS 2** **Managing adverse effects arising from subdivision, use and development on the safe and efficient operation of regionally significant infrastructure, (including where this is of national importance).**

**INF
ISS 3** **Strategically integrating infrastructure and land use.**

OBJECTIVE

INF OBJECTIVE 1

To provide for the continued safe and efficient operation of the region's network utilities and other infrastructure of regional significance (including where

this is of national importance), while avoiding, remedying or mitigating adverse effects on the environment.

POLICIES

Provision for physical infrastructure of regional significance

INF POLICY 1

Provision will be made for the efficient and effective establishment, operation, maintenance and upgrading of network utilities and other physical infrastructure of regional significance (including where this is of national importance) and provision for any adverse effects of their establishment to be avoided, remedied or mitigated as far as is practicable.

Adverse effects on physical infrastructure of regional significance

INF POLICY 2

The adverse effects of subdivision, use and development on the safety, efficiency, operation, maintenance and upgrading of the region's network utilities and on other physical infrastructure of regional significance (including where this is of national importance) will be avoided or mitigated.

Buffer corridors

INF POLICY 3

Buffer corridors shall be identified so that development incompatible with the National Grid is not located within such corridors and thereby ensuring reverse sensitivity effects are avoided.

Integrated planning

INF POLICY 4

New land use generated by growth and development and the associated local, regional and national infrastructure to service that growth should be integrated and planned alongside one another to avoid either constraints being imposed on necessary growth and development by the lack of supporting infrastructure or to avoid unsustainable demands being placed on infrastructure to meet new growth.

Explanation of the policies

Policy 1 provides for the establishment of efficient and effective network utilities and other infrastructure and for the adverse effects of their establishment to be avoided, remedied and mitigated as far as is practicable. For example, the linear nature of the National Grid determines its form, shape and location across a number of different environments throughout New Zealand. When new transmission lines are proposed, technical, operational and security requirements associated with the transmission network can limit the extent to which it is feasible to avoid or mitigate all adverse environmental effects. Consequently in some cases it may be more

appropriate for new transmission lines to traverse parts of a sensitive environment to achieve a route with lower overall adverse effects. These situations will need to be determined on a case-by-case basis. Issues relating to adverse effects on the environment arising from the construction and maintenance of network utilities and other regionally significant infrastructure (e.g. stormwater run-off, emissions to air, noise, discharges to land and water) are already addressed through other sections of the Regional Policy Statement. Accordingly, objectives, policies and methods of implementation in this section address recognising and providing for network utilities and other regionally significant infrastructure.

Policy 2 ensures that any adverse effects of subdivision, use and development, which would reduce the safe and efficient operation of network utilities and other regionally significant infrastructure, are avoided or mitigated.

The operation, maintenance and future development of the transmission network can be significantly constrained by the adverse environmental impact of encroaching activities and development (reverse sensitivity). Identifying appropriate buffer corridors under Policy 3 would ensure that non-compatible land uses are kept away from the lines and that any potential adverse effects of third party activities on the transmission network are appropriately managed to ensure the ongoing operation, maintenance, upgrading and development of the electricity transmission network is not compromised.

Activities that may have reverse sensitivity effects on the safe and efficient operation of regionally significant infrastructure should locate in areas where that infrastructure will not be affected.

Policy 4 recognises the need for planning for growth and development and the provision of local, regional and national infrastructure to proceed side-by-side in a coordinated and integrated way. This is to ensure that necessary growth and development is properly and appropriately serviced and also to ensure that unsustainable demands are not placed on Infrastructure. If this integration does not occur there is the potential for growth and development to be constrained or directed to less favourable areas with associated social, economic and environmental costs. A lack of integration may also lead to unsustainable demands being placed on infrastructure and funding leading to a reduction in the safety and efficiency of infrastructure such as the roading network from new growth or to inadequate provision of infrastructure. Hence the policy ensures there is closer integration between growth and development generated land use, roading and other infrastructure provision and funding at local, regional and national levels.

Related policies

All policies in **Sections 5.1** [Soil erosion]; **Section 5.2** [Soil health]; **Section 5.3** [Hazardous substances and contaminated sites]; **Section 6.1** [Sustainable water allocation]; **Section 6.2** [Surface water quality]; **Section 6.5** [Land drainage and associated diversions]; **Section 6.6** [Use of river and lake beds]; **Section 6.7** [Public access to rivers and lakes]; **Section 7.1** [Air quality]; **Section 7.2** [Climate change]; **Section 8.1** [Natural character of the coastal environment]; **Section 8.2** [Coastal water quality]; **Section 8.3** [Public access to the coastal environment]; Policies 1 and 2 in **Section 9.1** [Indigenous biodiversity]; all policies in **Section 10.1** [Natural features and landscapes]; **Section 10.2** [Historic heritage]; **Section 10.3** [Amenity values]; **Section 13** [Minerals]; **Section 14** [Energy]; **Section 15.1** [Sustainable urban development], and **Section 16** [Issues of significance to iwi].

METHODS OF IMPLEMENTATION

The Taranaki Regional Council will:

- INF METH 1** Maintain a **regional plan or plans** with objectives, policies and methods addressing adverse environmental effects on the safe and efficient operation of the region's network utilities and on other infrastructure of regional significance.
- INF METH 2** Through **regional rules** or conditions of resource consents, recognise the positive benefits of regional infrastructure and control adverse environmental effects on the safe and efficient operation of the region's network utilities and on other physical infrastructure of regional significance (including where this is of national importance).
- INF METH 3** Maintain and implement as appropriate the **Regional Land Transport Strategy for Taranaki** under the Land Transport Management Act 2003 with objectives, policies and methods promoting the safety and efficiency of the region's land transport network including promoting integrated, land use and transport planning, travel demand management and the use of alternative transport modes.
- INF METH 4** Maintain **river control and flood protection works** in the Lower Waitara River and the Waiwhakaiho River.
- INF METH 5** Recognise the **maintenance of existing infrastructure** including the trimming and removal of plants where these pose a risk

to the continuation of infrastructure operations in **riparian margins**, as an essential component for the supply of electricity to communities.

INF METH 6 Take into account **current infrastructure corridors** in resource management decision making; avoid, remedy or mitigate any incompatible use or activity affecting those corridors and include appropriate protection and recognition of existing infrastructure corridors in district plans and on planning maps.

INF METH 7 When considering an application for resource consent, notice of requirement or a change or variation to a district or regional plan that is likely to affect a transmission corridor, local authorities shall **consult with or notify the operator of the National Grid.**

INF METH 8 Give effect to the **New Zealand Code of Practice for Electrical Safe Distances (NZECP34:2001)** prepared under the Electricity Act 1992, when establishing rules and considering applications for building structures and other activities near overhead electric lines support structures or conductors.

Territorial authorities may wish to consider the following methods:

INF METH 9 Include in **district plans**, and conditions in **resource consents**, provisions or conditions that provide for the establishment and continued operation of regionally significant infrastructure (including where this is of national importance), and the control of adverse effects of subdivision, use and development of land on that infrastructure.

INF METH 10 Include in **district plans** appropriate provisions (including designations) for network utilities and other infrastructure of regional significance (including where this is of national importance), and the procedures to be followed when proposing to undertake activities in proximity to these network utilities and infrastructure.

INF METH 11 Recognise the **maintenance of existing infrastructure**, including the trimming and removal of plants where these pose a risk to the continuation of infrastructure operations in **riparian margins**, as an essential component for the supply of electricity to communities.

INF METH 12 Include in district plans, long-term council community plans and conditions of resource consents, provisions or conditions that require the **location, intensity, structure, and staging of new land use** generated by growth and development to support and coordinate with the sustainable provision and funding of local, regional and national roading and other infrastructure. This includes by way of financial contributions and/or development contributions.

INF METH 13 Include in district plans appropriate provisions requiring **structure or concept plans** for large scale urban land use changes.

INF METH 14 Include in district plans appropriate provisions requiring new land use to demonstrate how it will be **serviced** by transport and other infrastructure.

INF METH 15 Include provisions in **district land transport programmes** that promote the safety and efficiency of district roading infrastructure including promoting integrated land use and transport planning, travel demand management and the use of alternative transport modes.

INF METH 16 **Encourage** the use of **corridors** for public network utilities where feasible and practical and where the use of corridors does not conflict with specific coverage objectives of a utility provider so as to contain the geographic effects on amenity values of such utilities to a defined and limited area. The use of corridors should also recognise that conflicts can occur between various utilities.

INF METH 17 Take into account **current infrastructure corridors** in resource management decision making; avoid, remedy or mitigate any incompatible use or activity affecting those corridors and include appropriate protection and recognition of existing infrastructure corridors in district plans and on planning maps.

INF METH 18 When considering an application for resource consent, notice of requirement or a change or variation to a district or regional plan that is likely to affect a transmission corridor, local authorities shall **consult with or notify the operator of the National Grid.**

INF METH 19 Give effect to the **New Zealand Code of Practice for Electrical Safe Distances (NZECP34:2001)** prepared under the Electricity Act 1992, when establishing rules and considering applications for building structures and other activities near overhead electric lines support structures or conductors.

Principal reasons for adopting the objective, policies and methods

The objective, policies and methods of implementation establish a policy framework for providing for regionally significant infrastructure and network utilities. These network utilities and infrastructure are important for the economic and social wellbeing of people and communities in Taranaki and for their health and safety and play a vital role in the operation of daily life. During emergency situations, some are of national as well as regional importance. Provision for the safe, reliable and efficient functioning of such facilities and infrastructure and their maintenance and upgrading is provided for in this document in recognition of the importance of such physical resources. This Regional Policy Statement also recognises that it is not always practical or reasonable for network utilities or infrastructure to co-exist with other major utilities and that operational constraints may also exist and these must be recognised and provided for.

Through the implementation of regional plans and regional transport management strategies, the Council will recognise and provide for the positive benefits that accrue from the construction, use and maintenance of regionally significant infrastructure and network utilities.

Territorial authorities, through their control of land use and urban development, have further opportunities to recognise and provide for the safe and efficient establishment and operation of important physical infrastructural assets. Territorial authorities also have further opportunities to recognise and provide for closer integration between land use and infrastructure provision and funding in order to assist with the strategic integration of local, regional and national roading and other infrastructure and land use.

The policies and methods build on current approaches to this issue. They have proven to be acceptable to date in terms of promoting effective integrated management and achieving desired environmental outcomes and are considered appropriate having regard to their efficiency and effectiveness and their benefits and costs.

Environmental results anticipated

INF ER 1

Continued operation of regionally significant infrastructure.

INF ER 2

Effective management of potential resource management conflicts so as to avoid, remedy or mitigate significant adverse effects on network utilities and infrastructure.

INF ER 3

New land use generated by growth and development strategically integrated with local, regional and national infrastructure, particularly transport so as to avoid an unsustainable approach to infrastructure provision and funding.

Before the Hearing Panel

under: the Resource Management Act 1991

in the matter of: the Proposed Taranaki Regional Coastal Plan

between: **Taranaki Regional Council**
Local Authority

and: **Transpower New Zealand Limited**
Submitter

Outline of legal submissions on behalf of Transpower New Zealand Ltd

Dated: 15 July 2019

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OUTLINE OF LEGAL SUBMISSIONS ON BEHALF OF TRANSPOWER NEW ZEALAND LTD

EXECUTIVE SUMMARY

- 1 These submissions are presented on behalf of Transpower New Zealand Limited (*Transpower*). Transpower made a submission and further submissions on the proposed Regional Coastal Plan for Taranaki (*Proposed Plan*).
- 2 Transpower builds, maintains, owns and operates the National Grid, New Zealand's electricity transmission network.
- 3 The National Grid is the physical infrastructure that transports electricity throughout New Zealand. The Grid includes a high voltage backbone which links major generation (such as wind farms and hydro power stations) to major loads in cities and towns. Connected to this Grid backbone are regional Grid lines which are owned or operated by Transpower and which connect smaller generation stations and supply regional communities.
- 4 Transpower has a number of overhead transmission line, substation and telecommunications assets within the Taranaki Region, as well as three telecommunications sites. None of Transpower's existing assets in the Region are located in the Coastal Marine Area (*CMA*) as identified in the Proposed Plan. One of the lines coming out of the New Plymouth substation traverses an identified area of Outstanding Natural Character (*ONL*) and Outstanding Natural Landscapes and Features (*ONLF*) (identified as an area of Outstanding Value within the Proposed Plan).¹ Due to locational and operational constraints, future assets may need to locate in identified ONL and ONLF areas or the CMA.
- 5 The National Grid is nationally significant infrastructure and a very significant physical resource. The operation, maintenance, upgrade and development of National Grid assets in Taranaki must be provided for to ensure and provide for the social and economic wellbeing of the Taranaki Region and New Zealand. A reliable and secure electricity system is crucial for that wellbeing.
- 6 Transpower is not exempt from, and is a major "user" of resource management legislation and the policies and plans which are developed within its framework.
- 7 The management of the environmental effects of and on the National Grid is governed by the National Policy Statement on Electricity Transmission 2008 (*NPSET*), the Resource Management (National Environmental Standard for Electricity Transmission

¹ Near the base of Paritutu: the Nga Motu (Sugar Loaf Islands) and Tapuae ONC3 and ONFL2.

Activities) Regulations 2009 (*NESETA*), designations and plan provisions. Notably:

- 7.1 The NPSET sits at the top of the hierarchy of Resource Management Act 1991 (*RMA*) planning documents. The Proposed Plan must give effect to its objective and policies.
 - 7.2 Transpower is unable to use its designation powers in the CMA.
 - 7.3 The application of the *NESETA* only applies to assets existing as at January 2010 and does not cover all of Transpower's activities.
 - 7.4 Ongoing upgrades and developments of the National Grid will be required from time to time. Upgrades and developments could include new National Grid infrastructure which, despite a careful route selection process, may inevitably need to locate in or traverse the CMA or the landward components of the wider coastal environment that may have special values. These assets need to be operated, maintained, upgraded and developed.
 - 7.5 Some of the coastal areas where the National Grid is and may in the future be located, may have high values for reasons such as their natural landscape and natural character qualities. The Grid's inherent linear nature and technical, operational and security requirements limit the ability to avoid or mitigate all of the National Grid's adverse environmental effects. The National Grid may, in limited cases, cause effects on high value areas.
 - 7.6 The Proposed Plan must also give effect to New Zealand Coastal Policy Statement (*NZCPS*). The NPSET and the *NZCPS* should be read together as far as possible in order to resolve any potential areas of conflict. Any outstanding conflict should be resolved with reference to Part 2.
- 8 These factors make it of key importance that the Proposed Plan policy and rule framework is sufficiently enabling of National Grid activities while recognising the need to manage environmental effects and consider alternatives where appropriate, particularly in high value coastal environments. A consenting pathway for the range of National Grid activities in coastal environments is necessary to ensure the National Grid can continue to be operated, maintained, upgraded and developed.
- 9 To create this pathway, Transpower has developed a planning policy and rule approach that relies on detailed process-oriented objectives and policies. Those provisions require a very robust assessment of National Grid transmission projects. But they do not create a non-complying activity 'jurisdictional bar' to considering applications.

Instead, they rely on using a discretionary activity status as the most onerous consent category for National Grid projects. The resource consent process then allows a specific transmission project to be assessed against those objectives and policies, having regard to the NPSET, the NZCPS and section 5 of the RMA.

- 10 Transpower supports the Proposed Plan and agrees with many of the recommendations set out in the reporting officer's section 42A report. In particular, Transpower considers that the officer's recommended inclusion of a National Grid specific policy in the Proposed Plan (Policy 6A), achieves an appropriate balance between the protection of the natural resources of the coastal environment, and the need to recognise and provide for the National Grid.
- 11 The inclusion of the National Grid specific Policy 6A has resolved the majority of Transpower's concerns with the Proposed Plan. However, two outstanding points remain, as set out in Ms Whitney's planning evidence. These are:
 - 11.1 Amendments to Policy 5 clause (aa) to recognise and provide for new National Grid infrastructure within those areas that are outside of the CMA, but within the coastal environment; and
 - 11.2 A new discretionary rule (Rule 34A) specific to the National Grid for new structures within areas identified as Outstanding Values or Estuaries Unmodified.
- 12 These amendments are required to give effect to the NPSET and the Taranaki Regional Policy Statement (*RPS*) and ensure the Proposed Plan properly provides for the operation, maintenance, upgrading and development of the National Grid.

SCOPE OF SUBMISSIONS

- 13 These submissions:
 - 13.1 Describe Transpower and the National Grid;
 - 13.2 Discuss relevant statutory criteria for the consideration of the Proposed Plan;
 - 13.3 Address the NPSET and its relationship with the NZCPS and its applicability to the Proposed Plan; and
 - 13.4 Introduce Transpower's evidence.

TRANSPower NEW ZEALAND LIMITED

- 14 Transpower is the State Owned Enterprise that owns and operates the National Grid – New Zealand’s high voltage electricity transmission network.²
- 15 Transpower currently owns and operates a number of assets within the Taranaki Region. These are described by Mr Campbell and shown on the map attached to his evidence at appendix A.

THE NATIONAL GRID

- 16 The Taranaki Region cannot function, let alone grow and develop, without a secure electricity system. New Zealand's electricity transmission network, the National Grid, is an essential part of the electricity system.
- 17 The National Grid transports electricity from where it is generated to ‘direct connect’ customers (generally major users of electricity) and the local lines distribution companies which supply electricity to the community. Without the National Grid, electricity that is generated at power stations outside of Taranaki could not reach distribution companies and power Taranaki’s homes, businesses, schools, communities, communication networks and major industrial users.
- 18 Accordingly, the National Grid is a very significant physical resource. It must be sustainably managed. Its operation, maintenance, upgrade, and development must be provided for. Adverse effects on it must be managed so as to not compromise its operation, maintenance, upgrade and development.

STATUTORY FRAMEWORK

Preparation of regional plans

- 19 The Proposed Plan must be prepared in accordance with the Council’s functions under section 30, the provisions of Part 2 of the RMA, and the Council’s obligation under section 32.³
- 20 The Proposed Plan must also give effect to any relevant national policy statement, New Zealand coastal policy statement, and regional policy statement.⁴

Giving effect to national policy statements

- 21 The RMA provides for a hierarchy of policy statements and plans, from national environmental standards and national policy

² Transpower is described further in Mr Dougall Campbell’s evidence.

³ RMA, s66(1).

⁴ RMA, s67(3).

statements at a national level, through to regional policy statements and regional plans, to district plans at a territorial authority level.

- 22 As recently confirmed by the Supreme Court in its decision in *EDS v NZ King Salmon*,⁵ national policy statements sit atop of this hierarchical scheme. As the highest order planning documents, they must be "given effect to" by regional policy statements, regional plans and district plans. In turn, regional policy statements must be "given effect to" by regional and district plans, and district plans must be "not inconsistent" with regional plans.⁶
- 23 "Give effect to" is a strong statutory directive compared to other directives in the RMA such as to "have regard to" or "take into account". The directive is particularly strong in light of the Supreme Court decision, which found that the direction "give effect to" is "intended to constrain decision makers",⁷ and simply means "implement".⁸
- 24 This strong directive is imposed for two reasons:⁹
- 24.1 The hierarchy of planning documents is an important concept under the RMA; and
- 24.2 Superior documents that have passed through the RMA processes can be deemed to have given effect to Part 2 matters.
- 25 The NPSET therefore gives substance to Part 2 of the RMA. By giving effect to the NPSET, the Proposed Plan will achieve the purpose of the RMA.

NPSET

- 26 The statutory purpose of a national policy statement is to state objectives and policies for "matters of national significance" that are relevant to achieving the purpose of the RMA.¹⁰
- 27 The NPSET was gazetted in March 2008. It identifies the relevant "matter of national significance" as being:¹¹

⁵ *Environmental Defence Society Inc v New Zealand King Salmon Company Limited* [2014] NZSC 38 (*New Zealand King Salmon*).

⁶ Sections 62(3), 67(3) and 75(3) of the Act.

⁷ *New Zealand King Salmon*, paragraph [91].

⁸ *New Zealand King Salmon*, paragraph [77].

⁹ See *Clevedon Cares Inc v Manukau City Council* [2010] NZEnvC 211 at [51]. This decision considered the phrase "give effect" in the context of a regional policy statement, rather than a national policy statement, but the legal obligation is the same for both.

¹⁰ RMA, s45.

¹¹ NPSET, clause 4.

the need to operate, maintain, develop and upgrade the electricity transmission network.

- 28 The NPSET was the second NPS developed under the RMA. It followed a major public consultation process, a hearing before a Board of Inquiry, and recommendations from the Board which were ultimately closely followed by the Minister in adopting the NPSET.
- 29 The NPSET is a comprehensive code for the transmission network. The NPSET only applies to the National Grid (which in turn is defined as the assets used or owned by Transpower). It does not apply to distribution companies or any lines owned by generators.
- 30 The preamble of the NPSET highlights that the National Grid has particular physical characteristics and operational/security requirements that require strategic planning in order to appropriately provide for the Grid and manage potential adverse impacts on it.
- 31 These characteristics and requirements include:
 - 31.1 The large scale of the infrastructure (which is needed for technical reasons such as safe clearance distances but means that visual impacts of the assets will seldom be 'minor or transitory' and cannot always be avoided, remedied or mitigated);
 - 31.2 Locational constraints of new Grid infrastructure (e.g. they will need to locate near energy generation and connect to existing Grid infrastructure given the linear and connected nature of the network);
 - 31.3 The Grid's benefits are largely national, whereas its adverse effects are often local;
 - 31.4 The height of the Grid transmission lines creates opportunities and risks regarding development that occurs under and around the lines (i.e. the lines can physically allow development underneath them although inappropriate or incompatible development may create safety risks and constrain the network itself); and
 - 31.5 Transmission line conceptions are not static and development near them needs to take the physical presence of the conductors (i.e. 'line swing') into account.
- 32 These unique characteristics and requirements of the Grid create challenges for its management under the RMA and are some of the reasons why the Grid has the benefit of a national policy statement.
- 33 The NPSET recognises these unique characteristics by according special status to the National Grid and providing a comprehensive

policy regime for managing the effects of and from the National Grid, and recognising the benefits of, and recognising and providing for the transmission network.

- 34 The key provisions of the NPSET which are relevant to Transpower's submission on the Proposed Plan are **attached** as **Appendix A**.

New Zealand Coastal Policy Statement

- 35 The statutory purpose of the NZCPS is to state objectives and policies "*in order to achieve the purpose of [the RMA] in relation to the coastal environment of New Zealand*".¹²

- 36 The policies in the NZCPS establish a comprehensive regime for managing the effects of activities on the coastal environment. Policy 6 addresses activities in the coastal environment (with some marine activities addressed more explicitly in Policies 8 and 9). Policy 7 addresses the need for a strategic planning approach. Policies 11, 13 and 15 address high value natural areas. Critically, those policies require adverse effects of activities on the 'highest value' natural areas to be avoided. The relationship between those policies and Policy 8 of the NPSET is discussed further below.

- 37 The key NZCPS provisions are set out in **Appendix B**.

The Taranaki Regional Policy Statement

- 38 The Proposed Plan is also required to "give effect to" the RPS as an operative regional policy statement.¹³ The RPS includes provisions which recognise the importance of the National Grid, and provide for National Grid related activities in the coastal environment.

- 39 The key RPS provisions are set out in **Appendix C**.

RECONCILING THE NPSET AND NZCPS

- 40 The NPSET and NZCPS are both highest order planning documents and therefore must both be "given effect to" when establishing the policy and rule framework for coastal environments.

- 41 However, there is a potential conflict between the NZCPS policies for the protection of high value natural areas (policies 11, 13, 15 - an "avoid" approach), and the NPSET policies for managing the effects of the National Grid on high value natural areas (policy 8 - a "seek to avoid" approach).

- 42 Applying an "avoid" approach to the National Grid in high value natural areas would not give effect to the NPSET. The intent to have a less than avoid approach for National Grid activities in those environments is very deliberate in the NPSET. On the other hand, applying a "seek to avoid" approach for the National Grid in high

¹² RMA, s56.

¹³ RMA, s76(3)(c)

value natural areas may not “avoid” effects in all instances. On the face of it, there is a conflict between the policies. The Proposed Plan must reconcile the policies in order to give effect to both the NZCPS and the NPSET.

- 43 The first step to resolving that conflict, following the approach taken by the Supreme Court in *New Zealand King Salmon*, is to closely examine the way the policies are expressed:
- 43.1 Looking first at the scope of the documents, the NZCPS is specific to one environment – the coastal environment. However, the NPSET is specific to one activity – the National Grid. Neither document can be ‘preferred’ by applying the principle that the specific overrides the general.
- 43.2 Focusing on the policies themselves, the phrase “seek to avoid” in Policy 8 is process focused, whereas the word “avoid” in Policies 11, 13 and 15 is outcome focused. However, in Transpower’s submission, the phrase “seek to avoid” is no less deliberate or precise than the word “avoid”, particularly when viewed in the broader enabling context of the NPSET. Neither policy can be ‘preferred’ on the basis that it is more directive than the other.
- 44 The conflict does not therefore ‘dissolve’ after a close examination. Accordingly, the *New Zealand King Salmon* decision suggests that the outstanding conflict should be resolved based on the NPSET and the NZCPS, informed by section 5 of the RMA.
- 45 In Transpower’s submission, the most effective and appropriate way to resolve the conflicts between the NPSET and the NZCPS is through a nuanced consenting pathway. This pathway involves planning provisions that enable the merits of National Grid projects in high value natural areas to be considered through the resource consent process. The provisions direct that appropriate consideration be given to both the National Grid’s importance and the importance of avoiding impacts on high value coastal areas.
- 46 To provide such a pathway, Transpower seeks objectives and policies that require a very robust assessment of resource consent applications, but do not impose a non-complying activity ‘jurisdictional bar’ to considering applications that do not meet “avoid” policies.
- 47 This approach has found support in recent case law. The Environment Court’s decision in *Port Otago Limited v Otago Regional Council* suggests that one method for resolving the conflict is to allow a case-by-case assessment through the resource consent process, informed by the specific facts of the proposed activity and robust objectives and policies.¹⁴ The High Court’s decision in the

¹⁴ [2018] NZEnvC 183.

Forest & Bird v Bay of Plenty Regional Council also considered a policy framework that relies on the resource consent process to resolve remaining tensions.¹⁵ That framework was accepted by all parties and endorsed by the Environment Court and High Court.

- 48 In *Royal Forest & Bird v Bay of Plenty Regional Council* the High Court considered the extent to which infrastructure other than the National Grid could locate in high value coastal environments noting that the Bay of Plenty Regional Coastal Environment Plan made an “express exception for the National Grid” [from the avoid directives in the NZCPS] and that this exception was “provided for in the NPSET”.¹⁶
- 49 As explained by Ms Whitney, Transpower’s proposed approach has been adopted by decision-makers in varying forms in numerous plans and policy statements across the country. These include the Auckland Unitary Plan, the Bay of Plenty Regional Coastal Environment Plan, the Southland Regional Policy Statement, the Otago Regional Policy Statement and the Kapiti Coast District Plan. Other plan change and policy review processes are currently underway in which Transpower is also seeking Grid-specific policies, complemented by discretionary activity status for Grid-related activities, to give effect to the NPSET.

APPLICATION TO THE PROPOSED PLAN

- 50 The notified version of the Proposed Plan reflected the policy tension between the NPSET and the NZCPS, but did not attempt to resolve it further. In Transpower’s submission, a more detailed policy framework that specifically addresses the effects of the National Grid on high value natural areas is appropriate. It will provide more certainty – both in relation to Transpower’s activities and managing effects on high value natural areas. A more detailed framework will also better give effect to both the NPSET and the NZCPS.
- 51 Transpower therefore supports the inclusion of a new National Grid specific policy in the Proposed Plan, as recommended in the section 42A report. Transpower also seeks the addition of a discretionary activity rule to cover new National Grid specific activities, as explained by Ms Whitney.
- 52 These amendments will give effect to the NPSET and therefore best achieve the sustainable management purposes of the RMA. The amendments also provide an appropriate framework for assessing the merits of any resource consent application or requirement for new National Grid infrastructure.

¹⁵ *Royal Forest and Bird Protection Society of New Zealand Inc v Bay of Plenty Regional Council* [2017] NHC 3080.

¹⁶ *Ibid* at [13].

- 53 The non-complying activity status for new structures associated with the National Grid within areas identified as Outstanding Values or Estuaries Unmodified (recommended by the reporting officer), could be an appropriate cascade from an "avoid" policy directive. However, with respect, it does not in Transpower's submission, give effect to the NPSET's more enabling policy framework. While a non-complying activity status may be appropriate for regionally significant infrastructure more generally, it is not sufficient for the National Grid and does not give effect to the NPSET.
- 54 Transpower fully accepts that New Zealand's coastal environment (and other Part 2 environments and features) are special and must be protected. However, for the reasons outlined in these submissions and Mr Campbell's evidence, the Grid may at times have no option other than to locate within it.
- 55 The "seek to avoid" requirement in the NPSET, as well as the provisions in the Proposed Plan still place a high burden on Transpower. This is because other policies in the NPSET such as Policies 3 and 4, require Transpower to demonstrate a robust route, site, method selection process has been carried out, and also that the technical and operational constraints of the Grid are such that it has no other practicable alternative to a sensitive coastal environment.
- 56 These requirements set a high threshold and infer a merits assessment where the adverse effects can be considered alongside the proposal's benefits.
- 57 The amendments sought by Transpower to the Proposed Plan will ensure that a very robust assessment of resource consent applications is required by the objectives and policies. A discretionary activity status in Rule 34A allows a specific National Grid transmission project or activity to be assessed against those objectives and policies, having regard to both the NPSET and the NZCPS.¹⁷

EVIDENCE TO BE PRESENTED

- 58 Two witnesses are appearing in support of Transpower's submissions on the Proposed Plan:
- 58.1 Mr Dougall Campbell, Environmental Policy and Planning Group Manager at Transpower. Mr Campbell's evidence describes Transpower and the National Grid, explains the importance of operating, maintaining and upgrading the National Grid, describes features of Transpower's assets in Taranaki and addresses planning issues of importance for Transpower.

¹⁷ RMA, s104(1).

58.2 Ms Pauline Whitney, Senior Planner at Boffa Miskell Ltd has prepared independent planning evidence addressing Transpower's submissions on the Proposed Plan.

CONCLUSION

- 59 New Zealand's electricity transmission network, the National Grid, is an essential part of the electricity system and a very significant physical resource. The need to operate, maintain, develop and upgrade the electricity transmission network, the National Grid, is identified as a matter of national significance in the NPSET. The Proposed Plan must give effect to the NPSET.
- 60 For the reasons outlined above and described in the evidence to follow, it is submitted that the Commissioners should confirm the amendments to the Proposed Plan recommended by Ms Whitney and set out in her evidence.
- 61 These provisions are the most appropriate way to achieve the purpose of the RMA and to achieve the objectives of the Proposed Plan. The provisions will give effect to the NPSET and the NZCPS and the RPS and promote the integrated management of natural and physical resources.

Rebecca Tompkins
Counsel for Transpower
15 July 2019

APPENDIX A: KEY NPSET PROVISIONS

Preamble

This national policy statement sets out the objective and policies to enable the management of the effects of the electricity transmission network under the Resource Management Act 1991.

In accordance with section 55(2A)(a) of the Act, and within four years of approval of this national policy statement, local authorities are to notify and process under the First Schedule to the Act a plan change or review to give effect as appropriate to the provisions of this national policy statement.

The efficient transmission of electricity on the national grid plays a vital role in the well-being of New Zealand, its people and the environment. Electricity transmission has special characteristics that create challenges for its management under the Act. These include:

- Transporting electricity efficiently over long distances requires support structures (towers or poles), conductors, wires and cables, and sub-stations and switching stations.
- These facilities can create environmental effects of a local, regional and national scale. Some of these effects can be significant.
- The transmission network is an extensive and linear system which makes it important that there are consistent policy and regulatory approaches by local authorities.
- Technical, operational and security requirements associated with the transmission network can limit the extent to which it is feasible to avoid or mitigate all adverse environmental effects.
- The operation, maintenance and future development of the transmission network can be significantly constrained by the adverse environmental impact of third-party activities and development.
- The adverse environmental effects of the transmission network are often local – while the benefits may be in a different locality and/or extend beyond the local to the regional and national – making it important that those exercising powers and functions under the Act balance local, regional and national environmental effects (positive and negative).
- Ongoing investment in the transmission network and significant upgrades are expected to be required to meet the demand for electricity and to meet the government’s objective for a renewable energy future, therefore strategic planning to provide for transmission infrastructure is required.

The national policy statement is to be applied by decision-makers under the Act. The objective and policies are intended to guide decision-makers in drafting plan rules, in making decisions on the notification of the resource consents and in the determination of resource consent applications, and in considering notices of requirement for designations for transmission activities.

However, the national policy statement is not meant to be a substitute for, or prevail over, the Act's statutory purpose or the statutory tests already in existence. Further, the national policy statement is subject to Part 2 of the Act.

For decision-makers under the Act, the national policy statement is intended to be a relevant consideration to be weighed along with other considerations in achieving the sustainable management purpose of the Act.

This preamble may assist the interpretation of the national policy statement, where this is needed to resolve uncertainty.

Objective

To recognise the national significance of the Grid by facilitating its operation, maintenance and upgrade and the establishment of new Grid assets to meet the needs of present and future generations while:

- Managing the adverse environmental effects of the network; and
- Managing the adverse effects of other activities on the network.

Policy 1

Decision-makers must recognise and provide for the national, regional and local benefits of sustainable, secure and efficient electricity transmission.

Policy 2

Decision-makers must recognise and provide for the effective operation, maintenance, upgrading and development of the electricity transmission network.

Policy 3

When considering measures to avoid, remedy or mitigate adverse environmental effects of transmission activities, decision-makers must consider the constraints imposed on achieving those measures by the technical and operational requirements of the network.

Policy 4

When considering the environmental effects of new transmission infrastructure or major upgrades of existing transmission infrastructure, decision-makers must have regard to the extent to which any adverse effects have been avoided, remedied or mitigated by the route, site and method selection.

Policy 8

In rural environments, planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities.

APPENDIX B: KEY NZCPS PROVISIONS

Policy 6: Activities in the coastal environment

1. In relation to the coastal environment:
 - a. recognise that the provision of infrastructure, the supply and transport of energy including the generation and transmission of electricity, and the extraction of minerals are activities important to the social, economic and cultural well-being of people and communities;
 - b. consider the rate at which built development and the associated public infrastructure should be enabled to provide for the reasonably foreseeable needs of population growth without compromising the other values of the coastal environment;
 - c. encourage the consolidation of existing coastal settlements and urban areas where this will contribute to the avoidance or mitigation of sprawling or sporadic patterns of settlement and urban growth;
 - d. recognise tangata whenua needs for papakāinga, marae and associated developments and make appropriate provision for them;
 - e. consider where and how built development on land should be controlled so that it does not compromise activities of national or regional importance that have a functional need to locate and operate in the coastal marine area;
 - f. consider where development that maintains the character of the existing built environment should be encouraged, and where development resulting in a change in character would be acceptable;
 - g. take into account the potential of renewable resources in the coastal environment, such as energy from wind, waves, currents and tides, to meet the reasonably foreseeable needs of future generations;
 - h. consider how adverse visual impacts of development can be avoided in areas sensitive to such effects, such as headlands and prominent ridgelines, and as far as practicable and reasonable apply controls or conditions to avoid those effects;
 - i. set back development from the coastal marine area and other water bodies, where practicable and reasonable, to protect the natural character, open space, public access and amenity values of the coastal environment; and
 - j. where appropriate, buffer areas and sites of significant indigenous biological diversity, or historic heritage value.
2. Additionally, in relation to the coastal marine area:
 - a. recognise potential contributions to the social, economic and cultural wellbeing of people and communities from use and development of the coastal marine area, including the potential for renewable marine energy to contribute to meeting the energy needs of future generations;

- b. recognise the need to maintain and enhance the public open space and recreation qualities and values of the coastal marine area;
- c. recognise that there are activities that have a functional need to be located in the coastal marine area, and provide for those activities in appropriate places;
- d. recognise that activities that do not have a functional need for location in the coastal marine area generally should not be located there; and
- e. promote the efficient use of occupied space, including by:
 - i. requiring that structures be made available for public or multiple use wherever reasonable and practicable;
 - ii. requiring the removal of any abandoned or redundant structure that has no heritage, amenity or reuse value; and
 - iii. considering whether consent conditions should be applied to ensure that space occupied for an activity is used for that purpose effectively and without unreasonable delay.

Policy 7: Strategic planning

1. In preparing regional policy statements, and plans:

- a. consider where, how and when to provide for future residential, rural residential, settlement, urban development and other activities in the coastal environment at a regional and district level; and
- b. identify areas of the coastal environment where particular activities and forms of subdivision, use, and development:
 - i. are inappropriate; and
 - ii. may be inappropriate without the consideration of effects through a resource consent application, notice of requirement for designation or Schedule 1 of the Resource Management Act process; and provide protection from inappropriate subdivision, use, and development in these areas through objectives, policies and rules.

2. Identify in regional policy statements, and plans, coastal processes, resources or values that are under threat or at significant risk from adverse cumulative effects. Include provisions in plans to manage these effects. Where practicable, in plans, set thresholds (including zones, standards or targets), or specify acceptable limits to change, to assist in determining when activities causing adverse cumulative effects are to be avoided.

Policy 11: Indigenous biological diversity (biodiversity)

To protect indigenous biological diversity in the coastal environment:

- a. avoid adverse effects of activities on:
 - i. indigenous taxa⁴ that are listed as threatened⁵ or at risk in the New Zealand Threat Classification System lists;

- ii. taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;
- iii. indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;
- iv. habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;
- v. areas containing nationally significant examples of indigenous community types; and
- vi. areas set aside for full or partial protection of indigenous biological diversity under other legislation; and

b. avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:

- i. areas of predominantly indigenous vegetation in the coastal environment;
- ii. habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;
- iii. indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;
- iv. habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;
- v. habitats, including areas and routes, important to migratory species; and
- vi. ecological corridors, and areas important for linking or maintaining biological values identified under this policy.

Policy 13: Preservation of natural character

1. To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use, and development:

- a. avoid adverse effects of activities on natural character in areas of the coastal environment with outstanding natural character; and
- b. avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment; including by:
 - c. assessing the natural character of the coastal environment of the region or district, by mapping or otherwise identifying at least areas of high natural character; and
 - d. ensuring that regional policy statements, and plans, identify areas where preserving natural character requires objectives, policies and rules, and include those provisions.

2. Recognise that natural character is not the same as natural features and landscapes or amenity values and may include matters such as:

- a. natural elements, processes and patterns;
- b. biophysical, ecological, geological and geomorphological aspects;
- c. natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs and surf breaks;
- d. the natural movement of water and sediment;
- e. the natural darkness of the night sky;
- f. places or areas that are wild or scenic;
- g. a range of natural character from pristine to modified; and
- h. experiential attributes, including the sounds and smell of the sea; and their context or setting.

Policy 15: Natural features and natural landscapes

To protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development:

- a. avoid adverse effects of activities on outstanding natural features and outstanding natural landscapes in the coastal environment; and
- b. avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects of activities on other natural features and natural landscapes in the coastal environment; including by:
 - c. identifying and assessing the natural features and natural landscapes of the coastal environment of the region or district, at minimum by land typing, soil characterisation and landscape characterisation and having regard to:
 - i. natural science factors, including geological, topographical, ecological and dynamic components;
 - ii. the presence of water including in seas, lakes, rivers and streams;
 - iii. legibility or expressiveness – how obviously the feature or landscape demonstrates its formative processes;
 - iv. aesthetic values including memorability and naturalness;
 - v. vegetation (native and exotic);
 - vi. transient values, including presence of wildlife or other values at certain times of the day or year;
 - vii. whether the values are shared and recognised;
 - viii. cultural and spiritual values for tangata whenua, identified by working, as far as practicable, in accordance with tikanga Māori; including their expression as cultural landscapes and features;
 - ix. historical and heritage associations; and
 - x. wild or scenic values;
- d. ensuring that regional policy statements, and plans, map or otherwise identify areas where the protection of natural features and natural landscapes requires objectives, policies and rules; and

e. including the objectives, policies and rules required by (d) in plans.

APPENDIX C: KEY RPS PROVISIONS

INF POLICY 3: Buffer corridors shall be identified so that development incompatible with the National Grid is not located within such corridors and thereby ensuring reserve sensitivity effects are avoided.

INF METH 7: When considering an application for resource consent, notice of requirement or a change or variation to a district or regional plan that is likely to affect a transmission corridor, local authorities shall **consult with or notify the operator of the National Grid**.

IN METH 18: When considering an application for resource consent, notice of requirement or a change or variation to a district or regional plan that is likely to affect a transmission corridor, local authorities shall **consult with or notify the operator of the National Grid**.

Chapter 8 clearly states that it may be appropriate to locate infrastructure in the coastal environment.

Chapter 14 recognises Taranaki's energy resources as nationally significant and the use and development of these resources rely on infrastructure such as the National Grid to transmit these resources to other regions. It also recognises many of these energy resources and potential future resources (e.g. tidal generation) could be located within the coastal environment, requiring connection to the National Grid.

Before Hearing Panel – Proposed Taranaki Regional Coastal Plan

Under The Resource Management Act 1991 (the Act)

In the matter of Proposed Taranaki Regional Coastal Plan

Between Taranaki Regional Council
Local Authority

And Transpower New Zealand Ltd
Submitter and Further Submitter

Supplementary Evidence

Pauline Mary Whitney

Dated 24 July 2019

- 1 My full name is Pauline Mary Whitney. I am a Senior Planner: Senior Principal of Boffa Miskell Limited. I am a Full Member of the New Zealand Planning Institute and have over 22 years' experience as a resource management planner.
- 2 My evidence is given in support of Transpower's submission on the Proposed Taranaki Regional Coastal Plan and addresses the RMA policy documents relevant to the National Grid.
- 3 I **support** (or accept) the majority of the section 42A Report recommendations. Transpower lodged some 78 individual submission points (44 original and 34 further points), many of which were points in support of the notified provisions and I acknowledge the recognition of Transpower's concerns. Attached as Appendix B to my primary evidence is a summary table of responses to the officer recommendations which I either support or accept.
- 4 The purpose of this supplementary evidence is to:
 - i) Highlight the two outstanding submission points/issues of relevance to Transpower
 - ii) Outline proposed supplementary amendments to Policy 6A as a result of discussion with other submitters since the lodgment of my primary evidence.

Primary Outstanding Issues

- 5 As outlined in my primary evidence there are two outstanding issues from the section 42A Report recommendations:
 - i) Policy 5 Appropriate use and development
 - ii) Rule 34 Structure erection or replacement (and associated Rule 61 Disturbance, damage, or destruction or foreshore or seabed)
- 6 For the sake of completeness, I note in my evidence I provided conditional support for Policy 6, Policy 8, Policy 9, Policy 14 and Policy 19 on the basis a specific National Grid policy (Policy 6A) is provided.

Policy 5 Appropriate use and development

- 7 The recommendation on Policy 5 is accepted in part in that reference to 'operational need' is included within Clause a). This reference is supported as it appropriately

recognises that some activities require a coastal location due to their technical or operational characteristics or constraints. As an example of 'operational need' while Transpower may not currently have a functional need to locate in Taranaki's coastal environment, it may have an operational need to locate within the coastal environment in order to provide for the transmission of electricity from generation to the distribution network i.e. provide the connection between the generators and distributors.

- 8 While the addition of 'operational need' to Clause a) is supported, the recommendation is opposed in part in that it fails to appropriately recognise or provide for new National Grid infrastructure within the Coastal Environment (i.e. those areas outside the Coastal Marine Area but within the Coastal Environment as while Policy 5 applies to the whole Coastal Environment, Clause a) is limited to the Coastal Marine Area only). In my opinion, there is a gap in relation to the policy recognition of the operational need within the Coastal Environment. To address the gap, in my evidence I have sought an amendment to Clause (aa) to recognise the development of the National Grid within the Coastal Environment.

Rule 34 Structure erection or replacement, and Rule 61 Disturbance, damage, or destruction or foreshore or seabed

- 9 The second outstanding point in my primary evidence relates to the non-complying rule for new structures within areas identified as Outstanding Value or Estuaries Unmodified. In my evidence I sought a discretionary activity status for new National Grid structures, for the following reasons:
 - (i) Policy 8 of the NPSET directs that, within rural environments, planning and development of the National Grid should seek to avoid adverse effects on certain identified environments (being outstanding natural landscapes, area of high natural character and recreation values and amenity and existing sensitive activities). The wording of NPSET Policy 8 ("should seek to avoid") does not impose an absolute requirement for the National Grid to avoid all adverse effects. Rather, the NPSET recognises total avoidance is not always possible given the technical and operational requirements of the National Grid (as recognised in Policy 3 of the NPSET).
 - (ii) As a discretionary activity, a full assessment of effects of any proposed National Grid related activity would be required as well as a robust route, site and method selection process (as required by NPSET Policy 4), appropriate conditions imposed, and the application able to be granted or declined. A discretionary activity status does not 'allow' the activity, rather enables a case by case merits assessment of the proposal

through the resource consent process. This is informed by the policy framework. A discretionary activity status would also give effect to the “seek to avoid” Policy 6A, sought by Transpower and recommended by the reporting officer, with the ‘seek to avoid policy’ directive embedded within the policy. The supplementary amendments proposed to Policy 6A as outlined below, embed the route, site and method selection process within the ‘seek to avoid’ Policy 6A.

- (iii) A discretionary activity status is consistent with that provided in the Bay of Plenty Regional Coastal Plan.
 - (iv) As a non-complying activity, the activity would be required to pass the S104 ‘gateway test’. I acknowledge the new “seek to avoid” Policy 6A appropriately provides for the National Grid. However, in my opinion the directive nature of the other ‘protect’ policies within the PCPT, combined with the reality that any new National Grid development would likely generate more than minor adverse effects may pose difficulties for any National Grid development to pass the S104 ‘gateway test’.
 - (v) In my opinion, the provision of a non-complying activity status infers such activities are inappropriate regardless of context. Conversely, a discretionary activity status in my opinion applies to those activities which may not be suitable in all locations in a zone but may be suitable in some locations. As provided on the Quality Planning Website , *“non-complying activities are those that the RMA, regulations (including a national environmental standard), or a plan describes as non-complying. This activity status is often reserved for those activities where the potential adverse effects are great but do not necessarily warrant prohibition”* .
 - (vi) While Policies 11, 13, and 15 of the NZCPS require protection, in my opinion, these policy directives need to also be read and applied alongside the more enabling provisions of the NPSET, which recognise the national significance of the National Grid and the need to operate, maintain, develop and update the electricity transmission network. The legal submission of Ms Tompkins expands on the relationship between the NPSET and NZCPS.
- 10 While not raised in my primary evidence, a further reason to support a discretionary activity status is that as a non-complying activity the assessment process cannot take into account the objectives and policies of the NPSET. Instead S104D(1)(b) limits the assessment to the objectives and policies of the Regional Coastal Plan. On this basis I support a discretionary activity status as it enables assessment against the NPSET.

- 11 For completeness I note the submission point on Rule R61 is addressed through the inclusion of disturbance, deposition and discharge within Rule R34.

Supplementary Amendment

- 12 Since the release of officer recommendations on the proposed Regional Coastal Plan Transpower has been in dialogue with the two further submitters (DoC and Forest and Bird) on the non-complying rule 34 (and Transpower's submission point seeking a discretionary activity status for new National Grid structures within areas of Outstanding Value and Estuaries unmodified). The discussions to date have centred around amendment to Policy 6A in order address the further submitters concerns with a discretionary activity status. Transpower has taken the comments and concerns of the further submitters on board and on this basis I support further amendment to the officer recommended Policy 6A as follows (refer Green highlighted and underlined text): I note no agreement has been reached on the amended policy or discretionary activity status but Forest and Bird has indicated it has no concerns with the amended policy at this stage. DoC are not comfortable committing to the revised policy or amended activity status at this stage as have not fully considered the provisions. However, they are keen to continue the discussions post-hearing.

Policy 6A: Management of adverse effects of the National Grid
Where the National Grid has a functional need or operational need to locate in the coastal environment, manage the adverse effects arising from their activities by:

~~*(a) recognising there may be some areas in the coastal environment where avoidance of adverse effects is required to protect the identified special values of those areas;*~~

(b) seeking to avoid adverse effects on: areas of outstanding value; significant indigenous biodiversity; historic heritage as identified in schedules 5A and 5B; and nationally or regionally significant surf breaks as identified in Schedule 7A and B;

~~*(ba) utilising the more modified parts of the areas identified in (b) where the route, site and method selection process has considered the avoidance of areas listed in (b) is not practicable;*~~

(c) where it is not practicable to avoid adverse effects on the values of the areas listed in (b) above because of the functional needs or operational needs of the National Grid, remedy or mitigate adverse effects on those values; and

(d) avoiding, remedying or mitigating other adverse effects to the extent practicable.
Recognising that in some circumstances, adverse effects on the areas listed in (b) must be avoided.

- 13 The primary changes and reasons are:

- Movement and refinement of Clause (a) to make it clear that the avoidance requirement applies across all areas in some circumstances. The need for avoidance would be determined at the resource consent stage where the particulars of the proposal and nature of effects are able to be assessed. In my opinion a discretionary

activity status would support and reflect the Policy 6A approach in that at the resource consent stage, the appropriateness of the particular activity in that particular location would be able to be assessed.

- The second amendment is for the inclusion of a new clause (ba) which provides a more 'stepped' approach to the policy in that the emphasis is first on seeking to avoid the areas, and then utilising the more modified parts of the areas, and then remedying or mitigating adverse effects. Inclusion of reference to the consideration of the route, site and method selection process gives effect to Policy 4 of the NPSET.

14 In my opinion the changes outlined add clarity to the application of the policy and provide greater robustness in terms of how the policy would be applied.

15 The balance of my primary evidence stands.

Pauline Whitney, 24 July 2019

BEFORE THE TARANAKI REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Regional Coastal Plan

Evidence for Hearing commencing 1 August 2019

To be Tabled

Evidence of Rebecca Beals, RMA Team Leader

Submitter: KiwiRail Holdings Ltd.

Introduction

1. My name is Rebecca Beals and I am the RMA Team Leader for KiwiRail Holdings Limited ("KiwiRail"). I have over 18 years RMA and planning experience. I hold a Bachelor of Laws, a Bachelor of Science (Geography) and a Masters in Resource and Environmental Planning. I am a full member of the New Zealand Planning Institute and also a member of the Resource Management Law Association.
2. This statement is submitted on behalf of KiwiRail in connection with its function as a network utility operator in the Taranaki Region.
3. I am unable to present in person at the hearing and trust that the Hearings Panel will consider this statement as tabled in relation to the Hearing on the Proposed Regional Coastal Plan.

KiwiRail submission points

4. There are a number of points in the KiwiRail submission in support of the detail provided in the notified Coastal Plan and a number of points that sought changes to the provisions relevant to the delivery of a long linear network, like the rail corridor.

Officers Report / Discussion

5. I have had extensive ongoing liaison with the reporting officer post the lodging of the submission and have had the opportunity to review the recommended changes to the Regional Coastal Plan to reflect the matters raised in all submissions. As a result of the changes now proposed, noting that these do not always give KiwiRail the relief sought in the submission, I believe these achieve an outcome that gives effect to the outcomes sought by the KiwiRail submission.



6. I now confirm for the Hearings Panels benefit that KiwiRail supports the recommendations in the Section 42A report in relation to the KiwiRail submission points and the subsequent changes to the Coastal Plan that have arisen as a result.
7. I acknowledge that there are other parties who have submitted on the same provisions as KiwiRail, and who may not have the same support for the recommendations within the s42A report. KiwiRail wish to ensure the Hearings Panel are aware of our support for the changes, and that KiwiRail therefore seek the recommendations within the s42A report are adopted. In the event of the Hearings Panel considering changes to the provisions recommended in the s42A report I seek to ensure that implications for long linear networks and the operation, maintenance and upgrade of these is considered as part of the decision-making process.

RMA – Part 2

8. Part 2 sets out the Purpose and Principles of the RMA. Included in Section 5(2) are the wellbeings that make up sustainable management, being the purpose of the RMA. Those wellbeings include managing the use, development and protection of natural and physical resources in a way which enables people and communities to provide for their health and safety.
9. The changes sought through the KiwiRail submission predominantly related to protecting public safety by ensuring the rail network can be operated and maintained in a safe and efficient manner. The implementation of the provisions is through seeking to avoid adverse effects from inappropriate activities which otherwise may have the potential to result in an increased risk to public safety and the rail network.

Summary

10. As discussed above, there are a number of the KiwiRail submission points that are accepted and others that are, following discussions with Council, accepted in part. I can confirm that KiwiRail accept these recommendations.



Rebecca Beals

RMA Team Leader

KiwiRail

31 July 2019