

Proposed Natural Resources Plan:

Submitter:

Kiwi Rail Holdings Limited

Submitter Number:

S140

25 September 2015

Regional Plan Team
Greater Wellington Regional Council
Wellington

Wellington Regional Council

25 SEP 2015

By e-mail: regionalplan@gw.govt.nz

Dear Sir/Madam

Proposed Wellington Natural Resources Plan – Submission Pursuant to Clause 6 of Schedule 1, Resource Management Act 1991

NAME OF SUBMITTER: KiwiRail Holdings Limited (KiwiRail)

ADDRESS FOR SERVICE: Level 1
Wellington Railway Station
Bunny Street
PO Box 593
WELLINGTON 6140

Attention: Rebecca Beals

Ph: 04 498 3389

Email: Rebecca.Beals@kiwirail.co.nz

Thank you for the opportunity to make a submission on the Proposed Wellington Natural Resources Plan (PNRP). There are a number of matters that in the view of KiwiRail require amendment prior to being made operative and these are detailed in the table attached to this submission.

KiwiRail

KiwiRail Holdings Limited (KiwiRail) is the State Owned Enterprise responsible for the management and operation of the national railway network including the Interislander service between Wellington and Picton. This includes managing land for railway and ferry infrastructure, as well as providing rail and ferry freight and passenger services within New Zealand. KiwiRail Holdings Limited is also the Requiring Authority for land designated "Railway Purposes" in District Plans throughout New Zealand.

In relation to the function and scale of KiwiRail's operations the following facts are from the KiwiRail 2014/2015 Annual Report:

- The company is a logistics provider to customers who use rail freight and ferry services. Approximately 900 freight trains each week result in 18 million tonnes of freight being moved each year around the country on the rail network. Freight includes carrying bulk freight such as coal and milk, and containerised import or export freight to and from ports and full container loads for New Zealand freight forwarders.

- KiwiRail operates public transport services in Wellington on behalf of Greater Wellington Regional Council. Each year, Tranz Metro suburban services provide approximately 12 million passenger journeys. KiwiRail currently also operates the Capital Connection commuter train on weekdays between Palmerston North and Wellington and three long distance rail journeys (Northern Explorer, TranzAlpine and Coastal Pacific).
- Infrastructure: KiwiRail is an infrastructure provider in the form of the New Zealand rail network. Its' role is to operate, maintain and improve the 4,000 km track network, including more than 1,500 bridges and 140 tunnels.
- Importantly for the Wellington Region KiwiRail is an owner and operator of shipping services operating under the Interislander brand. Of Interislanders' three ferries, one is owned and two are chartered. The Interislander carries 800,000 passengers per year between Wellington and Picton spread across 4,600 sailings.

Specifically the Wellington Rail and Ferry Network consists of:

- The North Island Main Trunk (NIMT) which proceeds north from Wellington through to Palmerston North and then onward to Auckland or to Hawkes Bay or through to Taranaki. Most passenger services terminate at Waikanae with longer distance services to Auckland and Palmerston North;
- The Wairarapa Line which travels through the Hutt Valley and the Wairarapa connecting to the Palmerston North to Gisborne Line at Woodville. Frequent commuter passenger services exist to Upper Hutt with a 3 times a day service extending through to Masterton;
- The Johnsonville and Melling Lines;
- The Gracefield Branch Line;
- The Wellington Station and Woburn rail yards; and
- The Interislander ferry terminal facilities including rail and vehicle marshalling areas and
- A separate rail depot at Kaiwharawhara.

KiwiRail is committed to improving the safety of the overall rail network. National figures for July 2013 to June 2014 recorded 295 level crossing incidents and 408 trespass incidents. Of those incidents at level crossings, there were 7 fatalities, 7 serious injuries and 11 minor injuries resulting. Of the trespass incidents there were 3 fatalities and 4 minor injuries resulting. Table 1 below sets out incidents specific to the Wellington Region. While the number that result in injury or fatality as a percentage of the total incidents on the network might be low, these can all be avoided.

Table 1: Level crossing incidents 2010 to 2014 for the Wellington Region

Year	Level Crossing Incidents	Near Misses	Trespassing
2010	27	32	6
2011	25	28	4
2012	29	35	12
2013	37	51	11
2014	39	54	15
Total	157	200	48

As regionally significant infrastructure it is therefore appropriate that the Natural Resources Plan provide for the reasonable operation, maintenance and upgrading of rail and ferry infrastructure within the Region, as well as the health and safety of employees and the wider community.

Electronic Communication

KiwiRail prefers to receive information about the Proposed Natural Resource Plan via email. Can all communication please be emailed to Rebecca.Beals@kiwirail.co.nz and a copy sent to lindsay@incite.co.nz.

Trade Competition

KiwiRail could not gain an advantage in trade competition through this submission.

Submission on the Proposed Plan Provisions

KiwiRail's submissions on the Proposed Natural Resources Plan are set out in the attached table. In relation to the matters raised KiwiRail seeks such further, consequential or alternative relief as may be necessary, desirable, or appropriate to give effect to the decision sought.

Attendance and Wish to be heard at Hearings

KiwiRail wishes to speak to our submission at relevant hearings and would be willing to discuss these further with Greater Wellington Regional Council staff prior to the hearings themselves. If there are any issues of clarification required please contact Lindsay Daysh of Incite on 04 801 6862/027 502 0779 or lindsay@incite.co.nz or the undersigned.

Yours sincerely



Rebecca Beals
Senior RMA Advisor
KiwiRail

25 September 2015

The specific provisions of the Proposed Natural Resources Plan that this submission relates to are:

Submission Point	Plan Provision	Support/ Oppose/ Amend	Submission Reasons	Decision Sought
Section 2.2 Definitions:				
1.	Commercial Port Area	Support with amendment	This is defined as "The areas shown on Map 32, Map 33 and Map 34 (unless otherwise specified)": It is unclear what "unless otherwise specified" means but it could create ambiguity.	Amend to provide clarification as to what other Maps define or link to The Commercial Port Area;
2.	Common Marine and Coastal Area		KiwiRail notes that the PNRP promotes the integrated management of a coastal marine area and related parts of the coastal environment, as per section 64(2) RMA. While noting the proposed definition is taken from the Marine and Coastal Area (Takutai Moana) Act 2011, the proposed definition for the purposes of the PNRP is unhelpful in that it only excludes specific areas without any certainty for where the PNRP provisions apply. This will cause significant confusion and interpretation issues for both plan users and the regulator. It is noted the illustration in Figure 1.3 illustrates the Regional Coastal Plan as on the mean high water mark (not the wider environment). KiwiRail operates in and adjacent to the coastal environment and therefore certainty is paramount when determining consent requirements.	Provide clarification as to the extent of application of the Coastal Plan provisions, specifically in relation to whether the wider environment is included, to enable certainty.
3.	Contaminated Land	Support	KiwiRail supports the definition of Contaminated Land as it replicates the definition in the Act.	Retain this definition in its current form.
4.	Earthworks	Support	KiwiRail supports the definition of Earthworks as it specifically excludes the repair and maintenance of existing roads and tracks.	Retain this definition in its current form.
5.	Functional Need	Support	KiwiRail as a linear regionally significant infrastructure provider supports this definition as there are situations where the rail network adjoins the Common Marine and Coastal Area and there are multiple crossings of rivers within the region. In addition KiwiRail as an interisland ferry operator has a functional need to be located in the Coastal Marine Area.	Retain this definition in its current form.
6.	Hard Engineering	Support	As the nation's rail provider the use of hard engineering methods is appropriate and is often the only method available to maintain, repair, operate and upgrade regionally significant infrastructure in relation to where it adjoins the Coastal Marine Area or where the rail asset needs to cross rivers and streams.	Retain this definition in its current form.

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7.	In water cleaning	Support	Interisland ferries require periodic cleaning to remove organic and inorganic material that may accumulate on the hull of the vessels. It is appropriate that this activity is defined in the PNRP. KiwiRail supports the definition of the term and its inclusion in the PNRP. Off-setting is important for linear infrastructure providers, such as the KiwiRail, where functional and locational constraints are often present. This definition confirms that offsetting and its application to projects does form part of the RMA framework, and furthermore that the term is not exclusive to biodiversity values e.g. this could include a financial offset.	Retain this definition in its current form.
8.	Offset	Support	It is appropriate that operational requirements are defined as linear infrastructure such as the rail network often has operational requirements in order for the activity to function safely and efficiently. As an interisland ferry operator KiwiRail generally supports the definition of Port related activities in the PNRP Plan because it is appropriate to separately identify port related activities in the policy and rule frameworks. KiwiRail considers however that the definition would be improved by the addition of the words "other structures" after the word buildings as some port activities are not within buildings such as the berthing structures and wharves which aren't buildings, equipment or machinery however are directly related to the port activities which KiwiRail undertake.	Retain this definition in its current form.
9.	Operational Requirement	Support		Retain this definition in its current form.
10.	Port Related Activities	Support with amendment		Amend definition as follows. <i>Activities within the Commercial Port Area, the Lambton Harbour Area and on the adjacent land within the district including, but not limited to, the berthing, departure and movement of ships, storage and cargo handling, handling of goods and passengers, all activities associated with the movement, storage and handling of cargo and any activities (including construction, maintenance and repair) associated with buildings, other structures, machinery and equipment used in connection with the port or its administration.</i>
11.	Regionally Significant Infrastructure	Support	KiwiRail supports the definition as it includes the "Strategic Transport Network" which includes the Rail network and activities operating from CentrePort.	Retain this definition in its current form.
12.	Reverse Sensitivity	Support	KiwiRail supports the definition of Reverse Sensitivity in the PNRP because it is appropriate to recognise the vulnerability of existing lawfully-established activities such as the rail network to other activities in the vicinity which may be sensitive to adverse environmental effects.	Retain this definition in its current form.

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13.	Strategic Transport Network	Support with amendment	KiwiRail supports the definition in principle but queries whether it is appropriate that the definition has its origins in the Regional Land Transport Plan 2015. This is a document that will be subject to change over the life of the Natural Resources Plan. Every time there is a change to the RLTP it would necessitate a consequential change to the NRP, therefore wording changes are suggested to ensure that the most recent version of the RLTP is able to be considered.	<p>Amend definition as follows;</p> <p>The Strategic Transport Network comprises the following parts of the Wellington Region's transport network:</p> <p>(a) All railway corridors and 'core' bus routes as part of the region's public transport network identified in the Regional Land Transport Plan 2015 <u>or any subsequent versions</u>, and</p> <p>(b) All strategic roads that are classified as a National High Volume Road, National Road, or Regional Road as part of the region's strategic road network identified in the Regional Land Transport Plan 2015 <u>or any subsequent versions</u>, and</p> <p>(c) Any other road classified as a high productivity motor vehicle (HPMV) route identified in the Regional Land Transport Plan 2015 <u>or any subsequent versions</u>, and</p> <p>(d) All sections of the regional cycling network classified as having a combined utility and recreational focus identified in the Regional Land Transport Plan 2015 <u>or any subsequent versions</u>.</p> <p>The Strategic Transport Network is mapped in the Regional Land Transport Plan 2015 <u>and if subsequently altered the latest map shall take precedence</u>.</p>
Chapter 3. Objectives				
14.	Beneficial use and development Objective O9	Support with amendment	The recreational values of the coastal marine area or adjoining rivers and lakes should be maintained and enhanced only "where appropriate". This will not be everywhere in the coastal areas that adjoin the rail network or where rail crosses rivers or in the defined Commercial Port Area. Public access to the rail network is restricted by KiwiRail for safety and security reasons and the appropriateness of providing enhanced recreational values where safety is not compromised needs to be recognised.	<p>Amend Objective 9 as follows;</p> <p>The recreational values of the coastal marine area, rivers and lakes and their margins and natural wetlands are maintained and enhanced <u>where appropriate</u>.</p>
15.	Beneficial use and development Objective O10	Support with amendment	While KiwiRail supports the intent of the Objective public access to and along the coastal marine area where it adjoins the rail network or where the rail network crosses	Amend Objective 10 as follows;

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			rivers or in the Commercial Port Area, is not supported for safety and security reasons. This is consistent with the submission point above in relation to recreational values.	Public access to and along the coastal marine area and rivers and lakes is maintained and enhanced <u>where appropriate</u> .
16.	Beneficial use and development Objective O12	Support	KiwiRail supports the objective that the social, economic, cultural and environmental benefits of regionally significant infrastructure and renewable energy generation activities are recognised.	Retain this objective in its current form.
17.	Beneficial use and development Objective O13	Support	KiwiRail supports the objective that the use and ongoing operation of regionally significant infrastructure and renewable energy generation activities in the coastal marine area are protected from new incompatible use and development occurring under, over, or adjacent to the infrastructure or activity.	Retain this objective in its current form.
18.	Natural Character and Function: Objective O19	Support with amendment	KiwiRail considers that the use of the word interference within the objective is not appropriate. Interference, such as appropriate dredging, reclamations or protecting regionally significant infrastructure, may interfere with natural processes, but there could be a functional and operation need and it could be acceptable from an effects perspective.	Amend Objective O19 as follows: The <u>interference adverse effects</u> from use and development on natural processes is <u>minimised are avoided, remedied or mitigated</u> .
19.	Natural character, form and function Objective O22	Oppose	KiwiRail opposes this objective as there is no recognition made of the importance of being able to maintain, repair or upgrade Regionally Significant Infrastructure from Natural Hazards where hard engineering mitigation and protection methods and solutions can be the only practicable and feasible option particularly in a coastal environment.	Amend Objective 22 as follows: Hard engineering mitigation and protection methods are only used as a last practicable option <u>unless there is a functional need or operational requirement</u> .
20.	Biodiversity, aquatic ecosystem health and mahinga kai Objective O29	Support with amendments	KiwiRail supports the intent of the objective but the wording could be improved to provide greater clarity. As currently drafted it could be read that fish passage in all existing situations does not exist. In addition there could be circumstances where restoration cannot be achieved and that should be recognised.	Amend Objective 29 as follows: <u>Use and development provides for the passage of fish and koura, and the passage of indigenous fish and koura is restored.</u> <u>Use and development provides for the passage of fish and koura, and if appropriate, passage of fish and koura is restored where this is not currently provided.</u>

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21.	Sites with significant values Objective O31	Support with amendment	The existing rail network generally avoids such waterbodies. However KiwiRail considers it important to recognise that some infrastructure has functional, locational and operational constraints which sometimes dictate locations for associated works.	Amend Objective O31: Outstanding water bodies and their significant values are protected <u>from inappropriate use and development.</u>
22.	Sites with significant values Objective O33	Support with amendment	The intent of the policy is supported however KiwiRail considers it important that such sites are protected from inappropriate use and development and restored only where such values have been compromised.	Amend Objective 33 Sites with significant mana whenua values are protected <u>from inappropriate use and development</u> and restored <u>where values have been compromised.</u>
23.	Sites with significant values Objective O35	Support with amendment	The intent of the policy is supported however KiwiRail considers it important that such sites are protected from inappropriate use and development and restored only where such values have been compromised.	Ecosystems and habitats with significant indigenous biodiversity values are protected <u>from inappropriate use and development</u> and restored <u>where values have been compromised.</u>
24.	Soil Objective O43	Support with amendment	While KiwiRail supports the intention of the policy and the integrated management approach to resource management the effects of contaminated land on human health is regulated by city and district councils under the National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health. The effects of discharges from land contamination upon the coastal marine area and upon the values of lakes and rivers is covered by Objective 46. KiwiRail supports that use and development in the coastal marine area is appropriately focused on whether there is a functional need and operational requirement for that use and development to be located there.	Amend Objective O43 Contaminated land is <u>identified and managed</u> to protect human <u>health and the environment from unacceptable contamination related effects.</u>
25.	Coastal Management Objective O53	Support	KiwiRail supports that use and development in the coastal marine area is appropriately focused on whether there is a functional need and operational requirement for that use and development to be located there.	Retain Objective O53: Use and development in the coastal marine area has a functional need or operational requirement to be located there.
26.	Coastal Management Objective O55	Support with amendment	While the intent of the Objective is supported it should be recognised that in the Commercial Port Area including the Interislander Ferry Terminals and railway areas, that public open space is inappropriate for safety and security reasons.	Amend Objective 55 The need for public open space <u>in appropriate areas</u> of the coastal marine area is recognised.

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27.	Coastal Management Objective O56	Support with amendment	KiwiRail considers that this Objective could be enhanced by recognising that it is not just compatibility with the location but also the function of new development.	Amend Objective 56 New development in the coastal marine area is of a scale, density and design that is compatible <u>with its function and</u> its location in the coastal environment.
28.	Chapter 4. Policies Ki ufa ki tai and integrated catchment management Policy P3	Support with Amendment	Reference to the precautionary approach needs to be limited to the situation where there is both an absence of information and the potential for significant adverse effects- i.e. the way that the NZ Coastal Policy Statement Policy 3 uses that concept. It should not be framed as a blanket requirement for caution wherever the nature and scale of effects cannot be predicted with complete certainty (which in the natural environment, is on virtually every occasion) and should allow for measured development matching the scale of risk in the circumstances.	Amend Policy P3 to read: Use and development shall be managed with a precautionary approach where there is limited information regarding the receiving environment and the adverse effects the activity may have on this environment. A precautionary approach to the management of the nature, scale and speed of use and development shall be used where there is limited information available and there is the potential for significant adverse effects.
29.	Ki ufa ki tai and integrated catchment management Policy P4	Support with amendment	KiwiRail considers that the policy could be improved by making it clear that "the smallest practicable amount is related to the nature and objectives of the activity. Otherwise it could be read as requiring reduction to close to nil. In addition clause (b) would be improved by insertion of the words "if practicable" noting that for functional requirements and operational need it may not be always possible to locate an activity away from identified areas.	Amend policy: Where minimisation of adverse effects is required by policies in the Plan minimisation means reducing adverse effects of the activity to the smallest amount practicable <u>having regard to the nature and objectives of the activity</u> and shall include:.... (b) if practicable considering the nature and objectives of the activity locating the activity away from areas identified in Schedule A (outstanding water bodies), Schedule C (mana whenua), Schedule E (historic heritage), Schedule F (indigenous biodiversity), and ...
30.	Beneficial Use and development Policy P7	Support with amendment	Even though there is a specific policy (Policy P12) recognising the benefits of regionally significant infrastructure KiwiRail considers that the cultural, social and economic benefits of regionally significant infrastructure should be added to this comprehensive list.	Amend Policy 7 to add: (I) regionally significant infrastructure.

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31.	Beneficial Use and development Policy P9	Support with amendment	<p>KiwiRail supports the intent of the policy but submits that there should:</p> <ul style="list-style-type: none"> • Be recognition of the need for safety and security requirements of regionally significant infrastructure, particularly around rail operations and port requirements; and • In relation to the end sentence of the policy mitigation or offset outside of land owned, (by in this case KiwiRail), is difficult to enforce and may not be practicable. Therefore if KiwiRail was to develop and public access was to be restricted, there would potentially be no actual means of achieving that mitigation/offset based on public safety and limited land holdings. 	<p>Amend Policy 9 as follows</p> <p>Reduction in the extent or quality of public access to and along the coastal marine area and the beds of lakes and rivers shall be avoided except where it is necessary to:</p> <p>(a) protect the values of estuaries, sites with significant mana whenua values identified in Schedule C (mana whenua), sites with significant historic heritage value identified in Schedule E (historic heritage) and sites with significant indigenous biodiversity value identified in Schedule F (Indigenous biodiversity), or</p> <p>(b) protect public health, safety and security, or</p> <p>(c) provide for a temporary activity such as construction, a recreation or cultural event or stock movement, and where the temporary restrictions shall be for no longer than reasonably necessary before access is fully reinstated, and</p> <p>with respect to (a), (b) and (c), where it is necessary to permanently restrict or remove existing public access, and where practicable and achievable and considering the nature of the activity, the loss of public access shall be mitigated or offset by providing enhanced public access at a similar or nearby location</p>
32.	Beneficial Use and development Policy P12	Support with Amendment	<p>KiwiRail supports the intent of the policy but it will be improved by recognising that some regionally significant infrastructure including the rail network has a functional need to be located over, under or within and adjacent to the beds of lakes and rivers.</p>	<p>Amend Policy by adding:</p> <p>(f) the functional need for regionally significant infrastructure to be located over, under, within and adjacent to the beds of rivers and lakes.</p>

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33.	Beneficial Use and development Policy P14	Support	KiwiRail supports the policy as it recognises the reverse sensitivity effects of new incompatible use and development upon Regionally Significant Infrastructure.	Retain Policy 14:
34.	Natural form and function Policy P23	Support	Part of KiwiRail's rail assets adjoin Te Awarua-o-Porirua and Wellington Harbour (Port Nicholson) and the ferry operations adjoin Wellington Harbour. Protection of those assets from coastal erosion is a key component of the existing asset where planting is not feasible or necessary. As such the words where appropriate should be added to clause (c).	Amend Policy P9 as follows: The ecological health and significant values of Te Awarua-o-Porirua Harbour, Wellington Harbour (Port Nicholson) and Lake Wairarapa will be restored overtime by: (a) managing activities to reduce sedimentation rates and pollutant inputs, and (b) managing erosion-prone land and riparian margins in their catchments, and (c) <u>where appropriate</u> undertaking planting and pest management programmes in harbour and lake habitats and ecosystems.
35.	Natural Character Policy P24	Support with amendment	KiwiRail is concerned with this Policy as no outstanding natural landscapes have been identified and the use of the word avoiding in the policy could amount to a prohibition on appropriate use and development in the coastal marine area.	Amend Policy 24 Areas of outstanding natural character in the coastal marine area will be preserved by: (a) <u>Protecting, avoiding adverse effects of activities on</u> natural character in areas of the coastal marine area with <u>outstanding natural character</u> <u>by avoiding inappropriate use and development</u> , and (b) requiring use and development to be of a type, scale and intensity that will maintain the natural character values of the area, and (c) requiring built elements to be subservient to the dominance of the characteristics and qualities that make up the natural character values of the area, and (d) maintaining the high levels of naturalness of these areas, <u>and</u>

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36.	Natural hazards Policy P28	Oppose	Hard engineering solutions are often the only practicable method of hazard mitigation for existing and potentially new rail operations or Port facilities. A presumption to avoid hard engineering solutions is entirely inappropriate where there is a functional need and an operational requirement.	<p>(e) avoiding the adverse effects of activities, including those located outside the area, that individually or cumulatively detract from the natural character values of the outstanding natural character area.</p> <p>Amend policy 28 as follows:</p> <p>Hard engineering mitigation and protection methods shall be avoided except where</p> <p>(a) there is a functional and operational need; or</p> <p>(b) it is necessary to protect existing and planned future development from unacceptable risk, assessed using the risk-based approach, and the works either form part of a hazard management strategy or the environmental effects are considered to be no more than minor</p>
37.	Biodiversity, aquatic ecosystem health and mahinga kai Policy P31	Support with amendment	<p>KiwiRail is concerned about some of the terminology in the Policy as it may not always be possible to minimise or avoid effects, especially where there are functional needs and operational requirements that dictate works proposed and their location as is often the case with regionally significant infrastructure.</p> <p>Policy 32 which is supported with one exception sets in place a process of avoid first but if you can't then you use a cascade of remedy, then mitigate, then offset. This should be used here also.</p>	<p>Amend Policy P31 as follows</p> <p>Aquatic ecosystem health and mahinga kai shall be maintained or restored by Managing in accordance with the process outlined in Policy 32 the effects of use and development on physical, chemical and biological processes to:</p> <p>(a) minimise adverse effects on natural flow characteristics and hydrodynamic processes, and the natural pattern and range of water level fluctuations in rivers, lakes and natural wetlands, and</p> <p>(b) minimise adverse effects on aquatic habitat diversity and quality, including the form, frequency and pattern of pools, runs, and riffles in rivers, and the natural form of rivers, lakes, natural wetlands and coastal habitats, and</p> <p>(c) minimise adverse effects on habitats that are</p>

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				<p>important to the life cycle and survival of aquatic species, and</p> <p>(d) minimise avoid remedy, mitigate or offset adverse effects at times which will most affect the breeding, spawning, and dispersal or migration of aquatic species, and</p> <p>(e) minimise avoid remedy, mitigate or offset <u>the creation of creating</u> barriers to the migration or movement of indigenous aquatic species, and restore the connections between fragmented aquatic habitats where appropriate, and</p> <p>(f) minimise avoid remedy, mitigate or offset adverse effects on riparian habitats and restore them where practicable, and</p> <p>(g) avoid the introduction, and restrict the spread, of aquatic pest plants and animals.</p>
38.	Biodiversity, aquatic ecosystem and health mahinga kai Policy P32	Support with Amendment	KiwiRail supports this policy but offsetting should not be restricted to biodiversity.	<p>Amend Policy P32 (d) as follows:</p> <p>(d) where residual adverse effects remain, it is appropriate to consider the use of biodiversity offsets.</p>
39.	Outstanding water bodies Policy 39	Support with Amendment	KiwiRail supports the intent of the Policy but the policy refers to adverse effects not significant adverse effects. The result is that the word avoid amounts to a potential prohibition on any activity with any adverse effects.	<p>Amend Policy P39 as follows:</p> <p>The significant adverse effects of use and development on outstanding water bodies and their significant values identified in Schedule A (outstanding water bodies) shall be avoided, or remedied, mitigated or offset where avoidance is not practicable.</p>
40.	Sites with significant indigenous	Support with Amendment	KiwiRail supports the intent of the Policy but considers that it does not take into account that some use and development may be appropriate. For example the Kaiwharawhara Stream estuary located within the	<p>Amend Policy P40 as follows</p> <p>Protect from inappropriate use and development and restore if required the following ecosystems and habitats with significant indigenous biodiversity values:</p>

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	biodiversity values Policy P40		Commercial Port Area identified in Schedule F4 and within the Commercial Port Area.	
41.	Sites with significant indigenous biodiversity values Policy P41	Support with Amendment	KiwiRail supports this policy but offsetting should not be restricted to biodiversity.	Amend Policy P41 (d) as follows: (d) where residual adverse effects remain, it is appropriate to consider the use of biodiversity offsets.
42.	Sites with significant indigenous biodiversity values Policy P42	Support with Amendment	KiwiRail supports this policy but offsetting should not be restricted to biodiversity.	Amend Policy P42 (b) as follows: (b) provide for the enhancement of ecological connectivity between fragmented habitats through biodiversity offsets.
43.	Protection and restoration of sites with significant mana whenua values: Policy 44	Support with amendment	KiwiRail supports this policy but has concerns in that it does not consider circumstances where use and development may be appropriate and / or necessary.	Amend Policy 44 Sites with significant mana whenua values identified in Schedule C (mana whenua) shall be protected from inappropriate use and development and/or restored.
44.	Stormwater: Policy 73	Support with amendment	While KiwiRail supports the concept of progressive improvements to stormwater quality the policy requires continual minimisation of adverse effects, rather than recognising that these should be minimised to an acceptable level.	Amend Policy 73: The adverse effects of stormwater discharges shall be minimised to an acceptable degree , including by ...
45.	Primary coastal Policy P132	Support	KiwiRail supports the policy as it recognises regionally significant infrastructure, as having a functional and operational need to be located in the coastal marine area. The term where appropriate in clause (e) is also supported as there are rail and ferry operations where public use is not appropriate in the interests of health safety and security.	Retain Policy 132
46.	Policy 135	Support	Efficient and safe passage of vessels including Interisland ferries is supported by avoiding inappropriate use and development in navigation protection areas	Retain Policy 132
47.	Structures Policy P138	Support	KiwiRail supports the policy relating to the avoidance of new structures, replacement of a structure or any addition in sites identified in various schedules with the	Support Policy 138

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			exception relating to enabling the development, operation, maintenance and upgrade of regionally significant infrastructure	
	Chapter 5 Rules			
48.	Mobile Sources Rule 33	Support	KiwiRail supports that the discharge of contaminants into air from a mobile source is a permitted activity.	Retain Rule 33.
49.	Contaminated Land and Hazardous Substances Rules R54, R55 and R57	Support	KiwiRail supports Rules R54, R55 and R57 in providing for a framework for discharges from potentially contaminated land.	Retain Rules R54, R55 and R57 in their current form.
50.	Discharges from contaminated land Rule 56	Support with amendment	KiwiRail does not consider it appropriate to include reference to the 'use' of land as this is considered and addressed through the NES provisions. Therefore KiwiRail seek an amendment to the wording, however support the catch-all discretionary activity status.	Amend Rule 56. The use of the land, and discharge of contaminants onto or into land from contaminated land where the discharge may enter water that is not permitted by Rule R54 or Rule R55 is a discretionary activity.
51.	Wastewater from ships and offshore installations Rules 63 and 64	Support	KiwiRail considers it appropriate to include rules controlling the discharge of wastewater from ships.	Retain Rules 63 and 64.
52.	Biofoul cleaning Rule 65	Support with Amendments	<p>KiwiRail operates the Interislander ferries and periodically needs to have organic and inorganic material removed from the hull of the vessels.</p> <p>The proposed rule would mean that KiwiRail could not continue to clean the vessels in water as it currently does and would potentially have a large impact in relation to fuel consumption and timekeeping of ships if divers were not able to provide a practical methodology to collect any bio fouling removed from the ship.</p> <p>KiwiRail has had discussions with NZ Dive and Salvage who carry out biofoul cleaning on behalf of Interislander and others. They advised that in terms of current cleaning there needs to be more of a distinction between the types and vessels and the extent of biofouling that can occur.</p>	<p>Amend Rule 65 as follows</p> <p>The discharge of contaminants and biological material into coastal water from in-water cleaning of biofouling from a vessel, moveable structure or navigation aid, three years after the date of public notification of the Proposed Natural Resources Plan (31.07.2015) in the coastal marine area, is a permitted activity provided the following conditions are met:</p> <p>(h) the anti-foul coating on the vessel, moveable structure or navigation aid shall not have exceeded its planned service life as specified by the manufacturer, and</p> <p>(i) the cleaning method shall be undertaken in accordance with the coating manufacturer's recommendations, and</p>

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			<p>What has been proposed is wording changes to provide some consistency with the intentions expressed in the Guidelines, noted in the PNRP already, in relation to the collection of material.</p>	<p>(j) the cleaning of microfouling and goose barnacles of international origin shall be removed using a gentle, non-abrasive cleaning technique, and</p> <p>(k) <u>where the vessel has most recently arrived from an international origin</u> the cleaning or treatment method shall capture any biological material released into the water column greater than 50µm in diameter, with any captured cleaning debris disposed on land, and</p> <p>(l) any captured cleaning debris is appropriately disposed of, and</p> <p>(m) if suspected harmful or unusual aquatic species are found, the vessel owner or operator shall take the following steps:</p> <p>(i) any cleaning activities shall cease immediately, and</p> <p>(ii) the Wellington Regional Council Harbourmaster shall be notified within five working days, and</p> <p>(iii) the cleaning may not recommence until notified by the Wellington Regional Council to do so.</p> <p><i>Note</i> For the purposes of Rule R65 guidance is provided in the <i>Anti-Fouling and In-Water Cleaning Guidelines (June 2013)</i>.</p>


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53.	All Discharges Rule R67 Other Rule R67	Oppose	<p>The Kaiwharwhara Stream estuary is located in Schedule F4 as a coastal site. It runs between the Kaiwharwhara reclamation and the Interislander vehicle and train manoeuvring areas. It is considered that there should be recognition of the potential conflict between the operation and maintenance of regionally significant infrastructure of the operational Port including ferry operations and the values of the Estuary.</p> <p>As all other discharges are treated as a non-complying activity it would have to be assessed under s104D of the Act and for consent to be granted the adverse effects of the activity on the environment will be minor or the matter will not be contrary to the objectives and policies of a plan or proposed plan.</p> <p>Non-complying activity status is unduly onerous for potential discharge activities within the Commercial Port Area and an exception relating to sites within the Commercial Port Area is sought to enable these to be considered as either a permitted or discretionary activity..</p>	<p>Amend Rule R67</p> <p>The discharge of water or contaminants into water, or onto or into land where it may enter water:</p> <p>(a) inside a site or habitat identified in Schedule A (outstanding water bodies), Schedule F1 (rivers/lakes), Schedule F3 (significant wetland), or Schedule F4 (coastal sites) unless located in the Commercial Port Area, and</p> <p>(b) that is not permitted by Rules R42, R43, R44 or R45</p> <p>is a non-complying activity.</p>
54.	Discharge of contaminants Rule 70 Cleanfill material	Support with amendment	<p>There are two aspects of this permitted activity rule which are of concern to KiwiRail.</p> <ul style="list-style-type: none"> • Clause (a) requires that cleanfill material is not located within 20 metres of surface water as the rail network crosses over watercourses, and fill is sometimes required as part of the upgrade or maintenance of structures. • Clause (f) restricts the volume to 100m³ at a property which is low when 'a property' in KiwiRail circumstances could be multiple hectares in area. <p>In order to resolve this and considering the need for compliance with Rule 69 and the other clauses within the rule, KiwiRail considers that there should be an exception for maintenance and upgrade of regionally significant infrastructure in clauses (a) and (f).</p>	<p>Amend Rule 70 as follows:</p> <p>The discharge of cleanfill material onto or into land is a permitted activity, provided the following conditions are met:</p> <p>(a) the cleanfill material is not located within 20m of a surface water body, or bore used for water abstraction for potable supply unless it is being utilised to maintain or upgrade Regionally Significant Infrastructure, and</p> <p>(b) the cleanfill material is located to avoid being undermined or eroded by natural processes or being inundated from coastal or river flooding, and</p>

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				<p>(c) the cleanfill material shall be 0.6m above the seasonally highest water table, and</p> <p>(d) the cleanfill material shall be managed (siting, design and operation) in accordance with Sections 5-8 in <i>A Guide to the Management of Cleanfills (2002)</i>, and</p> <p>(e) the volume of cleanfill material deposited at a property shall not exceed 100m³ <u>unless it is being utilised to maintain or upgrade Regionally Significant Infrastructure</u>, and</p> <p>(f) the volume and origin of the cleanfill material and the date the material has been deposited on this property, is recorded using GPS or mapped to an accuracy of at least 50m at a scale of 1:50,000; and a copy of this information is made available to the Wellington Regional Council upon request, and</p> <p>(g) the cleanfill material shall be stabilised and re-vegetated within six months of completion of the activity.</p> <p><i>Note</i> Permission may be required from the relevant city or district council in respect of the Building Act 1991 or other legislation or bylaws.</p>
55.	Rule 99	Support with amendment	KiwiRail considers that it is inappropriate for a Regional Plan to control the use of land and the rule should concentrate on the discharge of water from earthworks.	Amend Rule 99 The use of land , and the discharge of stormwater into water or onto or into land where it may enter water from earthworks of a contiguous area up to 3,000m ² per property per 12 month period is a permitted activity, provided the following conditions are met. .

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56.	Rule 101	Support with amendment	<p>KiwiRail considers that it is inappropriate for a Regional Plan to control the use of land and the rule should concentrate on the discharge of water from earthworks.</p>	<p>Amend Rule 101</p> <p>The use of land, and the discharge of stormwater into water or onto or into land where it may enter water from earthworks or vegetation clearance that is not permitted by Rule R99 or Rule R100 is a discretionary activity.</p>
57.	Beds of lakes and rivers general conditions	Support with Amendment	<p>While KiwiRail supports the general intent of the rule there are some practical limitations in the following General Conditions:</p> <ul style="list-style-type: none"> • Clauses (d) concerning the maintenance of fish passage at all times during construction and; • clause (i) sub clause (ii) about minimising the duration of the diversion of water and that the diversion must be contained within the bed of the river. <p>Often maintenance is required on culverts where it is necessary to temporarily divert water and therefore temporarily stop existing fish passage particularly where the waterbody is small in width and there are no alternatives within the bed of the river for the diversion to occur. Amendment is sought to allow for short term diversions and to also recognise that some works occur in dry watercourses and therefore no fish passage is available at the time of the works, meaning no benefit is gained from providing it while the works occur.</p>	<p>Amend General Conditions as follows</p> <p>Beds of lakes and rivers general conditions for activities in the beds of lakes and rivers that apply as specified in Rules R112 to R125:</p> <p>(d) structures are designed, installed and maintained, and activities are carried out in a manner to ensure that fish passage is maintained <u>where available at the time of the works at all times</u>. This shall include avoiding any aggradation or scouring of the bed of the river or lake that may inhibit fish passage, and</p> <p>(n) <u>fish passage, where available at the time of construction, shall only be restricted for a maximum of 4hrs, per day and</u></p> <p>.....</p> <p>(i) all reasonable steps shall be taken to minimise the duration of the diversion of water, and any diversion of water required to undertake the activity shall:</p> <p>(i) only be temporary and for a period no longer than that required to complete the activity, and</p> <p>(ii) must be contained within the bed of the river,</p> <p>and</p> <p>(iii) must not involve a lake, and</p> <p>(iv) 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</p>

Submission Point	Plan Provision	Support/ Oppose/ Amend	Submission Reasons	Decision Sought
58.	Activities in beds of lakes and rivers Rule 112	Support	KiwiRail supports the rule which enables the maintenance, repair, replacement, and upgrade of existing structures in on or over the bed of a lake or river as a permitted activity	Retain Rule 112
59.	Activities in beds of lakes and rivers Rule 112	Support	KiwiRail supports the rule which allows new structures in on or over the bed of a lake or river as a permitted activity subject to conditions	Retain Rule 117
60.	Activities in beds of lakes and rivers Rule 118		<p>KiwiRail considers that</p> <ul style="list-style-type: none"> The reference to bed disturbance should be amended to the least amount possible rather than an arbitrary 10m³; and Activities in wetlands are managed and regulated by other rules (e.g. rule 104), therefore sub-clause (j) is sought to be deleted. 	<p>Amend Rule 118:</p> <p>The removal or demolition of a structure or a part of a structure that is fixed in, on, under, or over any river or lake bed, including any associated:</p> <ol style="list-style-type: none"> disturbance of the river or lake bed, and deposition on the river or lake bed, and diversion of water, and discharge of sediment to water <p>is a permitted activity, provided the following conditions are met:</p> <ol style="list-style-type: none"> the activity shall comply with the beds of lakes and rivers general conditions specified above in Section 5.5.4, and the removal or demolition of the structure disturbs <u>the least volume and area of the bed as possible, and less than 10m³ of the bed of the river or lake,</u> and it results in the complete removal of the structure from the river or lake bed, or the complete removal of that part of the structure requiring removal from the river or lake bed, and no explosives shall be used in the demolition of the structure, and <p>the removal or deposition shall not result in the diversion of water from a natural wetland.</p>
61.	Reclamation of beds or rivers and lakes – Rule 127	Oppose	For infrastructure of regional significance the application of a non-complying activity status for the piping of a stream, outstanding rivers or Schedule C (mana whenua) sites is onerous. Noting the large number of waterbodies that would be subject to this rule, a discretionary activity status is appropriate for regionally significant infrastructure.	<p>Amend Rule 127:</p> <p>Except for reclamation associated with infrastructure of regional significance, (The reclamation of the bed, or any part of the bed, of a river or lake:</p> <ol style="list-style-type: none"> associated with the piping of a stream, or in a site identified in Schedule A1 (outstanding rivers), <p>or</p>

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62.	Seawalls R165	Support with amendment	<p>KiwiRail generally supports the addition or alteration to existing seawalls being a controlled activity. However the limitation of 5 metres in horizontal projection is considered too small particularly as KiwiRail has existing seawalls on the vulnerable stretch of modified coast between Ngauranga and Petone, protecting the Interislander ferry terminal and marshalling area within the Commercial Port Area, as well as adjoining the Onepoto arm of Poirua Harbour.</p> <p>KiwiRail considers that this should be increased to 10 metres as a controlled activity.</p>	<p>(c) in a site identified in Schedule C (mana whenua) is a non-complying activity.</p> <p>Amend rule 165 (f) as follows:</p> <p>The addition or alteration to an existing seawall and the associated use of the addition in the coastal marine area, including any associated:</p> <p>.....</p> <p>Is a controlled activity, provided the following conditions are met:</p> <p>(h) any addition shall add no more than 10m 5m in horizontal projection and 1m in vertical projection to the structure as it existed on the date of public notification of the Proposed Natural Resources Plan (31.07.2015), and</p> <p>.....</p>
63.	Seawalls outside of Significance Rule R166	Support with amendment	<p>KiwiRail supports discretionary activity status for larger seawalls outside sites of significance but considers that this should also apply to the whole of the Commercial Port Area.</p>	<p>Amend Rule R166 as follows:</p> <p>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) unless located in the Commercial Port Area, Schedule F5 (coastal habitats) or Schedule J (geological features) in the coastal marine area including any associated:</p> <p>.....</p>
64.	Seawalls inside of Significance Rule R167	Oppose	<p>The Kaiwharawhara Stream estuary is located in Schedule F4 as a coastal site. It runs between the Kaiwharawhara reclamation and the Interislander vehicle and train manoeuvring areas. It is considered that there should be recognition of the potential conflict between the operation and maintenance of regionally significant</p>	<p>Amend Rule R167 as follows:</p> <p>A new seawall, or the addition to or alteration or replacement of an existing seawall, and the associated use of the structure inside a site or habitat identified in Schedule C (mana whenua), Schedule F4 (coastal sites) unless located in the Commercial</p>

Submission Point	Plan Provision	Support/ Oppose/ Amend	Submission Reasons	Decision Sought
			<p>infrastructure of the operational Port including the ferry and the values of the Estuary.</p> <p>As seawalls inside sites of significance are treated as a non-complying activity it would have to be assessed under s104D of the Act and for consent to be granted the adverse effects of the activity on the environment will be minor or the matter will not be contrary to the objectives and policies of a plan or proposed plan. KiwiRail considers that non-complying activity status is unduly onerous for potential additions or alterations to existing seawalls or potential new seawalls within the Commercial Port Area and an exception relating to sites within the Commercial Port Area is sought to enable these to be considered as either a controlled or discretionary activity.</p>	<p>Port Area, Schedule F5 (coastal habitats) or Schedule J (geological features) in the coastal marine area including any associated:</p> <p>.....</p>
65.	Structures in the Commercial Port area Rules 173, 174 and 175.	Support	<p>KiwiRail consider it appropriate that there is significant flexibility in the Commercial Port Area for additions and alterations to structures as a permitted activity, for new structures associated with passenger and cargo handling; or as a controlled activity for more significantly sized structures</p>	<p>Retain Rules 173, 174, and 175</p>
66.	Disturbance or Damage Rules R194 and R195	Support with amendment	<p>KiwiRail has the same issue with the disturbance and damage rules as it does with others that differentiate between sites within or outside a site of significance. This is in regard to the Kaiwharawhara Stream estuary being within Schedule F4 as a coastal site. It runs between the Kaiwharawhara reclamation and the Interislander vehicle and train manoeuvring areas.</p> <p>It is considered that there should be recognition of the potential conflict between the operation and maintenance of regionally significant infrastructure of the Commercial Port Area including the ferry and the values of the Estuary.</p>	<p>Amend Rules R194 and R195 as follows:</p> <p>Rule R194: Disturbance or damage – discretionary activity</p> <p>The disturbance or damage of the foreshore or seabed outside a site or habitat identified in Schedule C (mana whenua), Schedule F4 (coastal sites) unless located in the Commercial Port Area, Schedule F5 (coastal habitats) or Schedule J (geological features) in the coastal marine area, including any associated:</p> <p>.....</p> <p>Rule R195: Disturbance or damage inside sites of significance – non-complying activity</p>  <p>Disturbance or damage of the foreshore or seabed inside a site or habitat identified in Schedule C (mana whenua), Schedule F4 (coastal sites) unless located in the Commercial Port Area,</p>

Submission Point	Plan Provision	Support/ Oppose/ Amend	Submission Reasons	Decision Sought
67.	All other destruction, damage or disturbance Rules R204 and R205	Support with amendment	<p>KiwiRail has the same issue with the all other destruction, damage or disturbance rules as it does with others that differentiate between sites within or outside a site of significance. This is in regard to the Kaiwharawhara Stream estuary being within Schedule F4 as a coastal site. It runs between the Kaiwharawhara reclamation and the Interislander vehicle and train manoeuvring areas.</p> <p>It is considered that there should be recognition of the potential conflict between the operation and maintenance of regionally significant infrastructure of the Commercial Port Area including the ferry and the values of the Estuary.</p>	<p>Schedule F5 (coastal habitats) or Schedule J (geological features) in the coastal marine area, including any associated:</p> <p>.....</p> <p>Amend Rules R204 and R205 as follows:</p> <p>Rule R204: Destruction, damage or disturbance outside sites of significance – discretionary activity</p> <p>Destruction, damage or disturbance outside a site and habitat identified in Schedule C (mana whenua), Schedule E4 (archaeological sites), Schedule F4 (coastal sites) <u>unless located in the Commercial Port Area</u>, Schedule F5 (coastal habitats) or Schedule J (geological features) in the coastal marine area, including any associated:</p> <p>.....</p> <p>Rule R205: Destruction, damage or disturbance inside sites of significance – non-complying activity</p> <p>Destruction, damage or disturbance inside a site and habitat identified in Schedule C (mana whenua), Schedule E4 (archaeological sites), Schedule F4 (coastal sites) <u>unless located in the Commercial Port Area</u>, Schedule F5 (coastal habitats) or Schedule J (geological features) in the coastal marine area, including any associated:</p> <p>.....</p>
68.	Reclamation and Drainage Rules R214		<p>KiwiRail has the same issue with the Reclamation and Drainage rules as it does with others that differentiate between sites within or outside a site of significance. This is in regard to the Kaiwharawhara Stream estuary being within Schedule F4 as a coastal site. It runs between the Kaiwharawhara reclamation and the Interislander vehicle and train manoeuvring areas.</p> <p>It is considered that there should be recognition of the potential conflict between the operation and maintenance of regionally significant infrastructure of the Commercial Port Area including the ferry and the values of the Estuary.</p>	<p>Amend Rules R214 and R215</p> <p>Rule R214: Reclamation and drainage for regionally significant infrastructure outside of sites of significance – discretionary activity</p> <p>Reclamation and drainage for regionally significant infrastructure activities outside a site or habitat identified in Schedule C (mana whenua), Schedule E4 (archaeological sites), Schedule F4 (coastal sites), <u>unless located in the Commercial Port Area</u>, Schedule F5 (coastal habitats) or Schedule J (geological features) in the coastal marine area, including any associated:</p> <p>.....</p>

Submission Point	Plan Provision	Support/ Oppose/ Amend	Submission Reasons	Decision Sought
69.	Schedule F4 (Coastal Sites)	Support with amendment	<p>The Kaiwharawhara Stream estuary is located in Schedule F4 as a coastal site. It runs between the Kaiwharawhara reclamation and the Interislander vehicle and train manoeuvring areas. It is considered that there should be recognition of the potential conflict between the operation and maintenance of regionally significant infrastructure of the operational Port including the ferry and the values of the Estuary.</p> <p>With the exception of additions and alterations to existing structures (Rules 173 and 1745) or for new passenger and cargo handling equipment (rule 175) all other relevant rules such as seawalls, reclamations, deposition and disturbance are treated as a non-complying activity. The stream leading to the estuary environment is in large part already culverted or passes through concrete channels, and therefore the immediate area of the stream around the port and ferry facilities has limited value that can be protected by its inclusion in the Schedule. Further change to the area and the consequential values of the estuary is able to be considered through a consent process, however KiwiRail submit this should be a discretionary consent process.</p> <p>Under s104D of the Act for consent to be granted the adverse effects of the activity on the environment will be minor or the matter will not be contrary to the objectives and policies of a plan or proposed plan. Non-complying activity status is unduly onerous for potential activities within the Commercial Port Area and the exclusion of the estuary is sought or an exception relating to sites within the Commercial Port Area in the relevant rule is applied.</p>	<p>Either delete the Kaiwharawhara Stream Estuary from Schedule F4 or make provision within all relevant rules that the exceptions for sites in Schedule F4 does not apply to the Commercial Port Area.</p>