

Planning Memo: Consentability of Adaptation Pathways

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Introduction

The purpose of the memorandum is to complete an initial planning analysis of the adaptation pathways for the Raumati Adaptation Area to inform the Technical Advisory Group's draft scoring of the "Regulatory consenting and policy risk" criteria for each pathway. The draft scoring will be considered by the Coastal Advisory Panel (CAP) on 13 December 2023.

The proposed pathways are high-level coastal management approaches. The scale, material and location of any potential works sit outside the scope of the Takutai Kāpiti project. The information provided in this memorandum is intended to provide guidance as to how likely resource consent for an option might be. Once concept designs are available a more detailed planning assessment will be required by Council. The assessment has assumed all steps will be taken to apply best practice into the design and minimise construction effects as much as practicable. A consent application will need to consider all aspects of the activity including the construction effects.

A detailed assessment of the planning provisions will be required for any resource consent application. All information within the memorandum is provided without prejudice and does not replace the need for the detailed assessment to be undertaken when a preferred approach is to be pursued.

The memorandum considers the currently consenting framework under the:

- Resource Management Act 1991 (RMA),
- New Zealand Coastal Policy Statement (NZCPS),
- National Policy Statement for Freshwater Management (NPS-FM),
- National Policy Statement for Indigenous Biodiversity (NPS-IB),
- National Environmental Statements for Freshwater (NES-F),
- Regional Policy Statement (RPS) including Proposed Change 1 to the RPS,
- Greater Wellington Natural Resources Plan (NRP), and
- Kapiti Coast District Plan (KCDP).

Consideration has been made regarding the requirements under other legislation where this legislation may put limitations on whether a resource consent can be granted, or the works implemented.

1. Why is consent required?

Section 9 of the RMA places restrictions on the use of land. No person may use land in a manner that contravenes a regional plan or district plan unless a resource consent is granted, or the activity has existing use rights under section 10. Section 12 of the RMA places restrictions on the use of the coastal marine area (CMA). Activities must not occur unless they are permitted by a regional coastal plan, or a resource consent is granted.

Protection works require resource consent and whether they require consent under section 9 or section 12 comes down to whether the works are to be located within, or outside, the CMA.

1.1 Regional Plan vs District Plan

The RMA states that:

coastal marine area means the foreshore, seabed, and coastal water, and the air space above the water—

- (a) of which the seaward boundary is the outer limits of the territorial sea:*
- (b) of which the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of—*
 - (i) 1 kilometre upstream from the mouth of the river; or*
 - (ii) the point upstream that is calculated by multiplying the width of the river mouth by 5.*

Seawalls are often constructed at or about Mean High Water Springs (MHWS). Greater Wellington Regional Council (GWRC) control the land seaward of MHWS and Kāpiti Coast District Council (KCDC) control the land above MHWS. This means that some seawalls require resource consent from GWRC and others will require consent from the KCDC. Due to the nature of coastal processes the exact location of MHWS is dynamic and subject to change. The accurate identification of MHWS would be undertaken by a licensed cadastral surveyor as part of the development of any resource consents.

1.2 Consideration of resource consent applications

The RMA is prescriptive in how resource consent applications are to be processed. Schedule 4 sets out the information required as part of a resource consent application. Clause 2 (Information required in all applications) of that schedule requires that:

- (1) An application for a resource consent for an activity (the activity) must include the following:*
 - (a) a description of the activity;*
 - (b) a description of the site at which the activity is to occur;*
 - (c) the full name and address of each owner or occupier of the site;*
 - (d) a description of any other activities that are part of the proposal to which the application relates;*
 - (e) a description of any other resource consents required for the proposal to which the application relates;*
 - (f) an assessment of the activity against the matters set out in Part 2:*

- (g) an assessment of the activity against any relevant provisions of a document referred to in section 104(1)(b).*
- (2) The assessment under subclause (1)(g) must include an assessment of the activity against—*
 - (a) any relevant objectives, policies, or rules in a document; and*
 - (b) any relevant requirements, conditions, or permissions in any rules in a document; and*
 - (c) any other relevant requirements in a document (for example, in a national environmental standard or other regulations).*
- (3) An application must also include an assessment of the activity's effects on the environment that—*
 - (a) includes the information required by clause 6; and*
 - (b) addresses the matters specified in clause 7; and*
 - (c) includes such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.*

Clauses 3, 4 and 5 of that schedule set out additional information that is relevant in some circumstances and Clauses 6 and 7 set out information required in the assessment of environmental effects.

1.2.1 Consultation requirements

Once an application for resource consent has been lodged, the consent authority (i.e., GWRC and/or KDCDC) must decide whether to public or limited notify the application in accordance with Sections 95 to 95F of the RMA. If the application is publicly notified, anyone can make a submission on the application. If the consent authority decides not to publicly notify, the application may still be limited notified to affected persons under s95B. If a resource consent is not notified, the public do not have the ability to submit on the application.

Section 95A of the RMA sets out the steps that a consent authority must follow when deciding whether to publicly notify a resource consent application. These include consideration of whether there is a mandatory requirement to notify, whether the activity is subject to a rule or national standard that requires notification, whether the activity will have or is likely to have adverse effects on the environment that are more than minor or whether special circumstances apply. The consent authority cannot publicly notify a resource consent for a controlled activity unless special circumstances apply.¹

If public notification is not required, the consent authority must determine if limited notification is required in accordance with Section 95B of the RMA which sets out steps to identify affected people or groups. Where an application is limited notified only those parties or persons who received notification are able to submit.

A notification decision must be made for all resource consent applications, this will in part depend on the scale of effects and proposed mitigation. As no detailed designs are available the likelihood of notification is not discussed specifically for each pathway.

¹ Section 87A(2) provides two exceptions of when a controlled activity must be granted. 1. A consent authority may refuse to grant a subdivision consent if there is a significant risk from natural hazards or there is not sufficient legal and physical access to each allotment. 2. The site is a protected customary rights area, and the activity will or is likely to have adverse effects that are more than minor on the exercise of a protected customary right.

1.2.2 Consideration of application

Section 104 of the RMA relates to the consideration of applications for resource consent. It requires the consenting authority to (among other things) have regard to the following matters:

- (a) *any actual and potential effects on the environment of allowing the activity; and*
- (ab) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
- (b) *any relevant provisions of—*
 - (i) *a national environmental standard;*
 - (ii) *other regulations;*
 - (iii) *a national policy statement;*
 - (iv) *a New Zealand coastal policy statement;*
 - (v) *a regional policy statement or proposed regional policy statement;*
 - (vi) *a plan or proposed plan; and*
- (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

In addition to this, section 104 sets out other relevant considerations including considering any relevant iwi management plans.

2. Statutory assessment

Memorandum 1A has been prepared to set out the broader legislative and policy environment. This memorandum should be read in conjunction with Memorandum 1A. The provisions set out in the following sections are particularly relevant to consenting protection structures.

2.1 New Zealand Coastal Policy Statement (NZCPS)

The purpose of the NZCPS is to state policies in order to achieve the purpose of the RMA in relation to the coastal environment of Aotearoa New Zealand. The Supreme Court has found that Part 2 of the RMA has been embodied by the NZCPS and therefore it is not appropriate to resort to Part 2 when giving effect to the NZCPS². The RPS, NRP and KCDP are required to give effect to the NZCPS. The RPS and NRP have given effect to the NZCPS. However, while KCDP became operative in 2021, the proposed amendments to the Coastal Environment Chapter that were initially included in the full plan review notified in 2012 were withdrawn, and the District Plan retains the 1999 provisions. These 1999 provisions are yet to give effect to the NZCPS.

Objective 5, Policy 3 and Policy 27 are particularly important for considering protection structures. Objective 5 requires the consideration of responses including managed retreat for existing development. The Takutai Kāpiti project is considering a range of responses to coastal hazards including retreat in accordance with Objective 5.

Objective 5

To ensure that coastal hazard risks taking account of climate change, are managed by:

- *locating new development away from areas prone to such risks;*
- *considering responses, including managed retreat, for existing development in this situation; and*
- *protecting or restoring natural defences to coastal hazards.*

The precautionary approach requires a risk management approach and is appropriate when the risk of potential significant adverse or irreversible environmental effects cannot be adequately assessed.

Policy 3: Precautionary approach:

- (1) *Adopt a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse.*
- (2) *In particular, adopt a precautionary approach to use and management of coastal resources potentially vulnerable to effects from climate change, so that:*
 - (a) *avoidable social and economic loss and harm to communities does not occur; [...]*

Policy 27 requires a range of options to be assessed for the protection of significant existing development.

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;*

² The Supreme Court held that there are three exceptions where resorting to Part 2 would be appropriate, namely: (a) where there is a claim of invalidity; (b) if the planning document does not cover the field; or (c) the provisions are uncertain. *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited & Ors* [2014] NZSC 38.

- (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;*
 - (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.*

2.2 National Policy Statement for Indigenous Biodiversity (NPS-IB)

The objective of the NPS-IB is:

- (a) *to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and*
- (b) *to achieve this:*
 - (i) *through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and*
 - (ii) *by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and*
 - (iii) *by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and*
 - (iv) *while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.*

Policies 3, 4, 5 and 10 are particularly relevant to the consideration of resource consent applications; however, the NPS-IB will need to be considered in full in an application. These policies require a balance of adopting a precautionary approach when considering adverse effects on indigenous biodiversity, consideration of the benefits of protecting indigenous biodiversity and providing for the appropriate subdivision, use and development of land.

Policy 3: A precautionary approach is adopted when considering adverse effects on indigenous biodiversity.

Policy 4: Indigenous biodiversity is managed to promote resilience to the effects of climate change.

Policy 5: Indigenous biodiversity is managed in an integrated way, within and across administrative boundaries.

Policy 10: Activities that contribute to New Zealand's social, economic, cultural, and environmental wellbeing are recognised and provided for as set out in this National Policy Statement.

If there is a conflict between the provisions of this National Policy Statement and the NZCPS, the NZCPS prevails.

2.3 National Policy Statement for Freshwater Management (NPS-FM)

The NPS-FM applies to all freshwater and the receiving environments. It is most relevant where activities are to occur in or near a freshwater body including wetlands.

The objective of the NPS-FM is:

To ensure that natural and physical resources are managed in a way that prioritises:

- (a) first, the health and well-being of water bodies and freshwater ecosystems*
- (b) second, the health needs of people (such as drinking water)*
- (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.*

All of the policies within the NPS need to be considered and these are provided in Appendix A.

2.4 Regional Policy Statement

Any consent application will need to consider the relevant objectives and policies in the RPS and Change 1 to the RPS. As part of a resource consent application the full range of provisions will need to be considered. The most significant ones are provided below. Amendments to the RPS by Proposed Change 1 (notification version) are shown below. Deletions are shown in strike through, and additions are shown in underline.

Objective 19: The risks and consequences to people, communities, ~~their~~ businesses, property, ~~and~~ infrastructure and the environment from natural hazards and the effects of climate change ~~effects~~ are ~~reduced~~ minimised.

Objective 20: Natural hazard and climate change mitigation and adaptation activities minimise the risks from natural hazards and impacts on Te Mana o te Wai, Te Rito o te Harakeke, natural processes, indigenous ecosystems and biodiversity.

Objective 21: The resilience of our ~~communities are more resilient to natural hazards, including the impacts~~ and the natural environment to the short, medium, and long-term effects of climate change; and sea level rise is strengthened, and people are better prepared for the consequences of natural hazard events.

Objective CC.6: Resource management and adaptation planning increases the resilience of communities, infrastructure and the natural environment to the short, medium, and long-term effects of climate change.

Policy 51 requires risks to be avoided or minimised. Policy 51(g) provides for activities that need to be located in hazardous locations to be constructed there. Seawalls need to be located in the coastal environment.

When considering an application for a resource consent, notice of requirement, or a change, variation or review to a district or regional plan, the risk and consequences of natural hazards on people, communities, their property and infrastructure shall be minimised, and/or in determining whether an activity is inappropriate particular regard shall be given to:

- (a) ~~the frequency and magnitude~~ likelihood and consequences of the range of natural hazards that may adversely affect the ~~proposal or development~~ subdivision, use or development, including residual risk those that may be exacerbated by climate change and sea level rise;*
- (b) ~~the potential for climate change and sea level rise to increase in the frequency or magnitude of a hazard event;~~*
- (c) whether the location of the subdivision, use or development will foreseeably require hazard mitigation works in the future;*
- (d) the potential for injury or loss of life, social and economic disruption and civil defence emergency management implications – such as access routes to and from the site;*
- (e) whether the subdivision, use or development causes any change in the risk and consequences from natural hazards in areas beyond the application site;*
- (f) minimising effects on the impact of the proposed subdivision, use or development on any natural features that may act as a buffer to or reduce the impacts of a from natural hazards event; and where development should not interfere with their ability to reduce the risks of natural hazards;*
- (g) avoiding inappropriate subdivision, use or development and hazard sensitive activities where the hazards and risks are assessed as high to extreme; in areas at high risk from natural hazards;*
- (h) appropriate hazard risk management and/or adaptation and/or mitigation measures for subdivision, use or development in areas where the hazards and risks are assessed as low to moderate hazard areas, including an assessment of residual risk; and*
- (i) the allowance for floodwater conveyancing in identified overland flow paths and stream corridors; and*
- (j) the need to locate habitable floor areas levels of habitable buildings and buildings used as places of employment above the 1% AEP (1:100 year) flood level, in identified flood hazard areas.*

Policy 52 applies directly to the implementation of hazard mitigation measures. It mirrors the wording of the NZCPS and requires other options to be considered as part of a resource consent application.

Policy 52: Minimising adverse effects of hazard mitigation measures – consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, for hazard mitigation measures, particular regard shall be given to:

- (a) ~~the need for structural protection works or hard engineering methods;~~*
- (b) whether non-structural, soft engineering, green infrastructure, room for the river or Mātauranga Māori options provide a more appropriate or suitably innovative solution;*
- (c) avoiding structural protection works or hard engineering methods unless it is necessary to protect existing development, regionally significant infrastructure or property from unacceptable risk*

and the works form part of a long-term hazard management strategy that represents the best practicable option for the future;

- (d) the long-term viability of maintaining the structural protection works with particular regard to how climate change may increase the risk over time;*
- (e) adverse effects on Te Mana o te Wai, mahinga kai, Te Rito o te Harakeke, natural processes, or the local indigenous ecosystem and biodiversity;*
- (f) sites of significance to mana/tangata whenua identified in a planning document recognised by an iwi authority and lodged with a local authority or scheduled in a city, district or regional plan;*
- (g) a no more than minor increase in risk to nearby areas as a result of changes to natural processes from the hazard mitigation works;*
- (h) the cumulative effects of isolated structural protection works;*
- (i) any residual risk remaining after mitigation works are in place,*
so that they minimise ~~reduce and do not increase~~ the risks from ~~of~~ natural hazards.

Policies 35-37 are also relevant to resource consents within the coastal environment. They specifically relate to the protection of natural character and safeguarding life-supporting capacity of coastal ecosystems. For completeness these are provided in Appendix A.

3. Takutai Kāpiti Pathways

CAP is identifying a series of pathways for the Raumati Adaptation Area. The below considers the consenting requirements for the actions within the pathways.

3.1 Status Quo: Like for like upgrades, repairs and maintenance within the CMA

Applicable to: Sub-area 10A Raumati (South of Wharemauku Stream): Pathways 1, 2, 3, 4 and 5

Consent Status: Controlled Activity

Relevant Plan: Greater Wellington Natural Resources Plan (NRP)

KCDC are about to commence a programme of seawall upgrades, repairs, and maintenance on the Raumati and Paekākāriki seawalls. The work is to be phased over about ten years with priority based on the current condition of the seawall.

Given this work is committed to in Council's current (2021) Long Term Plan, it has been considered as the "Status Quo" in the proposed pathways for Raumati. The works will deliver a seawall that will provide a similar level of protection that exists already. In this case, resource consent is required under the NRP as the seawall is located in the CMA.

3.1.1 Consenting status

Rule R185 in the NRP applies to the Raumati and Paekākāriki Adaptation Areas where there are existing seawalls located within the CMA. The coastline adjacent to Queen Elizabeth II Park is a scheduled site and therefore is excluded from this rule.

Rule R185 provides for additions or alterations to, or replacements of, existing seawalls and the associated use of the addition as a controlled activity. There is some ability to upgrade existing seawalls within this rule provided any additions are not more than 5 m in horizontal extension, 1 m in vertical extension and is not any further seaward than the existing seawall. It is anticipated that this activity will require a consent under R185 as a controlled activity. As a controlled activity consent must be granted.³ The consenting authority can only consider the matters of control specified in the plan.

There are six specified matters of control:

1. *Effects on public access*
2. *Design, design life and construction*
3. *Effects on coastal natural processes including effects on shoreline stability in the vicinity and adjacent areas*
4. *Effects on a site or habitat identified in Schedule F2(c) (indigenous birds), or those scheduled kelp beds* and subtidal rocky reefs to the west and south of Wellington International Airport, or on an adjacent site or habitat identified in Schedule C (mana whenua), Schedule F4 (coastal sites), Schedule F5 (coastal habitats), Schedule J (geological features)*
5. *Effects of coastal erosion and inundation (storm surge) on the seawall*

³ Subject to the exceptions in s87A(2) of the RMA

6. *Effects on the heritage values of structures identified in Schedule E1 (heritage structures), Schedule E2 (wharves and boatsheds) or Schedule E3 (navigational aids).*

Additional to these matters the resource consent application will need to show that the activity meets the general conditions set out in section 5.6.2 of the NRP and provided in Appendix 1.

Earthworks may extend outside the CMA to the land immediately adjacent to the CMA. Earthworks outside the CMA would require resource consent as a discretionary activity from KCDC under rule CE-R2. It is likely that the required assessment would include similar matters as those required to be addressed as part of the regional consent. It is likely that the additional effects can be managed through conditions on the resource consents.

3.1.2 Policy Framework

Policy 146 of the Greater Wellington Natural Resources Plan is relevant to the upgrade of seawalls. This states that:

The construction of a new seawall or the addition to or alteration or replacement of an existing seawall is inappropriate except where the seawall is required to protect:

- (a) *existing, or upgrades to, infrastructure, or*
 - (b) *new Regionally Significant Infrastructure, or*
 - (c) *significant existing development, and*
- in respect of (a), (b) and (c):*
- (d) *there is no reasonable or practicable alternative means, and*
 - (e) *suitably located, designed and certified by a qualified, professional engineer, and*
 - (f) *designed to incorporate the use of soft engineering options where appropriate.*

As the seawall exists, the replacements are limited to like for like repairs and as the seawall protects existing development, the works can generally be considered consistent with the policy.

3.1.3 Summary

As a controlled activity resource consent must be granted with two exceptions. As the seawall will replace an existing structure the effects are likely to be similar in nature to those that exist already.

3.2 Enhance: Building resilience into existing sea walls within the CMA and Protect: New or replacement sea walls within the CMA

Applicable to: Sub-area 9A Raumati (North of Wharemauku Stream): Pathway 5 and 6; and Sub-area 10A Raumati (South of Wharemauku Stream): Pathways 1, 2 and 3

Consent Status: Discretionary Activity

Relevant Plan: Greater Wellington Natural Resources Plan (NRP)

The Raumati seawall is being repaired or replaced with a 25-year design life. It is anticipated that the works required during the next renewal process will be more significant to maintain the same or similar level of

protection. These works are assumed to fall outside the scope of the controlled activity rule R185 outlined above.

Therefore, building resilience into an existing sea wall is likely to have the same consenting requirements as building a replacement sea wall in the same location.

3.2.1 Consenting status

Rule R187 provides for the placement of a new seawall, the associated activities and use as a discretionary activity. As a discretionary activity, GWRC has not limited the matters in which it can consider and therefore a more detailed assessment of environmental effects will be required to accompany the application.

In assessing a discretionary activity greater emphasis is placed on the objectives and policies. For this application it will be required to demonstrate that the seawall protects significant existing development and that alternatives have been considered and ruled out for various reasons. This work is in part being achieved through the Takutai Kāpiti process.

Section 95D and Section 95E of the RMA relate to whether there are grounds to publicly or limited notify an application. These sections enable the consent authority to disregard the adverse effects of the activity if a rule permits an activity with that effect. If the permitted baseline is applied only effects over and above the permitted activity are considered. The application of the permitted baseline is at the discretion of the decision-maker. Given there is currently a seawall and repairs of this wall are a permitted activity there may be benefit in discussing whether, and why, the permitted baseline should be applied in assessing this application.

Earthworks may extend outside the CMA to the land immediately adjacent to the CMA. Earthworks outside the CMA would require resource consent as a discretionary activity from KCDC under CE-R2. It is likely that the required assessment would include similar matters as those required to be addressed as part of the regional consent. It is likely that the additional effects can be managed through conditions on the resource consent. Further discussion on works outside the CMA is provided in the sections below.

3.2.2 Policy Framework

Policy 146 of the Greater Wellington Natural Resources Plan is relevant to the upgrade of seawalls. It is similar to Policy 52 of the RPS. Any works must show that there are no reasonable or practical alternatives, and the design is suitable.

The construction of a new seawall or the addition to or alteration or replacement of an existing seawall is inappropriate except where the seawall is required to protect:

- (a) existing, or upgrades to, infrastructure, or*
- (b) new Regionally Significant Infrastructure, or*
- (c) significant existing development, and*

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

- (d) there is no reasonable or practicable alternative means, and*
- (e) suitably located, designed and certified by a qualified, professional engineer, and*
- (f) designed to incorporate the use of soft engineering options where appropriate.*

3.2.3 Summary

As a discretionary activity, resource consent may be granted or declined. Given there is an existing seawall that protects the community and Council infrastructure it is probable that a resource consent application can be granted if suitable conditions are proposed.

3.3 Soft engineering – beach renourishment within the CMA

Applicable to: Sub-area 9A Raumati (North of Wharemauku Stream): Pathway 4; and Sub-area 10A Raumati (South of Wharemauku Stream): Pathway 5

Consent Status: Restricted Discretionary Activity

Relevant Plan: Greater Wellington Natural Resources Plan (NRP)

3.3.1 Consenting status

Rule R226 provides for the deposition of sand, shingle, shell or other naturally occurring material for beach renourishment as a controlled activity provided the conditions can be met. This includes a limit of 1,500m³ of material in any 12-month period. It is almost certain that the volume of material required will exceed this and therefore the renourishment is a restricted discretionary under Rule R227 provided the activity can meet the conditions. The conditions include that the deposition is undertaken by, or for a local authority, and that the activity forms part of a Coastal Restoration Plan.

As a restricted discretionary activity GWRC has limited the matters that can be considered as part of the consenting processes. However, a consent may be declined on these matters too. The matters of discretion are:

1. *Type and composition of the material to be used including its size, roundness, shape and colour*
2. *Design, design life and method of deposition*
3. *Volume of material to be deposited*
4. *Effects of disturbance, deposition, discharge and diversion associated with the activity*
5. *Effects on coastal natural processes including effects on shoreline stability in the vicinity and adjacent areas*
6. *Effects of coastal erosion and inundation (storm surge) on the deposition*
7. *Effects on sites or habitats identified in Schedule C (mana whenua), Schedule F2c (birds–coastal), Schedule F4 (coastal sites), Schedule F5 (coastal habitats), Schedule J (geological features)*
8. *Measures to manage the loss of the deposited material through wind or water erosion*
9. *Navigational safety and charting including notification of Land Information New Zealand and Maritime New Zealand.*

A Coastal Restoration Plan is a:

"A programme designed to return or restore a coastal environment into as natural a state as possible, with the aim of allowing the coastal environment and/or active beach to function as a natural system, operating by natural coastal processes with minimal interference from human activities. Can involve all or some of the following activities, removal of exotic flora and fauna, removal of hard structures, rock, rubble or other introduced materials, beach re-nourishment (sand or gravel), dune or beach recontouring, re-introduction or enhancement of native plant species."

3.3.2 Policy Framework

There are no specific policies in the NRP for soft engineering. Policy 139 requires that use and development in the CMA shall:

- (a) *have a functional need, or*
- (b) *have an operational requirement to locate within the coastal marine area, and no reasonable or practicable alternative to locating in the coastal marine area, or [...].*

Given the purpose of beach renourishment it is likely that there is a functional and operational need to be located within the CMA.

Policy 52 of the RPS requires decision makers to consider whether nature-based solutions or soft engineering approaches are more appropriate than hard engineering. On that basis the policy framework is enabling for soft engineering structures.

3.3.3 Summary

As a restricted discretionary activity, resource consent may be granted or declined but conditions are limited to the matters GWRC has reserved their discretion to. The policy framework is supportive of soft engineering and therefore it is anticipated that consent could be granted with appropriate conditions.

3.4 Soft engineering – dune reconstruction within the CMA

Applicable to: Sub-area 9A Raumati (North of Wharemauku Stream): Pathway 4; and Sub-area 10A Raumati (South of Wharemauku Stream): Pathways 2 and 5

Consent Status: Controlled Activity

Relevant Plan: Greater Wellington Natural Resources Plan (NRP)

3.4.1 Consenting status

Rule R213 provides for the disturbance of the foreshore or seabed for beach recontouring in the CMA as a controlled activity. The matters of control are limited to:

1. *Timing of the activity associated with coastal fauna*
2. *Volume of material removed*
3. *Effects of disturbance, deposition, discharge and diversion associated with the activity*
4. *Effects on shoreline stability (including dunes and nearshore) and the potential to create a coastal inundation hazard*
5. *Effects on the heritage values of structures and sites identified in Schedule E1 (heritage structures) or Schedule E4 (archaeological sites)*
6. *Effects on sites and habitats identified in or using Schedule C (mana whenua), Schedule F2c (birds-coastal), Schedule F4 (coastal sites), Schedule F5 (coastal habitats) or Schedule J (geological features)*

Similar to beach renourishment a Coastal Restoration Plan is required.

3.4.2 Policy Framework

There are no specific policies in the NRP for soft engineering. Policy 139 requires that use and development in the CMA shall:

- (a) *have a functional need, or*
- (b) *have an operational requirement to locate within the coastal marine area, and no reasonable or practicable alternative to locating in the coastal marine area, or [...].*

Given the purpose of beach renourishment it is likely that there is a functional and operational need to be located within the CMA.

Policy 52 of the RPS requires decision makers to consider whether nature-based solutions or soft engineering approaches are more appropriate than hard engineering. On that basis the policy framework is enabling for soft engineering structures.

3.4.3 Summary

As a controlled activity, resource consent must be granted but conditions are limited to the matters Council has reserved their control over. The policy framework is supportive of soft engineering and therefore it is anticipated that consent could be granted with appropriate conditions.

3.5 Repairs and maintenance to seawalls outside the CMA

Applicable to: Sub-area 9A Raumati (North of Wharemauku Stream): Pathway 1

Consent Status: Permitted Activity

Relevant Plan: Kapiti Coast District Plan (KCDP)

There are several seawalls that are located outside the CMA. In these circumstances consent is required under the Kapiti Coast District Plan.

3.5.1 Consenting status

Property owners generally have existing use rights under s10 of the RMA where the structure comes under the jurisdiction of the District Council. For existing use rights to apply the activity must have been lawfully established; either it was constructed as a permitted activity, or the appropriate resource consent was obtained, and the activity must not have ceased for longer than 12 months. The effects of the activity have to be same or similar in character, intensity and scale to what exists. This generally allows for maintenance of the existing structure but not betterment of the structure.

- (1) *Land to be used in a manner than contravenes a rule in a district plan or proposed district plan if—*
 - (a) *[...]*
 - (i) *the use was lawfully established before the rule became operative or the proposed plan was notified; and*
 - (ii) *the effects of the use are the same or similar in character, intensity, and scale to those which existed before the rule became operative or the proposed plan was notified;*

If existing use rights apply no resource consent is required for the seawall. However, resource consent may be required for any associated earthworks or construction effects including vegetation clearance.

3.5.2 Summary

Generally, it has been assumed that existing use rights will apply to repairs and maintenance, and therefore the activity can continue.

3.6 Building resilience into existing seawalls and replacement seawalls outside the CMA

Applicable to: Sub-area 9A Raumati (North of Wharemauku Stream): Pathways 1, 2, 3, 4, 5 and 6; and Sub-area 10A Raumati (South of Wharemauku Stream): Pathways 2, 4 and 5

Consent Status: Discretionary Activity

Relevant Plan: Kapiti Coast District Plan (KCDP)

3.6.1 Consenting status

Under the 1999 provisions of the KCDP building is defined as *“any dwelling, structure or part of a structure, whether permanent, moveable or immovable, but does not include [...] retaining walls that are 1.5 m or less in height.”* Seawalls are therefore considered as buildings where the 1999 provisions apply if they are over 1.5m in height.

Seawalls generally need to be located within the 20 m coastal building line restriction mapped in the KCDP. They are therefore captured by D.1.1.3 as being an activity that does not comply with one or more of the permitted activity or controlled activity standards. A seawall would also require resource consent for the associated earthworks as a discretionary activity under CE-R2, as the Raumati coastline has been identified in the KCDP Maps as an area of high natural character.

When considering the effects of an activity the effects are to be assessed against the “existing environment.” This includes existing use rights, existing activities carried out under existing consents and resource consents which have been granted where it appears those consents will be implemented. In the consenting some consideration may be given to the fact that these works enhance existing structures or replace an existing legally established structure.

The three most recent resource consent applications for seawalls are dated 2013,⁴ 2016,⁵ and 2017.⁶ All three were considered by Council as discretionary activities and granted subject to conditions. Conditions include the need for the preparation of management plans, restrictions on the hours of work, pedestrian access, sediment control and noise. It must however be noted that these consents were granted before the District Plan was made operative and prior to Plan Change 2. The earthworks rules have evolved over this process and the above consents were granted under rules that no longer apply.

⁴ RM120190 – Retrospective consent to legalise a concrete block retaining wall.

⁵ RM160183 – Earthworks to construct a new dune protection structure.

⁶ RM170095 – Emergency works were completed between 26-28 July 2016 to protect the public sewer. Due to the timing of lodgement of applications for resource consent the works were considered as a new activity. The consent included upgrades to the emergency works and to an existing private seawall.

3.6.2 Policy Framework

Seawalls located outside the CMA require resource consent under the KCDP. The coastal hazards provisions were withdrawn from the Proposed District Plan in 2014 and 2017 and the District Plan 1999 provisions remain operative. Of particular relevance is Policy 4 which discourages coastal protection works where they do not already exist.

Discourage coastal protection works on the Coastal Marine Area interface where they are not already present and encourage management options such as managed retreat and coastal renourishment rather than hard engineering works when protection works are sought.

The coastal environment policies are also relevant. Policy CE-P3 seeks to preserve the natural character of the coastal environment. This includes regulating the encroachment of permanent structures and private uses onto the beach or public land.

3.6.3 Summary

The provisions have changed since the last resource consent was granted; however, the intent of the provisions generally remains the same. It is anticipated that subject to design and the proposed management of effects consent could be granted with appropriate conditions given the context of the existing environment of protection structures.

3.7 Construction of new seawalls outside the CMA

Applicable to: Sub-area 9A Raumati (North of Wharemauku Stream): Pathways 1, 2, 3, 4, 5 and 6; and Sub-area 10A Raumati (South of Wharemauku Stream): Pathways 2, 4 and 5

Consent Status: Discretionary Activity

Relevant Plan: Kapiti Coast District Plan (KCDP)

The seawalls south of the Wharemauku are generally located outside the CMA and therefore require resource consent from the KCDP. If the line of protection is to be re-established north of the Wharemauku these new seawalls are also assumed to be constructed outside the CMA.

3.7.1 Consenting status

Under the 1999 provisions of the KCDP building is defined as “any dwelling, structure or part of a structure, whether permanent, moveable or immovable, but does not include [...] retaining walls that are 1.5 m or less in height.” Seawalls are therefore considered as buildings where the 1999 provisions apply if they are over 1.5m in height.

Seawalls generally need to be located within the 20 m coastal building line restriction mapped in the KCDP. They are therefore captured by D.1.1.3 as being an activity that does not comply with one or more of the permitted activity or controlled activity standards. A seawall would also require resource consent for the associated earthworks as a discretionary activity under CE-R2, as the Raumati coastline has been identified in the KCDP Maps as an area of high natural character.

When considering the effects of an activity the effects are to be assessed against the “existing environment.” This includes existing use rights, existing activities carried out under existing consents and resource consents which have been granted where it appears those consents will be implemented. Given the Raumati coastline has numerous existing protection structures the coastline can be considered to be modified.

The three most recent resource consent applications for seawalls are dated 2013,⁷ 2016,⁸ and 2017.⁹ All three were considered by Council as discretionary activities and granted subject to conditions. Conditions include the need for the preparation of management plans, restrictions on the hours of construction work, pedestrian access, sediment control and noise. It must, however, be noted that these consents were granted before the District Plan was made operative and prior to Plan Change 2. The earthworks rules have evolved over this process and the above consents were granted under rules that no longer exist.

3.7.2 Policy Framework

Given the coastal hazards provisions in the District Plan are yet to give effect to the RPS the policies of the RPS need to be considered alongside the policies of the KCDP.

Kapiti Coast District Plan

The coastal hazards provisions were withdrawn from the Proposed District Plan in 2014 and 2017 and the District Plan 1999 provisions remain operative. Of particular relevance is Policy 4 which discourages coastal protection works where they do not already exist.

Discourage coastal protection works on the Coastal Marine Area interface where they are not already present and encourage management options such as managed retreat and coastal renourishment rather than hard engineering works when protection works are sought.

The coastal environment policies are also relevant. Policy CE-P3 seeks to preserve the natural character of the coastal environment. This includes regulating the encroachment of permanent structures and private uses onto the beach or public land.

Given the KCDP are yet to give effect to the RPS, the RPS objectives need to be considered.

Regional Policy Statement

Policy 38 of the RPS requires consideration to be given to whether the activity is occurring within the extent of the coastal environment (but outside the CMA). Given their purpose seawalls are likely to be constructed within the broader coastal environment. The coastal environment is mapped in the KCDP. The full suite of coastal environment objectives and policies should be considered as part of the application.

Policy 52 requires the consideration of other options as part of the resource consent applications. This needs to consider the residual risk and whether there are other options that might be more appropriate.

Policy 52: Minimising adverse effects of hazard mitigation measures – consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, for hazard mitigation measures, particular regard shall be given to:

- (a) ~~the need for structural protection works or hard engineering methods;~~*
- (b) whether non-structural, soft engineering, green infrastructure, room for the river or Mātauranga Māori options provide a more appropriate or suitably innovative solution;*
- (c) avoiding structural protection works or hard engineering methods unless it is necessary to protect existing development, regionally significant infrastructure or property from unacceptable risk*

⁷ RM120190 – Retrospective consent to legalise a concrete block retaining wall.

⁸ RM160183 – Earthworks to construct a new dune protection structure.

⁹ RM170095 – Emergency works were completed between 26-28 July 2016 to protect the public sewer. Due to the timing of lodgement of applications for resource consent the works were considered as a new activity. The consent included upgrades to the emergency works and to an existing private seawall.

and the works form part of a long-term hazard management strategy that represents the best practicable option for the future;

- (d) the long-term viability of maintaining the structural protection works with particular regard to how climate change may increase the risk over time;*
- (e) adverse effects on Te Mana o te Wai, mahinga kai, Te Rito o te Harakeke, natural processes, or the local indigenous ecosystem and biodiversity;*
- (f) sites of significance to mana/tangata whenua identified in a planning document recognised by an iwi authority and lodged with a local authority or scheduled in a city, district or regional plan;*
- (g) a no more than minor increase in risk to nearby areas as a result of changes to natural processes from the hazard mitigation works;*
- (h) the cumulative effects of isolated structural protection works;*
- (i) any residual risk remaining after mitigation works are in place,*
so that they minimise ~~reduce and do not increase~~ the risks from ~~of~~ natural hazards.

The policy framework is generally not supportive of hard protection structures except as a last resort.

3.7.3 Summary

The current policy framework is not supportive of seawalls as the preferred option but does not preclude seawalls as an option. The existing environment is heavily modified and includes numerous seawalls. The rules have changed since the last resource consent was granted; however, the rules are not overly prohibitive. Under the current rules it is likely resource consent could be granted with suitable conditions. Given the policy framework the consent may be subject to notification.

Where existing protection structures are to be relocated inland greater scrutiny may be given to the direction of the objectives and policies in the consenting process. The existing environment for these works will also be different and this will be considered as part of the resource consent process.

3.8 Soft engineering outside the CMA

Applicable to: Sub-area 9A Raumati (North of Wharemauku Stream): Pathway 4; and Sub-area 10A Raumati (South of Wharemauku Stream): Pathways 2 and 5

Consent Status: Discretionary Activity

Relevant Plan: Kapiti Coast District Plan (KCDP)

Soft engineering approaches are anticipated to be located landward of the CMA, but some works may be required within the CMA. Works within the CMA are discussed in Sections 3.3 and 3.4 above.

3.8.1 Consenting status

Soft engineering approaches will require resource consent for earthworks as a discretionary activity under Rule CE-R2. The clearance of indigenous vegetation in the Natural Open Space Zone is a permitted activity where it is authorised under NH-FLOOD-R6 for flood protection, erosion control and natural hazards mitigation. NH-FLOOD-R6 requires the works are carried out by the GWRC, KDCD, Department of Conservation or their nominated contractors.

Consideration of the full range of effects will be required as part of the consent application, including considering the appropriate rules at a site-specific level.

3.8.2 Policy Framework

Given the coastal hazards provisions in the District Plan are yet to give effect to the RPS the policies of the RPS need to be considered alongside the policies of the KCDP.

The coastal hazards provisions were withdrawn from the Proposed District Plan in 2014 and 2017 and the District Plan 1999 provisions remain operative. Of particular relevance is Policy 4 which encourages soft engineering approaches.

Discourage coastal protection works on the Coastal Marine Area interface where they are not already present and encourage management options such as managed retreat and coastal renourishment rather than hard engineering works when protection works are sought.

The coastal environment policies are also relevant. Policy CE-P3 seeks to preserve the natural character of the coastal environment. The policy enables reinstating dunes as a natural buffer. Policy CE-P7 also requires the protection and enhancement of the natural dune function where practicable.

Policy 38 of the RPS requires consideration to be given to whether the activity is occurring within the extent of the coastal environment (but outside the CMA). The coastal environment is mapped in the KCDP. The full suite of coastal environment objectives and policies should be considered as part of the application.

Policy 52 requires the consideration of other options as part of the resource consent applications. This needs to consider the residual risk and whether there are other options that might be more appropriate.

Policy 52: Minimising adverse effects of hazard mitigation measures – consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, for hazard mitigation measures, particular regard shall be given to:

- (a) ~~the need for structural protection works or hard engineering methods;~~*
- (b) whether non-structural, soft engineering, green infrastructure, room for the river or Mātauranga Māori options provide a more appropriate or suitably innovative solution;*
- (c) avoiding structural protection works or hard engineering methods unless it is necessary to protect existing development, regionally significant infrastructure or property from unacceptable risk and the works form part of a long-term hazard management strategy that represents the best practicable option for the future;*
- (d) the long-term viability of maintaining the structural protection works with particular regard to how climate change may increase the risk over time;*
- (e) adverse effects on Te Mana o te Wai, mahinga kai, Te Rito o te Harakeke, natural processes, or the local indigenous ecosystem and biodiversity;*
- (f) sites of significance to mana/tangata whenua identified in a planning document recognised by an iwi authority and lodged with a local authority or scheduled in a city, district or regional plan;*
- (g) a no more than minor increase in risk to nearby areas as a result of changes to natural processes from the hazard mitigation works;*
- (h) the cumulative effects of isolated structural protection works;*
- (i) any residual risk remaining after mitigation works are in place,*

so that they ~~minimise reduce and do not increase~~ the risks ~~from~~ of natural hazards.

The policy framework is generally supportive of soft engineering coastal management approaches.

3.8.3 Summary

The current policy framework is supportive of soft engineering approaches, and it is likely that resource consent would be able to be granted provided the effects can be appropriately managed and the conditions of consent would reflect this.

3.9 Re-establishing the protection line (Retreat)

Applicable to: Sub-area 9A Raumati (North of Wharemauku Stream): Pathway 1, 2, 3, 4 and 6; and Sub-area 10A Raumati (South of Wharemauku Stream): Pathways 2, 4 and 5

Consent Status: Requires a plan change

Relevant Plan: Kapiti Coast District Plan (KCDP)

Re-establishing the line (a medium- or long-term option only) will require the proactive relocation of some buildings so that protection works can be re-established in a new inland location on these properties.

Currently the proactive relocation of properties requires a plan change to the NRP to extinguish existing use rights and a plan change to the KCDC to rezone any land that is to be retreated from.

In the previous Parliamentary term, the Natural and Built Environment Act 2023 (NBA) and the Spatial Planning Act 2023 (SPA) were passed. While the RMA is now technically repealed, many parts of the RMA will continue to be in force over about a 10-year period until plans prepared under the NBA and the SPA become operative. Following the recent election, the next Parliament may repeal the NBA and SPA.¹⁰ Additionally, the RMA reforms were intended to produce a third piece of legislation, called the Climate Adaptation Act (CAA). The CAA was to provide greater direction on retreat processes. It is unclear when, or if, this legislation will be introduced to Parliament.

The need for the relocation of buildings is likely to occur under legislation that does not exist today and therefore no detailed discussion is provided.

3.10 Status Quo: Maintenance of existing infrastructure

Applicable to: Sub-area 9B Raumati (Inundation Unit)

Consent Status: Permitted Activity

Relevant Plan: Natural Resources Plan (NRP)

Sub-area 9B addresses inundation risk. This includes the maintenance of existing infrastructure. While no specific review of existing consents held by KCDC has been undertaken, the maintenance of infrastructure is usually a requirement of such resource consents. No further consent is likely to be required.

¹⁰ The National Party campaigned on repealing the NBA and SPA "by Christmas".

3.11 Enhance existing inundation protection or the construction of new inundation protection

Applicable to: Sub-area 9B Raumati (Inundation Unit)

Consent Status: Various

Relevant Plan: National Environmental Standards for Freshwater (NES-F), Natural Resources Plan (NRP) and Kapiti Coast District Plan (KCDP)

Sub-area 9B addresses inundation risk. This includes enhancing existing infrastructure including improvements to the stormwater network and the construction of new inundation protection. The location of these works is presumed to be outside the CMA.

3.11.1 Consenting status

The specific consents required will depend on a variety of factors including the type of infrastructure, the location of the infrastructure, and whether works are required in a waterbody. A few examples are provided below:

Maintenance of existing structures

The maintenance, repair, replacement, upgrade and use of lawfully established structures is a Permitted Activity under R122 of the NRP.

Installation of a culvert

The installation of a culvert is a Permitted Activity provided the specified conditions are met under Regulation 70 of the NES-F and R126 of the NRP.

Stopbanks

As the earthworks to construct stopbanks are likely to occur within 20 m of a body of water, consent is required under EW-R5 as a restricted discretionary activity. Greater consenting requirements are triggered if works are occurring in or near to a wetland, particularly if they result in the drainage or partial drainage of a wetland.

3.11.2 Policy Framework

The policies within the National Policy Statement for Freshwater Management 2020 (NPS-FM) apply in addition to the policies within the NRP and the KCDP.

The objective of this National Policy Statement [NPS-FM] is to ensure that natural and physical resources are managed in a way that prioritises:

- (a) first, the health and well-being of water bodies and freshwater ecosystems*
- (b) second, the health needs of people (such as drinking water)*
- (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.*

All of the policies within the NPS need to be considered and these are provided in Appendix A.

The application will also need to consider the relevant objectives and policies in the NRP or KCDP. The appropriate plan and policies will differ between activities.

3.11.3 Summary

There is a pathway for consenting inundation protection under the current planning regime. The difficulty of obtaining consent will depend on the location and sensitivity of the receiving environment.

3.12 Accommodate through raising floor areas or flood proofing buildings

Applicable to: Sub-area 9B Raumati (Inundation Unit)

Consent Status: Permitted Activity

Relevant Plan: Kapiti Coast District Plan (KCDP)

Sub-area 9B addresses inundation risk. This includes accommodating the flood hazard through raising floor levels or flood proofing buildings. These activities are generally provided for as a Permitted Activity within the KCDP.

Development standards are applicable to buildings within the Coastal Qualifying Precinct (GRZ-R6). These include the height of a building being restricted to 8 m above original ground level and the need to comply with height in relation to the boundary envelope.

4. Other legislation

Construction works are required to comply with all legislation.

4.1 Building Act 2004 and supporting regulations

The Building Act 2004 (the Act) and supporting Building Code (the regulations) sets out requirements for how new building work and some existing buildings will meet the intent of the Act and regulations.

The Building Regulations are performance based and are published in Schedule 1 of the Building Act 2004. The Building Code clauses include objectives, functional requirements and performance criteria. These are mandatory provisions that all new building work must comply with.

For example, sections 71- 74 of the Act confirms steps a council must take when considering a building consent where the land is subject to a natural hazard. If the hazard is not mitigated for the new work or if the work exacerbates the hazard on surrounding properties, then the work cannot proceed. Clause F4 of the Building Code addresses safety from falling. Barriers are required where people could fall 1 metre or more. Some seawalls require barriers in accordance with Clause F4. Barriers shall:

- (a) *be continuous and extend for the full extent of the hazard,*
- (b) *be of appropriate height,*
- (c) *be constructed with adequate rigidity,*
- (d) *be of adequate strength to withstand the foreseeable impact of people and, where appropriate, the static pressure of people pressing against them,*
- (e) *be constructed to prevent people from falling through them, and*
- (f) *[Revoked]*
- (g) *restrict the passage of children under 6 years of age when provided to guard a change of level in areas likely to be frequented by them.*
- (h) *be constructed so that they are not readily able to be used as seats.*

4.2 Marine and Coastal Area (Takutai Moana) Act 2011

The Takutai Moana Act provides for the recognition of customary interests of iwi, hapū and whānau in the common marine and coastal area of Aotearoa New Zealand and its offshore islands. The Takutai Moana Act also provides for the right of all New Zealanders to access and use the common marine and coastal area (subject to any lawful restrictions, including for the protection of wāhi tapu and wāhi tapu areas).

Section 55(2) prevents the consent authority from granting a resource consent where the activity is to be carried out in a protected customary rights area unless written approval is obtained from the protected customary rights group.¹¹ If a resource consent application is located in the common marine and coastal area where a group has applied for Customary Marine Title any application must notify and seek views of the group (section 62).

At the time of writing, no areas of Customary Marine Title have been gazetted in Kāpiti.

¹¹ Exemptions are provided in Section 55(3) including for emergency works, a resource consent for an existing accommodated infrastructure provided adverse effects are the same or similar.

4.3 Wildlife Act 1953

The Wildlife Act 1953 focuses on protecting and controlling wildlife and game. Where the activity interacts with wildlife (i.e. to catch, hold, release or kill) a permit from the Department of Conservation must be obtained. Section 63 of the Wildlife Act makes it an offence to hunt or kill any absolutely protected or partially protected wildlife or any game. Under section 53 the Director-General may authorise the taking or killing of wildlife for certain purposes. Where absolutely protected or partially protected wildlife is to be disturbed as part of construction works a wildlife permit is required.

This is separate to the resource consent process.

4.4 Heritage New Zealand Pouhere Taonga Act 2014

The purpose of this Act is to promote the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand (Section 3). All decision-makers must recognise the following principles:

- (a) *the principle that historic places have lasting value in their own right and provide evidence of the origins of New Zealand's distinct society; and*
- (b) *the principle that the identification, protection, preservation, and conservation of New Zealand's historical and cultural heritage should—*
 - (i) *take account of all relevant cultural values, knowledge, and disciplines; and*
 - (ii) *take account of material of cultural heritage value and involve the least possible alteration or loss of it; and*
 - (iii) *safeguard the options of present and future generations; and*
 - (iv) *be fully researched, documented, and recorded, where culturally appropriate; and*
- (c) *the principle that there is value in central government agencies, local authorities, corporations, societies, tangata whenua, and individuals working collaboratively in respect of New Zealand's historical and cultural heritage; and*
- (d) *the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tūpuna, wāhi tapu, and other taonga.*

If a site is considered to be an archaeological site or there is a high probability of accidental discovery, an archaeological authority from Heritage New Zealand Pouhere Taonga is likely to be required.

5. Are plan changes required to enable any adaptation options?

Based on an initial high-level analysis all adaptation options (other than retreat) have a consenting pathway. A plan change to the KCDP would have been necessary to progress any options not suitably enabled through the existing planning framework.

Re-establishing the line and retreating the affected buildings will require plan changes to the NRP and KCDP. As changes to the legislation are anticipated prior to this being desirable no detailed consideration has been provided.

A plan change is required to better manage coastal hazards and align the KCDP Coastal Environment Chapter with the higher order documents. However, as all adaptation options are suitably enabled through the current planning regime, no further analysis is provided.

Appendix A – Referenced provisions

The provisions below are referenced in the body of the memo. More detailed provisions are provided in Memo 1A.

Resource Management Act

6 Matters of National Importance

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:

- (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:
- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
- (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:
- (f) the protection of historic heritage from inappropriate subdivision, use, and development:
- (g) the protection of protected customary rights:
- (h) the management of significant risks from natural hazards.

9 Restrictions on use of land

- (1) No person may use land in a manner that contravenes a national environmental standard unless the use—
 - (a) is expressly allowed by a resource consent; or
 - (b) is allowed by [section 10](#); or
 - (c) is an activity allowed by [section 10A](#); or
 - (d) is an activity allowed by [section 20A](#).
- (2) No person may use land in a manner that contravenes a regional rule unless the use—
 - (a) is expressly allowed by a resource consent; or
 - (b) is an activity allowed by [section 20A](#).
- (3) No person may use land in a manner that contravenes a district rule unless the use—
 - (a) is expressly allowed by a resource consent; or
 - (b) is allowed by [section 10](#); or

- (c) is an activity allowed by [section 10A](#).
- (4) No person may contravene [section 176](#), [178](#), [193](#), or [194](#) unless the person obtains the prior written consent of the requiring authority or the heritage protection authority.
- (5) This section applies to overflying by aircraft only to the extent to which noise emission controls for airports have been prescribed by a national environmental standard or set by a territorial authority.
- (6) This section does not apply to use of the coastal marine area.

10 Certain existing uses in relation to land protected

- (1) Land may be used in a manner that contravenes a rule in a district plan or proposed district plan if—
 - (a) either—
 - (i) the use was lawfully established before the rule became operative or the proposed plan was notified; and
 - (ii) the effects of the use are the same or similar in character, intensity, and scale to those which existed before the rule became operative or the proposed plan was notified:
 - (b) or—
 - (i) the use was lawfully established by way of a designation; and
 - (ii) the effects of the use are the same or similar in character, intensity, and scale to those which existed before the designation was removed.
- (2) Subject to sections 357 to 358, this section does not apply when a use of land that contravenes a rule in a district plan or a proposed district plan has been discontinued for a continuous period of more than 12 months after the rule in the plan became operative or the proposed plan was notified unless—
 - (a) an application has been made to the territorial authority within 2 years of the activity first being discontinued; and
 - (b) the territorial authority has granted an extension upon being satisfied that—
 - (i) the effect of the extension will not be contrary to the objectives and policies of the district plan; and
 - (ii) the applicant has obtained approval from every person who may be adversely affected by the granting of the extension, unless in the authority's opinion it is unreasonable in all the circumstances to require the obtaining of every such approval.
- (3) This section does not apply if reconstruction or alteration of, or extension to, any building to which this section applies increases the degree to which the building fails to comply with any rule in a district plan or proposed district plan.
- (4) For the avoidance of doubt, this section does not apply to any use of land that is—
 - (a) controlled under section 30(1)(c) (regional control of certain land uses); or
 - (b) restricted under section 12 (coastal marine area); or
 - (c) restricted under section 13 (certain river and lake bed controls).
- (5) Nothing in this section limits section 20A (certain existing lawful activities allowed).
- (6) [Repealed]

12 Restrictions on use of coastal marine area

(1) No person may, in the coastal marine area,—

- (a) reclaim or drain any foreshore or seabed; or
- (b) erect, reconstruct, place, alter, extend, remove, or demolish any structure or any part of a structure that is fixed in, on, under, or over any foreshore or seabed; or
- (c) disturb any foreshore or seabed (including by excavating, drilling, or tunnelling) in a manner that has or is likely to have an adverse effect on the foreshore or seabed (other than for the purpose of lawfully harvesting any plant or animal); or
- (d) deposit in, on, or under any foreshore or seabed any substance in a manner that has or is likely to have an adverse effect on the foreshore or seabed; or
- (e) destroy, damage, or disturb any foreshore or seabed (other than for the purpose of lawfully harvesting any plant or animal) in a manner that has or is likely to have an adverse effect on plants or animals or their habitat; or
- (f) introduce or plant any exotic or introduced plant in, on, or under the foreshore or seabed; or
- (g) destroy, damage, or disturb any foreshore or seabed (other than for the purpose of lawfully harvesting any plant or animal) in a manner that has or is likely to have an adverse effect on historic heritage—

unless expressly allowed by a national environmental standard, a rule in a regional coastal plan as well as a rule in a proposed regional coastal plan for the same region (if there is one), or a resource consent.

(2) No person may, unless expressly allowed by a national environmental standard, a rule in a regional coastal plan or in any proposed regional coastal plan for the same region, or a resource consent,—

- (a) occupy any part of the common marine and coastal area; or
- (b) remove any sand, shingle, shell, or other natural material from that area.

(3) Without limiting subsection (1), no person may carry out any activity—

- (a) in, on, under, or over any coastal marine area; or
- (b) in relation to any natural and physical resources contained within any coastal marine area,—

in a manner that contravenes a national environmental standard, a rule in a regional coastal plan, or a rule in a proposed regional coastal plan for the same region (if there is one) unless the activity is expressly allowed by a resource consent or allowed by [section 20A](#) (certain existing lawful activities allowed).

(4) In this Act,—

- (a) *[Repealed]*
- (b) *remove any sand, shingle, shell, or other natural material* means to take any of that material in such quantities or in such circumstances that, but for the national environmental standard or the rule in the regional coastal plan or the holding of a resource consent, a licence or profit à prendre to do so would be necessary.

(5) This section applies to overflying by aircraft only to the extent to which noise emission controls for airports within the coastal marine area have been prescribed by a national environmental standard or set by a regional council.

- (6) This section shall not apply to anything to which [section 15A](#) or [15B](#) applies.
- (7) This section does not prohibit a regional council from removing structures from the common marine and coastal area, in accordance with the requirements of [section 19\(3\) to \(3C\)](#) of the Marine and Coastal Area (Takutai Moana) Act 2011, unless those structures are permitted by a coastal permit.

95A Public notification of consent applications

- (1) A consent authority must follow the steps set out in this section, in the order given, to determine whether to publicly notify an application for a resource consent.

Step 1: mandatory public notification in certain circumstances

- (2) Determine whether the application meets any of the criteria set out in subsection (3) and,—
 - (a) if the answer is yes, publicly notify the application; and
 - (b) if the answer is no, go to step 2.
- (3) The criteria for step 1 are as follows:
 - (a) the applicant has requested that the application be publicly notified;
 - (b) public notification is required under section 95C;
 - (c) the application is made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977.

Step 2: if not required by step 1, public notification precluded in certain circumstances

- (4) Determine whether the application meets either of the criteria set out in subsection (5) and,—
 - (a) if the answer is yes, go to step 4 (step 3 does not apply); and
 - (b) if the answer is no, go to step 3.
- (5) The criteria for step 2 are as follows:
 - (a) the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes public notification;
 - (b) the application is for a resource consent for 1 or more of the following, but no other, activities:
 - (i) a controlled activity;
 - (ii) [Repealed]
 - (iii) a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity.
 - (iv) [Repealed]

- (6) [Repealed]

Step 3: if not precluded by step 2, public notification required in certain circumstances

- (7) Determine whether the application meets either of the criteria set out in subsection (8) and,—
 - (a) if the answer is yes, publicly notify the application; and
 - (b) if the answer is no, go to step 4.

(8) The criteria for step 3 are as follows:

- (a) the application is for a resource consent for 1 or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification;
- (b) the consent authority decides, in accordance with section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor.

Step 4: public notification in special circumstances

(9) Determine whether special circumstances exist in relation to the application that warrant the application being publicly notified and,—

- (a) if the answer is yes, publicly notify the application; and
- (b) if the answer is no, do not publicly notify the application, but determine whether to give limited notification of the application under section 95B.

95B Limited notification of consent applications

(1) A consent authority must follow the steps set out in this section, in the order given, to determine whether to give limited notification of an application for a resource consent, if the application is not publicly notified under section 95A.

Step 1: certain affected groups and affected persons must be notified

(2) Determine whether there are any—

- (a) affected protected customary rights groups; or
- (b) affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity).

(3) Determine—

- (a) whether the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11; and
- (b) whether the person to whom the statutory acknowledgement is made is an affected person under section 95E.

(4) Notify the application to each affected group identified under subsection (2) and each affected person identified under subsection (3).

Step 2: if not required by step 1, limited notification precluded in certain circumstances

(5) Determine whether the application meets either of the criteria set out in subsection (6) and,—

- (a) if the answer is yes, go to step 4 (step 3 does not apply); and
- (b) if the answer is no, go to step 3.

(6) The criteria for step 2 are as follows:

- (a) the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes limited notification;
- (b) the application is for a controlled activity (but no other activities) that requires a resource consent under a district plan (other than a subdivision of land).

Step 3: if not precluded by step 2, certain other affected persons must be notified

- (7) In the case of a boundary activity, determine in accordance with section 95E whether an owner of an allotment with an infringed boundary is an affected person.
- (8) In the case of any other activity, determine whether a person is an affected person in accordance with section 95E.
- (9) Notify each affected person identified under subsections (7) and (8) of the application.

Step 4: further notification in special circumstances

- (10) Determine whether special circumstances exist in relation to the application that warrant notification of the application to any other persons not already determined to be eligible for limited notification under this section (excluding persons assessed under section 95E as not being affected persons), and,—
 - (a) if the answer is yes, notify those persons; and
 - (b) if the answer is no, do not notify anyone else.

95C Public notification of consent application after request for further information or report

- (1) A consent authority must publicly notify an application for a resource consent (*see* section 95A(2) and (3)) if—
 - (a) it has not already decided whether to give public or limited notification of the application; and
 - (b) subsection (2) or (3) applies.
- (2) This subsection applies if the consent authority requests further information on the application under section 92(1), but the applicant—
 - (a) does not provide the information before the deadline concerned; or
 - (b) refuses to provide the information.
- (3) This subsection applies if the consent authority notifies the applicant under section 92(2)(b) that it wants to commission a report, but the applicant—
 - (a) does not respond before the deadline concerned; or
 - (b) refuses to agree to the commissioning of the report.
- (4) This section applies despite any rule or national environmental standard that precludes public or limited notification of the application.

95D Consent authority decides if adverse effects likely to be more than minor

A consent authority that is deciding, for the purpose of section 95A(8)(b), whether an activity will have or is likely to have adverse effects on the environment that are more than minor—

- (a) must disregard any effects on persons who own or occupy—
 - (i) the land in, on, or over which the activity will occur; or
 - (ii) any land adjacent to that land; and
- (b) may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and

- (c) in the case of a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard restricts discretion; and
- (d) must disregard trade competition and the effects of trade competition; and
- (e) must disregard any effect on a person who has given written approval to the relevant application.

95E Consent authority decides if person is affected person

- (1) For the purpose of giving limited notification of an application for a resource consent for an activity to a person under section 95B(4) and (9) (as applicable), a person is an affected person if the consent authority decides that the activity's adverse effects on the person are minor or more than minor (but are not less than minor).
- (2) The consent authority, in assessing an activity's adverse effects on a person for the purpose of this section,—
 - (a) may disregard an adverse effect of the activity on the person if a rule or a national environmental standard permits an activity with that effect; and
 - (b) must, if the activity is a controlled activity or a restricted discretionary activity, disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard reserves control or restricts discretion; and
 - (c) must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11.
- (3) A person is not an affected person in relation to an application for a resource consent for an activity if—
 - (a) the person has given, and not withdrawn, approval for the proposed activity in a written notice received by the consent authority before the authority has decided whether there are any affected persons; or
 - (b) the consent authority is satisfied that it is unreasonable in the circumstances for the applicant to seek the person's written approval.
- (4) Subsection (3) prevails over subsection (1).

104 Consideration of applications

- (1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2 and section 77M, have regard to—
 - (a) any actual and potential effects on the environment of allowing the activity; and
 - (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and
 - (b) any relevant provisions of—
 - (i) a national environmental standard:
 - (ii) other regulations:
 - (iii) a national policy statement:
 - (iv) a New Zealand coastal policy statement:

- (v) a regional policy statement or proposed regional policy statement:
 - (vi) a plan or proposed plan; and
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.
- (2) When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.
- (2A) When considering an application affected by section 124 or 165ZH(1)(c), the consent authority must have regard to the value of the investment of the existing consent holder.
- (2B) When considering a resource consent application for an activity in an area within the scope of a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, a consent authority must have regard to any resource management matters set out in that planning document.
- (2C) Subsection (2B) applies until such time as the regional council, in the case of a consent authority that is a regional council, has completed its obligations in relation to its regional planning documents under section 93 of the Marine and Coastal Area (Takutai Moana) Act 2011.
- (2D) When considering a resource consent application that relates to a wastewater network, as defined in section 5 of the Water Services Act 2021, a consent authority—
 - (a) must not grant the consent contrary to a wastewater environmental performance standard made under section 138 of that Act; and
 - (b) must include, as a condition of granting the consent, requirements that are no less restrictive than is necessary to give effect to the wastewater environmental performance standard.
- (3) A consent authority must not,—
 - (a) when considering an application, have regard to—
 - (i) trade competition or the effects of trade competition; or
 - (ii) any effect on a person who has given written approval to the application:
 - (b) [Repealed]
 - (c) grant a resource consent contrary to—
 - (i) section 107, 107A, or 217:
 - (ii) an Order in Council in force under section 152:
 - (iii) any regulations:
 - (iv) wāhi tapu conditions included in a customary marine title order or agreement:
 - (v) section 55(2) of the Marine and Coastal Area (Takutai Moana) Act 2011:
 - (d) grant a resource consent if the application should have been notified and was not.
- (3A) See also section 103(3) of the Urban Development Act 2020 (which relates to resource consents in project areas in transitional periods for specified development projects (as those terms are defined in section 9 of that Act)).

- (4) A consent authority considering an application must ignore subsection (3)(a)(ii) if the person withdraws the approval in a written notice received by the consent authority before the date of the hearing, if there is one, or, if there is not, before the application is determined.
- (5) A consent authority may grant a resource consent on the basis that the activity is a controlled activity, a restricted discretionary activity, a discretionary activity, or a non-complying activity, regardless of what type of activity the application was expressed to be for.
- (6) A consent authority may decline an application for a resource consent on the grounds that it has inadequate information to determine the application.
- (7) In making an assessment on the adequacy of the information, the consent authority must have regard to whether any request made of the applicant for further information or reports resulted in further information or any report being available.

Schedule 4 Information required in application for resource consent

1 Information must be specified in sufficient detail

Any information required by this schedule, including an assessment under [clause 2\(1\)\(f\) or \(g\)](#), must be specified in sufficient detail to satisfy the purpose for which it is required.

1AA [Repealed]

1A Matters to be included in assessment of effects on environment

[Repealed]

2 Information required in all applications

(1) An application for a resource consent for an activity (the *activity*) must include the following:

- (a) a description of the activity;
- (b) a description of the site at which the activity is to occur;
- (c) the full name and address of each owner or occupier of the site;
- (d) a description of any other activities that are part of the proposal to which the application relates;
- (e) a description of any other resource consents required for the proposal to which the application relates;
- (f) an assessment of the activity against the matters set out in [Part 2](#);
- (g) an assessment of the activity against any relevant provisions of a document referred to in [section 104\(1\)\(b\)](#).

(2) The assessment under subclause (1)(g) must include an assessment of the activity against—

- (a) any relevant objectives, policies, or rules in a document; and
- (b) any relevant requirements, conditions, or permissions in any rules in a document; and
- (c) any other relevant requirements in a document (for example, in a national environmental standard or other regulations).

(3) An application must also include an assessment of the activity's effects on the environment that—

- (a) includes the information required by [clause 6](#); and
- (b) addresses the matters specified in [clause 7](#); and
- (c) includes such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.

3 Additional information required in some applications

An application must also include any of the following that apply:

- (a) if any permitted activity is part of the proposal to which the application relates, a description of the permitted activity that demonstrates that it complies with the requirements, conditions, and permissions for the permitted activity (so that a resource consent is not required for that activity under [section 87A\(1\)](#));
- (b) if the application is affected by [section 124](#) or [165ZH\(1\)\(c\)](#) (which relate to existing resource consents), an assessment of the value of the investment of the existing consent holder (for the purposes of [section 104\(2A\)](#));
- (c) if the activity is to occur in an area within the scope of a planning document prepared by a customary marine title group under [section 85](#) of the Marine and Coastal Area (Takutai Moana) Act 2011, an assessment of the activity against any resource management matters set out in that planning document (for the purposes of [section 104\(2B\)](#)).

4 Additional information required in application for subdivision consent

An application for a subdivision consent must also include information that adequately defines the following:

- (a) the position of all new boundaries;
- (b) the areas of all new allotments, unless the subdivision involves a cross lease, company lease, or unit plan;
- (c) the locations and areas of new reserves to be created, including any esplanade reserves and esplanade strips;
- (d) the locations and areas of any existing esplanade reserves, esplanade strips, and access strips;
- (e) the locations and areas of any part of the bed of a river or lake to be vested in a territorial authority under [section 237A](#);
- (f) the locations and areas of any land within the coastal marine area (which is to become part of the common marine and coastal area under [section 237A](#));
- (g) the locations and areas of land to be set aside as new roads.

5 Additional information required in application for reclamation

An application for a resource consent for reclamation must also include information to show the area to be reclaimed, including the following:

- (a) the location of the area;
- (b) if practicable, the position of all new boundaries;
- (c) any part of the area to be set aside as an esplanade reserve or esplanade strip.

Assessment of environmental effects

6 Information required in assessment of environmental effects

- (1) An assessment of the activity's effects on the environment must include the following information:
 - (a) if it is likely that the activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity;
 - (b) an assessment of the actual or potential effect on the environment of the activity;
 - (c) if the activity includes the use of hazardous installations, an assessment of any risks to the environment that are likely to arise from such use;
 - (d) if the activity includes the discharge of any contaminant, a description of—
 - (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
 - (ii) any possible alternative methods of discharge, including discharge into any other receiving environment;
 - (e) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect;
 - (f) identification of the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted;
 - (g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how and by whom the effects will be monitored if the activity is approved;
 - (h) if the activity will, or is likely to, have adverse effects that are more than minor on the exercise of a protected customary right, a description of possible alternative locations or methods for the exercise of the activity (unless written approval for the activity is given by the protected customary rights group).
- (2) A requirement to include information in the assessment of environmental effects is subject to the provisions of any policy statement or plan.
- (3) To avoid doubt, subclause (1)(f) obliges an applicant to report as to the persons identified as being affected by the proposal, but does not—
 - (a) oblige the applicant to consult any person; or
 - (b) create any ground for expecting that the applicant will consult any person.

7 Matters that must be addressed by assessment of environmental effects

- (1) An assessment of the activity's effects on the environment must address the following matters:
 - (a) any effect on those in the neighbourhood and, where relevant, the wider community, including any social, economic, or cultural effects;
 - (b) any physical effect on the locality, including any landscape and visual effects;
 - (c) any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity;

- (d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations;
 - (e) any discharge of contaminants into the environment, including any unreasonable emission of noise, and options for the treatment and disposal of contaminants;
 - (f) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.
- (2) The requirement to address a matter in the assessment of environmental effects is subject to the provisions of any policy statement or plan.

New Zealand Coastal Policy Statement

Objective 5

To ensure that coastal hazard risks taking account of climate change, are managed by:

- locating new development away from areas prone to such risks;
- considering responses, including managed retreat, for existing development in this situation; and
- protecting or restoring natural defences to coastal hazards.

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 risk¹⁰ 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 26 Natural defences against coastal hazards

- (1) Provide where appropriate for the protection, restoration or enhancement of natural defences that protect coastal land uses, or sites of significant biodiversity, cultural or historic heritage or geological value, from coastal hazards.
- (2) Recognise that such natural defences include beaches, estuaries, wetlands, intertidal areas, coastal vegetation, dunes and barrier islands.

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;
 - (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.

National Policy Statement for Freshwater Management 2020

2.1 Objective

- (1) The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:
- (a) first, the health and well-being of water bodies and freshwater ecosystems
 - (b) second, the health needs of people (such as drinking water)
 - (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

2.2 Policies

Policy 1: Freshwater is managed in a way that gives effect to Te Mana o te Wai.

Policy 2: Tangata whenua are actively involved in freshwater management (including decision-making processes), and Māori freshwater values are identified and provided for.

Policy 3: Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.

Policy 4: Freshwater is managed as part of New Zealand's integrated response to climate change.

Policy 5: Freshwater is managed (including through a National Objectives Framework) to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and

well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.

Policy 6: There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.

Policy 7: The loss of river extent and values is avoided to the extent practicable.

Policy 8: The significant values of outstanding water bodies are protected.

Policy 9: The habitats of indigenous freshwater species are protected.

Policy 10: The habitat of trout and salmon is protected, insofar as this is consistent with Policy 9.

Policy 11: Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided.

Policy 12: The national target (as set out in Appendix 3) for water quality improvement is achieved.

Policy 13: The condition of water bodies and freshwater ecosystems is systematically monitored over time, and action is taken where freshwater is degraded, and to reverse deteriorating trends.

Policy 14: Information (including monitoring data) about the state of water bodies and freshwater ecosystems, and the challenges to their health and well-being, is regularly reported on and published.

Policy 15: Communities are enabled to provide for their social, economic, and cultural wellbeing in a way that is consistent with this National Policy Statement.

National Environmental Standards for Freshwater 2020

70 Permitted activities

- (1) The placement, use, alteration, extension, or reconstruction of a culvert in, on, over, or under the bed of any river or connected area is a permitted activity if it complies with the conditions.

Conditions

- (2) The conditions are that—
- (a) the culvert must provide for the same passage of fish upstream and downstream as would exist without the culvert, except as required to carry out the works to place, alter, extend, or reconstruct the culvert; and
 - (b) the culvert must be laid parallel to the slope of the bed of the river or connected area; and
 - (c) the mean cross-sectional water velocity in the culvert must be no greater than that in all immediately adjoining river reaches; and
 - (d) the culvert's width where it intersects with the bed of the river or connected area (s) and the width of the bed at that location (w), both measured in metres, must compare as follows:
 - (i) where $w \leq 3$, $s \geq 1.3 \times w$;
 - (ii) where $w > 3$, $s \geq (1.2 \times w) + 0.6$; and
 - (e) the culvert must be open-bottomed or its invert must be placed so that at least 25% of the culvert's diameter is below the level of the bed; and
 - (f) the bed substrate must be present over the full length of the culvert and stable at the flow rate at or below which the water flows for 80% of the time; and

- (g) the culvert provides for continuity of geomorphic processes (such as the movement of sediment and debris).

Information requirements

- (3) See also regulations 62 and 63 for information requirements that apply to the permitted activity (unless the activity is use).

Regional Policy Statement

Amendments made to the RPS at notification are shown in black. Deletions are shown in strike through, and additions are shown in underline.

Objective 19

The risks and consequences to people, communities, ~~their businesses, property, and infrastructure~~ and the environment from natural hazards and the effects of climate change ~~effects are reduced~~ minimised.

Objective 20

Natural hazard and climate change mitigation and adaptation activities minimise the risks from natural hazards and impacts on Te Mana o te Wai, Te Rito o te Harakeke, natural processes, indigenous ecosystems and biodiversity.

Objective 21

The resilience of our Ecommunities are more resilient to natural hazards, including the impacts and the natural environment to the short, medium, and long-term effects of climate change, and sea level rise is strengthened, and people are better prepared for the consequences of natural hazard events.

Objective CC.6: Resource management and adaptation planning increases the resilience of communities, infrastructure and the natural environment to the short, medium, and long-term effects of climate change.

Policy 51: Minimising the risks and consequences of natural hazards - consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review to a district or regional plan, the risk and consequences of natural hazards on people, communities, their property and infrastructure shall be minimised, and/or in determining whether an activity is inappropriate particular regard shall be given to:

- (a) *the ~~frequency and magnitude~~ likelihood and consequences of the range of natural hazards that may adversely affect the ~~proposal or development~~ subdivision, use or development, including residual risk those that may be exacerbated by climate change and sea level rise;*
- (b) *~~the potential for climate change and sea level rise to increase in the frequency or magnitude of a hazard event;~~*
- (c) *whether the location of the subdivision, use or development will foreseeably require hazard mitigation works in the future;*
- (d) *the potential for injury or loss of life, social and economic disruption and civil defence emergency management implications – such as access routes to and from the site;*
- (e) *whether the subdivision, use or development causes any change in the risk and consequences from natural hazards in areas beyond the application site;*
- (f) *minimising effects on the impact of the proposed subdivision, use or development on any natural features that may act as a buffer to ~~or reduce the impacts of a from natural hazards event; and where development should not interfere with their ability to reduce the risks of natural hazards;~~*

- (g) ~~avoiding inappropriate subdivision, use or development and hazard sensitive activities where the hazards and risks are assessed as high to extreme; in areas at high risk from natural hazards;~~
- (h) appropriate hazard risk management and/or adaptation and/or mitigation measures for subdivision, use or development in areas where the hazards and risks are assessed as low to moderate hazard areas, including an assessment of residual risk; and
- (i) the allowance for floodwater conveyancing in identified overland flow paths and stream corridors; and
- (j) the need to locate habitable floor areas levels of habitable buildings and buildings used as places of employment above the 1% AEP (1:100 year) flood level, in identified flood hazard areas.

Policy 52: Minimising adverse effects of hazard mitigation measures – consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, for hazard mitigation measures, particular regard shall be given to:

- ~~(a) the need for structural protection works or hard engineering methods;~~
- (b) whether non-structural, soft engineering, green infrastructure, room for the river or Mātauranga Māori options provide a more appropriate or suitably innovative solution;
- (c) avoiding structural protection works or hard engineering methods unless it is necessary to protect existing development, regionally significant infrastructure or property from unacceptable risk and the works form part of a long-term hazard management strategy that represents the best practicable option for the future;
- (d) the long-term viability of maintaining the structural protection works with particular regard to how climate change may increase the risk over time;
- (e) adverse effects on Te Mana o te Wai, mahinga kai, Te Rito o te Harakeke, natural processes, or the local indigenous ecosystem and biodiversity;
- (f) sites of significance to mana/tangata whenua identified in a planning document recognised by an iwi authority and lodged with a local authority or scheduled in a city, district or regional plan;
- (g) a no more than minor increase in risk to nearby areas as a result of changes to natural processes from the hazard mitigation works;
- (h) the cumulative effects of isolated structural protection works;
- (i) any residual risk remaining after mitigation works are in place,

so that they minimise ~~reduce and do not increase~~ the risks from ~~of~~ natural hazards.

Natural Resources Plan

The Planning Maps are available on the GWRC Web Map Viewer.¹²

Objectives

Objective O14

The natural character of the coastal marine area, natural wetlands, and rivers, lakes and their margins is preserved and protected from inappropriate use and development.

¹² https://mapping.gw.govt.nz/GW/GWpublicMap_Mobile/?webmap=85393478ca2847f4a37079037e1d79ea

Objective O15

The hazard risk and residual hazard risk, from natural hazards and adverse effects of climate change, on people, the community, the environment and infrastructure are acceptable.

Objective O16

Inappropriate use and development in high hazard areas is avoided.

Objective O45

Use and development shall generally not be located in the coastal marine area unless it has a functional need or operational requirement to be located there.

Objective O46

Use and development makes efficient use of any occupied space in the coastal marine area.

Objective O47

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

Objective O48

New development in the coastal marine area is of a scale, density and design that is compatible with its function and its location in the coastal environment.

Policies

Policy P16: Flood protection activities

The use, maintenance and ongoing operation of existing catchment based flood and erosion risk management activities to manage the hazard risk of flooding to people, property, infrastructure and communities are provided for.

Policy P17: New flood protection and erosion control

The social, cultural, economic and environmental benefits of new catchment based flood and erosion risk management activities are recognised.

Policy P25: High hazard areas

Use and development, including hazard mitigation methods, in on or over high hazard areas shall be managed to ensure that:

- (a) they have a functional need or operational requirement or there is no practicable alternative to be so located, and
- (b) an overall increase in risk of social, environmental and economic harm is avoided, and (c) the hazard risk and/or residual hazard risk to the development, assessed using a risk-based approach, is acceptable or as low as reasonably practicable, recognising that in some instances an increase in risk to the development may be appropriate, and
- (d) the development does not cause or exacerbate hazard risk in other areas, and unless effects are avoided, remedied or mitigated in accordance with a hazard risk management strategy, and
- (e) adverse effects on natural processes (coastal, riverine and lake processes) are avoided, remedied, or mitigated, and

- (f) natural cycles of erosion and accretion and the potential for natural features to fluctuate in position over time, including movements due to climate change and sea level rise over at least the next 100 years, are taken into account.

Policy P27: Hazard mitigation measures

Hard hazard engineering mitigation and protection methods shall be discouraged except where it is necessary to protect:

- (a) existing, or upgrades to, infrastructure including Regionally Significant Infrastructure, or
- (b) new Regionally Significant Infrastructure, or
- (c) significant existing development, and

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

- (d) there is no reasonable or practicable alternatives to mitigate hazard risk and residual hazard risk, and
- (e) the mitigation and protection methods are suitably located and designed, and where appropriate certified by a qualified, professional engineer, and
- (f) the use of soft engineering options are incorporated and used, where appropriate,

and either:

- (g) any adverse effects are no more than minor, or (h) where the environmental effects are more than minor the works form part of a hazard risk management strategy.

Policy P28: Effects of climate change

Particular regard shall be given to the potential for climate change

- (a) to threaten biodiversity, aquatic ecosystem health and mahinga kai, or
- (b) to cause or exacerbate natural hazard events over at least the next 100 years that could adversely affect use and development including as a result of:
- (c) coastal erosion and inundation (storm surge), and
- (d) river and lake flooding and erosion, aggradation, decreased minimum flows, and
- (e) stormwater ponding and impeded drainage, and
- (f) relative sea level rise, using reliable scientific data for the Wellington region.

Policy P29: Natural buffers

Provide for the restoration or enhancement of natural features such as beaches, dunes or wetlands that buffer development from natural hazards and ensure the adverse effects of use and development on them are avoided, remedied, or mitigated.

Policy P139: Functional need and efficient use

Use and development in the coastal marine area shall:

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

- (c) be use or redevelopment of, or on, existing structures in the Lambton Harbour Area; or
- (d) for any other activity, it shall have no reasonable or practicable alternative to locating in the coastal marine area, and:
- (e) be made available for public or multiple use unless a restriction on public access is necessary, and
- (f) result in the removal of structures once redundant, except where operational requirements prevent this within the Cook Strait Cable Protection Zone and adjacent foreshore, and
- (g) concentrate in locations where similar use and development already exists where practicable, and
- (h) in respect of (a), (b) and (d) above, only use the minimum area necessary, and (i) in respect of (c), makes efficient use of any occupied space.

Policy P146: Seawalls

The construction of a new seawall or the addition to or alteration or replacement of an existing seawall is inappropriate except where the seawall is required to protect:

- (a) existing, or upgrades to, infrastructure, or
 - (b) new Regionally Significant Infrastructure, or
 - (c) significant existing development, and
- in respect of (a), (b) and (c):
- (d) there is no reasonable or practicable alternative means, and
 - (e) suitably located, designed and certified by a qualified, professional engineer, and
 - (f) designed to incorporate the use of soft engineering options where appropriate.

5.6.2 Coastal management general conditions

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

Disturbance

- (a) the coastal marine area, including river mouths shall not be disturbed to an extent greater than that required to undertake the activity, and
- (b) there is no disturbance of the foreshore or seabed to a depth greater than 0.5m below the seabed or foreshore within the Hutt Valley Aquifer Zone shown on Map 46, unless the activity is for the replacement of an existing submarine telecommunications cable, in which case the depth of disturbance must be no greater than 2.0m, and
- (c) all machinery, equipment and materials used for the activity shall be removed from the foreshore or seabed at the completion of the activity, and

Discharges

- (d) There shall be no discharge of contaminants (excluding sediment which is addressed by clause (f)) to water or the foreshore or seabed, except where the minor discharge is permitted by another rule in this Plan, and
- (e) The discharge of sediment to water from an activity in, on, over or under the foreshore or seabed in the coastal marine area shall meet the following:

- (i) the release of sediment associated with the activity shall not be undertaken for more than five consecutive days, and for more than 12 hours per day, and
- (ii) it shall not, after reasonable mixing, cause any conspicuous change in the colour of the water in the receiving water or any change in horizontal visibility greater than 30% more than 24 hours after the completion of the activity, and

Erosion and scouring

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

Diversion

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

Note

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

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

Dumping

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

Fish passage

- (j) Any structure constructed in the coastal marine area shall be carried out in a manner to ensure that fish passage between coastal and fresh water habitat is maintained at all times, except:
 - (i) as required for the operation of backflow devices during heavy rainfall events, or
 - (ii) a temporary restriction of no more than 48 hours required for construction or maintenance activities, provided any full obstruction is outside the months of August to December inclusive, and

Note

Any activity that results in fish passage being impeded may require approval from the Director General of Conservation under the Freshwater Fisheries Regulations 1983.

Inanga spawning

- (k) In any part of the coastal marine area (including any part of a river in the coastal marine area) identified as inanga spawning habitat in Schedule F1b (inanga spawning habitat), no disturbance of or deposition in, on or under the foreshore or seabed shall occur and no diversion of open coastal water or sediment discharge shall occur between 1 January and 31 May, except that material accumulated at the outlet of a stormwater discharge pipe may be removed between 1 January and 1 March, so long as there is no associated trimming or removal of vegetation (including weeds) on the bed or banks, and

Design and maintenance of structures

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

Refuelling

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

Lighting and glare

- (n) All exterior lighting shall be managed to avoid the spill of light or glare that is:
 - (i) a hazard to traffic safety on streets outside the coastal marine area, and
 - (ii) a hazard to navigation in the coastal marine area, unless the lighting is necessary for public safety reasons or operational requirements, and

Noise in the coastal marine area

- (o) Noise from activities located outside the Commercial Port Area shown on Map 51, Map 52 and Map 53 and the Lambton Harbour Area (Northern Zone) shown on Map 51 in the coastal marine area shall meet the following noise standards:
 - (i) the activity shall not cause excessive noise (defined in section 326 of the RMA) outside the coastal marine area, and
 - (ii) between the hours of 7.00am and 11.00pm, the noise level (Leq) measured at any point on the nearest Residential Area boundary shall not exceed 55dB(A), and
 - (iii) between the hours of 11.00pm and 7.00am, the noise level (Leq) measured at any point on the nearest Residential Area boundary shall not exceed 45dB(A), and
 - (iv) single events of noise shall not exceed an Lmax sound level of 75dB(A), and (v) noise shall be measured and assessed in accordance with NZS 6802:2008 Acoustics – Environmental Noise, and (vi) any construction activities shall meet standards specified in Table 1 of NZS 6803:1999 Acoustics – Construction Noise, and
 - (vii) helicopter landing areas shall meet the standards specified for residential areas in Table 1 of NZS 6807:1994 Noise management and land use planning for helicopter landing areas, andconditions (i) to (iv) shall not apply to the following:
 - (viii) noise generated by navigational aids, safety signals, warning devices, or emergency pressure relief valves, or
 - (ix) noise generated by emergency work arising from the need to protect life or limb or prevent loss or serious damage to property or minimise or prevent environmental damage, or
 - (x) commercial firework displays, or
 - (xi) noise generated by overflying aircraft, and conditions (ii) to (iv) shall not apply to temporary military training activities undertaken for defence purposes. Noise emission as a result of temporary military training measured on a line 20m from and parallel to the facade of any dwelling used for accommodation or the legal boundary where this is closer to the dwelling or building shall meet the following:
 - (xii) for all activities excluding the use of explosives:

Time (any day)	Limits (dB(A))	
	L_{eq}	L_{max}
0000 – 0630	45	75
0630 – 0730	60	75
0730 – 1800	75	90
1800 – 2000	70	85
2000 – 2400	45	75

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

[...]

Rule R122: Rule R122: Maintenance, repair, replacement, upgrade or use of existing structures (excluding the Barrage Gates) – permitted activity

The maintenance (including the maintenance of function), repair, replacement, upgrade or use of a lawfully established structure or a part of a structure (excluding passive flap gates place in rivers after 2 September 2020, and the Barrage Gates located in the lower Wairarapa Valley) that is fixed in, on, under, or over the bed of a river or lake, excluding activities regulated by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017, including any associated:

- (a) disturbance of the river or lake bed, and
- (b) deposition on the river or lake bed, and
- (c) diversion of water, and
- (d) discharge of sediment to water, and
- (e) temporary damming of water

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

- (f) the activity shall comply with the beds of lakes and rivers general conditions specified above in Section 5.4.4, except the use of existing structures shall only comply with conditions (d), (h), (j), and (k), and
- (g) the resulting structure, excluding any cable, pipe or duct (for example gas pipes, electricity cables or ducts) attached to the structure and including any deposition, adds no more to the existing structure than whichever is the lesser of:
 - (i) 5% of the plan or cross-sectional area of the structure in the river or lake bed, or
 - (ii) 1m in horizontal projection and 1m in vertical projection measured from the structure as it was in the river or lake bed on the date of 31 July 2015 or from the date that the structure was lawfully established, whichever is later, and
- (h) the removal or redistribution of flood debris or gravel, sand or other natural bed material that has accumulated as a result of a culvert, stormwater inlet or outlet, bridge or debris arrestor structure, or a dam spillway, outflow pipe or overflow pipe, for the purpose of maintaining the function of a structure, including to reduce the perched nature of any culvert due to scour, shall only:
 - (i) be undertaken within 5m of the structure, and
 - (ii) result in the disturbance or excavation of an area of bed of no more than 10m², and

- (iii) not result in the deposition of non-natural material, or the deposition of flood debris or bed material in such a way as to form a stockpile, dam or mound within the bed of the river, except as required to provide for fish passage, and
- (i) the use of any water monitoring equipment may divert up to 30m³ of water per day for the purpose of measuring water quality or quantity provided the water is returned to the water body within 50m of the diversion point, and the quality of the water in the receiving body after the diverted water is returned is maintained, and
- (j) any replacement, repair or upgrade of a dam structure shall be contained within the form of the existing structure as it was in the river or lake bed on the date of 31 July 2015 or from the date that the structure was lawfully established, whichever is later, and no increase in size shall be provided for by clause (g) of this rule, and
- (k) any use, alteration, extension or reconstruction of a culvert placed in a river or connecting area after 2 September 2020, in, on over or under the bed of any river or connected area must also comply with the following:
 - (i) be laid parallel to the slope of the bed of the river or connected area, and
 - (ii) the mean cross-sectional water velocity in the culvert must be no greater than that in all immediately adjoining river reaches, and
 - (iii) the culvert's width where it intersects with the bed of the river or connected area (s) and the width of the bed at that location (w), both measured in metres, must compare as follows:
 - 1. where $w \leq 3$, $s \geq 1.3 \times w$:
 - 2. where $w \geq 3$, $s \geq (1.2 \times w) + 0.6$, and
 - (iv) the culvert must be open-bottom or its invert must be placed so that at least 25% of the culvert's diameter is below the level of the bed, and
 - (v) the bed substrate must be present over the full length of the culvert and stable at the flow rate at or below which the water flows for 80% of the time, and
 - (vi) the culvert provides for continuity of geomorphic processes (such as the movement of sediment and debris), and
- (l) any use, alteration, extension or reconstruction of a weir placed in a river or connecting area after 2 September 2020 and that is not a customary weir, in, on over or under the bed of any river or connected area must also comply with the following:
 - (i) the fall height of the weir must be no more than 0.5m, and
 - (ii) the slope of the weir must be no steeper than 1:30, and
 - (iii) the face of the weir must have a roughness elements that mixed grade rocks of 150 to 200mm diameter and irregularly spaced no more than 90mm apart to create a hydraulically diverse flow structure across the weir (including any wetted margins), and
 - (iv) the weir's lateral profile must be V-shaped, sloping up at the banks, and with a low-flow channel in the centre, with the lateral cross-section slope between 5° and 10°, and
- (m) for all alterations, extensions, or reconstructions or replacement of culverts, weirs (except customary weirs), non-passive flap gates, dams, fords, or aprons and ramps, placed in a river or connecting area after 2 September 2020, the information requirements of Regulations 62, and 63 to 68 as relevant for

the structure, of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 shall be provided as set out in the regulations.

Rule R126: Culverts and ancillary culvert structures – permitted activity

The placement of a culvert or an ancillary culvert structure that is fixed in, or on, the bed of a river excluding activities regulated by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 including any associated:

- (a) disturbance of the river or lake bed, and
- (b) deposition on the river or lake bed, and
- (c) diversion of water, and
- (d) discharge of sediment to water, and
- (e) temporary damming of water,

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

- (f) the activity shall comply with the beds of lakes and rivers general conditions specified above in Section 5.4.4, except condition (l) (not altering the natural course of the river), and
- (g) the activity does not occur within a site identified in Schedule C (mana whenua), and
- (h) where multiple culverts are placed side by side, the total capacity of the multiple culverts shall not be less than that of a single culvert which complies with this rule, and
- (i) the culvert, associated fill and culvert placement shall comply with the following dimensions:
 - (i) a maximum culvert length of 20m (excluding any ancillary culvert structure), and
 - (ii) for circular culverts an external culvert diameter of 0.3m to 1.2m (inclusive), and
 - (iii) for non-circular culverts an external width and height of 0.3m to 1.2m each (inclusive), and
 - (iv) the culvert's width where it intersects with the bed of the river or connected area must be more than 1.3 times the width of the bed at that location,
 - (v) a maximum fill height of 2m above the top of the culvert unless a spillway is constructed to enable the passage of a 5% annual exceedance probability (20 year return period) flood event without the fill being overtopped, and
- (j) a minimum culvert installation depth below the bed of 25% of the width of the culvert, or the culvert must be open bottomed, and
- (k) the bed substrate must be present over the full length of the culvert and stable at the flow rate at or below which the water flows for 80% of the time; and
- (l) the culvert shall be positioned so that its alignment and gradient are the same as the river, and
- (m) the mean cross-sectional water velocity in the culvert must be no greater than that in all immediately adjoining river reaches; and
- (n) the culvert shall be constructed to allow:
 - (i) the flow from a 5% annual exceedance probability (20 year return period) flood event without overtopping, unless the overtopping flows to a specifically designed spillway, and

- (ii) the flow from a two year return period flood event without any flow impediment, and
- (o) the culvert inlet and outlet shall be protected against erosion, and
- (p) any ancillary culvert structure shall not occupy a total bed area of greater than 10m², and
- (q) all steps shall be taken to minimise the release of sediment during construction, and
- (r) the culvert shall be constructed and maintained to avoid any aggradation or erosion of the bed, including any erosion at the inlet and outlet of the culvert, and
- (s) the culvert shall be constructed and maintained to avoid causing any flooding on any neighbouring properties, and
- (t) the culvert provides for continuity of geomorphic processes (such as the movement of sediment and debris); and
- (u) the information requirements of Regulations 62, 63 and 68 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 shall be provided as set out in the regulation.

Rule R169: Maintenance or repair of structures – permitted activity

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

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

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

- (f) the maintenance and repair of the structure is contained within the form of the existing structure and there is no increase in length, width, or height of the existing structure (except for increases for the purposes of replacement, removal and alterations of existing utility services, electric or aerial telecommunications cables/conductors/pipelines where these activities will not result in increases in design voltage and the new or altered cables/conductors/pipelines will not be lower in height above the foreshore or seabed), and
- (g) the activity shall comply with the coastal management general conditions specified above in Section 5.6.2.

Rule R172: Removal or demolition of structures or part of a structure – permitted activity

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

- (a) disturbance of the foreshore or seabed, and
- (b) deposition in, on or under the foreshore or seabed, and
- (c) discharge of contaminants, and
- (d) diversion of open coastal water is a permitted activity, provided the following conditions are met:
- (e) the structure is not inside a site or habitat identified in Schedule C (mana whenua), Schedule F4 (coastal sites) or Schedule F5 (coastal habitats), and

- (f) the removal or demolition shall not disturb more than 10m³ of the foreshore or seabed, and
- (g) the structure or part of the structure, is completely removed from the coastal marine area, except for structures within the Commercial Port Area, and
- (h) no explosives shall be used in the removal or demolition, and
- (i) written notice detailing the scale and location of the structure and the timing of construction and removal shall be given five working days before work commences to:
 - (i) the Wellington Regional Council Harbourmaster, and
 - (ii) Maritime New Zealand, and
- (j) the activity shall comply with the coastal management general conditions specified above in Section 5.6.2.

Rule R185: Additions or alterations to, or replacements of, existing seawalls outside Schedule C, Schedule F4 and Schedule F5 sites (excluding scheduled kelp beds* and subtidal rocky reefs to the west and south of Wellington International Airport) – controlled activity

The addition or alteration to, or replacements of, an existing seawall and the associated use of the addition in the coastal marine area, including any associated:

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

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

- (f) any addition shall add no more than 5m in horizontal projection at the ends of the existing structure parallel to the shoreline and 1m in vertical projection to the structure as it existed on the date of 31 July 2015,
- (g) the structure is not inside a site or habitat identified in Schedule F5 (coastal habitats) (other than those scheduled kelp beds* and subtidal rocky reefs to the west and south of Wellington International Airport, Schedule C (mana whenua), or Schedule F4 (coastal sites),
- (h) the addition shall not extend any further seaward than the existing seawall, and
- (i) the activity shall comply with the coastal management general conditions specified above in Section 5.6.2.

Matters of control

1. Effects on public access
2. Design, design life and construction
3. Effects on coastal natural processes including effects on shoreline stability in the vicinity and adjacent areas
4. Effects on a site or habitat identified in Schedule F2(c) (indigenous birds), or those scheduled kelp beds* and subtidal rocky reefs to the west and south of Wellington International Airport, or on an

adjacent site or habitat identified in Schedule C (mana whenua), Schedule F4 (coastal sites), Schedule F5 (coastal habitats), Schedule J (geological features)

5. Effects of coastal erosion and inundation (storm surge) on the seawall
6. Effects on the heritage values of structures identified in Schedule E1 (heritage structures), Schedule E2 (wharves and boatsheds) or Schedule E3 (navigational aids).

Rule R187: Seawalls outside Schedule C, Schedule F4, Schedule F5 or Schedule J sites – discretionary activity

The placement of a new seawall, or the addition to or alteration or replacement of an existing seawall, and the associated use of the structure outside a site or habitat identified in Schedule C (mana whenua), Schedule F4 (coastal sites), Schedule F5 (coastal habitats) or Schedule J (geological features) in the coastal marine area including any associated:

- (a) occupation of space in the common marine and coastal area, and
- (b) disturbance of the foreshore or seabed, and
- (c) deposition in, on or under the foreshore or seabed, and
- (d) discharge of contaminants, and 294 Natural Resources Plan for the Wellington Region
- (e) diversion of open coastal water that is not a controlled activity under Rule R185 or restricted discretionary under Rule R186 is a discretionary activity.

Rule R213: Beach recontouring for coastal restoration purposes – controlled activity

The disturbance of the foreshore or seabed for beach recontouring in the coastal marine area, including any associated:

- (a) deposition in, on or under the foreshore or seabed, and
- (b) discharge of contaminants is a controlled activity, provided the following conditions are met:
- (c) the activity forms part of a coastal restoration plan, and
- (d) the activity shall comply with the coastal management general conditions specified above in Section 5.6.2, and
- (e) within the Tiitahi Bay fossil forest area shown on Map 54, any motor vehicle used shall not have caterpillar tracks.

Matters of control

1. Timing of the activity associated with coastal fauna
2. Volume of material removed
3. Effects of disturbance, deposition, discharge and diversion associated with the activity
4. Effects on shoreline stability (including dunes and nearshore) and the potential to create a coastal inundation hazard
5. Effects on the heritage values of structures and sites identified in Schedule E1 (heritage structures) or Schedule E4 (archaeological sites)
6. Effects on sites and habitats identified in or using Schedule C (mana whenua), Schedule F2c (birds-coastal), Schedule F4 (coastal sites), Schedule F5 (coastal habitats) or Schedule J (geological features)

Rule R226: Deposition for beach renourishment – controlled activity

The deposition of sand, shingle, shell or other naturally occurring coastal material for beach renourishment in, on or under the coastal marine area, including any associated:

- (a) disturbance of the foreshore or seabed, and
- (b) discharge of contaminants is a controlled activity provided the following conditions are met:
- (c) the deposition is for the purpose of managing beach or shoreline erosion or improving the amenity value of the foreshore, and
- (d) the deposition is undertaken by, or for, a local authority, and
- (e) the volume of material to be deposited shall not exceed 1500m³ per 12 month period (f) the deposition is not inside sites or habitats identified in Schedule C (mana whenua), Schedule F4 (coastal sites), Schedule F5 (coastal habitats) or Schedule J (geological features)
- (g) the activity shall comply with the coastal management general conditions specified above in Section 5.6.2.

Matters of control

- 1. Type and composition of the material to be used including its size, roundness, shape and colour
- 2. Design, design life and method of deposition
- 3. Volume of material to be deposited
- 4. Effects of disturbance, deposition, discharge and diversion associated with the activity
- 5. Effects on coastal natural processes including effects on shoreline stability in the vicinity and adjacent areas
- 6. Effects of coastal erosion and inundation (storm surge) on the deposition
- 7. Effects on sites or habitats identified in Schedule F2c (birds–coastal), or on an adjacent site or habitat identified in Schedule C (mana whenua), Schedule F4 (coastal sites), Schedule F5 (coastal habitats), Schedule J (geological features)
- 8. Measures to manage the loss of the deposited material through wind or water erosion 9. Navigational safety and charting including notification of Land Information New Zealand and Maritime New Zealand

Kapiti Coast District Plan

DO-04 Coastal Environment

To have a coastal environment where:

- 1. areas of outstanding natural character and high natural character, outstanding natural features and landscapes, areas of significant indigenous vegetation, and significant habitats of indigenous fauna are identified and protected;
- 2. areas of outstanding natural character and high natural character are restored where degraded;
- 3. the effects of inappropriate subdivision, use and development are avoided, remedied, or mitigated;
- 4. public access to and along the coast to facilitate active and passive recreational use is maintained and enhanced while managing inappropriate vehicle access; and

5. Inappropriate development does not result in further loss of coastal dunes in the area mapped as the coastal environment.

CE-P3 Preservation of Natural Character

Preserve natural character in the coastal environment, and protect it from inappropriate subdivision, use and development, including by:

1. avoiding adverse effects of activities on natural character in areas of outstanding natural character;
2. avoiding significant adverse effects, and avoiding, remedying or mitigating other adverse effects of activities on natural character in all other areas of the coastal environment;
3. reinstating dunes which function as natural buffers where practicable;
4. providing managed public access ways to the beach and foreshore and limiting damage to dunes from unmanaged access;
5. regulating encroachment of permanent structures and private uses onto the beach or public land;
6. removing existing unnecessary structures and associated waste materials from the beach; and
7. retaining a natural beach and foreshore including a dry sand beach where practicable.

Policy 4 (Coastal Hazards 1999 Provisions)

Discourage coastal protection works on the Coastal Marine Area interface where they are not already present and encourage management options such as managed retreat and coastal renourishment rather than hard engineering works when protection works are sought.

CE-R2 Earthworks – Discretionary Activity

Buildings or earthworks in areas of outstanding natural character or areas of high natural character located within the General Residential, Rural, Natural Open Space or Open Space zones which are not a permitted activity in CE-R1, or earthworks associated with activities permitted under NH-FLOOD-R4, NH-FLOOD-R6 and NH-FLOOD-R7.

The following are excluded from this rule:

1. Minor Buildings;
2. Earthworks associated with extractive industries (see EW-EXT);
3. Earthworks associated with the removal or replacement of underground fuel storage tanks; and
4. "earthworks" as defined in and regulated by the NESPF.

EW-R1 Earthworks – Earthworks not otherwise provided for in this chapter. – Permitted Activity

Standards

1. The activity complies with all permitted activity standards in this chapter.

EW-R1 Earthworks – Earthworks, excluding those listed in EW-R3, in all areas except areas subject to flood hazards, outstanding natural features and landscapes, ecological sites, geological features, areas of outstanding natural character, areas of high natural character. – Permitted Activity

Standards

1. Earthworks must not be undertaken:
 - a. on slopes of more than 28 degrees; or
 - b. within 20 metres of a waterbody, including wetlands and coastal water.
2. In all other areas except as provided for in Standard 3, earthworks must not:
 - a. disturb more than 50m³ (volume) of land per subject site in residential zones, working zones, natural open space zones and open space zones (excluding the Private Recreation and Leisure Precinct) within a 5 year period;
 - b. disturb more than 100m³ (volume) of land per subject site in rural zones within a 5 year period; and
 - c. alter the original ground level by more than 1 metre, measured vertically.

This standard applies whether in relation to a particular earthwork or as a total of cumulative earthworks within the specified period.

3. Earthworks for the construction of permitted telecommunications and radio communication facilities, and their maintenance, renewal and minor upgrading outside legal road, provided that the earthworks do not alter the original ground level by more than 1.5 metres measured vertically, except piling associated with the installation of a network utility.
4. Standards 1 and 2 under this rule do not apply, to:
 - a. earthworks associated with farm and forestry tracks permitted under GRUZ-R4, RPROZ-R4, RLZ-R4 and FUZ-R4;
 - b. planting trees;
 - c. removing trees;
 - d. horticultural root ripping;
 - e. digging offal pits
 - f. burying dead stock and plant waste;
 - g. drilling bores;
 - h. installing and maintaining services such as water pipes and troughs;
 - i. or where a more specific earthworks provision is provided for in the zone or precinct methods;
 - j. earthworks required to effect a subdivision of land in the Ōtaki South Precinct under SUB-WORK-R45.
5. Any earthworks must ensure that:
 - a. Surface runoff from the subject site is isolated from other subject sites and existing infrastructure; and
 - b. The potential for silt and sediment to enter the stormwater system or waterbodies in surface runoff from the subject site, is minimised; and
 - c. Erosion and sediment control measures are installed and maintained for the duration of the construction period, where necessary.

6. Accidental Discovery Protocol (HH-Table 1) to be followed for any accidental discovery of a waahi tapu or other cultural site.
 - a. Accidental Discovery Protocol – should a waahi tapu of other cultural site be unearthed during earthworks the contractor and/or owner must:-
 - i. cease operations;
 - ii. inform local iwi;
 - iii. inform Heritage New Zealand and apply for the appropriate authority if required;
 - iv. take appropriate action, after discussion with Heritage New Zealand, Council and Iwi to remedy damage and/or restore the site.
7. Standards (2) and (3) do not apply to earthworks required to effect a subdivision of land in the Ōtaki South Precinct under SUB-WORK-R46.

**EW-R5 Earthworks not complying with one or more of the permitted activity standards in EW-R2 or EW-R3.
– Restricted Discretionary**

Matters of Discretion

1. The degree of compliance with the Kāpiti Coast District Council Land Development Minimum Requirements.
2. The effects on water collection areas.
3. The degree of compliance with any applicable Environmental Management Plan or Structure Plan applicable to the development.
4. Ecological effects.
5. Visual and amenity effects.

D.1 Residential Zone Rules and Standards (1999 Provisions)

D.1.1 Residential Zone Rules

D.1.1.1 Permitted Activities

The following are Permitted Activities:

- (xviii) All other activities, excluding retailing, which are not listed as CONTROLLED, DISCRETIONARY, NON-COMPLYING or PROHIBITED and which comply with all the permitted activity standards.

D.1.1.3 Discretionary Activities

The following are Discretionary Activities:

- (B)(i) All activities which are not listed as NON-COMPLYING or PROHIBITED and all other activities which do not comply with one or more of the permitted activity or controlled activity standards.

D.1.2.1 Permitted Activity Standards

Yards The minimum yard requirements for any site shall be:

- (iii) Coastal Building Line Restriction
Paraparaumu, Raumati, Paekākāriki - 20 metres as shown on Districtwide and Urban Plan Features Maps 8, 11, 14 and 16.