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# MANAGEMENT PROCESS

## 4.1 INTRODUCTION

The Gisborne District Council sees coastal resource management as a process. The process involves the following key steps:

- Gathering information on coastal resources and issues in the Coastal Environment.
- Analysis of information.
- Development of 'desired outcomes' for the Coastal Environment, objectives and policies.
- Implementation of policies using a variety of methods.
- Monitoring and review.
- At all stages consultation with the community.

The Gisborne District Council, as a unitary authority, has the functions, duties and powers of both a regional council and a territorial authority. The functions of regional councils are set out in Section 30 of the Act and the functions of territorial authorities are set out in Section 31 of the Act.

The preparation, administration and ongoing review of this Regional Coastal Environment Plan are a fundamental part of the coastal resource management process. This chapter, in particular, will discuss the administration and review of this plan.

## 4.2 MANAGEMENT AREAS

### 4.2.1 Introduction

The Plan acknowledges that there are areas within the Coastal Environment where particular resources and therefore certain types of activity are found. In turn there are different types and levels of effect and amenity within a particular area, depending largely on what sort of activities are being undertaken there. Some areas have different management needs and may have requirements for development, e.g.: Port Gisborne.

Methods including rules are used to control those effects of activities that could adversely affect or damage the Coastal Environment. Because different resources and different levels of amenity are found in different locations, and therefore the sensitivity of the environment to adverse effects varies from place to place, the rules and other methods vary throughout the Coastal Environment.

The need to fix different rules to different geographical locations results in a need to identify boundaries. The Plan therefore creates management areas within the Coastal Environment.

The management areas are not intended to allocate space or occupation rights to particular activities. They cannot be regarded as a means of evading resource consents where a consent would otherwise be necessary to provide for the avoidance, remedy or mitigation of adverse effects. The management areas reflect significant differences in the values of particular areas, and the sensitivity of those values to adverse effects.

In some cases they recognise the need for certain types of development to occur, such as ports. They provide broad guidance for appropriate development.

Major foreseeable future developments may be highlighted in management areas but this will not mean that any priority will be given to encouraging such development within these management areas. The purpose of highlighting them will be to provide the public with information on likely developments anticipated in the Coastal Marine Area.

Three different types of management area are applied within the Coastal Environment and these are shown on the map attached as Appendix 1.

**Port Management Area:** The Port Management Area includes the existing Port Gisborne Basin, a section of the mouth of the Turanganui River, and the existing dredged navigation channel. It also includes two anchorage points and the dredged spoil dumping site in Poverty Bay. This is a highly modified environment where human structures dominate and ecological and natural landscape values are significantly altered. The purpose of this management area is to provide for the efficient and sustainable operation of the Port infrastructure and service while avoiding, remedying or mitigating significant adverse effects on the environment.

**Protection Management Area:** The Protection Management Area includes coastal areas of special ecological, cultural, historic, scientific, and landscape value and includes areas of significant conservation value identified by the Minister of Conservation. The purpose of this management area is to provide for the protection of the values, and preservation of the natural character of these areas while allowing for activities that will not significantly adversely affect them. The establishment of these areas will assist the plan to meet the requirements of Section 6 of the Resource Management Act 1991 and Chapter 1 of the NZCPS.

**General Management Area:** The General Management Area includes the remainder of the Coastal Environment. Its purpose is to ensure that use, development and protection of the Coastal Environment is appropriate, in regard to the natural character and integrity of the Coastal Environment and recognising that the coast covered by this management area is largely unmodified.

#### 4.2.2 Issue

**4.2.2A** ▶ The Gisborne District Council must promote sustainable management within the context of a coastline that is not homogeneous in natural character, significant indigenous vegetation and habitats, landscape and landform. The effects of subdivision, use, and development will not be the same in terms of scale and intensity for all parts of the coast.

#### 4.2.3 Objective

**4.2.3A** ▶ People who wish to subdivide, use, and develop the Coastal Environment will be able to determine where, in the Gisborne District Coastal Environment, activities or classes of activities may be appropriate.

**Principal reason:** *One of the primary purposes of the coastal plan is to provide the public with certainty about what can or cannot be undertaken in the Coastal Environment. This objective will meet the requirement imposed in Policy 3.2.1 of the New Zealand Coastal Policy Statement.*

- 4.2.3B** ▶ Decisions made that recognise and take into account the non-homogeneous nature of the Gisborne District Coastal Environment.

**Principal reason:** *The coastline of the Gisborne District ranges in values between the highly modified surrounds of the City of Gisborne to the remote and relatively unmodified areas such as Lottin Point. These differences in the coast must be reflected when decisions on resource management issues are required, especially when applications for a similar type of activity can have very different effects on the environment depending on their location.*

- 4.2.3C** ▶ A high level of integration across the administrative boundary of the line of Mean High Water Springs, consistent with the values identified within the defined management areas.

**Principal reason:** *The Resource Management Act 1991 established an administrative boundary between Regional and Territorial Authorities in the Coastal Environment. That is the line of MHWS. A basic guide to the difference between the two administration areas is landward of the line of MHWS a person may do something unless they are constrained by the Act or a rule in a plan whereas, in the CMA, a person may not do anything unless authorised by a rule in a plan or a resource consent. This Plan is a Coastal Environment plan which straddles this administrative boundary and one of its principal purposes is to integrate resource management issues across the administrative boundary set up in the Act. This is further supported by Section 64(2) of the Resource Management Act 1991.*

- 4.2.3D** ▶ A high level of certainty for the public about where foreseeable major developments may occur in the Coastal Environment.

**Principal reason:** *It is desirable to show, where possible, areas where future developments in the Coastal Environment may occur so that the public can participate more fully in the public processes necessary for the promotion of such development.*

#### 4.2.4 Policies

- 4.2.4A** ▶ The Regional Coastal Environment Plan shall contain three categories of management areas. These management areas are, respectively, the Port Management Area, the General Management Area and the Protection Management Area.

**Explanation:** The Coastal Environment may be categorised into distinctive areas where management requirements may differ. One of these management areas can be inferred from Section 6 of the Resource Management Act 1991 where it states that it is a matter of national importance to preserve the natural character of the Coastal Environment and [Plans] should protect the Coastal Environment from inappropriate development; protect outstanding natural features and landscapes; and protect areas of significant indigenous flora and habitats of indigenous fauna, etc.

The terms “outstanding” and “significant” imply that there is a gradation of these values in the Coastal Environment. Observation and experience establish that this is so. Such a gradation lends itself to identifying these areas and establishing specific management needs in order to meet the purpose of the Act and to provide for the requirements of Section 6 of the Act.

There may be areas of the Coastal Environment where such features are not extensive and human impact and modification has resulted in different management needs. An example of this would be Port Gisborne where considerable modification of the natural environment has occurred in order to accommodate regionally important infrastructure for the benefit of the whole regional community.

The balance of the coast is characterised by the sparse amount of information available to assist people in determining what effects activities may have on it. This Policy supports Objective 4.2.3A.

**Principal reason:** *This Policy establishes three management areas in order to apply Objectives, Policies, Methods and Rules to areas with distinctive management requirements providing greater public certainty about what activities may occur in each area.*

**4.2.4B** ▶ Each management area will contain objectives, policies and rules that will provide detailed guidance for the assessment, avoidance, remedy and mitigation of adverse effects taking into account the issues and values identified for each management area.

**Explanation:** Section 67(1) of the Resource Management Act 1991 sets out that regional plans (including regional coastal plans) shall contain issues, objectives, policies and methods including rules.

This Policy proposes that this will be done in this Regional Coastal Environment Plan within the context of the issues and values identified in the three management areas. This recognises that there are different management priorities between these identified areas and provided for those differences to be reflected in objectives, policies and methods made for the RCEP. This Policy supports Objective 4.2.3B and 4.2.3C.

**Principal reason:** *This Policy establishes that the different management needs of each management area will be reflected in Objectives, Policies, Methods and Rules prepared for the specific management requirements of each area.*

**4.2.4C** ▶ The Plan may contain general objectives, policies and methods, including rules, that have the purpose of guiding the assessment and avoidance, remedy and mitigation of adverse effects across all management areas or in particular circumstances.

**Explanation:** While management areas will assist in providing for specific management needs for areas of the coast with different sensitivities of the environment, there are still issues that apply to all the Coastal Environment that this Plan must address by setting objectives, policies and methods (including rules) that apply throughout the Coastal Environment. This Policy provides for these issues and supports Objective 4.2.3B and 4.2.3C.

**Principal reason:** *This Policy acknowledges that there are some issues in the Coastal Environment that require the same management approach throughout the Region and establishes that this Plan will set Objectives, Policies, Methods and Rules for these issues.*

**4.2.4CA** ▶ At the next review of the Plan, the Council should seriously consider the desirability of combining all its regional and district plans into a single document. In the document the Council should seriously consider the desirability of combining all provisions relevant to ports in a single chapter.

**Principal reason:** It is expected that a combined Plan would:

- *Best promote integrated management of adjacent physical resources such as the coastal marine area, the land, the air and the waterbodies of the region;*
- *Be administratively convenient for users and developers whose projects span the boundaries of the coast, land air and waterbodies;*
- *Be less administratively complex to produce and maintain than a set of separate plans covering the same area.*

**4.2.4D** ▶ Areas where foreseeable development is likely to occur may be highlighted on the maps showing the management areas.

**Explanation:** It is considered useful to be able to identify, where possible, foreseeable development is likely to occur because it will assist people to participate in planning processes and encourage those proposing such development to undertake early consultation. The identification of such areas will not predispose the plan to approve that development or set out that it is appropriate in the area proposed. This Policy supports Objective 4.2.3D.

**Principal reason:** *This Policy is designed to provide the public with information concerning the possible location of potential development proposals in order to enable the public to engage in debate and dialogue with the proposers of such development.*

**4.2.4E** ▶ The coloured area marked on the map in Appendix 1 shall represent, for the purposes of this Plan, the Coastal Environment within which all Objectives, Policies and Methods (excepting rules) set out in this plan shall apply. This area includes the Coastal Marine Area extending to the territorial sea limit within which the rules set out in Chapters 4.3, 4.4 and 4.5 apply.

This area shall represent the Coastal Environment except in locations where, on the basis of evidence on a case by case basis when considering applications for consents or plan changes pursuant to the Resource Management Act (1991), it can be demonstrated that the sea is the dominant influence in some other location either seaward or landward of this area and in rivers and water bodies. The Coastal Environment in rivers and water bodies shall be determined by the presence of saline water and the presence of saline requiring and tolerant plant and animal species. For the avoidance of doubt, whitebait spawning habitat is within the Coastal Environment.

Evidence of the extent to which a location (other than in a river or water body) is dominated by coastal influences includes:

1. The presence of salt requiring or tolerant plant and animal species and habitats;  
*and*
2. The extent to which the micro-climate is influenced by the sea; *and*
3. The extent to which the land form is derived by active or recent coastal processes; *and*
4. The presence of saline water in surface and ground water hydrological systems;  
*and*
5. The extent to which the visual context of the landscape is dominated by the presence of the sea.

The greatest weighting of evidence will be given to ecological evidence, as the ecology of an area is the most sensitive indicator of marine influences.

**Explanation:** Neither the Resource Management Act (1991) or the NZCPS provide a definition of the area known as the Coastal Environment. However, in order to provide certainty for those wishing to use, subdivide or develop the Coastal Environment some mechanism for determining which Policies of this Plan apply must be utilised.

The coastal sensitivity area is, for the most part, that area where the sea is the dominant visual influence and is determined by the dominant coastal ridge. In valleys different criteria is used including coastal hazard zones and existing instruments under transitional District Plans such as the Cook County Council's Conservation Foreshore B Zone. This coastal sensitivity area represents the best effort at providing a reasonable and consistent approach for determining the landward extent of the Coastal Environment. It is important to note that the Coastal Environment also includes the whole of the Coastal Marine Area. It is open to challenge on the basis of site specific information in the course of considering applications for either resource consents pursuant to Section 88 of the Resource Management Act (1991) or Plan Changes pursuant to the 1st schedule of the Resource Management Act (1991). Rivers and water bodies are different again in that the Coastal Environment may extend a considerable distance inland outside the context of the visual context of the sea. Salt water intrusion occurs in tidal rivers and provides a distinctive habitat for many plants and animals that are uniquely coastal. In all cases, the best means of determining the extent to which the sea is the dominant influence on land and water is ecological as the factors that provide the sea with distinctive qualities are best recognised in the ecology of living communities.

**Principal reason:** *This Policy is required to provide certainty about where the policies of this Plan apply by defining an area as the Coastal Environment or providing explicit means to determine the Coastal Environment on a case-by-case basis. The Policy implements Objective 4.2.3A and 14.2.3C.*

## 4.2.5 Methods

- 4.2.5A** ▶ Areas of major potential development in the Coastal Marine Area shall be marked on the maps in Appendix 2A and/or 2B of this Plan by a dotted line encompassing the area where the development is foreseen.

**Principal reason:** *Implements Policy 4.2.4D by identifying areas of potential development in this Plan.*

## 4.2.6 Rules

- 4.2.6A** ▶ The Protection Management Area shall be composed of all those areas mapped in Appendix 2 of this Plan.

**Principal reason:** *Implements Policy 4.2.4A, 4.2.4B and 4.2.4C by establishing Protection Management Areas.*

- 4.2.6B** ▶ The Port Management Area shall be composed of all the area mapped in Appendix 2B of the Appendix to this Plan.

**Principal reason:** *Implements Policy 4.2.4A, 4.2.4B and 4.2.4C by establishing the Port Management Area.*

- 4.2.6C** ▶ The General Management Area shall be composed of all areas of the Gisborne District Coastal Environment not included in Rules 4.2.6A and 4.2.6B above and mapped in Appendix 2 of this Plan.

**Principal reason:** *Implements Policy 4.2.4A, 4.2.4B and 4.2.4C by establishing the General Management Area.*

- 4.2.6D** ▶ Notwithstanding any other rules in the plan, the standards and activity status for electricity transmission activities relating to the National Grid, as described in the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009, shall be determined according to this National Environmental Standard and no rule in any chapter of this plan that duplicates or conflicts with the National Environmental Standard shall apply.

## 4.3 PROTECTION MANAGEMENT AREA

NOTE: The provisions of 4.3.1 to 4.3.13 apply only to activities in the Protection Management Area

### 4.3.1 Introduction

The Protection Management Area encompasses all identified regionally significant sites of special ecological, cultural, historic, scientific, scenic, and amenity value, including all the areas of significant conservation value identified by the Minister of Conservation.

Outstanding Natural Features and Landscapes also form an important component of the Protection Management Areas in the Gisborne Region.

There are a number of sites of special value identified in the Coastal Environment scattered along the length of the coastline. There are some sites of local significance in the Coastal Environment located landward of the coastal marine area. The District Plan, which is currently being drafted, will make provision for such sites. Section 30 of the Resource Management Act 1991 does not allow for locally important sites to be dealt with in a regional plan.

The purpose of the Protection Management Area is to sustain the values that make these sites special. Activities will be allowed in the sites of special value provided that there are no adverse effects on the values of those sites.

#### 4.3.2 Issue

**4.3.2A** ▶ Areas of the Gisborne District Coastal Environment include sites of special ecological, cultural, historic, scientific, scenic and amenity value that are important nationally or regionally and these values may be threatened or damaged by the effects of subdivision, use, development and protection.

#### 4.3.3 Objectives

**4.3.3A** ▶ The preservation of the natural character of the Coastal Environment and the protection of the Coastal Environment from inappropriate subdivision, use and development<sup>1</sup> by protecting sites of significant ecological, cultural, historic, scientific, scenic and amenity value and sites where there is a high degree of natural character.

**Principal reason:** Chapter 1 of the NZCPS contains 5 Policies which establish this objective as a national priority both to preserve natural character and protect special areas with identified features and values. These policies are necessary to implement sections 6 and 7 of the Resource Management Act 1991.

**4.3.3B** ▶ To allow for subdivision, use, and development in Protection Management Areas where such subdivision, use, and development does not have adverse effects on the values that contribute to the areas special values and natural character.

**Principal reason:** Subdivision, use and development is not prohibited in the Protection Management Area. To prohibit appropriate subdivision, use and development would not promote sustainable management of natural and physical resources. In providing for such activities, it is appropriate to ensure the protection of at least regionally significant values.

**4.3.3C** ▶ Involvement of local communities in the identification and protection of the values and the preservation of the natural character of areas within the Protection Management Areas.

**Principal reason:** Regulation is not the only means of achieving suitable recognition of the values of the Protection Management Areas. The local community may be better placed to act to provide protection for such values and enforce such protection. They are more likely to be aware of community needs and issues and, with assistance, design appropriate responses to pressures on such values identified.

<sup>1</sup> Port Gisborne Consent Order 742/00

#### 4.3.4 Policies

**4.3.4A** ▶ In the exercise of any function, power or duty under the Act, the Council and Consent Authorities will give priority to avoiding adverse effects on the values associated with an area<sup>2</sup> within any Protection Management Area when considering the subdivision, use, development and protection of the Gisborne District's Coastal Environment.

**Explanation:** Section 6 of the Resource Management Act 1991 states that it is a matter of national importance to recognise and provide for the preservation of the natural character of the coastal environment and its protection from inappropriate subdivision, use and development<sup>3</sup>, and the protection of significant natural features and values and the relationship of Maori with their culture and spiritual values. This policy is designed to give the greatest possible protection to those identified values in the small and discrete Protection Management Areas without precluding appropriate subdivision, use, development and protection. Priority will be given to avoiding adverse effects arising from activities in these areas. Where activities that are external to the Protection Management Area impact on the values of the area; e.g. visual effects on landscape values, then the same need to give priority to avoiding those adverse effects apply.

Also section 7 of the Act directs Council to address issues concerning natural resources, amenity values, heritage values, quality of the environment and finite characteristics of resources. This Policy supports Objective 4.3.3A and 4.3.3B.

**Principal reason:** *It is a matter of national importance to recognise and provide for the preservation of natural character in the Coastal Environment and its protection from inappropriate subdivision, use and development, the protection of outstanding natural features and landscapes, and the protection of areas of significant indigenous vegetation and habitats of indigenous fauna as well as the relationship of Maori and their culture and traditions. Since the Protection Management Area consists of these things then this Policy is designed to implement this requirement of the Resource Management Act 1991.*

**4.3.4B** ▶ The Gisborne District Council will encourage communities to participate in active protection of the special values identified in the Protection Management Area through the establishment of community based care programmes.

**Explanation:** This Policy is designed to encourage a greater involvement by local communities in the protection of values identified as important by providing for communities to design and implement local solutions to identified problems with Council acting in a supportive manner. Council will assist by offering information and expertise to local communities but it is anticipated that local communities will take responsibility for implementing appropriate methods to protect those special values. This Policy supports Objective 4.3.3A and 4.3.3C.

<sup>2</sup> See Appendix 3 for description of the values associated with Protection Management Areas.

<sup>3</sup> Port Gisborne Consent Order 742/00

**Principal reason:** *There may be occasions where the Local Community, properly advised and resourced, is more capable of addressing an issue associated with the need to protect a special value than a more distant authority. This Policy is designed to provide a means for local communities to pursue local solutions.*

**4.3.4C** ▶ The Gisborne District Council will consider, and encourage other agencies including the Department of Conservation and Ministry of Fisheries to consider, other means of protecting the special values identified in the Protection Management Areas beyond the scope of the Resource Management Act 1991.

**Explanation:** The Resource Management Act 1991 is not the only instrument available to protect areas and resources of significance within the Protection Management Areas. The Gisborne District Council and agencies such as the Department of Conservation, Ministry of Agriculture and Fisheries and QEII Trust may use other legislation such as the Reserves Act, the Fisheries Act, the Marine Reserves Act, the Historic Places Act and the Conservation Act to provide protection for identified values and in some cases the use of these mechanisms may be more appropriate. This Policy supports Objective 4.3.3A.

**Principal reason:** *Other agencies, using different legal instruments or voluntary agreements may be better placed to achieve the purpose of the Resource Management Act 1991 in the Protection Management Area. The Resource Management Act 1991 is not the only mechanism able to achieve protection of regionally important values and areas.*

#### 4.3.5 Methods

**4.3.5A** ▶ Encourage and advocate for other methods of recognition and/or protection of the special values identified in the Protection Management Area beyond the scope of the Resource Management Act 1991, including such methods as:

- Open space covenants, QEII National Trust.
- Maori Reserves, Maori Affairs Act 1953
- Fisheries Legislation, including Taiapure and Maataitai Reserves
- Reserves under the Conservation Act including wildlife reserves and marine mammal sanctuaries.
- Marine Reserves under the Marine Reserves Act 1971.

#### Voluntary Property Plans

**Principal reason:** *This method implements Policy 4.3.4C.*

**4.3.5B** ▶ The Gisborne District Council will facilitate the establishment of Landcare and Beachcare Groups, having as their primary objective the protection of the special values of the Coastal Environment identified, within the Protection Management Area of the Coastal Environment and will offer technical services and advice to such groups.

**Principal reason:** *This method implements Policy 4.3.4B.*

**4.3.5C** ▶ To promote, in conjunction with the Department of Conservation and other agencies and community groups, the concept of Biodiversity as set out in Agenda 21 of the Rio Accords and ratified by the New Zealand Government on 16 September 1993.

**Principal reason:** *This Method implements, in part, Chapter 6 of the NZCPS concerning the implementation of New Zealand's International obligations affecting the Coastal Environment.*

#### **4.3.6 Rules for Structures**

*(Refer to Chapter 3.1)*

**Note 1:** S32 of the Building Act, 1991, states that no “building” shall be constructed, altered or demolished without a building consent.

It is important, notwithstanding anything else in this plan, that requirements for a building consent are established prior to the commencement of any work. The Definition of Structure in the Building Act is very broad.

**Note 2:** In addition to rules contained in this plan the Harbours Act, 1950 and harbour bylaws may also regulate structures on matters of navigation and safety as the need arises.

**Note 3:** This section should be read in conjunction with the section on occupation of space in the Coastal Marine Area.

**Note 4:** The New Zealand Coastal Policy Statement requires that the New Zealand Maritime Safety Authority and the Hydrographic Office be notified of new structures in the Coastal Marine Area.

This plan implements that policy by requiring consent holders for new structures/ or significant changes to existing structures in the Coastal Marine Area to notify those offices BEFORE construction begins. This will be a condition of all consents granted.

**Note 5:** It will be a condition of all consents for new structures in the CMA to provide, at their completion, photographic evidence of their completion.

**Note 6:** No resource consent or coastal permit gives the holder rights to occupy or move over the private property of another. Rules in this chapter do not state that the permission of occupiers or landowners is required in order to exercise the resource consent or permit because that requirement should go without saying.

**Note 7:** Unless clearly stated otherwise all standards and terms in a rule must be met for that rule to apply.

## LOCATING NEW STRUCTURES IN AREAS OF CULTURAL SENSITIVITY

**4.3.6A** ▶ Notwithstanding any rule for a permitted or controlled activity in this chapter of this plan, any activity associated with the construction, placement erection, modification, demolition or replacement of any structure that occurs in any area of the Coastal Marine Area marked on the map in Appendix 2 of this Plan as a site which is culturally sensitive to that type of activity (as recognised by tangata whenua)<sup>4</sup> is a discretionary activity with, in addition to any standards and terms specified for that activity, the following standards and terms.

Standards and terms:

- a) Contaminants are not disposed of into the Coastal Marine Area.
- b) There is no adverse effect on public safety and navigation safety.
- c) The activity results in no more disturbance to the foreshore or bed than can be removed by two tide cycles.

Council controls will include:

- Structure siting; *and*
- The timing and duration of activities associated with the structure; *and*
- Disposal of material on or away from the site; *and*
- The duration of any Resource Consent; *and*
- Conditions relating to monitoring the effects of the activity; *and*
- The provision of photographic evidence upon completion of the activity; *and*
- The extent to which the structure has an adverse effect on the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga; *and*
- Requiring rentals or bonds as specified elsewhere in this plan.

**Explanation:** This rule captures activities which might have an impact on cultural values and requires that they be treated as discretionary<sup>5</sup> activities with tight terms and conditions. Implicit in this rule is that all applicants for new structures or significant alteration or demolition of existing structures will consult with tangata whenua.

**Principal reason:** *Many permitted and controlled activities do not contain a standard/term related to tangata whenua cultural values and hence could be permitted without reference to tangata whenua. This could result in adverse effects on cultural sites and values. The consent authority will consult with tangata whenua in the consideration of any specific resource consent application and will encourage applicants for a resource consent to similarly consult with tangata whenua, as a matter of good practice. The consultation process should be initiated as soon as practicable.*<sup>6</sup>

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.3.8, Chapter 4.6, Chapter 4.7

<sup>4</sup> Huaguang Forest Consent order 749/00

<sup>5</sup> Huaguang Forest Consent order 749/00

<sup>6</sup> Huaguang Forest Consent order 749/00

## NAVIGATION AIDS

- 4.3.6B** ▶ The construction, placement, erection, modification or replacement of floating navigational buoys within the Coastal Marine Area or within coastal water is a permitted activity provided that the following standards and terms are met.

Standards and terms:

- a) Contaminants are not disposed of into the Coastal Environment.
- b) There is no adverse effect on public safety and navigation safety.
- c) The New Zealand Maritime Safety Authority and the Hydrographic Office are notified of the proposal to erect the structure and are notified of completion of work on the structure.
- d) The Gisborne District Council has been notified in writing of the structure.

In the event of conditions a), b) and d) not being met the activity is a discretionary activity. In the event of condition c) not being met the activity is a controlled activity with Council restricting its control to setting conditions on the consent requiring notification of the New Zealand Maritime Safety Authority and the Hydrographic Office.

- 4.3.6C** ▶ The construction, placement, erection, modification or replacement of fixed (non floating) navigational aids within the Coastal Marine Area is a discretionary activity.

**Principal reason:** *(Policies B & C): Floating navigational aids are regarded as low impact except in the Protection Management Area where the visual impacts may be unacceptable. Non floating navigational aids can have significant adverse effects on biota and visual amenity and are thus treated as discretionary activities.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.3.8, Chapter 4.6, Chapter 4.7

## PLACEMENT OF TEMPORARY MAIMAIS AND WHITEBAIT STANDS

- 4.3.6D** ▶ The erection or placement of a temporary maimai or whitebait stand in the Coastal Marine Area is a permitted activity provided that the following standards and terms are met:

Standards and terms:

In respect of all maimais and whitebait stands located in the Coastal Marine Area:

- a) The structure has a maximum size of four square meters.
- b) The structure is open piled; and  
In the case of a maimai:
  - c) the structure is at least 90 meters from any neighbouring structure, tide gate, floodgate, confluence or culvert.
  - d) the structure is only present between April 1 and July 31 of any one year.
  - e) Prior written notice of the erection or placement is given to the Consent Authority.

In the case of a whitebait stand:

- f) the structure is at least 20 meters from any neighbouring structure, tide gate, floodgate, confluence or culvert.
- g) The structure is only present between 15 July and December 30 of any one year.
- h) Prior written notice of the erection or placement is given to the Gisborne District Council.

(With respect to maimais the Gisborne District Council has agreed to the transfer of responsibilities for administering these provisions to the Eastern Region Fish and Game Council. When the transfer occurs the E.R.F.G.C will be the consent authority. Until that time the G. D. C. is the consent authority.)

**Principal reason:** *The impacts of both whitebait stands and maimais are slight. Visually, maimais can detract from the amenity of an estuary or wetland but if removed should not adversely affect values there (they are present over autumn/winter months). A similar case exists for whitebait stands.*

#### **MINOR ALTERATION and MAINTENANCE OF STRUCTURES**

**4.3.6E** ▶ The minor alteration or maintenance of any structure in the Coastal Marine Area is a permitted activity provided that the following standards and terms are met.

Standards and terms:

- a) The physical dimensions of the structure are not altered.
- b) The alteration or maintenance results in no more disturbance to the foreshore or bed than can be removed by two tide cycles.
- c) Contaminants are not disposed of into the Coastal Environment.
- d) There is no adverse effect on public safety and navigation safety.
- e) Public access to and enjoyment of the Coastal Marine Area is not decreased.
- f) Prior notification of the intention to modify the structure is made to the Gisborne District Council.

Provided that:

In the event that any of the standards and terms is not met, then Rule 4.3.6F applies.

**Principal reason:** *Without maintenance many structures deteriorate. Minor alteration will have minimal adverse effects.*

**4.3.6F** ▶ Except as provided for in Rule 4.3.6E, the minor alteration or maintenance of any structure in the Coastal Marine Area is a discretionary activity with the following standards and terms.

Standards and terms:

- a) The cumulative increase in the area of bed or foreshore covered by the structure from all minor alterations or maintenance under this plan does not exceed 10% of the original.

**Principal Reason:** *The type of maintenance anticipated here can have effects of an unpredictable nature. In order to ensure that measures are taken to avoid, remedy or mitigate adverse effects and also to achieve the purpose of the Act the most appropriate option is to utilise the resource consent process.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.3.8, Chapter 4.6, Chapter 4.7

## ILLEGAL STRUCTURES

**4.3.6G** ▶ Structures located in the Coastal Marine Area for which no permits have been granted under the Harbours Act 1950 or the Resource Management Act 1991 are unauthorised structures. Unauthorised structures which were established prior to January 1, 1995 and are located in the Coastal Marine Area are permitted within the Coastal Environment for a period of two years from the date of this plan becoming operative.

**Principal reason:** *Illegal structures threaten the very processes this plan sets up in order to manage adverse effects. To condone illegal structures is entirely inconsistent with responsible resource management and is inconsistent with the purpose of the Resource Management Act (1991).*

## REMOVAL OF STRUCTURES

**4.3.6H** ▶ The removal or demolition of any structure in the Coastal Marine Area is a permitted activity provided that the following standards and terms are met.

Standards and terms:

- a) Contaminants are not disposed of into the Coastal Environment.
- b) There is no adverse effect on public safety and navigation safety.
- c) Any disturbance to the seabed is minor enough to be removed by two tide cycles.
- d) Prior to and immediately after removal of the structure the New Zealand Maritime Safety Authority and the Hydrographic Office are notified.

Provided that:

In the event of (e) not being met the activity is a controlled activity with standards and terms (a) to (d).

The council will restrict its control to setting a condition requiring notification of the New Zealand Maritime Safety Authority and the Hydrographic Office.

**Principal reason:** *Obsolete structures diminish natural character and amenity - their removal is a very good way of improving the quality of the Coastal Environment.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.6, Chapter 4.7

**4.3.6I** ▶ The removal or demolition of any structure in the Coastal Marine Area is a controlled activity so long as it complies with the following standards and terms.

Standards and terms:

- a) Contaminants are not disposed of into the Coastal Environment.
- b) There is no adverse effect on public safety and navigation safety.

Council will limit its control to:

- The timing/ duration of activities associated with the demolition of the structure; *and*
- The rate at which components of the structure are removed or demolished; *and*
- Disposal of material on or away from the site; *and*
- Monitoring the effects of removal of the structure; *and*
- Provision of photographic evidence of removal of the structure; *and*
- Requiring bonds or rentals as specified elsewhere in this plan.

**Principal reason:** *Obsolete structures diminish natural character and amenity - their removal is a very good way of improving the quality of the Coastal Environment. This variant of the previous rule ensures that large scale removal is possible.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.6, Chapter 4.7

#### **COASTAL PROTECTION WORKS**

**4.3.6J** ▶ The erection or placement of any structure in the Coastal Marine Area which has a predominant purpose of avoiding, remedying or mitigating the effects of natural coastal processes on human property or life is a discretionary activity.

**Explanation:** Structures used to protect property from the effects of coastal processes are usually very conspicuous, have a limited life expectancy and dramatically alter natural physical processes.

**Principal reason:** *The effects of coastal protection works on the environment will almost always have to be weighed up against community benefits. It is considered appropriate to treat these structures as discretionary activities because achieving the purpose of the RMA will require considerable assessment particularly in respect of s5, 6 & 7 of the RMA.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 3.8, Chapter 4.3.8, Chapter 4.3.9, Chapter 4.6, Chapter 4.7

#### **CONSTRUCTION, PLACEMENT, ERECTION OF SIGNAGE**

**4.3.6K** ▶ The construction, placement or erection of signs in the Coastal Marine Area and coastal water for the purpose of publicising or advising of:

- a) Rules in this plan; or
- b) Bylaws or regulations made under any Act; or
- c) The location of any reserve; or
- d) Water safety

is a controlled activity with the following standards and terms:

Standards and terms:

a) The sign does not exceed 0.5 m<sup>2</sup> in area.

Council will limit its control to:

- The exact location of the sign; *and*
- The design and finish of the sign; *and*
- Maintenance and upkeep of the sign; *and*
- The duration of the consent granted; *and*
- Monitoring the use and effects of the sign; *and*
- Requiring photographic evidence of erection of the sign; *and*
- Requiring rentals or bonds as established elsewhere in this plan.

**Principal reason:** *It is important that signage in the CMA is controlled in order to achieve a level of professionalism of finish.*

Cross-Reference refer to Chapter 2, Chapter 3.8, Chapter 4.3.8, Chapter 4.6, Chapter 4.7

#### **DISCHARGE OF CONTAMINANTS**

**4.3.6L** ▶ Where a standard or term in a rule in this chapter of this plan prevents an activity because contaminants are disposed to the Coastal Environment the activity may occur if it achieves all other standards and terms of the rule and a permit for the discharge is obtained or the discharge satisfies the standards and terms for a permitted discharge.

**Principal reason:** *This rule provides a linkage between the structures chapter and discharge chapters of the plan and provides for consistency between the two chapters. Discharges were included within the structures section of the plan to highlight the inter-relatedness of chapters and to direct readers to other relevant objectives, methods, rules and policies.*

Cross-Reference refer to Chapter 2, Chapter 3.4, Chapter 4.3, Chapter 4.7

#### **PLACEMENT OF TEMPORARY STRUCTURES (other than maimais and whitebait stands)**

**4.3.6M** ▶ The erection or placement of any temporary structure in the Coastal Marine Area of a Protection Management Area is a controlled activity provided that the following standards and terms are met.

Standards and terms

- a) Contaminants are not disposed of into the Coastal Environment.
- b) There is no adverse effect on public safety and navigation safety.
- c) Public access to and along the Coastal Marine Area is not decreased.
- d) The structure is located for a continuous or cumulative period not exceeding 14 days in any one year.
- e) The structure is removed immediately after use.

Provided that:

If the above standards and terms are not met the activity is discretionary.

The Council will restrict its control to:

- The materials used; and
- Structure siting; and
- The timing and duration of activities associated with the structure; and
- Disposal of material on or away from the site; and
- Monitoring the effects of the structure; and
- Requiring rentals or bonds as specified elsewhere in this plan; and
- Requiring photographic evidence of the structures establishment and removal.

**Principal reason:** *It is not conceivable that a structure which meets the standards of this rule would have significant adverse effects. By providing for this type of structure the utility of the Coastal Environment is recognised without compromising values.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.3.8, Chapter 4.6, Chapter 4.7

#### **NETWORK UTILITIES ATTACHED TO OTHER STRUCTURES**

**4.3.6N** ▶ Construction, placement, erection, and replacement of any network utility structure that is or will be attached to an existing structure located in the Coastal Marine Area or Coastal waters of a Protection Management Area is a discretionary activity.

**Principal reason:** *This rule is necessary to insure that utility structures located in the Protection Management Area do not result in adverse effects. Similar rules exist for other management areas but permit these structures. The intent of the rule is concentrate structures.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.3.8, Chapter 4.6, Chapter 4.7

#### **PLACEMENT AND ERECTION OF NETWORK UTILITY STRUCTURES**

**4.3.6O** ▶ Except as provided for in Rules 4.3.6E, 4.3.6F and 4.3.6N, any activity that requires construction, erection or alteration of a network utility structure within the Coastal Marine Area of a Protection Management Area, (but excepting any reclamations), is a discretionary activity.

**Principal reason:** *This rule establishes the placement and erection of network utility structures as a legitimate activity in the CMA. The principal reason for this rule is that these structures are essential to provide for the social well-being of communities - but they can have adverse effects.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.3.8, Chapter 4.6, Chapter 4.7

#### **MOORINGS**

**4.3.6P** ▶ The construction or placement of pile and/or swing moorings in a Protection Management Area of the Coastal Marine Area is a discretionary activity.

**Principal reason:** *There are two reasons for this rule:*

- *The rule is required to protect people from themselves and also*
- *To prevent unsightly moorings appearing where they are inappropriate or where they diminish the natural character, amenity or cultural values of the Coastal Environment.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.3.8, Chapter 4.6, Chapter 4.7

#### **CONTAINMENT OF THE COASTAL MARINE AREA**

**4.3.6Q** ▶ Any activity involving the erection of a structure or structures in the Coastal Marine Area which will impound or effectively contain any area of the Coastal Marine Area, within a Protection Management Area, greater than 4 Ha is a non-complying activity.

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.3.7, Chapter 4.3.8, Chapter 4.3.9, Chapter 4.6, Chapter 4.7

**4.3.6R** ▶ Any activity involving the erection of a structure or structures which will impound or effectively contain any area of the Coastal Marine Area within a Protection Management Area equal to or less than 4 Ha is a non-complying activity.

**Principal reason:** *These rules are consistent with Schedule 1.2 of the NZCPS.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.3.7, Chapter 4.3.8, Chapter 4.3.9, Chapter 4.6, Chapter 4.7

#### **STRUCTURES PERPENDICULAR OR PARALLEL WITH MHWS**

**4.3.6S** ▶ The erection or placement of any structure or structures in the Coastal Marine Area of a Protection Management Area that is:

- a) More or less parallel to mean high water springs; *and*
- b) Solid (or present a significant barrier to water or sediment movement); *and*
- c) Would extend 300 metres or more, and including separate structures with an incremental total of at least 300 metres; *and*
- d) Is not a submarine or sub-aqueous cable

is a non-complying activity.

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.3.7, Chapter 4.3.8, Chapter 4.3.9, Chapter 4.6, Chapter 4.7

**4.3.6T** ▶ The erection of any structure which is solid (or present a significant barrier to water or sediment movement) in the Coastal Marine Area within a Protection Management Area that is -

- a) Oblique or perpendicular to mean high water springs; *and*
- b) Solid; *and*
- c) Is in the horizontal projection more than 100 meters in length; *and*
- d) Is not a submarine or sub-aqueous cable.

is a non-complying activity.

**Principal reason:** Schedule 1.3 and 1.4 of the NZCPS contains similar requirements. These rules are written to ensure the effects of structures are fully assessed by the Minister of Conservation when they meet a size threshold established in the NZCPS.

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.3.7, Chapter 4.3.8, Chapter 4.3.9, Chapter 4.6, Chapter 4.7

#### **STRUCTURES ADJACENT TO EXISTING PORT STRUCTURES**

**4.3.6U** ▶ The erection, construction or alteration, but excepting minor alterations; of port related structures within the Protection Management Area of the Coastal Marine Area, at or about the sites of existing port related structures at Hicks Bay, Tokomaru Bay and Tolaga Bay; is a discretionary activity provided that the following standards and terms are met.

Standards and terms:

- a) The New Zealand Historic Places Trust (Pouhere Taonga) has been consulted.

**Principal reason:** Restoration of these wharves will enhance community values associated with these structures. To not permit the restoration (which will likely be fairly major) would risk the eventual loss of valuable historic structures.

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.3.7, Chapter 4.3.8, Chapter 4.3.9, Chapter 4.6, Chapter 4.7

#### **STORAGE OF PETROLEUM PRODUCTS OR CONTAMINANTS**

**4.3.6V** ▶ The erection of structures for the storage or containment of petroleum, petroleum products or other contaminants in the Coastal Marine Area of a Protection Management Area, is a discretionary activity provided that the following standards and terms are met.

Standards and terms

- a) The purpose of the structures is to provide for the operational needs of vessels.
- b) The structures are located at or about the sites of existing port related structures in Hicks Bay, Tokomaru and Tolaga Bay.

Provided that:

In the event of (d) not being met the activity is a non-complying activity.

**Principal reason:** The rule is consistent with the NZCPS and recognises the very real risk that spillage of contaminants into the CMA carries.

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.3.7, Chapter 4.3.8, Chapter 4.3.9, Chapter 4.6, Chapter 4.7

#### **PLACEMENT/ERECTION OF PERMANENT STRUCTURES**

**4.3.6W** ▶ Unless specified elsewhere to the contrary, and more specifically, any activity that requires construction or erection of a structure in the Coastal Marine Area of the Protection Management Area, but excepting minor alterations and any reclamations, is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 3.6, Chapter 3.8, Chapter 4.3.7, Chapter 4.3.8, Chapter 4.3.9 and Chapter 4.6.

#### 4.3.7 Rules for Discharges

**4.3.7A** ▶ As from the 1<sup>st</sup> of July 2000 the discharge of untreated sewage, from an<sup>7</sup> off-shore installation within the internal waters of Poverty Bay within 1000 metres seaward of mean high water springs is a prohibited activity for which no Resource Consent will be granted.

**Principal reason:** *The Resource Management (Marine Pollution) Regulations 1998 regulate the discharges of treated and untreated sewage from vessels and offshore installations. The Regulations prohibit such discharges closer than 500 metres from the shoreline.*<sup>8</sup>

*Clause 11(3) of Part 3 of the Regulations provides that, from 1 July 2000, Councils may increase the distance seaward within which no person may discharge sewage into the CMA. Poverty Bay is the major water recreation beach in Gisborne and is used by various forms of water recreation. It is considered that the Regulations provide adequate controls over the discharges of sewage from vessels. However, the actual or potential adverse effects relating to such discharges from offshore installations are considered to warrant a more stringent level of control.*<sup>9</sup>

#### BURNING PLANT OR ANIMAL MATTER

**4.3.7B** ▶ Except as provided for in the Resource Management (Marine Pollution) Regulations 1998, the discharge of contaminants to air of the Coastal Marine Area from the burning of plant or animal matter within the CMA, but excluding the burning of treated timbers, is a permitted activity provided the following standards and terms are met.

Standards and terms:

- a) The plant or animal matter arises from the Coastal Marine Area.
- b) The burning does not result in an adverse effect in any adjacent site or vessel which is offensive or objectionable

Cross-Reference refer to Chapter 2, Chapter 3.4, Chapter 4.6, Chapter 4.7

**Principal reason:** *In some circumstances it may be necessary to burn waste materials that accumulate on beaches. This rule permits that activity subject to certain standards being met and will not result in significant adverse effects. (Note this rule applies to the Coastal Marine Area - the Regional Air Plan deals with land above MHWS).*

NB: For discharges to air outside of the CMA, reference should be made to the Regional Air Plan for the Gisborne Region.

<sup>7</sup> NZ Yachting Federation Consent order 149/01

<sup>8</sup> NZ Yachting Federation Consent order 149/01

<sup>9</sup> NZ Yachting Federation Consent order 149/01

## **OTHER PERMITTED ACTIVITIES; HYDROCARBON BURNS, FUMIGATION, AQUACULTURE DISCHARGES TO AIR**

**4.3.7C** ▶ The discharge to air of contaminants associated with the burning of hydrocarbons in the CMA following a hydrocarbon spillage, or the fumigation of goods in the CMA is a permitted activity provided the following standards and terms are met.

Standards and terms:

- a) The activity does not result in odour in a residential area, park or reserve which is objectionable or offensive.
- b) Council is notified prior to any oil burn.
- c) Measures to contain and reduce the volume of spilled material have been exhausted.
- d) In the case of fumigation the activity does not involve the use of ethylene dibromide, methyl bromide or hydrogen cyanide.

Cross-Reference refer to Chapter 2, Chapter 3.4, Chapter 4.6, Chapter 4.7

**Principal reason:** *The discharge of contaminants to air from the activities listed in this rule are either minor or infrequent but must occur on an urgent basis when they occur. The adverse effects of this rule will be minor and could, in the case of fumigation and oil spill reaction, be beneficial.*

NB: For discharges to air outside of the CMA, reference should be made to the Regional Air Plan for the Gisborne Region.

## **GENERAL DISCHARGES**

**4.3.7D** ▶ All discharges to water of the coastal marine area not more specifically addressed elsewhere by rules in this plan or the Resource Management (Marine Pollution) Regulation 1998, excepting storm water discharges, are a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.4, Chapter 4.6, Chapter 4.7

**Principal reason:** *Quantitative standards for the discharge of contaminants into the CMA are lacking for NZ waters. While standards do exist in other countries it is not considered appropriate to incorporate them into this plan.*

## **STORM WATER DISCHARGES**

**4.3.7E** ▶ The discharge of stormwater runoff to the Coastal Marine Area is a permitted activity provided that the following standards and terms are met.

Standards and terms:

- a) The activity shall not cause any permanent:
  - (i) Reduction of the ability of the receiving channel to convey flood flows;
  - (ii) Scouring of the foreshore or seabed as a consequence of the discharge.
- b) The discharge shall not cause the production of conspicuous oil or grease films, scums, or foams, or floatable or suspended materials in any receiving water after reasonable mixing.

- c) The discharge shall, after reasonable mixing, meet the water quality standards, prescribed for the waters into which the discharge is to occur, by the Water Classifications set out in Policy 3.4.4A, Method 3.4.5L and Appendix 7 of this Plan.

Provided that:

If any of the Standards and Terms are not met then the discharge of stormwater runoff to the CMA is a non-complying activity.

**Principal reason:** *Stormwater runoff into the CMA is an inevitable consequence of urban development. Stormwater can contain heavy metals, oils/ greases and silts; the standards in this rule exist to ensure that measures are taken, where appropriate, to reduce the quantity of these.*

#### **OTHER DISCHARGES TO AIR**

- 4.3.7F** ▶ Any discharge of contaminants to air of the Coastal Marine Area not specifically addressed elsewhere in this plan or in the Resource Management (Marine Pollution) Regulations 1998 is a discretionary activity.

NB: For discharges to air outside of the CMA, reference should be made to the Regional Air Plan for the Gisborne Region.

Cross-Reference refer to Chapter 2, Chapter 3.4, Chapter 4.6, Chapter 4.7

#### **SEWAGE DISCHARGES**

- 4.3.7G** ▶ Except as provided for in the Resource Management (Marine Pollution) Regulations 1999 and Rule 4.3.7A, any discharge of human sewage into the Coastal Marine Area is a discretionary activity provided that the following standards and terms are met.

Standards and Terms:

- a) The discharge, after reasonable mixing, shall not result in:
- the production of conspicuous oil or grease films; or
  - the production of any scums or foams; or
  - the production of any floating or suspended materials; or
  - the production of an objectionable odour; or
  - any significant adverse effect on aquatic life.

Provided that:

If Standard and Term a) is not met the activity is a non-complying activity.

Cross-Reference refer to Chapter 2, Chapter 3.4, Chapter 4.6, Chapter 4.7

**Principal Reason:** *In dealing with the disposal of human sewage, not only the effects on the physical environment, but also the effects on people must be taken into account. This rule is necessary to implement provisions of the NZCPS.*

#### **HERBICIDES and WEED CONTROL**

- 4.3.7H** ▶ Except as provided for in the Resource Management (Marine Pollution) Regulations 1999, the discharge of herbicides in the coastal marine area, for the purposes of exotic weed control is a controlled activity provided that the following standards and terms are met.

## Standards and terms:

- a) Hand gun application is used, and spray is directed to minimise non target organism contact; and
- b) A biodegradable (short half life), herbicide is used; and
- c) The frequency and abundance of marine fauna is surveyed before spraying, and after spraying; and
- d) The level of herbicide in sediment is assessed after spraying.
- e) Council is advised prior to commencement of the activity and with the required monitoring information (c, d above) within 3 months of completing the operation.
- f) The following standards from NZS8409:1999 Agrichemical Users Code of Practise and any additional requirements as listed are met:

## The Council may set conditions:

- To minimise adverse effects on habitat and on-target organisms
- To restrict the timing and duration of any herbicide application.

## Provided that:

Any application of Agrichemical sprays that does not meet the standards above is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.4, Chapter 4.7

<b>NZS8409 REQUIREMENT</b>	<b>ADDITIONAL REQUIREMENT</b>
2.4.1, 2.4.2, 2.4.4(B)	
5.1.1, 5.1.2, 5.3.1(a & b)	
5.3.2(b)	Disposal options FF (a,b,c) must be used if available in the region and no spray residue shall be disposed of within 20m of a drain, watercourse or waterbody.
5.3.3 (second paragraph following (m))	Cleaning and decontamination of aircraft shall be carried out on a bunded concrete pad. Contaminated residue shall be collected and disposed of in accordance with these conditions.
5.4.1	
5.5.1	
5.6.2(ci)	
5.6.5 (a, c)	
5.7.1 (e, f)	Written contingency plans must be available upon request.
5.7.2	Documented evidence of the target area must be available upon request.
5.8.1 (second paragraph)	Wind indicators must be available on site should any of the factors in Table DD1 for high potential drift hazard be equaled or exceeded.
5.8.2 (a, b, c, d, e, f)	
5.8.3	Agrichemicals must not be sprayed within 100m of any sensitive area (DD3) or Protection Management Area identified in the Gisborne District Plan if any of the factors in Table DD1 for high potential drift hazard be equaled or exceeded.
5.9	(Note the additional requirements in 5.7.1 (e, f) & 5.7.2 above).
6.1	Disposal options FF (a, b, c) must be used if available in the region and no spray residue shall be disposed of directly within 20m of a drain, watercourse or waterbody.

**Principal reason:** *This rule provides for the use of herbicides to control Spartina as a controlled activity subject to standards that reduce side effects and allow monitoring of effects. The rule is necessary to ensure that the adverse effects of excessive spraying and consequent contamination do not occur.*

#### **RADIO TRACERS and DYES**

**4.3.7I ▶** Except as provided for in the Resource Management (Marine Pollution) Regulations 1999, the discharge to the coastal marine area of biologically and chemically inert and non-radioactive tracers or dyes for the purposes of scientific investigations is a permitted activity subject to the following standards and terms.

Standards and Terms:

- a) The tracer or dye will not result in and change in the abundance or diversity of animal or plant life in the receiving environment.
- b) The GDC is advised in writing at least one week prior to the discharge.

Cross-Reference refer to Chapter 2, Chapter 3.4, Chapter 4.7

**Principal reason:** *Non toxic dyes and radio tracers are important tools for the investigation of the effects a discharge may have. For scientific research they are also important tools. It is considered that the slight and very occasional adverse effects of these substances is far outweighed by the potential benefits accrued from their use that their use should be permitted.*

#### **OBSERVANCE OF WATER QUALITY STANDARDS**

**4.3.7J ▶** All discharges to water of the coastal marine area, after reasonable mixing and disregarding the effect of any natural perturbations, shall observe any relevant water quality standards set out in Method 3.4.5L for the Classification Area defined in Appendix 7 of this Plan.

**Principal reason:** *Compliance with water classification standards is a requirement of Section 69(1) of the Resource management Act 1991.*

### **4.3.8 Rules for the Occupation of Space in the CMA**

#### **OCCUPATION OF SPACE FOR PERMITTED OR CONTROLLED STRUCTURES (See rules on structures above)**

**4.3.8A ▶** Notwithstanding anything else in Chapter 4.3 of this plan, the exclusive occupation of space of land of the Crown in the CMA for an activity that is permitted or controlled in Chapter 4.3 of this Plan, is a restricted discretionary activity.

Matters to which Council will restrict its discretion:

- a) The extent to which the exclusive occupation of space has an adverse effect on the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.
- b) The extent to which the exclusive occupation of space restricts or prevents public access to and along the Coastal Marine Area.

- c) The extent to which the exclusive occupation of space adversely affects any value identified within, or sought to be protected by a Protection Management Area.

Cross-Reference refer to Chapter 2, Chapter 3.2, Chapter 4.6, Chapter 4.7

**Principal reason:** *This rule requires very minor and almost exclusively beneficial coastal activities which require an exclusive occupation of space consent in the CMA to obtain a resource consent but limits the concerns of the Council to two narrow areas of cultural concern for unknown sites, any adverse effect on public access to and along the CMA and the possible effects on areas with high natural values. The requirements and standards elsewhere in the plan are not lessened by this rule.*

#### **TRANSFER OF PERMITS TO OCCUPY**

- 4.3.8B ▶** The transfer of a permit for the occupation of space to another site in the Coastal Marine Area is a permitted activity provided that the following standards and terms are met.

Standards and terms:

- a) The transfer does not result in a change of use associated with the permit or, where the existing permit does not describe a use or purpose, the use at the new location is the same as that usually associated with the original location.
- b) When transfer occurs at least 90% of the space transferred will be used for the purpose for which the transfer relates.
- c) Transfer does not occur between different management areas.
- d) Transfer does not result in a reduction of public access to and across the CMA.
- e) Any existing structures at the site where the currently occupied space is held can be removed as a permitted or controlled activity under this plan.
- f) All parties to the transfer agree to terms of the transfer, and these include an agreement relating to the removal of all structures associated with the existing site.
- g) Council is notified in writing prior to the transfer.
- h) Consultation has occurred with the Hapu which is the kaitiaki of the site proposed.<sup>10</sup>

Footnote: Any person wishing to exercise this rule in relation to the transfer of permits involving marine farming permits or spat-catching permits is strongly advised to consult with the Ministry of Fisheries prior to exercising any right conferred by this rule.

<sup>10</sup> **NB:** Information on which hapu is the kaitiaki for a particular site and how they can be contacted can be obtained from Runanga, Gisborne District Council, Te Puni Kokiri or the Department of Conservation.

**(Explanation of the rule):** Notwithstanding the above, nothing in this section of this plan implies the granting of a resource consent for any other activity set out in Section 12 of the Resource Management Act (1991) should a permit to occupy space be obtained through transfer, and nothing in this section absolves the owners of existing structures of the responsibility for ensuring that existing structures legally occupy space in the CMA.

**Principal reason:** *The principal reason for this rule is to provide a method of transferring consents to occupy space from inefficient to more efficient uses. The Coastal Environment is dominated by open space, is a public resource and is arguably utilised inefficiently. A huge number of existing structures exist and have no or limited use. This rule is supposed to encourage the transfer of permits to occupy from some of these lesser used structures to more efficient uses and result in a clean up of the coast. Many of the standards in this rule are similar to those used in the structures section and are primarily concerned with ensuring tangata whenua values are not undermined by transfer of occupation rights, that the values of a Protection Management Area are preserved and that existing (and presumably less efficient occupiers of space) are removed PRIOR to transfer. The latter is a matter for parties to negotiate over.*

#### **TEMPORARY EXCLUSIVE OCCUPATION OF SPACE FOR MILITARY and CIVIL DEFENCE EXERCISES and CULTURAL OR RECREATIONAL EVENTS**

**4.3.8C** ▶ The temporary occupation of space for a military or Civil Defence exercise or recreational or cultural activity which restricts or excludes public access to or across land of the Crown located in the Coastal Marine Area within a Protection Management Area is a restricted discretionary activity provided that the following standards and terms are met.

Standards and terms:

- a) Any restriction or exclusion of the public from the CMA is for a period not exceeding two days.
- b) In the case of exclusion of access the exclusion is restricted to an area of 0.5ha. or less.
- c) Any exclusion does not prevent the use of boat ramps, public amenities or other structures.
- d) Any disturbance to the foreshore or seabed caused as a consequence of the occupation are no more than can be removed by two tide cycles.
- e) Public notice of the occupation is given in a local newspaper at least 10 working days prior to the activity occurring.
- f) The occupation of space does not adversely affect any value identified within, or sought to be protected by a Protection Management Area shown on a map in Appendix 2 and described in Appendix 3 of the Regional Coastal Environment Plan.

Council will limit its discretion to considering the direct or indirect effects of the activity on fragile ecosystems and ensuring public safety.

Provided that:

In the event that any standard other than standard f) is not met then the temporary occupation of space in the CMA is a non-complying activity. In the event that standard f) is not met then the temporary occupation of space in the CMA is a prohibited activity for which no Resource Consent will be granted.

Cross-Reference refer to Chapter 2, Chapter 3.2, Chapter 4.6, Chapter 4.7

**Principal reason:** *The adverse effects of a temporary event that meets the standards would be minor if suitable conditions are set.*

### **ILLEGAL OCCUPATION**

**4.3.8D** ▶ Any use or occupation of the Coastal Marine Area for which no permit has been granted under the Harbours Act, 1950 or the Resource Management Act, 1991 are unauthorised. Unauthorised occupation or use which was established prior to January 1, 1995 and which is located in the Coastal Marine Area is a permitted activity for a period of two years from the date of this plan becoming operative provided that the following standard is met.

Standards and Terms:

- a) The Gisborne District Council is notified in writing of the location, owner and purpose of the structure within 3 months of this Plan becoming operative.

Cross-Reference refer to Chapter 2, Chapter 3.2, Chapter 4.6, Chapter 4.7

**Principal reason:** *This rule provides both Council and illegal owners with leeway to establish lawful status for occupations.*

### **OCCUPATION OF SPACE A DISCRETIONARY ACTIVITY**

**4.3.8E** ▶ Except as provided for in other rules of this Chapter, any occupation of space involving Crown land within the CMA of the Protection Management Area is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.2, Chapter 4.6, Chapter 4.7

**Principal reason:** *This method ensures that occupation of space occurs in a fashion that is consistent with the policies for this chapter. The rule principally affects structures which are treated as discretionary or non-complying.*

### **OCCUPATION OF MORE THAN 10 HA**

**4.3.8F** ▶ Any activity involving the occupation of Crown land in the Coastal Marine Area which:

- a) Would exclude or effectively exclude public access from areas of the Coastal Marine Area over 10 hectares; or
- b) Would exclude or effectively exclude the public from more than 316 metres along the length of the foreshore; or

- c) Would involve the occupation or use of areas greater than 50 hectares of the Coastal Marine Area and such occupation or use would restrict public access to or through such areas:

Is a discretionary activity provided that the following standards and terms are met:

Standards and Terms:

The occupation or exclusion is for the purpose of protecting:

- a) Significant indigenous fauna, flora or significant habitats; or
- b) Maori cultural sites; or
- c) Historic sites.

Provided that:

If these standards and terms are not met the activity is a non-complying activity.

Cross-Reference refer to Chapter 2, Chapter 3.2, Chapter 4.6, Chapter 4.7

**Principal reason:** *This is consistent with s1.9 of the NZCPS. The standards are designed to provide a vehicle for achieving the protection of Protection Management Area values should this be needed.*

#### **4.3.9 Rules for the Alteration of Foreshore and Seabed**

##### **BURIAL OF MARINE MAMMALS**

- 4.3.9A** ▶ The shifting and burial of marine mammals in the CMA is a permitted activity, provided that the following standards and terms are met.

Standards and Terms:

- a) The Manager: Environment and Planning, Gisborne District Council has been consulted.
- b) The Department of Conservation has been consulted.
- c) The shifting or burial is supervised by an authorised officer of the Department of Conservation.

NOTE: The removal of marine mammals (dead or alive) is prohibited under the Marine Mammals Protection Act 1978, unless a permit has been obtained from the Director General of Conservation. In respect of (c) above, an authorised officer will be the holder of warrant under the Marine Mammals Protection Act 1978.

**Principal reason:** *The adverse environmental effects of not burying a marine mammal are likely to be greater than those of burying it. The standards will ensure that burial occurs in a sensitive and appropriate fashion.*

##### **RECLAMATIONS**

- 4.3.9B** ▶ Notwithstanding other rules in this plan, any reclamation for the purpose of disposal of septic tank sludge, toxic wastes, or any other domestic or industrial refuse or waste material is a prohibited activity for which no Resource Consent will be granted.

**Principal reason:** *This type of activity is inconsistent with the purpose of the Resource Management Act and cannot be countenanced. The activity is prohibited to preclude it from the CMA.*

## RECLAMATION

**4.3.9C** ▶ Reclamation within a Protection Management Area of the CMA is a non-complying activity provided that the following situations are met: The reclamation does not:

a) Occur in an estuary.

Provided that:

If a) occurs the activity is a prohibited activity for which no Resource Consent will be granted.

Cross-Reference refer to Chapter 2, Chapter 3.2, Chapter 3.3, Chapter 3.8, Chapter 4.6, Chapter 4.7

**Principal reason:** *Reclamation of the CMA alienates Crown land, reduces habitat and seriously modifies natural character in many situations. For these reasons the activity is non-complying in the Protection Management Area subject to standards and terms.*

## IMPOUNDING

**4.3.9D** ▶ Notwithstanding any other rule in this plan any impounding of the CMA is a non-complying activity in a Protection Management Area.

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 3.2, Chapter 3.3, Chapter 3.8, Chapter 4.6, Chapter 4.7

**Principal reason:** *Impounding the CMA seriously changes the natural characteristics of an area. Impounding is inconsistent with many of this plans policies and could diminish values associated with a PMA. For these reasons the activity is non-complying.*

**4.3.9E** ▶ The removal of driftwood from the CMA of a Protection Management Area is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.3, Chapter 4.6, Chapter 4.7

**Principal reason:** *Driftwood can play an important role in processes that are fundamental to the natural character of an area.*

**4.3.9F** ▶ Notwithstanding any other rule for the protection management area any activity involving disturbance of foreshore and seabed for specific purposes including any removal of sand or shingle is a discretionary activity subject to the following standards and terms.

Standards and terms:

a) In any 12 month period volumes greater than 50,000 cubic metres are not removed;

b) Extraction does not occur from an area greater than 4 hectares;

c) Any single extraction does not occur over an area extending 1000 metres or more over foreshore or seabed;

Provided that:

If any of the standards a), b) and c) are not met the activity is a non-complying activity.

Cross-Reference refer to Chapter 2, Chapter 3.3, Chapter 4.6, Chapter 4.7

**Principal reason:** *The extraction of material from the foreshore and seabed can have significant adverse effects on the natural character and natural dynamic processes of beach systems. This is especially the case when more than one extraction operation is occurring in a specific area.*

#### **Rules for the Take, Use, Damming and Diverting of Coastal Water**

#### **4.3.10 TAKES OR USES OF WATER**

**4.3.10A** ▶ Any activity involving the taking or use of water, other than water found in any river, stream, estuary, or aquifer in the Coastal Marine Area is a permitted activity:

Cross-Reference refer to Chapter 2, Chapter 3.5, Chapter 4.6, Chapter 4.7.

**Principal reason:** *It is unlikely that taking, using, damming or diverting open water of the Coastal Marine Area will have adverse effects outside of those specifically addressed by the standards and terms of this rule. It is considered most likely that structures, effects on the foreshore and seabed any discharges to the CMA pose a far greater risk to the CMA than any reasonably foreseeable takes.*

#### **OTHER TAKING, USE, DAMMING OR DIVERSIONS OF WATER**

**4.3.10B** ▶ Any activity involving the taking, use, damming or diversion of water found in any river, stream, estuary, or aquifer in the Coastal Marine Area, other than open coastal water is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.5, Chapter 4.6, Chapter 4.7

**Principal reason:** *Taking, using, damming or diverting confined waters can have adverse effects. This rule is necessary in order to ensure that the effects of the activity addressed.*

**4.3.10C** ▶ Notwithstanding any other rule in this plan, the taking of any coastal waters in the CMA for firefighting purposes, or for the operational needs of vessels is a permitted activity.

**Principal reason:** *This rule implements Policy 5.2.5 of the NZCPS and reflects the fact that this type of activity is infrequent, cannot reasonably be expected to obtain a resource consent and in all likelihood reflect sustainable management of resources (i.e. enabling communities to protect infrastructural resources). Note-other provisions of this plan may apply to the activity.)*

### 4.3.11 Rules for Noise

**4.3.11A** ▶ Subject to all other relevant rules in this Plan, any activity which generates noise located within the Coastal Marine Area of a Protection Management Area is a permitted activity provided that the following standards and terms are met:

Standards and terms:

- A. The average maximum noise level (L10) and maximum noise level (Lmax), as measured at or within the boundary generated within any part of the coastal marine area of a Protection Management Area shall not exceed the following limits set out in Table 1.

**Table 1 - Noise Standards for the Protection Management Area**

Management Areas (within the coastal marine area only)	Average Maximum Noise Level (L10) dBA at all times	Maximum Noise Level (Lmax) dBA at all times
Protection Management Area	50	75

- B. Noise shall not reach a level or be of such a nature that it results in the long-term modification of the behaviour of aggregations of marine mammals or birds. Long-term, for the purpose of this standard, means any change in behaviour which is not corrected within 30 minutes and repetitive modifications to behaviour which culminate in more than 60 minutes of response to noise. Modification of behaviour includes any visible flight or flee response to noise - especially movement for a nesting or rearing site but does not include accommodation responses such as re-orientation to the source of noise; or
- C. The noise is generated by any siren, bell, foghorn or any other device used for navigation and/or warning purposes.

Provided that:

If the standards and terms are not met then the activity is a non-complying activity.

**Principal reason:** *This rule establishes noise emission standards for the coastal marine area of the Protection Management Area that are consistent with the standards established in the District Plan for heritage areas.*

### 4.3.12 Rules for Exotic Plants

**4.3.12A** ▶ The introduction of exotic plants to an area of the Coastal Marine Area within a Protection Management Area that already contains established plants of that species is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.3, Chapter 3.7, Chapter 4.6, Chapter 4.7

**Principal reason:** *This rule is necessary to ensure that the possible adverse effects of a new plant being introduced are fully assessed. This rule reflects potential costs that would fall upon the community should the adverse effects be significant.*

**4.3.12B** ▶ The introduction of exotic plants to an area of the Coastal Marine Area within a Protection Management Area that does not already contain established plants of that species is a non-complying activity.

Cross-Reference refer to Chapter 2, Chapter 3.3, Chapter 3.7, Chapter 4.6, Chapter 4.7

**Principal reason:** *This rule is necessary to ensure that the possible adverse effects of a new plant being introduced are fully assessed. This rule reflects potential costs that would fall upon the community should the adverse effects be significant.*

**4.3.12C** ▶ Notwithstanding Rule 4.3.12A and 4.3.12B above, the planting of noxious plants or class B target plants within the Coastal Marine Area within a Protection Management Area is a prohibited activity for which no Resource Consent will be granted.

**Principal reason:** *This rule reflects the established costs of introducing these plants and ties this chapter of the plan in with existing statutory documents.*

**4.3.12D** ▶ Notwithstanding rule 4.3.12A and rule 4.3.12B above, the introduction of exotic or introduced plants to an area of the Coastal Marine Area in a Protection Management Area not containing established plants of that species and identified as having:

- a) High natural character values; or
- b) Significant indigenous vegetation; or
- c) Significant habitats of indigenous species

is a prohibited activity for which no Resource Consent will be granted.

**Principal reason:** *This rule reflects the importance of protection management areas.*

### **4.3.13 Rules for Activities on the Surface of the Coastal Marine Area**

#### **SPECIFIC ACTIVITY AREAS**

**4.3.13A** ▶ Except as provided for in Rule 4.3.13B, the establishment and use of Specific Activity Areas for the exclusive use of specific types of ships or specific classes or recreational activities on the surface of the sea is a permitted activity for which no Resource Consent is required for those ships or activities provided that the following standards are met.

Standards and terms:

- a) The use of the Specific Activity Area is required for a period not exceeding 14 days in any calendar year.
- b) All permissions necessary under the Gisborne District Navigation Bylaws, and any Resource Consents necessary, have been obtained prior to providing written notification to the Council as set out in d) below.
- c) Public notification of the intention to use a Specific Activity Area, including a description of any activity to be undertaken in the area and its timing and duration, and any restrictions imposed on other activities, shall be made at least two weeks prior to the establishment of such an area.

- d) The Council is notified, in writing, of the intention to use an exclusive or semi-exclusive Specific Activity Area. Such notification must occur at least two weeks prior to the use of such an area and shall include:
- i) The name, address, contact phone number and contact person of the group or organisation seeking to use a Specific Activity Area.
  - ii) A precise description and chart of the area to be used, and how it is to be marked and patrolled; and
  - iii) A statement of the type of activity or class of ship for which the area is to be used and any restrictions on those ships or activities that will be imposed; and
  - iv) A statement concerning restrictions on any other ship or activity within the area proposed to be used.
  - v) The duration of the event which requires the use of a Temporary Specific Activity Area.
  - vi) A summary of the consultation undertaken and the response made to issues raised during the consultation.

Provided that:

If the standards and terms are not met, and the Specific Activity Area proposed is located in waters administered under the Gisborne District Navigation Bylaws, then the establishment and use of Specific Activity Areas is a prohibited activity for which no resource consent can be granted.

(NB: Nothing in this rule may be substituted for or read as a permission under any other Act, Regulation or Bylaw.)

**Principal reason:** *Activities that may exclude or restrict public rights of access and recreational opportunity should be held up to public scrutiny and allowed only if sufficient public consultation has occurred and all other permissions necessary have been obtained.*

**4.3.13B** ▶ The establishment and use of Specific Activity Areas for the exclusive use of specific types of ships or specific classes of recreational activities on the surface of the sea, in waters administered under the Water Recreation Regulations 1979, is a permitted activity for which no Resource Consent is required provided that the following standards and terms are met.

Standards and terms:

- a) Any reservation necessary under the Water Recreation Regulations 1979 has been notified in the Gazette, and all Resource Consents necessary have been obtained.
- b) The Hydrographic Office of Land Information New Zealand is notified of the establishment of the Specific Activity Area, including any conditions attached to the Gazetted reservation under the Water Recreation Regulations 1979, prior to its establishment and use, and upon cessation of its use.

- c) The Gisborne District Council is notified in writing by the person or organisation who sought the reservation, of the Gazetted reservation, including any conditions of the reservation, issued under the Water Recreation Regulations 1979.

Provided that:

- i) If Standard and Term a) is not met then the establishment and use of Specific Activity Areas is a prohibited activity for which no resource consent can be granted.
- ii) If Standards and Terms b) or c) are not met then the establishment and use of Specific Activity Areas is a controlled activity. The Council will restrict its control to setting conditions on the consent requiring notification of the Hydrographic Office of Land Information New Zealand.
- A. This Rule shall cease to have effect after the Water Recreation Regulations 1979 are revoked or after the close of the 31<sup>st</sup> of March 2003, whichever occurs first, and Rule 4.3.13A shall apply.

NB: Nothing in this Rule may be substituted for or read as a permission under any other Act, Regulation or Bylaw.

**Principal reason:** *Rules in the Regional Coastal Environment Plan must be consistent with Regulations as a matter of statutory interpretation. The establishment of Reserved Areas is provided for in the Water Recreation Regulations 1979. If the establishment of such areas was prohibited under the provisions of the Regional Coastal Environment Plan then the provision would be inconsistent with the Water Recreation Regulations 1979 and Ultra Vires. The Water Recreation Regulations 1979 may be revoked and will cease to exist at the close of the 31<sup>st</sup> of March 2003.*

NOTE: The Provisions of 4.4.1 to 4.4.13 apply only to activities in the Port Management Area

## 4.4 PORT MANAGEMENT AREA

### 4.4.1 Introduction

The Port Management Area includes the existing Port Gisborne basin and a section of the Turanganui River. It does not include the Cook Landing National Historic Reserve which is in the Protection Management Area. The Port Management Area is a highly modified environment where human structures dominate the environment physically and visually.

Although parts of the Port have significant cultural, amenity and recreational values, the ecological and natural landscape values are greatly modified. This is not to say that the Port Management Area has no natural character and it is still a matter of national importance to preserve the natural character of the Coastal Environment, including the Port Management Area.

The primary purpose of the Port Management Area is to provide for activities related to the use of vessels and the transport of goods into and out of the Gisborne District, for which a location in the Coastal Environment is an operational necessity. A high level of integration across the jurisdictional boundary of the line of Mean High Water Springs is essential for the safe and efficient operation of the Port.

At the next review of the Plan, the Council should seriously consider the desirability of combining all its regional and district plans into a single document. In the document the Council should seriously consider the desirability of combining all provisions relevant to ports in a single chapter.

#### 4.4.2 Issue

Port Gisborne is a part of the Gisborne District Coastal Environment that has undergone considerable modification and is a regionally significant transport and commercial operation with complex infrastructure and continuing development requirements. While natural and heritage values still exist, the promotion of sustainable management means that for the Port Area the continued operation and development of the Port and associated infrastructure and services must be provided for.

#### 4.4.3 Objectives

**4.4.3A** ▶ Provision made, in the Port Management Area, for activities related to the use of vessels, and the transport of goods by vessels or storage of cargo or fuel products prior to distribution, for which a permanent location in the Coastal Environment is an operational necessity.

**Principal reason:** *Ports are regionally important facilities that assist communities to provide for their social, economic and cultural well-being. A feature of ports is the fact that they have a requirement for a permanent location in the Coastal Environment. This plan must recognise the existence of Port Gisborne and provide for its continuing operation.*

**4.4.3B** ▶ Port-related activities, including those<sup>11</sup> which provide the port of Gisborne with the means to carry out all of its operations and services in appropriate areas within the Port Management Area.

**Principal reason:** *The activities of Port Gisborne together with commercial fishing operations and associated facilities and other commercial services and industries are part of the functioning of the port and should be provided for.*<sup>12</sup>

**4.4.3C** ▶ Adverse effects on the environment arising from the lawful operation of vessels and services within the Port Management Area are avoided, remedied or mitigated to the fullest extent practicable, recognising that the preservation of natural character is a matter of national importance while promoting the sustainable management of natural and physical resources.

**Principal reason:** *Adverse effects on the environment are inevitable in the day-to-day operation of a Port and cannot always be avoided, remedied or mitigated. The Resource Management Act 1991 places a duty on people to avoid, remedy or mitigate adverse effects on the environment, but in the context of the Port Management Area, this duty cannot be seen as an absolute due to the highly modified nature of the environment. Never the less, natural character should be preserved where this promotes sustainable management of natural and physical resources.*

**4.4.3D** ▶ Non port-related development provided for in the Port Management Areas in a way that does not compromise the operational requirements of the port or

<sup>11</sup> Moana Pacific Fisheries Consent order 755/00

<sup>12</sup> Moana Pacific Fisheries Consent order 755/00

those port-related industries and activities which have a direct relationship with marine activities and which benefit from a location in the port.<sup>13</sup>

**Principal reason:** *There are a range of developments that have occurred at Port Gisborne in the recent past which are not inherently related to the operation of the port but which may rely on the atmosphere and nature of the port for their commercial and functional viability. Such activities include services providing for recreational social pursuits such as wine bars and boat ramp proposals. Such activities should be provided for as long as they do not interfere with the operational needs of the port and those industries and facilities such as commercial fishing operations which have a direct relationship with marine activities and which benefit from a location in the port.*<sup>14</sup>

**4.4.3E ▶** At the next review of this Plan, the Council should seriously consider the desirability of combining all its regional and district plans into a single document. In the document the Council should seriously consider the desirability of combining all provisions relevant to ports in a single chapter.

**Principal reason:** *Ports straddle the arbitrary boundary of the line of MHWS and have management requirements on both sides of that line. Plans prepared under the Resource Management Act 1991 have, as one of their principal requirements, a duty to promote the integrated management of natural and physical resources and it is essential that this is taken into account in the preparation of Councils Planning documents which will affect the operation of the Port.*

#### 4.4.4 Policies

**4.4.4A ▶** In the exercise of any function, power or duty under the Act, a Consent Authority will give particular regard to the need to provide for activities related to the use and service of vessels, the storage and distribution of cargo and petroleum products, and Port infrastructure for which a location in the Coastal Environment is an operational necessity, within Port Management Areas.

**Explanation:** Ports have an absolute requirement to be located in the Coastal Environment, straddling the line of MHWS. They are also regionally important transport and commercial infrastructure. This is particularly the case for Port Gisborne where the Port plays an active part in the economic well being of the entire district and this role is likely to expand. The policies in this Plan must ensure that the continued viability of Port operations is provided for even where these operations may cause some environmental damage. The safe and efficient operation of Ports should be the primary focus of Consent Authorities in Port Management Areas. This Policy supports Objective 4.4.3A, 4.4.3B and 4.4.3C.

**Principal reason:** *This Policy recognises the need to provide for the Port of Gisborne as a regionally significant commercial and transport infrastructure for the Gisborne Region.*

**4.4.4AB ▶** At the next review of the Plan, the Council should seriously consider the desirability of combining all its regional and district plans into a single document. In the document the Council should seriously consider the desirability of combining all provisions relevant to ports in a single chapter.

<sup>13</sup> Moana Pacific Fisheries Consent order 755/00

<sup>14</sup> Moana Pacific Fisheries Consent order 755/00

**Principal reason:** *It is expected that a combined Plan would:*

- *Best promote integrated management of adjacent physical resources such as the coastal marine area, the land, the air and the waterbodies of the region;*
- *Be administratively convenient for users and developers whose projects span the boundaries of the coast, land, air and waterbodies;*
- *Be less administratively complex to produce and maintain than a set of separate plans covering the same areas.*

**4.4.4B** ▶ The development of recreational and commercial enterprises other than those necessary for the continued operation of the port and fishing industries will be provided for where they do not conflict with the operational requirements of Port Gisborne within the Port Management Area.

**Explanation:** Port Gisborne is currently undergoing considerable development along lines experienced by many other New Zealand ports. Tourism and associated service industries have identified ports as having an atmosphere suitable for the entertainment market and a number of facilities ranging from marinas to boutique cafe and wine bars are being, or will be, developed within the Port Management Area.

Such activities generate issues like car parking and safety issues which have the potential to interfere with the safe and efficient operation of the Port as a Port. They should be provided for so long as they do not create a situation where the primary purpose of the Port is compromised. This Policy supports Objective 4.4.3A and 4.4.3D.

**Principal reason:** *Other recreational and commercial activity may occur in Ports and this must be recognised and provided for while maintaining the safety and integrity of primary port functions.*

#### **4.4.5 Methods**

##### **ADVOCACY**

**4.4.5A** ▶ The Gisborne District Council will encourage the development of and public participation in the preparation of non-statutory Port Management and Development Plans particularly where such plans detail proposed development of Port Infrastructure in a holistic manner.

**Principal reason:** *To encourage Port Companies to prepare development plans for Ports through open and transparent processes which include a high level of public consultation and discussion at the earliest stages of development. This Method implements Policy 4.4.4A and 4.4.4C.*

- 4.4.5B ▶** Provided that a non-statutory Port Management and Development Plan is prepared through a process of full public consultation and participation and details fully proposed development within a defined area including an assessment of effects on the environment of the proposed development, the Gisborne District Council may facilitate a change to the Regional Coastal Environment Plan to incorporate the area proposed within the Port Management Area.

**Principal reason:** *To further encourage Port Companies to adopt a process of Port Development that includes early and full consultation with the public by offering the inducement of the Gisborne District Council implementing the Development Plan by way of a Plan Change without cost to the Port Company. This Method implements Policy 4.4.4A and 4.4.4C.*

#### **4.4.6 Rules for Structures**

*(Refer to Chapter 3.1 Structures)*

**Note 1:** S32 of the Building Act, 1991, states that no “building” shall be constructed, altered or demolished without a building consent. It is important, notwithstanding anything else in this plan, that requirements for a building consent are established prior to the commencement of any work. The Definition of Structure in the Building Act is very broad.

**Note 2:** In addition to rules contained in this plan the Harbours Act, 1950 and harbour bylaws may also regulate structures on matters of navigation and safety as the need arises.

**Note 3:** This section should be read in conjunction with the section on occupation of space in the Coastal Marine Area.

**Note 4:** The New Zealand Coastal Policy Statement requires that the New Zealand Maritime Safety Authority and the Hydrographic Office be notified of new structures in the Coastal Marine Area. This plan implements that policy by requiring consent holders for new structures/ or significant changes to existing structures in the Coastal Marine Area to notify those offices BEFORE construction begins. This will be a condition of all consents granted.

**Note 5:** It will be a condition of all consents for new structures in the CMA to provide, at their completion, photographic evidence of their completion.

**Note 6:** No resource consent or coastal permit gives the holder rights to occupy or move over the private property of another. Rules in this chapter do not state that the permission of occupiers or landowners is required in order to exercise the resource consent or permit because that requirement should go without saying.

**Note 7:** Unless clearly stated otherwise all standards and terms in a rule must be met for that rule to apply.

#### **LOCATING NEW STRUCTURES IN AREAS OF CULTURAL SENSITIVITY**

- 4.4.6A ▶** Notwithstanding any rule for a permitted or controlled activity in this chapter of this plan, any activity associated with the construction, placement erection, modification, demolition or replacement of any structure that occurs in or immediately adjacent to any site in the Coastal Marine Area as marked on the map in Appendix 2 of this Plan which is recognised by tangata whenua as culturally sensitive to that type of activity is a restricted discretionary activity with, in addition to any standards and terms specified for that activity, the following standards and terms.

## Standards and terms

- a) Contaminants are not disposed of into the Coastal Marine Area.
- b) There is no adverse effect on public safety and navigation safety.
- c) The activity results in no more disturbance to the foreshore or bed than can be removed by two tide cycles.
- d) Public access to and enjoyment of the Coastal Marine Area is not decreased.
- e) Consultation has occurred with the Hapu which is the kaitiaki of the site proposed.<sup>15</sup>

Council will restrict its discretion to:

- Structure siting; *and*
- The timing and duration of activities associated with the structure; *and*
- Disposal of material on or away from the site; *and*
- The duration of any Resource Consent; *and*
- Conditions relating to monitoring the effects of the activity; *and*
- The provision of photographic evidence upon completion of the activity; *and*
- The extent to which the structure has an adverse effect on the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga; *and*
- Requiring rentals or bonds as specified elsewhere in this plan.

**Explanation:** This rule captures activities which might have an impact on cultural values and requires that they be treated as controlled activities with tight terms and conditions. Implicit in this rule is that all applicants for new structures or significant alteration or demolition of existing structures will consult with tangata whenua.

**Principal reason:** *Many permitted and controlled activities do not contain a standard/term related to tangata whenua cultural values and hence could be permitted without reference to tangata whenua. This could result in adverse effects on cultural sites and values.*

Cross-Reference refer to Chapter 2, Chapter 4.4.8, Chapter 3.1, Chapter 4.6, Chapter 4.7.

## NAVIGATION AIDS

**4.4.6B ▶** The construction, placement, erection, modification or replacement of floating navigational buoys within the Coastal Marine Area or within coastal water is a permitted activity provided that the following standards and terms are met:

Standards and Terms:

- a) Contaminants are not disposed of into the Coastal Environment.
- b) There is no adverse effect on public safety and navigation safety.

<sup>15</sup> **NB:** Information on which hapu is the kaitiaki for a particular site and how they can be contacted can be obtained from Runanga, Gisborne District Council, Te Puni Kokiri or the Department of Conservation.

- c) The New Zealand Maritime Safety Authority and the Hydrographic Office are notified of the proposal to erect the structure and are notified of completion of work on the structure.
- d) The Gisborne District Council has been notified in writing of the structure.

Provided that:

In the event of a), b) and d) not being met the activity is a discretionary activity. In the event of c) not being met the activity is a controlled activity with Council restricting its control to setting conditions on the consent requiring notification of the New Zealand Maritime Safety Authority and the Hydrographic Office.

Cross-Reference Refer to Chapter 2, Chapter 3.1, Chapter 4.4.8, Chapter 4.7

- 4.4.6C** ▶ The construction, placement, erection, modification or replacement of fixed (non-floating) navigational aids within the Coastal Marine Area is a discretionary activity.

**Principal reason:** *(Rules 4.4.6B and 4.4.6C): Floating navigational aids are regarded as low impact except in the Protection Management Area where the visual impacts may be unacceptable. Non-floating navigational aids can have significant adverse effects on biota and visual amenity and are thus treated as discretionary activities.*

Cross-Reference Chapter 2, Chapter 3.1, Chapter 4.4.8, Chapter 4.6, Chapter 4.7

#### **MINOR ALTERATION and MAINTENANCE OF STRUCTURES**

- 4.4.6D** ▶ Except as provided for in Rule 4.4.6U (for Port Related Structures) the minor alteration or maintenance of any structure in the Coastal Marine Area of the Port Management Area is a permitted activity provided that the following standards and terms are met.

Standards and terms:

- a) The physical dimensions of the structure are not altered.
- b) The alteration or maintenance results in no more disturbance to the foreshore or bed than can be removed by two tide cycles.
- c) Contaminants are not disposed of into the Coastal Environment.
- d) There is no adverse effect on public safety and navigation safety.
- e) Public access to and along the Coastal Marine Area is not decreased.
- f) Prior notification of the intention to modify the structure is made to the Gisborne District Council.

Provided that:

In the event that any of the standards and terms is not met, then Rule 4.4.6E applies.

**Principal reason:** *Without maintenance many structures deteriorate. Minor alteration will have minimal adverse effects.*

- 4.4.6E** ▶ Except as provided for in Rule 4.4.6D and 4.4.6U, the minor alteration or maintenance of any structure in the Coastal Marine Area is a controlled activity provided the following standards and terms are met.

Standards and terms:

- a) The cumulative increase in the area of bed or foreshore covered by the structure from all minor alterations or maintenance under this plan does not exceed 10% of the original.

Provided that:

If any Standard and Term is not met then the minor alteration and maintenance of structures in the CMA of the Port Management Area is a discretionary activity.

**Principal Reason:** *The type of maintenance anticipated here can have effects of an unpredictable nature. In order to ensure that measures are taken to avoid, remedy or mitigate adverse effects and also to achieve the purpose of the Act the most appropriate option is to utilise the resource consent process.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.4.8, Chapter 4.6, Chapter 4.7

#### **ILLEGAL STRUCTURES**

- 4.4.6F** ▶ Structures located in the Coastal Marine Area for which no permits have been granted under the Harbours Act 1950 or the Resource Management Act 1991 are unauthorised structures. Unauthorised structures which were established prior to 1 January 1995 and are located in the Coastal Marine Area are permitted within the Coastal Environment for a period of two years from the date of this Plan becoming operative.

**Principal reason:** *Illegal structures threaten the very processes this plan sets up in order to manage adverse effects. To condone illegal structures is entirely inconsistent with responsible resource management and is inconsistent with the purpose of the Resource Management Act (1991).*

#### **REMOVAL OF STRUCTURES**

- 4.4.6G** ▶ The removal or demolition of any structure in the Coastal Marine Area is a permitted activity provided that the following standards and terms are met.

Standards and terms:

- a) Contaminants are not disposed of into the Coastal Environment.  
 b) There is no adverse effect on public safety and navigation safety.  
 c) Any disturbance to the seabed is minor enough to be removed by two tide cycles.  
 d) Prior to and immediately after removal of the structure the New Zealand Maritime Safety Authority and the Hydrographic Office are notified.

Provided that:

If any of the Standards and Terms are not met then Rule 4.4.6H applies.

**Principal reason:** *Obsolete structures diminish natural character and amenity - their removal is a very good way of improving the quality of the Coastal Environment.*

Cross-Reference refer to Chapter 2, Chapter 3.1

**4.4.6H ▶** Except as provided for in Rule 4.4.6G, the removal or demolition of any structure in the Coastal Marine Area and coastal water is a controlled activity so long as it complies with the following standards and terms.

Standards and terms :

- a) Contaminants are not disposed of into the Coastal Environment.
- b) There is no adverse effect on public safety and navigation safety.

Council will limit its control to:

- The timing/duration of activities associated with the demolition of the structure; *and*
- The rate at which components of the structure are removed or demolished; *and*
- Disposal of material on or away from the site; *and*
- Monitoring the effects of removal of the structure; *and*
- Provision of photographic evidence of removal of the structure; *and*
- Requiring bonds or rentals as specified elsewhere in this plan.

Setting a condition requiring notification of the New Zealand Maritime Safety Authority and the Hydrographic Office of Land Information New Zealand prior to and on completion of the demolition or removal of the structure.

Provided that:

If any of the standards and terms are not met then the removal or demolition of structures in the CMA of the Port Management Area is a discretionary activity.

**Principal reason:** *Obsolete structures diminish natural character and amenity - their removal is a very good way of improving the quality of the Coastal Environment. This variant of the previous rule ensures that large scale removal is possible.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.6

## COASTAL PROTECTION WORKS

**4.4.6I** ▶ The erection or placement of any structure in the Coastal Marine Area which has a predominant purpose of avoiding, remedying or mitigating the effects of natural coastal processes on human property or life is a discretionary activity.

**Explanation:** Structures used to protect property from the effects of coastal processes are usually very conspicuous, have a limited life expectancy and dramatically alter natural physical processes.

**Principal reason:** *The effects of coastal protection works on the environment will almost always have to be weighed up against community benefits. It is considered appropriate to treat these structures as discretionary activities because achieving the purpose of the RMA will require considerable assessment, particularly in respect of s5, 6 & 7 of the RMA.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 3.8, Chapter 4.4.8, Chapter 4.4.9, Chapter 4.6

**4.4.6J** ▶ The construction, placement or erection of signs in the Coastal Marine Area for the purpose of publicising or advising of:

- a) Rules in this plan; or
- b) Bylaws or regulations made under any Act; or
- c) The location of any reserve; or
- d) Water safety; or
- e) Refuelling facilities and instructions for use within the Coastal Marine Area.

is a permitted activity provided that the following standards and terms are met:

Standards and terms:

- a) The sign does not exceed 0.5 m<sup>2</sup> in area.

Provided that:

If the Standard and Term is not met, then the construction, placement or erection of signs in the CMA of the Port Management Area is a restricted discretionary activity.

Council will restrict its discretion to:

- The exact location of the sign; and
- The design and finish of the sign; and
- Maintenance and upkeep of the sign; and
- The duration of the consent granted; and
- Monitoring the use and effects of the sign; and
- Requiring photographic evidence of erection of the sign; and
- Requiring rentals or bonds as established elsewhere in this plan.

**Principal reason:** *It is important that signage in the CMA is controlled in order to achieve a level of professionalism of finish.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.6

#### **DISCHARGE OF CONTAMINANTS**

**4.4.6K ▶** Where a standard or term in a rule in this chapter of this plan prevents an activity because contaminants are disposed to the Coastal Environment the activity may occur if it achieves all other standards and terms of the rule and a permit for the discharge is obtained or the discharge satisfies the standards and terms for a permitted discharge.

**Principal reason:** *This rule provides a linkage between the structures chapter and discharge chapters of the plan and provides for consistency between the two chapters. Discharges were included within the structures section of the plan to highlight the inter-relatedness of chapters and to direct readers to other relevant objectives, methods, rules and policies.*

Cross-Reference refer to Chapter 2, Chapter 3.4, Chapter 4.4.7, Chapter 4.6, Chapter 4.7

#### **PLACEMENT OF TEMPORARY STRUCTURES (other than whitebait stands)**

**4.4.6L ▶** The erection or placement of any temporary structure in the Coastal Marine Area of the Port Management Area is a permitted activity provided that the following standards and terms are met.

Standards and terms:

- a) Contaminants are not disposed of into the Coastal Environment.
- b) There is no adverse effect on public safety, navigation safety, and the lawful operation of the Port of Gisborne.
- c) Public access to and enjoyment of the Coastal Marine Area is not decreased.
- d) The structure is located for a continuous or cumulative period not exceeding 30 days in any one year.
- e) The structure is removed immediately after use.
- f) The harbour master is notified in writing at least five days prior to the construction of the structure.
- g) The Gisborne District Council is notified in writing prior to construction of the structure.

**Principal reason:** *It is not conceivable that a structure which meets the standards of this rule would have significant adverse effects. By providing for this type of structure the utility of the Coastal Environment is recognised without compromising values.*

## NETWORK UTILITIES ATTACHED TO OTHER STRUCTURES

**4.4.6M** ▶ Construction, placement, erection or modification of any network utility structure that is or will be attached to an existing structure located in the Coastal Marine Area of the Port Management Area, is a permitted activity provided that the following standards and terms are met.

Standards and terms:

- a) Contaminants are not disposed of into the Coastal Environment.
- b) There is no adverse effect on public safety and navigation safety.
- c) Prior to and immediately after construction, placement or erection the New Zealand Maritime Safety Authority and the Hydrographic Office are notified.
- d) The Gisborne District Council is notified in writing prior to construction of the structure.

Provided that:

In the event of d) not being met the activity is a discretionary activity with standards and terms a) to c). Conditions will be set requiring notification of the New Zealand Maritime Safety Authority and the Hydrographic Office.

**Principal reason:** *This rule is necessary in order to manage the potential adverse effects of network utility structures. The intent of the rule is concentrate structures.*

## PLACEMENT and ERECTION OF NETWORK UTILITY STRUCTURES

**4.4.6N** ▶ Except as provided for in Rules 4.4.6D, 4.4.6E or 4.4.6M, any activity that requires construction, erection or alteration of a network utility structure within the Coastal Marine Area of the Port Management Area, (but excepting any reclamations), is a controlled activity provided that the following standards and terms are met.

Standards and terms:

- a) There is no adverse effect on public safety and navigation safety.
- b) There will be no adverse effect on the drainage and navigation capacity of the Turanganui River diversion.
- c) Contaminants are not disposed of into the Coastal Environment.
- d) There is no adverse effect on public safety and navigation safety.

Provided that:

If these standards or terms are not met the activity is a restricted discretionary activity.

Council will restrict its discretion to:

- The exact location of the structure (to avoid cultural or historic sites); and
- Disposal of material on or away from the site; and
- Requiring rentals or bonds as specified elsewhere in this plan; and
- Monitoring the effects of the structure.

**Explanation:** Where appropriate, the consent authority will consult with tangata whenua in the consideration of any specific resource consent application and will encourage applicants for resource consent to similarly consult as a matter of good practice. The consultation process should be initiated as soon as practicable.<sup>16</sup>

**Principal reason:** *This rule establishes the placement and erection of network utility structures as a legitimate activity in the CMA. The principal reason for this rule is that these structures are essential to provide for the social well being of communities. Because the Port Management Area is already highly developed classifying these activities as controlled was regarded as appropriate.*

Cross-Reference Chapter 2, Chapter 3.1, Chapter 4.6

## MOORINGS

**4.4.60** ▶ The construction or placement of pile and swing moorings in the Port Management Area is a controlled activity provided the following standards and terms are met.

Standards and terms:

- a) The Harbour Master is consulted.
- b) The mooring does not adversely affect port operations.
- c) The mooring is not located in the Gisborne Harbour Swing Basin.
- d) Consultation has occurred with the Hapu which is the kaitiaki of the site proposed.<sup>17</sup>

Council will limit its control to:

- Disposal of material on or away from the site; and
- Requiring rentals or bonds as specified elsewhere in this plan; and
- Monitoring the effects of the structure; and
- The duration of any permit granted.

Provided that:

In the event of standard and term c) not being met the activity is a prohibited activity for which no Resource Consent will be granted. In the event of standard and terms a), b) or d) not being met, the activity is a discretionary activity.

(Note: The construction or placement of moorings within harbour limits must also comply with the Local Government Act 1974 and Navigation Bylaws.)

**Principal reason:** *The Port Management Area is an appropriate place for moorings. This rule ensures certain standards are met and highlights other statutory considerations.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.4.7, Chapter 4.4.8, Chapter 4.4.9, Chapter 4.6

<sup>16</sup> Port Gisborne Consent Order 742/00

<sup>17</sup> **NB:** Information on which hapu is the kaitiaki for a particular site and how they can be contacted can be obtained from Runanga, Gisborne District Council, Te Puni Kokiri or the Department of Conservation.

## CONTAINMENT OF THE COASTAL MARINE AREA

- 4.4.6P** ▶ Any activity involving the erection of a structure or structures which will impound or effectively contain any area of the Coastal Marine Area of the Port Management Area greater than 4ha is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 3.8, Chapter 4.6

- 4.4.6Q** ▶ Any activity involving the erection of a structure or structures which will impound or effectively contain any area of the Coastal Marine Area of the Port Management Area less than or equal to 4ha is a discretionary activity.

**Principal reason:** *These rules are consistent with Schedule 1.2 of the NZCPS.*

Cross-Reference refer to:- Chapter 2, Chapter 3.1, Chapter 4.4.7, Chapter 4.4.8, Chapter 4.4.9, Chapter 4.6.

## PLACEMENT/ERECTION OF PERMANENT STRUCTURES

- 4.4.6R** ▶ Unless specified elsewhere to the contrary and more specifically and notwithstanding rules 4.4.6S and 4.4.6T of this section any activity that requires the construction, erection or alteration of a structure in the Coastal Marine Area, (but excepting minor alterations and any reclamations), is a controlled activity in the Port Management Area provided the following standards and terms are met.

Standards and terms:

- a) The structure is directly related to the operational requirements of the port.
- b) There is no adverse effect on public safety and navigation safety.
- c) There will be no adverse effect on the drainage and navigation capacity of the Turanganui River diversion.
- d) Contaminants are not disposed of into the Coastal Environment unless authorised to be so disposed by a rule in a Plan or by resource consent.
- e) There is no adverse effect on public safety and navigation safety. ....
- f) The activity does not cause more than minor adverse effects on ecological processes, bio-diversity, water quality, natural character, natural landscape and flora and fauna identified in a Protection Management Area.

Council will limit its control to:

- The exact location of the structure (to avoid cultural or historic sites); and
- Disposal of material on or away from the site; and
- Requiring rentals or bonds as specified elsewhere in this plan; and
- Monitoring the effects of the structure.

Provided that:

If any of the above standards and terms are not met the activity is discretionary.

**Explanation:** Where appropriate, the consent authority will consult with tangata whenua in the consideration of any specific resource consent application and will encourage applicants for resource consent to similarly consult as a matter of good practice. The consultation process should be initiated as soon as practicable.<sup>18</sup>

**Principal reason:** *There are some very specific rules for this management area. This rule ensures that structures not covered by those rules are treated as controlled activities.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.6

- 4.4.6S** ▶ The erection or placement of any structure or structures in the Coastal Marine Area of the Port Management Area that is -
- a) More or less parallel to mean high water springs; and
  - b) Solid (or presents a significant barrier to water or sediment movement); and
  - c) Would extend 300 metres or more but is less than 1000 metres, and including separate structures which with an incremental total of between 300 and 1000 metres, and
  - d) Is not a submarine or sub-aqueous cable.
- is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.6

- 4.4.6T** ▶ The erection of any structure in the Coastal Marine Area of the Port Management Area that is -
- a) Oblique or perpendicular to mean high water springs; and
  - b) Solid (or presents a significant barrier to water or sediment movement); and
  - c) Is in the horizontal projection more than 100 meters but less than 1000 meters in length; and
  - d) Is not a submarine or sub-aqueous cable.
- is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.6

#### **MINOR ALTERATION OF PORT RELATED STRUCTURES**

- 4.4.6U** ▶ The minor alteration of any port related structure in the Coastal Marine Area of the Port Management Area is a permitted activity provided that the following standards and terms are met.

Standards and terms:

- a) Prior notice of the alteration is given to the Gisborne District Council and the harbour master.
- b) The area of the CMA covered by the structure does not increase by more than 5% in any one alteration or 20% cumulatively.
- c) Contaminants are not disposed of into the Coastal Environment
- d) There is no adverse effect on public safety and navigation safety.

<sup>18</sup> Port Gisborne Consent Order 742/00

**Principal reason:** *Minor alteration of structures in the Port Management Area will not have any adverse effects if the standards set are met.*

#### **HAZARDOUS and PETROLEUM BASED SUBSTANCE STORAGE STRUCTURES**

**4.4.6V** ▶ Any activity in the Coastal Marine Area of the Port Management Area involving the erection of structures for the storage or containment of petroleum, petroleum based products or other contaminants is a controlled activity provided the following standards and terms are met:

Standards and terms:

- a) The facility is such that a reasonably foreseeable loss of containment would not threaten public safety or result in contamination of the Coastal Marine Area; and
- b) Contaminants are not disposed of into the Coastal Environment.
- c) There is no adverse effect on public safety and navigation safety.
- d) Public access to and along the Coastal Marine Area is not decreased.
- e) Consultation has occurred with the Hapu which is the kaitiaki of the site proposed.<sup>19</sup>
- f) The structure is designed to carry no more than 50,000 litres.
- g) The activity does not cause more than minor adverse effects on ecological processes, bio-diversity, water quality, natural character, natural landscape and flora and fauna identified in a Protection Management Area near where the structure is proposed to be altered.

Council will limit its control to:

- Structure siting; and
- Disposal of material on or away from the site; and
- Requiring rentals or bonds as specified elsewhere in this plan; and
- Ensuring the safety of the public and environment from spillage; and
- Monitoring the effects of the structure.

Provided that:

If any standard and term is not met then the activity is a discretionary activity.

**Principal reason:** *The rule recognises the very real risk that spillage of contaminants into the CMA carries.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.6

<sup>19</sup> **NB:** Information on which hapu is the kaitiaki for a particular site and how they can be contacted can be obtained from Runanga, Gisborne District Council, Te Puni Kokiri or the Department of Conservation.

#### 4.4.7 Rules For Discharge

**4.4.7A** ▶ As from the 1<sup>st</sup> of July 2000 the discharge of untreated sewage from an<sup>20</sup> off-shore installation within the internal waters of Poverty Bay within 1000 metres seaward of mean high water springs<sup>21</sup> is a prohibited activity for which no Resource Consent will be granted.

**Principal reason:** *The Resource Management (Marine Pollution) Regulations 1998 regulate the discharges of treated and untreated sewage from vessels and offshore installations. The Regulations prohibit such discharges closer than 500 metres from the shoreline.<sup>22</sup> Clause 11(3) of Part 3 of the Regulations provides that, from the 1<sup>st</sup> of July 2000, Councils may increase the distance seaward within which no person may discharge sewage into the CMA. Poverty Bay is the major water recreation beach in Gisborne and is used by various forms of water recreation. It is considered that the Regulations provide adequate controls over the discharges of sewage from vessels. However, the actual or potential adverse effects relating to such discharges from offshore installations are considered to warrant a more stringent level of control.<sup>23</sup>*

#### **BURNING PLANT OR ANIMAL MATTER**

**4.4.7B** ▶ Except as provided for in the Resource Management (Marine Pollution) Regulations 1998 the discharge of contaminants to air of the Coastal Marine Area from the burning of plant or animal matter within the CMA, but excluding the burning of treated timbers, is a permitted activity provided that the following standards and terms are met.

Standards and terms:

- a) The plant or animal matter arises from the Coastal Marine Area.
- b) The burning does not result in an adverse effect in any adjacent site or vessel which is offensive or objectionable.

**Principal reason:** *In some circumstances it may be necessary to burn waste materials that accumulate on beaches. This rule permits that activity subject to certain standards being met and will not result in significant adverse effects. (Note this rule applies to the Coastal Marine Area - the air plan deals with land above MHWS.)*

NB: For discharges to air outside of the CMA, reference should be made to the Regional Air Plan for the Gisborne Region.

<sup>20</sup> NZ Yachting Federation Consent order 149/01

<sup>21</sup> NZ Yachting Federation Consent order 149/01

<sup>22</sup> NZ Yachting Federation Consent order 149/01

<sup>23</sup> NZ Yachting Federation Consent order 149/01

## **OTHER PERMITTED ACTIVITIES; HYDROCARBON BURNS, FUMIGATION, AQUACULTURE DISCHARGES TO AIR**

**4.4.7C** ▶ The discharge to air of contaminants associated with the burning of hydrocarbons following a hydrocarbon spillage, or the fumigation of goods in the CMA is a permitted activity provided the following standards and terms are met.

Standards and terms:

- a) The activity does not result in odour in a residential area, park or reserve which is objectionable or offensive.
- b) Council is notified prior to any oil burn.
- c) Measures to contain and reduce the volume of spilled material have been exhausted.
- d) In the case of fumigation the activity does not involve the use of ethylene dibromide, methyl bromide or hydrogen cyanide.

**Principal reason:** *The discharge of contaminants to air from the activities listed in this rule are either minor or infrequent but must occur on an urgent basis when they occur. The adverse effects of this rule will be minor and could, in the case of fumigation and oil spill reaction, be beneficial.*

NB: For discharges to air outside of the CMA, reference should be made to the Regional Air Plan for the Gisborne Region.

### **GENERAL DISCHARGES**

**4.4.7D** ▶ All discharges to water of the coastal marine area not more specifically addressed elsewhere by rules in this plan or the Resource Management (Marine Pollution) Regulations 1998, excepting stormwater and uncontaminated seawater discharges, are discretionary activities.

Cross-Reference refer to Chapter 2, Chapter 3.4, Chapter 4.6

**Principal reason:** *Quantitative standards for the discharge of contaminants into the CMA are lacking for NZ waters. While standards do exist in other countries it is not considered appropriate to incorporate them into this plan.*

### **STORM WATER and UNCONTAMINATED SEAWATER DISCHARGES**

**4.4.7E** ▶ The discharge of stormwater runoff and uncontaminated seawater to the Coastal Marine Area is a permitted activity provided the following standards and terms are met.

Standards and terms:

In the case of stormwater runoff:

- a) The activity shall not cause any permanent:
  - (i) Reduction of the ability of the receiving channel to convey flood flows;
  - (ii) Scouring of the foreshore or seabed as a consequence of the discharge; *and*

In the case of stormwater runoff and discharges of uncontaminated seawater:

- b) The discharge shall not cause the production of conspicuous oil or grease films, scums, or foams, or floatable or suspended materials in any receiving water after reasonable mixing.
- c) The water classification standards for Poverty Bay set out in Chapter 3.4 and Appendix 7 are met.

Provided that:

If either a) or b) or c) are not met then the discharge of stormwater runoff or uncontaminated seawater to the CMA is a discretionary activity.

**Principal reason:** *Stormwater runoff into the Coastal Marine Area is an inevitable consequence of urban development. Stormwater can contain heavy metals, oils/greases and silts; the standards in this rule exist to ensure that measures are taken, where appropriate, to reduce the quantity of these.*

#### **OTHER DISCHARGES TO AIR**

**4.4.7F** ▶ Any discharge of contaminants to air of the Coastal Marine Area not specifically addressed elsewhere in this plan or in the Resource Management (Marine Pollution) Regulations 1998 is a discretionary activity.

NB: For discharges to air outside of the CMA, reference should be made to the Regional Air Plan for the Gisborne Region.

Cross-Reference refer to Chapter 2, Chapter 3.4, Chapter 4.6

#### **SEWAGE DISCHARGES**

**4.4.7G** ▶ Except as provided for in the Resource Management (Marine Pollution) Regulations 1999 and Rule 4.4.7A, any discharge of human sewage into the CMA is a discretionary activity provided that the following standards and terms are met.

Standards and Terms:

- a) The discharge, after reasonable mixing, shall not result in:
  - the production of conspicuous oil or grease films; or
  - the production of any scums or foams; or
  - the production of any floating or suspended materials; or
  - the production of an objectionable odour; or
  - any significant adverse effect on aquatic life.

Provided that:

If standard and term a) is not met the activity is a non-complying activity.

Cross-Reference refer to Chapter 2, Chapter 3.4, Chapter 4.6

**Principal Reason:** *In dealing with the disposal of human sewage, not only the effects on the physical environment, but also the effects on the feelings of people must be taken into account.*

#### **HERBICIDES and WEED CONTROL**

**4.4.7H** ▶ Except as provided for in the Resource Management (Marine Pollution Regulations 1999), the discharge of agrichemicals in the coastal marine area, for the purposes of exotic weed control is a controlled activity provided that the following standard and terms are met.

Standards and terms:

- a) The application shall be undertaken in a manner that does not exceed any rate, or contravene any other requirement specified in the agrichemical manufacturer's instructions.
- b) The application shall not occur directly on or above the surface of the CMA, or be undertaken in a manner which would result in any agrichemical entering the CMA, unless the agrichemical is registered for use over waterbodies.
- c) A hand held appliance is used, and spray is directed to minimise non target organism contact; and
- d) Council is advised prior to commencement of the activity
- e) The following standards from NZS8409:1999 Agrichemical Users Code Of Practise and any additional requirements as listed are met:

The Council may set conditions:

- To minimise adverse effects on habitat and on-target organisms
- To restrict the timing and duration of any herbicide application.

Provided that:

Any application of Agrichemical sprays that does not meet the standards above is a discretionary activity.

<b>NZS8409 REQUIREMENT</b>	<b>ADDITIONAL REQUIREMENT</b>
2.4.1, 2.4.2, 2.4.4(b)	
5.1.1, 5.1.2, 5.3.1(a & b)	
5.3.2(b)	Disposal options FF (a,b,c) must be used if available in the region and no spray residue shall be disposed of within 20m of the CMA.
5.3.3 (second paragraph following (m))	Cleaning and decontamination of aircraft shall be carried out on a bunded concrete pad. Contaminated residue shall be collected and disposed of in accordance with these conditions.
5.4.1	
5.5.1	
5.6.2(ci)	
5.6.5(a,c)	

NZS8409 REQUIREMENT	ADDITIONAL REQUIREMENT
5.7.1 (e,f)	Written contingency plans must be available upon request.
5.7.2	Documented evidence of the target area must be available upon request.
5.8.1 (second paragraph)	Wind indicators must be available on site should any of the factors in Table DD1 for high potential drift hazard be equalled or exceeded.
5.8.2(a,b,c,d,e,f)	
5.8.3	Agrichemicals must not be sprayed within 100m of any sensitive area (DD3) or Protection Management Area identified in the Gisborne District Plan if any of the factors in Table DD1 for high potential drift hazard be equalled or exceeded.
5.9	(Note the additional requirements in 5.7.1 (e,f) & 5.7.2 above).
6.1	Disposal options FF(a,b,c) must be used if available in the region and no spray residue shall be disposed of directly to the CMA.

Cross-Reference refer to Chapter 2, Chapter 3.4, Chapter 4.6

**Principal reason:** *This rule provides for the use of herbicides to control Spartina as a controlled activity subject to standards that reduce side effects and allow monitoring of effects. The rule is necessary to ensure that the adverse effects of excessive spraying and consequent contamination do not occur.*

#### **RADIO TRACERS and DYES**

**4.4.71** ▶ Except as provided for in the Resource Management (Marine Pollution) Regulations 1999, the discharge to the coastal marine area of biologically and chemically inert and non-radioactive tracers or dyes for the purposes of scientific investigations is a permitted activity provided the following standards and terms are met.

Standards and terms:

- The tracer or dye will not result in and change in the abundance or diversity of animal or plant life in the receiving environment.
- The GDC is advised at least one week prior to the discharge.

Provided that:

If a) is not met the activity is a discretionary activity.

**Principal reason:** *Non toxic dyes and radiotracers are important tools for the investigation of the effects a discharge may have. For scientific research they are also important tools. It is considered that the slight and very occasional adverse effects of these substances is far outweighed by the potential benefits accrued from their use that their use should be permitted.*

## OBSERVANCE OF WATER QUALITY STANDARDS

**4.4.7J** ▶ All discharges to water of the coastal marine area, after reasonable mixing and disregarding the effect of any natural perturbations, shall observe any relevant water quality standards set out in Method 3.4.5L for the Classification Area defined in Appendix 7 of this Plan.

**Principal reason:** *Compliance with water classification standards is a requirement of Section 69(1) of the Resource Management Act 1991.*

## 4.4.8 Rules for the Occupation of Space in the CMA

### OCCUPATION OF SPACE FOR PERMITTED OR CONTROLLED STRUCTURES (See rules on structures above)

**4.4.8A** ▶ Notwithstanding anything else in Chapter 4.4 of this plan, the exclusive occupation of space of land of the Crown in the Coastal Marine Area, under Section 12(2) of the Resource Management Act 1991, for an activity that is permitted or controlled in Chapter 4.4 of this plan is a restricted discretionary activity:

Matters to which Council will restrict its discretion:

- a) The extent to which the exclusive occupation of space adversely affects any value identified within, or sought to be protected by a Protection Management Area.
- b) The extent to which the exclusive occupation of space restricts or prevents public access to and along the Coastal Marine Area.
- c) The extent to which the exclusive occupation of space adversely affects any value identified within, or sought to be protected by a Protection Management Area.

Cross-Reference refer to Chapter 2, Chapter 3.2

**Principal reason:** *This rule requires very minor and almost exclusively beneficial coastal activities which require an exclusive occupation of space consent in the CMA to obtain a resource consent but limits the concerns of the Council to two narrow areas of cultural concern for unknown sites, any adverse effect on public access to and along the CMA and the possible effects on areas with high natural values. The requirements and standards elsewhere in the plan are not lessened by this rule.*

## TRANSFER OF PERMITS TO OCCUPY

**4.4.8B** ▶ The transfer of a permit for the occupation of space to another site in the Coastal Marine Area is a permitted activity provided that the following standards and terms are met.

Standards and terms:

- a) The transfer does not result in a change of use associated with the permit or, where the existing permit does not describe a use or purpose, the use at the new location is the same as that usually associated with the original location.

- b) When transfer occurs at least 90% of the space transferred will be used for the purpose for which the transfer relates.
- c) Transfer does not occur between different management areas.
- d) The occupation of space does not adversely affect any value identified within, or sought to be protected by a protection management area.
- e) Transfer does not result in a reduction of public access to and across the Coastal Marine Area.
- f) Any existing structures at the site where the currently occupied space is held can be removed as a permitted or controlled activity under this plan.
- g) All parties to the transfer agree to terms of the transfer, and these include an agreement relating to the removal of all structures associated with the existing site.
- h) Council is notified in writing prior to the transfer.
- i) Consultation has occurred with the Hapu which is the kaitiaki of the site proposed.<sup>24</sup>

Footnote: Any person wishing to exercise this rule in relation to the transfer of permits involving marine farming permits or spat-catching permits is strongly advised to consult with the Ministry of Fisheries prior to exercising any right conferred by this rule.

**(Explanation of the rule):** Notwithstanding the above, nothing in this section of this plan implies the granting of a resource consent for any other activity set out in Section 12 of the Resource Management Act (1991) should a permit to occupy space be obtained through transfer, and nothing in this section absolves the owners of existing structures of the responsibility for ensuring that existing structures legally occupy space in the CMA.

**Principal reason:** *The principle reason for this rule is to provide a method of transferring consents to occupy space from inefficient to more efficient uses. The Coastal Environment is dominated by open space, is a public resource and is arguably utilised inefficiently. A huge number of existing structures exist and have no or limited use. This rule is supposed to encourage the transfer of permits to occupy from some of these lesser used structures to more efficient uses and result in a clean up of the coast. Many of the standards in this rule are similar to those used in the structures section and are primarily concerned with ensuring tangata whenua values are not undermined by transfer of occupation rights, that the values of a Protection Management Area are preserved and that existing (and presumably less efficient occupiers of space) are removed PRIOR to transfer. The latter is a matter for parties to negotiate over.*

<sup>24</sup> **NB:** Information on which hapu is the kaitiaki for a particular site and how they can be contacted can be obtained from Runanga, Gisborne District Council, Te Puni Kokiri or the Department of Conservation.

## TEMPORARY EXCLUSIVE OCCUPATION OF SPACE FOR CULTURAL OR RECREATIONAL EVENTS

**4.4.8C** ▶ The temporary occupation of space for a recreational or cultural activity which restricts or excludes public access to or across land of the Crown located in the Coastal Marine Area is a controlled activity provided that the following standards and terms are met.

Standards and terms:

- a) Any restriction or exclusion of the public from the Coastal Marine Area is for a period not exceeding two days.
- b) In the case of exclusion of access the exclusion is restricted to an area of 0.5 Ha. or less.
- c) Any exclusion does not prevent the use of boat ramps, public amenities or other structures.
- d) Any disturbance to the foreshore or seabed caused as a consequence of the occupation are no more than can be removed by two tide cycles.
- e) Public notice of the occupation is given in a local newspaper at least 10 working days prior to the activity occurring.

Council will restrict its control to limiting the direct or indirect adverse effects of the occupation of space on fragile ecosystems, public access to and along the CMA, and ensuring public safety.

Cross-Reference refer to Chapter 2, Chapter 3.2, Chapter 4.6

**Principal reason:** *The adverse effects of a temporary event that meets the standards would be minor if suitable conditions are set.*

## ILLEGAL OCCUPATION

**4.4.8D** ▶ Any use or occupation of the Coastal Marine Area for which no permit has been granted under the Harbours Act 1950 or the Resource Management Act 1991 are unauthorised.

Unauthorised occupation or use which was established prior to January 1, 1995 and which is located in the Coastal Marine Area is a permitted activity for a period of two years from the date of this plan becoming operative provided that the following standards and terms are met.

Standards and terms:

- a) The Gisborne District Council is notified in writing of the location, owner and purpose of the structure within 3 months of this Plan becoming operative.

**Principal reason:** *This rule provides both Council and illegal owners with leeway to establish lawful status for occupations.*

## OCCUPATION OF SPACE A DISCRETIONARY ACTIVITY

- 4.4.8E** ▶ Except as provided for in other rules of Chapter 4.4, any occupation of space involving Crown land within the Coastal Marine Area of the Port Management Area is a discretionary activity.

Cross-Reference refer to:- Chapter 2, Chapter 3.2, Chapter 4.6

**Principal reason:** *This method ensures that occupation of space occurs in a fashion that is consistent with the policies for this chapter. The rule principally affects structures which are treated as discretionary or non-complying.*

## OCCUPATION OF MORE THAN 10 HA

- 4.4.8F** ▶ Any activity involving the occupation of Crown land in the Coastal Marine Area which:
- a) Would exclude or effectively exclude public access from areas of the Coastal Marine Area over 10 hectares; or
  - b) Would exclude or effectively exclude the public from more than 316 metres along the length of the foreshore; or
  - c) Would involve the occupation or use of areas greater than 50 hectares of the Coastal Marine Area and such occupation or use would restrict public access to or through such area

Is a discretionary activity.

Cross Reference Chapter 2, Chapter 3.4, Chapter 4.6

### 4.4.9 Rules for the Alteration of Foreshore and Seabed

#### BURIAL OF MARINE MAMMALS

- 4.4.9A** ▶ The shifting and burial of marine mammals in the Coastal Marine Area is a permitted activity, provided that the following standards and terms are met.

Standards and terms:

- a) The Manager: Environment and Planning, Gisborne District Council has been consulted.
- b) The Department of Conservation has been consulted.
- c) The shifting or burial is supervised by an authorised officer of the Department of Conservation.

NOTE: The removal of marine mammals (dead or alive) is prohibited under the Marine Mammals Protection Act 1978, unless a permit has been obtained from the Director General of Conservation. In respect of (c) above, an authorised officer will be the holder of warrant under the Marine Mammals Protection Act 1978.

**Principal reason:** *The adverse environmental effects of not burying a marine mammal are likely to be greater than those of burying it. The standards will ensure that burial occurs in a sensitive and appropriate fashion.*

## RECLAMATIONS

**4.4.9B** ▶ Notwithstanding other rules in this plan, any reclamation for the purpose of disposal of septic tank sludge, toxic wastes, or any other domestic or industrial refuse or waste material is a prohibited activity for which no Resource Consent will be granted.

**Principal reason:** *This type of activity is inconsistent with the purpose of the Resource Management Act and cannot be countenanced. The activity is prohibited to preclude it from the Coastal Marine Area.*

## RECLAMATIONS

**4.4.9C** ▶ Reclamations within the Port Management Area, for the operational needs of the Port are a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.2, Chapter 3.3, Chapter 3.8, Chapter 4.6

**Principal reason:** *The rule is designed to ensure that an assessment of effects is undertaken before a consent is granted for an activity in the CMA.*

## DREDGING

**4.4.9D** ▶ Maintenance dredging in the Port Management Area of the Coastal Marine Area for navigation purposes is a controlled activity provided the following standards and terms are met.

Standards and terms:

- a) Any resource consents required for the disposal of dredge spoil have been obtained.

The Council will restrict its control to setting conditions on:

- The timing of any dredging activity.
- The exact location of any dredging if this is required to avoid any important site or value.

Cross-Reference refer to Chapter 2, Chapter 3.2

**Principal reason:** *Dredging of the Port is an essential and important part of Port operations. This rule provides certainty that the activity can occur in the future but recognises that some adverse effects may be avoided, remedied or mitigated.*

**4.4.9E** ▶ Capital dredging in the Port Management Area of the Coastal Marine Area is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.2, Chapter 3.3, Chapter 3.8, Chapter 4.6

**Principal reason:** *Capital dredging has the potential to disturb sites of cultural sensitivity or occur on a scale and at an intensity that could result in adverse effects both in and beyond the Port Management Area.*

## GENERAL DISTURBANCE

- 4.4.9F** ▶ The disturbance of the foreshore or bed of the Coastal Marine Area in the port management area for the purpose of providing for network utility services, or the maintenance of existing port structures is a controlled activity.

The council may set conditions on:

- a) The timing of any disturbance activity.
- b) The exact location of any dredging if this is required to avoid any important site or value.

Cross-Reference refer to Chapter 2, Chapter 3.2

**Principal reason:** *This rule recognises the fact that this type of activity is very unlikely to have any adverse effect in the area. The activity is controlled in order to ensure the effects are minor and to provide for safety. (Note: The structures chapter of this plan contains thresholds for maintenance activities).*

- 4.4.9G** ▶ The deposition of dredge spoils from the Port Management Area within the Port Management Area is a permitted activity provided the following standards and terms are met.

Standards and terms:

- a) Deposition occurs within the Spoil Dump Outer Zone as depicted on Map 2B.1 in Appendix 2 of this Plan.

The Spoil Dump Outer Zone is defined by four corner points having the following NZMG co-ordinators:

Northings	Eastings
6264555	2942481
6265899	2943969
6263518	2944289
6264035	2944822

- b) Involves quantities of less than 50,000 cubic metres over any twelve month period; and
- c) Does not result, after reasonable mixing, in the production of conspicuous oil or grease scums or floating scums or foams.

Provided that:

If these standards are not met the activity is a discretionary activity.

**Principal reason:** *Dredging of the Harbour Basin and navigation channels are necessary for the continuation and safety of Port operations. The disposal of dredged material into the authorised site is reasonable in order to provide for the Port operations.*

#### 4.4.10 Rules for the Take, Use, Damming and Diverting of Coastal Water

##### TAKES OR USES OF WATER

**4.4.10A** ▶ Any activity involving the taking or use of water, other than water found in any river, stream, estuary, or aquifer in the coastal marine area is a permitted activity provided the following standards and terms are met:

Standards and terms:

- a) The taking or use of water will not result in removal from the Coastal Environment of organisms greater than 5mm in diameter.

For the purposes of this rule the Gisborne Harbour Basin bounded by Kaiti Beach Road to the south east, the Esplanade to the east, Wainui Road to the north, the seawall structure separating the Harbour Basin from the river to the west and the open sea to the south is to be considered as open coastal water and not as a river, stream, estuary or aquifer.<sup>25</sup>

**Principal reason:** *It is unlikely that taking, using, damming or diverting open water of the Coastal Marine Area will have adverse effects outside of those specifically addressed by the standards and terms of this rule. It is considered most likely that structures, effects on the foreshore and bed and discharges to the CMA pose a far greater risk to the CMA than reasonably foreseeable takes.*

##### OTHER TAKING, USE, DAMMING OR DIVERSIONS OF WATER

**4.4.10B** ▶ Any activity involving the taking, use, damming or diversion of water found in any river, stream, estuary, or aquifer in the Coastal Marine Area, other than open coastal water is a discretionary activity. For the purposes of this rule the Gisborne Harbour Basin bounded by Kaiti Beach Road to the south east, the Esplanade to the east, Wainui Road to the north, the seawall structure separating the Harbour Basin from the river to the west and the open sea to the south is to be considered as open coastal water and not as a river, stream, estuary or aquifer.<sup>26</sup>

Cross-Reference refer to Chapter 2, Chapter 3.5, Chapter 4.6, Chapter 4.7

**Principal reason:** Taking, using, damming or diverting confined waters can have adverse effects. This rule is necessary in order to ensure that the effects of the activity are addressed.

**4.4.10C** ▶ Notwithstanding any other rule in this plan, the taking of any coastal waters in the any Management Area for firefighting purposes, marine mammal reserve, or for the operational needs of vessels is a permitted activity.

**Principal reason:** *This rule implements Policy 5.2.5 of the NZCPS and reflects the fact that this type of activity is infrequent, cannot reasonably be expected to obtain a resource consent and in all likelihood reflect sustainable management of resources (i.e. enabling communities to protect infrastructural resources). (Note - other provisions of this plan may apply to the activity.)*

<sup>25</sup> Moana Pacific Fisheries Consent order 756/00

<sup>26</sup> Moana Pacific Fisheries Consent order 756/00

#### 4.4.11 Rules for Noise

**4.4.11A** ▶ Subject to all other relevant rules in chapter 4.4, any activity which generates noise located within the coastal marine area of the Port Management Area is a permitted activity provided that the following standards and terms are met.

Standards and terms:

- A. The average maximum noise level (L10) and maximum noise level (Lmax) generated within the Coastal Marine Area of the Port Management Area as measured at or within the boundary of (respectively) the General Management Area, the CMA of the Port Management Area and the Protection Management Area, shall not exceed the following limits set out in Table 2.

**TABLE 2 - Noise Standards for the Port Management Area**

<b>Management Areas (within the Coastal Marine Area only)</b>	<b>Average Maximum Noise Level (L10) dBA at all times</b>	<b>Maximum Noise Level Between 9pm – 7am (Lmax)</b>
General Management Area and the CMA Boundary of the Port Management Area	70	70
Protection management Area	50	70 - (at all times)

- B. Noise shall not reach a level or be of such a nature that it results in the long-term modification of the behaviour of aggregations of marine mammals or birds. Long-term, for the purpose of this standard, means any change in behaviour which is not corrected within 30 minutes and repetitive modifications to behaviour which culminate in more than 60 minutes of response to noise. Modification of behaviour includes any visible flight or flee response to noise - especially movement from a nesting or rearing site but does not include accommodation responses such as re-orientation to the source of noise; or
- C. The noise is generated by any siren, bell, foghorn or any other device used for navigation and/or warning purposes.

Provided that:

If the standards and terms are not met then the activity is a discretionary activity.

**Principal reason:** *This rule establishes noise emission standards for the coastal marine area of the Port Management Area that are consistent with the standards established in the District Plan for industrial areas adjoining open space and heritage areas.*

#### 4.4.12 Rules for Exotic Plants

**4.4.12A** ▶ The introduction of exotic plants to an area of the Coastal Marine Area that already contains established plants of that species is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.3, Chapter 3.7, Chapter 4.6, Chapter 4.7

**Principal reason:** *This rule is necessary to ensure that the possible adverse effects of a new plant being introduced are fully assessed. This rule reflects potential costs that would fall upon the community should the adverse effects be significant.*

**4.4.12B** ▶ The introduction of exotic plants to an area of the Coastal Marine Area that does not already contain established plants of that species is a non-complying activity.

Cross-Reference refer to Chapter 2, Chapter 3.3, Chapter 3.7, Chapter 4.6, Chapter 4.7

**Principal reason:** *This rule is necessary to ensure that the possible adverse effects of a new plant being introduced are fully assessed. This rule reflects potential costs that would fall upon the community should the adverse effects be significant.*

**4.4.12C** ▶ Notwithstanding Rule 4.4.12A and 4.4.12B above, the planting of noxious plants or class B target plants within the Coastal Marine Area is a prohibited activity for which no Resource Consent will be granted.

**Principal reason:** *This rule reflects the established costs of introducing these plants and ties this chapter of the plan in with existing statutory documents.*

#### 4.4.13 Rules for Activities on the Surface of the Coastal Marine Area

**4.4.13A** ▶ The establishment and use of Specific Activity Areas for the exclusive use of specific types of ships or specific classes of recreational activities on the surface of the sea is a permitted activity for those ships or activities provided that the following standards and terms are met.

Standards and terms:

- a) The use of the Specific Activity Area is required for a period not exceeding 14 days in any one calendar year.
- b) All permissions necessary under the Gisborne District Navigation Bylaws, and any Resource Consents necessary, have been obtained prior to providing written notification to the Council as set out in d) below.
- c) Public notification of the intention to use a Specific Activity Area, including a description of any activity to be undertaken in the area and its timing and duration, and any restrictions imposed on other activities, shall be made at least two weeks prior to the establishment of such an area.

- d) The Council is notified, in writing, of the intention to use an exclusive or semi-exclusive Specific Activity Area. Such notification must occur at least two weeks prior to the use of such an area and shall include:
- i) The name, address, contact phone number and contact person of the group or organisation seeking to use a Specific Activity Area.
  - ii) A precise description and chart of the area to be used, and how it is to be marked and patrolled; and
  - iii) A statement of the type of activity or class of ship for which the area is to be used and any restrictions on those ships or activities that will be imposed; and
  - iv) A statement concerning restrictions on any other ship or activity within the area proposed to be used.
  - v) The duration of the event which requires the use of a Temporary Specific Activity Area.
  - vi) A summary of the consultation undertaken and the response made to issues raised during the consultation.

Provided that:

If the standards and terms are not met then the establishment and use of Specific Activity Areas is a prohibited activity for which no resource consent can be granted.

(NB: Nothing in this rule may be substituted for or read as a permission under any other Act, Regulation or Bylaw.)

**Principal reason:** *Activities that may exclude or restrict public rights of access and recreational opportunity should be held up to public scrutiny and allowed only if sufficient public consultation has occurred and all other permissions necessary have been obtained.*

NOTE: The Provisions of 4.5.1 to 4.5.13 apply only to activities **in the General Management Area**

## **4.5 GENERAL MANAGEMENT AREA**

### **4.5.1 Introduction**

The General Management Area includes that portion of the Coastal Environment that is not within the Port or Protection Management Areas and encompasses the greater proportion of the Gisborne District Coastal Environment.

Generally, little or no information exists to assist the Gisborne District Council in deciding resource consent issues for the coastal marine area component of this management area though it is largely unmodified and does contain significant amenity, visual and intrinsic values.

Underlying these values are natural processes such as sand movement, tides and currents that provide the integrity of coastal ecosystems as a whole. This has been recognised specifically in the New Zealand Coastal Policy Statement, Policy 1.1.4.

This Management Area will ensure that use, development and protection of the Coastal Environment is appropriate by ensuring that adequate information regarding any proposed activity is supplied so that the effects of the activity on the Coastal Environment can be determined prior to any decision being made. The precautionary approach to activities, as stated in the New Zealand Coastal Policy Statement, will be given effect in this Management Area and further research and the monitoring of the effects of activities in this area will be a feature of this Plan.

#### 4.5.2 ISSUE

Use, development and protection of natural and physical resources must be provided for in areas of the Coastal Environment where there is little information and the effects of activities may not be clearly understood.

#### 4.5.3 OBJECTIVES

**4.5.3A** ▶ Appropriate and sustainable subdivision, use, development, and protection of the Coastal Environment in the General Management Area.

**Principal reason:** *Sustainable management of the Coastal Environment does not preclude appropriate development and this is made clear in the NZCPS in General Principals 1 and 2.*

**4.5.3B** ▶ The maintenance and enhancement of the quality and integrity of the Coastal Environment.

**Principal reason:** *One of the features of the General Management Area is that little is known about its values or processes. Section 7(d), (f) and (g) of the Resource Management Act 1991 suggests that before any development occurs in the Coastal Environment, natural processes and values should be identified and not put at risk. This is especially important when there is little information available on a particular area where development is proposed.*

**4.5.3C** ▶ Low level of environmental risk in decision-making.

**Principal reason:** *Policy 3.3.1 of the NZCPS suggests that plans should ensure that very careful assessments of proposed activities should occur, especially where the effects of activities are not understood. This is especially important for areas where the values of the area have not been identified and documented and the consequences of development in terms of its unforeseen effects could be wide ranging.*

**4.5.3D** ▶ Involvement of local communities in the identification and protection of the values and the preservation of the natural character of areas within the General Management Area.

**Principal reason:** *Regulation is not the only means of achieving suitable recognition of the values of the General Management Area.*

*The local community may be better placed to act to provide protection for such values and enforce such protection. They are more likely to be aware of community needs and issues and, with assistance, design appropriate responses to pressures on such values identified.*

#### 4.5.4 POLICIES

**4.5.4A** ▶ The Gisborne District Council will ensure that people wishing to use, develop or protect the Coastal Environment in the General Management Area provide information concerning the adverse effects of their proposal on the environment.

**Explanation:** Where little or no information exists about the values and features of an area where development is proposed then it is essential, prior to any such application being heard and decided on, that a full description of the environment and the likely effects of the proposed activity on that environment should be prepared. The Resource Management Act 1991 establishes that this is the responsibility of the applicant and it is important that the Council is vigilant in ensuring such an assessment occurs, particularly in the General Management Area. This Policy supports Objective 14.5.3A and 14.5.3C.

**Principal reason:** *This Policy recognises that, because there is little or no information about this area, the information to be provided by those wishing to undertake activities must provide adequate information to assess the activities impact on the environment.*

**4.5.4B** ▶ The Gisborne District Council will undertake and encourage others to undertake further research into and monitoring of the actual and potential effects of activities on the environment in the General Management Area.

**Explanation:** Where little is known about an area of the Coastal Environment, such as the General Management Area, it is essential that research and monitoring of that environment occurs so that the effects of activities can better be determined and unforeseen adverse effects of existing activities are rapidly identified. The Department of Conservation and the Gisborne District Council are two agencies that may participate in such research and others such as Runanga and Crown Research Agencies may also participate. This Policy supports Objective 4.5.3B and 4.5.3C.

**Principal reason:** *Section 35 of the Resource Management Act 1991 requires Councils to gather information and research, and to monitor the effects of activities on the environment. This is particularly important where little or no information exists. This Policy indicates the priority of research in the General Management Area.*

**4.5.4C** ▶ The Gisborne District Council will encourage communities to participate in the use, development or protection of the Coastal Environment in the General Management Area through the establishment of community based care programmes.

**Explanation:** This Policy is designed to encourage a greater involvement by local communities in the protection of values identified as important by providing for communities to design and implement local solutions to identified problems with Council acting in a supportive manner. Council will assist by offering information and expertise to local communities but it is anticipated that local communities will take responsibility for implementing appropriate methods to protect those special values. This Policy supports Objective 4.5.3A, 4.5.3B and 4.5.3D.

**Principal reason:** *Local communities may, in some cases, be better placed to meet the purpose of the Resource Management Act 1991 through local action and understanding of local issues rather than outside agencies imposing solutions on local communities. This Policy is designed to facilitate local solutions to local problems.*

**4.5.4D** ▶ The Gisborne District Council, recognising that there is a lack of knowledge about coastal processes and ecosystems in the General Management Area, shall adopt and require consent authorities to adopt a precautionary approach to decision making in the General Management Area.

**Explanation:** Policy 3.3.1 of the New Zealand Coastal Policy Statement states that where there is a relative lack of understanding about coastal processes and the effects of activities on coastal processes, a precautionary approach should be adopted towards proposed activities, especially those activities whose effects are as yet unknown or little understood. Because the General Management Area is an area of coast where little information exists about its values and processes, then this Policy is directly relevant. Great care must be taken by consent authorities to ensure that adverse environmental effects do not occur because of a lack of information and assumptions about what adverse effects may occur arising from any activity. This Policy supports Objective 4.5.3A and 4.5.3C.

**Principal reason:** *This Policy is designed to be consistent with Policy 3.3.1 of the New Zealand Coastal Policy Statement.*

**4.5.4E** ▶ The Gisborne District Council will consider, and encourage other agencies including the Department of Conservation and Ministry of Fisheries and Ministry of Agriculture and Forestry to consider, other means of protecting special values identified in the General Management Area beyond the scope of the Resource Management Act 1991.

**Explanation:** The Resource Management Act 1991 is not the only instrument available to protect areas and resources of significance within the General Management Area. The Gisborne District Council and agencies such as the Department of Conservation, Ministry of Agriculture and Fisheries and QEII Trust may use other legislation such as the Reserves Act, the Fisheries Act, the Marine Reserves Act, the Historic Places Act and the Conservation Act to provide protection for identified values and in some cases the use of these mechanisms may be more appropriate. This Policy supports Objective 4.5.3B.

**Principal reason:** *This Policy is designed to recognise that the Resource Management Act 1991 is not the only means available to achieve the purpose of the promotion of sustainable management and other methods should be utilised where practicable in the General Management Area.*

## 4.5.5 METHODS

### ADVOCACY

**4.5.5A** ▶ Encourage and advocate for other methods of recognition and/or protection of the special values identified in the General Management Area beyond the scope of the Resource Management Act 1991, including such methods as:

- Open space covenants, QEII National Trust.
- Maori Reserves, Maori Affairs Act 1953
- Fisheries Legislation, including Taiapure and Maataitai Reserves
- Reserves under the Conservation Act including wildlife reserves and marine mammal sanctuaries.
- Marine Reserves under the Marine Reserves Act 1971.

**Principal reason:** *This method implements Policy 4.5.4E and 4.5.4C.*

**4.5.5B** ▶ Where previously unidentified sites of regionally important special ecological, cultural, historic, scientific, scenic and amenity value are discovered in the General Management Area and rigorously documented, the Gisborne District Council will facilitate a change to the Regional Coastal Environment Plan to incorporate those sites into the Protection Management Area.

**Principal reason:** *The identification of regionally important sites of significant or outstanding value is likely in the General Management Area. Where the criteria for the selection of sites for the Protection Management Area are met for sites identified in the General Management Area then those sites should be incorporated into the Protection Management Area so that they should be treated in a consistent manner. This Method implements Policy 4.5.4B, 4.5.4C and 4.5.4E.*

**4.5.5C** ▶ The Gisborne District Council will facilitate the establishment of Landcare and Beachcare Groups in the General Management Area, having as their primary objective the sustainable management of natural and physical resources, and will offer technical services and advice to such groups.

**Principal reason:** *This method implements Policy 4.5.4C.*

#### 4.5.6 RULES FOR STRUCTURES

(Refer to Chapter 3.1 Structures)

**Note 1:** S32 of the Building Act, 1991, states that no “building” shall be constructed, altered or demolished without a building consent. It is important, notwithstanding anything else in this plan, that requirements for a building consent are established prior to the commencement of any work. The Definition of Structure in the Building Act is very broad.

**Note 2:** In addition to rules contained in this plan the Harbours Act, 1950 and harbour bylaws may also regulate structures on matters of navigation and safety as the need arises.

**Note 3:** This section should be read in conjunction with the section on occupation of space in the Coastal Marine Area.

**Note 4:** The New Zealand Coastal Policy Statement requires that the New Zealand Maritime Safety Authority and the Hydrographic Office be notified of new structures in the Coastal Marine Area. This plan implements that policy by requiring consent holders for new structures/ or significant changes to existing structures in the Coastal Marine Area to notify those offices BEFORE construction begins. This will be a condition of all consents granted.

**Note 5:** It will be a condition of all consents for new structures in the CMA to provide, at their completion, photographic evidence of their completion.

**Note 6:** No resource consent or coastal permit gives the holder rights to occupy or move over the private property of another. Rules in this chapter do not state that the permission of occupiers or landowners is required in order to exercise the resource consent or permit because that requirement should go without saying.

**Note 7:** Unless clearly stated otherwise all standards and terms in a rule must be met for that rule to apply.

## LOCATING NEW STRUCTURES IN AREAS OF CULTURAL SENSITIVITY

**4.5.6A** ▶ Notwithstanding any rule for a permitted or controlled activity in this chapter of this plan, any activity associated with the construction, placement erection, modification, demolition or replacement of any structure that occurs in any area of the Coastal Marine Area marked on the map in Appendix 2 of this Plan as a site which is culturally sensitive to that type of activity (as recognised by tangata whenua)<sup>27</sup> is a discretionary activity with, in addition to any standards and terms specified for that activity, the following standards and terms.

Standards and terms:

- a) Contaminants are not disposed of into the Coastal Marine Area.
- b) There is no adverse effect on public safety and navigation safety.
- c) The activity results in no more disturbance to the foreshore or bed than can be removed by two tide cycles.

Council will limit its control to:

- Structure siting; *and*
- The timing and duration of activities associated with the structure; *and*
- Disposal of material on or away from the site; *and*
- The duration of any Resource Consent; *and*
- Conditions relating to monitoring the effects of the activity; *and*
- The provision of photographic evidence upon completion of the activity; *and*
- The extent to which the structure has an adverse effect on the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga; *and*
- Requiring rentals or bonds as specified elsewhere in this plan.

**Explanation:** This rule captures activities which might have an impact on cultural values and requires that they be treated as discretionary<sup>28</sup> activities with tight terms and conditions. Implicit in this rule is that all applicants for new structures or significant alteration or demolition of existing structures will consult with tangata whenua.

**Principal reason:** *Many permitted and controlled activities do not contain a standard/term related to tangata whenua cultural values and hence could be permitted without reference to tangata whenua. This could result in adverse effects on cultural sites and values. The consent authority will consult with tangata whenua in the consideration of any specific resource consent application and will encourage applicants for resource consent to similarly consult with tangata whenua, as a matter of good practice. The consultation process should be initiated as soon as practicable.*<sup>29</sup>

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.5.8, Chapter 4.6

<sup>27</sup> Huaguang Forest Consent order 749/00

<sup>28</sup> Huaguang Forest Consent order 749/00

<sup>29</sup> Huaguang Forest Consent order 749/00

## NAVIGATION AIDS

- 4.5.6B** ▶ The construction, placement, erection, modification or replacement of floating navigational buoys within the Coastal Marine Area or within coastal water is a permitted activity provided that the following standards and terms are met.

Standards and terms:

- a) Contaminants are not disposed of into the Coastal Environment.
- b) There is no adverse effect on public safety and navigation safety.
- c) The New Zealand Maritime Safety Authority and the Hydrographic Office are notified of the proposal to erect the structure and are notified of completion of work on the structure.
- d) The Gisborne District Council has been notified in writing of the structure.

Provided that:

In the event of a), b) and d) not being met the activity is a discretionary activity. In the event of c) not being met the activity is a controlled activity with Council restricting its control to setting conditions on the consent requiring notification of the New Zealand Maritime Safety Authority and the Hydrographic Office.

- 4.5.6C** ▶ The construction, placement, erection, modification or replacement of fixed (non floating) navigational aids within the Coastal Marine Area and coastal water is a discretionary activity.

**Principal reason:** *Rules 4.5.6B and 4.5.6C: Floating navigational aids are regarded as low impact except in the Protection Management Area where the visual impacts may be unacceptable. Non-floating navigational aids can have significant adverse effects on biota and visual amenity and are thus treated as discretionary activities.*

Cross-Reference Chapter 2, Chapter 3.1, Chapter 4.5.8, Chapter 4.6

## PLACEMENT OF TEMPORARY MAIMAI AND WHITEBAIT STANDS

- 4.5.6D** ▶ The erection or placement of a temporary maimai or whitebait stand in the Coastal Marine Area is a permitted activity provided that the following standards and terms are met.

Standards and terms:

In respect of all maimais and whitebait stands located in the Coastal Marine Area:

- a) The structure has a maximum size of four square meters.
- b) The structure is open piled; *and*

In the case of a maimai:

- a) The structure is at least 90 meters from any neighbouring structure, tide gate, floodgate, confluence or culvert.
- b) The structure is only present between April 1 and July 31 of any one year.
- c) Prior written notice of the erection or placement is given to the Consent Authority.

In the case of a whitebait stand:

- a) The structure is at least 20 meters from any neighbouring structure, tide gate, floodgate, confluence or culvert.
- b) The structure is only present between 15 July and December 30 of any one year.
- c) Prior written notice of the erection or placement is given to the Gisborne District Council.

(With respect to maimais the Gisborne District Council has agreed to the transfer of responsibilities for administering these provisions to the Eastern Region Fish and Game Council. When the transfer occurs the E.R.F.G.C will be the consent authority. Until that time the Gisborne District Council is the consent authority.)

**Principal reason:** *The impacts of both whitebait stands and maimais are slight. Visually, maimais can detract from the amenity of an estuary or wetland but if removed should not adversely affect values there (they are present over autumn/winter months). A similar case exists for whitebait stands.*

#### **MINOR ALTERATION and MAINTENANCE OF STRUCTURES**

- 4.5.6E** ▶ The minor alteration or maintenance of any structure in the Coastal Marine Area is a permitted activity provided that the following standards and terms are met:

Standards and terms:

- a) The physical dimensions of the structure are not altered.
- b) The alteration or maintenance results in no more disturbance to the foreshore or bed than can be removed by two tide cycles.
- c) Contaminants are not disposed of into the Coastal Environment.
- d) There is no adverse effect on public safety and navigation safety.
- e) Public access to and enjoyment of the Coastal Marine Area and coastal water is not decreased.
- f) Prior notification of the intention to modify the structure is made to the Gisborne District Council.

Provided that:

In the event that any of the standards and terms are not met, then Rule 4.5.6F applies.

**Principal reason:** *Without maintenance many structures deteriorate. Minor alteration will have minimal adverse effects.*

- 4.5.6F** ▶ Except as provided for in Rule 4.5.6E, the minor alteration or maintenance of any structure in the Coastal Marine Area is a discretionary activity provided the following standards and terms are met.

Standards and terms:

- a) The cumulative increase in the area of bed or foreshore covered by the structure from all minor alterations or maintenance under this plan does not exceed 10% of the original.

**Principal reason:** *The type of maintenance anticipated here can have effects of an unpredictable nature. In order to ensure that measures are taken to avoid, remedy or mitigate adverse effects and also to achieve the purpose of the Act the most appropriate option is to utilise the resource consent process.*

Cross-Reference refer to:- Chapter 2, Chapter 3.1, Chapter 4.5.8, Chapter 4.6

## ILLEGAL STRUCTURES

**4.5.6G** ▶ Structures located in the Coastal Marine Area and Coastal water for which no permits have been granted under the Harbours Act, 1950 or the Resource Management Act, 1991 are unauthorised structures. Unauthorised structures which were established prior to January 1, 1995 and are located in the Coastal Marine Area and Coastal water are permitted within the Coastal Environment for a period of two years from the date of this plan becoming operative.

**Principal reason:** *Illegal structures threaten the very processes this plan sets up in order to manage adverse effects. To condone illegal structures is entirely inconsistent with responsible resource management and is inconsistent with the purpose of the Resource Management Act (1991).*

## REMOVAL OF STRUCTURES

**4.5.6H** ▶ The removal or demolition of any structure in the Coastal Marine Area is a permitted activity provided that the following standards and terms are met:

Standards and terms:

- a) Contaminants are not disposed of into the Coastal Environment.
- b) There is no adverse effect on public safety and navigation safety.
- c) Any disturbance to the seabed is minor enough to be removed by two tide cycles.

Provided that:

In the event of e) not being met the activity is a controlled activity with standards and terms a) to d). The council will restrict its control to setting a condition requiring notification of the New Zealand Maritime Safety Authority and the Hydrographic Office.

**Principal reason:** *Obsolete structures diminish natural character and amenity - their removal is a very good way of improving the quality of the Coastal Environment.*

**4.5.6I** ▶ The removal or demolition of any structure in the Coastal Marine Area is a controlled activity so long as it complies with the following standards and terms.

Standards and terms:

- a) Contaminants are not disposed of into the Coastal Environment.
- b) There is no adverse effect on public safety and navigation safety.

Council will limit its control to:

- The timing/duration of activities associated with the demolition of the structure; and
- The rate at which components of the structure are removed or demolished; and
- Disposal of material on or away from the site; and

- Monitoring the effects of removal of the structure; and
- Provision of photographic evidence of removal of the structure; and
- Requiring bonds or rentals as specified elsewhere in this plan.

**Principal reason:** *Obsolete structures diminish natural character and amenity - their removal is a very good way of improving the quality of the Coastal Environment. This variant of the previous rule ensures that large scale removal is possible.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.6

## COASTAL PROTECTION WORKS

**4.5.6J** ▶ The erection or placement of any structure in the Coastal Marine Area which has a predominant purpose of avoiding, remedying or mitigating the effects of natural processes on human property or life is a discretionary activity.

**Explanation:** Structures used to protect property from the effects of coastal processes are usually very conspicuous, have a limited life expectancy and dramatically alter natural physical processes.

**Principal reason:** *The effects of coastal protection works on the environment will almost always have to be weighed up against community benefits. It is considered appropriate to treat these structures as discretionary activities because achieving the purpose of the RMA will require considerable assessment, particularly in respect of s5, 6 & 7 of the RMA.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.5.8, Chapter 3.8, Chapter 4.6

## CONSTRUCTION, PLACEMENT, ERECTION OF SIGNAGE

**4.5.6K** ▶ The construction, placement or erection of signs in the Coastal Marine Area for the purpose of publicising or advising of:

- a) Rules in this plan; or
- b) Bylaws or regulations made under any Act; or
- c) The location of any reserve; or
- d) Water safety

is a controlled activity provided the following standards and terms are met:

Standards and terms:

- a) The sign does not adversely affect any value identified within, or sought to be protected by a Protection Management Area.

The sign does not exceed 0.5 m<sup>2</sup> in area.

Council will limit its control to:

- The exact location of the sign; and
- The design and finish of the sign; and
- Maintenance and upkeep of the sign; and
- The duration of the consent granted; and
- Monitoring the use and effects of the sign; and
- Requiring photographic evidence of erection of the sign; and
- Requiring rentals or bonds as established elsewhere in this plan.

**Principal reason:** *It is important that signage in the CMA is controlled in order to achieve a level of professionalism of finish.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.6

## DISCHARGE OF CONTAMINANTS

- 4.5.6L** ▶ Where a standard or term in a rule in this chapter of this plan prevents an activity because contaminants are disposed to the Coastal Environment the activity may occur if it achieves all other standards and terms of the rule and a coastal permit for the discharge is obtained or the discharge satisfies the standards and terms for a permitted discharge.

**Principal reason:** *This rule provides a linkage between the structures chapter and discharge chapters of the plan and provides for consistency between the two chapters. Discharges were included within the structures section of the plan to highlight the inter-relatedness of chapters and to direct readers to other relevant objectives, methods, rules and policies.*

## PLACEMENT OF TEMPORARY STRUCTURES (other than maimais and stands

- 4.5.6M** ▶ The erection or placement of any temporary structure in the Coastal Marine Area of the General Management Area is a permitted activity provided that the following standards and terms are met.

Standards and terms:

- a) Contaminants are not disposed of into the Coastal Environment.
- b) There is no adverse effect on public safety and navigation safety.
- c) Public access to and enjoyment of the Coastal Marine Area is not decreased.
- d) The structure is located for a continuous or cumulative period in any one year not exceeding 14 days.
- e) The structure is removed immediately after use.
- f) Consultation has occurred with Maori and there are no adverse effects on the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.<sup>30</sup>
- g) Any disturbance to the foreshore or bed caused by the temporary activity is minor enough to be removed by two tide cycles.
- h) The Council is notified in advance and in writing.

Provided that:

If any of these conditions are not met the activity is discretionary.

**Principal reason:** *It is not conceivable that a structure which meets the standards of this rule would have significant adverse effects. By providing for this type of structure the utility of the Coastal Environment is recognised without compromising values.*

<sup>30</sup> **NB:** Information on which hapu is the kaitiaki for a particular site and how they can be contacted can be obtained from Runanga, Gisborne District Council, Te Puni Kokiri or the Department of Conservation.

### Network Utility Structures Attached to Other Structures

**4.5.6N** ▶ Construction, placement, erection of any network utility structure that is or will be attached to an existing structure located in the Coastal Marine Area or Coastal waters of the General Management Area, is a controlled activity provided the following standards and terms are met.

Standards and terms:

- a) Any disturbance to the foreshore or bed is minor enough to be removed by two tide cycles.
- b) Contaminants are not disposed of into the Coastal Environment.
- c) Consultation has occurred with Maori and the activity has no adverse effects on the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.<sup>31</sup>
- d) There is no adverse effect on public safety and navigation safety.

The Council will restrict its control to:

- a) The timing and duration of activities associated with construction of the structure; and
- b) Disposal of material on or away from the site; and
- c) Monitoring the effects of the structure; and
- d) Requiring photographic evidence of the structures completion; and
- e) Requiring rentals or bonds as specified elsewhere in this plan.

Provided that:

If the above standards and terms are not met the activity is a discretionary activity.

**Principal reason:** *This rule is necessary in order to manage the potential adverse effects of network utility structures. The intent of the rule is concentrate structures.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.6

### PLACEMENT AND ERECTION OF NETWORK UTILITY STRUCTURES

**4.5.6O** ▶ Except as provided for in Rules 4.5.6E, 4.5.6F and 4.5.6N, any activity that requires excavation, construction or erection of a network utility structure within the Coastal Marine Area of the General Management Area, (but excepting any reclamations), is a discretionary activity.

**Principal reason:** *This rule establishes the placement and erection of network utility structures as a legitimate activity in the Coastal Marine Area. The principal reason for this rule is that these structures are essential to provide for the social well-being of communities - but they can have adverse effects.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.5.8, Chapter 4.6

<sup>31</sup> **NB:** Information on which hapu is the kaitiaki for a particular site and how they can be contacted can be obtained from Runanga, Gisborne District Council, Te Puni Kokiri or the Department of Conservation.

## MOORINGS

**4.5.6P** ▶ The construction or placement of pile and swing moorings in the Coastal Marine Area of the General Management Area is a discretionary activity provided the following standards and terms are met.

Standards and terms:

- a) The mooring is located outside of existing harbour limits.

(Note: The construction or placement of moorings within harbour limits must also comply with the Harbours Act 1950 and harbour bylaws. In this regard consultation with the Harbour Master is recommended.)

**Principal reason:** *There are two reasons for this rule: To protect people from themselves through the consent process and also to prevent unsightly moorings appearing where they are inappropriate or where they diminish the natural character, amenity or cultural values of the Coastal Environment.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.5.8, Chapter 4.6

## CONTAINMENT OF THE COASTAL MARINE AREA

**4.5.6Q** ▶ Notwithstanding any other rules in chapter 4.5 of this plan any activity involving the erection of a structure or structures which will impound or effectively contain any area of the Coastal Marine Area of the General Management Area greater than 4ha is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 4.5.8, Chapter 4.6

**4.5.6R** ▶ Notwithstanding any other rules in chapter 4.5 of this plan any activity involving the erection of a structure or structures which will impound or effectively contain any area of the Coastal Marine Area of the General Management Area less than or equal to 4ha is a discretionary activity.

**Principal reason:** *These rules are consistent with Schedule 1.2 of the NZCPS.*

Cross Reference Chapter 2, Chapter 3.1, Chapter 4.5.8, Chapter 4.6

## PLACEMENT/ERECTION OF PERMANENT STRUCTURES

**4.5.6S** ▶ Unless specified elsewhere to the contrary and more specifically any activity that requires excavation, construction or erection of a structure in the Coastal Marine Area of the General Management Area, (but excepting minor alterations and any reclamations), is a discretionary activity provided the following standards and terms are met.

Standards and terms:

- a) Any adverse effects of the structure on the Coastal Marine Area cannot be avoided by locating the structure outside of the Coastal Marine Area.

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 3.8, Chapter 4.5.8, Chapter 4.6

**STRUCTURES PERPENDICULAR OR PARALLEL WITH MHWS**

- 4.5.6T** ▶ The erection or placement of any structure or structures in the Coastal Marine Area of the General Management Area that is -
- a) More or less parallel to mean high water springs; and
  - b) Solid (or present a significant barrier to water or sediment movement); and
  - c) Would extend 300 metres or more, and including separate structures which with an incremental total of at least 300 metres; and
  - d) Is not a submarine or sub-aqueous cable.
- is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 3.8, Chapter 4.5.8, Chapter 4.6

- 4.5.6U** ▶ The erection of any structure which is solid (or present a significant barrier to water or sediment movement), in the Coastal Marine Area of the General Management Area that is -
- a) Oblique or perpendicular to mean high water springs; and
  - b) Solid; and
  - c) Is in the horizontal projection more than 100 meters in length; and
  - d) Is not a submarine or sub-aqueous cable,
- is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 3.8, Chapter 4.5.8, Chapter 4.6

**Principal reason:** *Schedule 1.3 and 1.4 of the NZCPS contains similar requirements. These rules are written to ensure the effects of structures are fully assessed by the Minister of Conservation when they meet an (arbitrary) size threshold.*

**HAZARDOUS and PETROLEUM BASED SUBSTANCE STORAGE STRUCTURES**

- 4.5.6V** ▶ Any activity in the Coastal Marine Area of the General Management Area involving the erection of structures for the storage or containment of petroleum, petroleum based products or other contaminants is a discretionary activity provided the following standards and terms are met.

Standards and terms:

- a) The structure is designed to carry less than 100,000 litres.

Provided that:

- i) If the standard and term a) is not met then the activity is a non-complying activity.

**Principal reason:** *The rule recognises the very real risk that spillage of contaminants into the CMA carries.*

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 3.8, Chapter 4.5.8, Chapter 4.6

#### 4.5.7 RULES FOR DISCHARGES

- 4.5.7A** ▶ As from 1 July 2000 the discharge of untreated sewage from an<sup>32</sup> offshore installation within the internal waters of Poverty Bay within 1000 metres seaward of mean high water springs<sup>33</sup> is a prohibited activity for which no Resource Consent will be granted.

**Principal reason:** *The Resource Management (Marine Pollution) Regulations 1998 regulate the discharges of treated and untreated sewage from vessels and offshore installations. The Regulations prohibit such discharges closer than 500 metres from the shoreline.<sup>34</sup> Clause 11(3) of Part 3 of the Regulations provides that, from the 1<sup>st</sup> of July 2000, Councils may increase the distance seaward within which no person may discharge sewage into the CMA. Poverty Bay is the major water recreation beach in Gisborne and is used by various forms of water recreation. It is considered that the Regulations provide adequate controls over the discharges of sewage from vessels. However, the actual or potential adverse effects relating to such discharges from offshore installations are considered to warrant a more stringent level of control.<sup>35</sup>*

#### BURNING PLANT OR ANIMAL MATTER

- 4.5.7B** ▶ Except as provided for in the Resource Management (Marine Pollution) Regulations 1998, the discharge of contaminants to air of the CMA from the burning of plant or animal matter within the CMA, but excluding the burning of treated timbers is a permitted activity provided the following standards and terms are met.

Standards and terms:

- a) The plant or animal matter arises from the CMA.
- b) The burning does not result in an adverse effect in any adjacent site or vessel which is offensive or objectionable.

**Principal reason:** *In some circumstances it may be necessary to burn waste materials that accumulate on beaches. This rule permits that activity subject to certain standards being met and will not result in significant adverse effects. (Note this rule applies to the CMA - the air plan deals with land above MHWS).*

#### OTHER PERMITTED ACTIVITIES; HYDROCARBON BURNS, FUMIGATION, AQUACULTURE DISCHARGES TO AIR

- 4.5.7C** ▶ The discharge to air of contaminants associated with the burning of hydrocarbons in the CMA following a hydrocarbon spillage, or the fumigation of goods in the CMA is a permitted activity provided the following standards and terms are met.

Standards and terms:

- a) The activity does not result in odour in a residential area, park or reserve which is objectionable or offensive.
- b) Council is notified prior to any oil burn

<sup>32</sup> NZ Yachting Federation Consent order 149/01

<sup>33</sup> NZ Yachting Federation Consent order 149/01

<sup>34</sup> NZ Yachting Federation Consent order 149/01

<sup>35</sup> NZ Yachting Federation Consent order 149/01

- c) Measures to contain and reduce the volume of spilled material have been exhausted
- d) In the case of fumigation the activity does not involve the use of ethylene dibromide, methyl bromide or hydrogen cyanide.

**Principal reason:** *The discharge of contaminants to air from the activities listed in this rule are either minor or infrequent but must occur on an urgent basis when they occur. The adverse effects of this rule will be minor and could, in the case of fumigation and oil spill reaction, be beneficial.*

NB: For discharges to air outside of the CMA, reference should be made to the Regional Air Plan for the Gisborne Region.

## GENERAL DISCHARGES

**4.5.7D** ▶ All discharges to water of the coastal marine area not more specifically addressed elsewhere by rules in chapter 4.5 or the Resource Management (Marine Pollution) Regulations 1998, excepting stormwater discharges, are a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.4, Chapter 4.6.

**Principal reason:** *Quantitative standards for the discharge of contaminants into the CMA are lacking for NZ waters. While standards do exist in other countries it is not considered appropriate to incorporate them into this plan.*

## STORM WATER DISCHARGES

**4.5.7E** ▶ The discharge of stormwater runoff to the CMA is a permitted activity provided the following standards and terms are met.

Standards and terms:

- a) The activity shall not cause any permanent:
  - (i) Reduction of the ability of the receiving channel to convey flood flows;
  - (ii) Scouring of the foreshore or seabed as a consequence of the discharge.
- b) The discharge shall not cause the production of conspicuous oil or grease films, scums, or foams, or floatable or suspended materials in any receiving water after reasonable mixing.
- c) The discharge shall, after reasonable mixing, meet the water quality standards, prescribed for the waters into which the discharge is to occur, by the Water Classifications set out in Policy 3.4.4A, Method 3.4.5L and Appendix 7 of this Plan.

Provided that:

If any of the Standards and Terms are not met then the discharge of stormwater runoff to the CMA is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.4, Chapter 4.6

**Principal reason:** *Stormwater runoff into the Coastal Marine Area is an inevitable consequence of urban development. Stormwater can contain heavy metals, oils/greases and silts; the standards in this rule exist to ensure that measures are taken, where appropriate, to reduce the quantity of these.*

## OTHER DISCHARGES TO AIR

- 4.5.7F** ▶ Any discharge of contaminants to air of the Coastal Marine Area not specifically addressed elsewhere in this plan or in the Resource Management (Marine Pollution) Regulations 1998 is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.4, Chapter 4.6

NB: For discharges to air outside of the CMA, reference should be made to the Regional Air Plan for the Gisborne Region.

## SEWAGE DISCHARGES

- 4.5.7G** ▶ Except as provided for in the Resource Management (Marine Pollution) Regulations 1999 and Rule 4.5.7A, any discharge of human sewage into the CMA:
- a) Is a discretionary activity when the discharge occurs more than 1000m offshore from MHWS.
  - b) Is a non-complying activity where the discharge occurs in an estuary or inlet, or within 1000m from the shoreline (MHWS).

Cross-Reference refer to Chapter 2, Chapter 3.4, Chapter 4.6, Chapter 4.7

**Principal reason:** *In dealing with the disposal of human sewage, not only the effects on the physical environment, but also the effects on the feelings of people must be taken into account.*

## HERBICIDES and WEED CONTROL

- 4.5.7H** ▶ Except as provided for in the Resource Management (Marine Pollution) Regulations 1999, the discharge of herbicides in the coastal marine area, for the purposes of exotic weed control is a controlled activity provided that the following standards and terms are met.

Standards and terms:

- a) hand gun application is used, and spray is directed to minimise non target organism contact; and
- b) a biodegradable (short half life), herbicide is used; *and*
- c) the frequency and abundance of marine fauna is surveyed before spraying, and after spraying; *and*
- d) the level of herbicide in sediment is assessed after spraying.
- e) Council is advised prior to commencement of the activity and with the required monitoring information (c, d above) within 3 months of completing the operation.
- f) The discharge of herbicide does not have more than minor adverse effects on ecological processes, bio-diversity, water quality, natural character, natural landscape and flora and fauna identified in a Protection Management Area near which the discharge is proposed.
- g) The following standards from NZS8409:1999 Agrichemical Users Code of Practise and any additional requirements as listed are met.

The Council may set conditions:

1. To minimise adverse effects on habitat and on-target organisms
2. To restrict the timing and duration of any herbicide application.

Provided that:

Any application of Agrichemical sprays that does not meet the standards above is a discretionary activity.

NZS8409 REQUIREMENT	ADDITIONAL REQUIREMENT
2.4.1, 2.4.2, 2.4.4(b)	
5.1.1, 5.1.2, 5.3.1(a & b)	
5.3.2(b)	Disposal options FF (a,b,c) must be used if available in the region and no spray residue shall be disposed of within 20m of a drain, watercourse or waterbody.
5.3.3 (second paragraph following (m))	Cleaning and decontamination of aircraft shall be carried out on a bunded concrete pad. Contaminated residue shall be collected and disposed of in accordance with these conditions.
5.4.1	
5.5.1	
5.6.2(ci)	
5.6.5(a,c)	
5.7.1(e,f)	Written contingency plans must be available upon request.
5.7.2	Documented evidence of the target area must be available upon request.
5.8.1 (second paragraph)	Wind indicators must be available on site should any of the factors in Table DD1 for high potential drift hazard be equalled or exceeded.
5.8.2(a,b,c,d,e,f)	
5.8.3	Agrichemicals must not be sprayed within 100m of any sensitive area (DD3) or Protection Management Area identified in the Gisborne District Plan if any of the factors in Table DD1 for high potential drift hazard be equalled or exceeded.
5.9	(Note the additional requirements in 5.7.1(e,f) & 5.7.2 above).
6.1	Disposal options FF(a,b,c) must be used if available in the region and no spray residue shall be disposed of directly within 20m of a drain, watercourse or waterbody.

Cross-Reference refer to Chapter 2, Chapter 3.4, Chapter 4.6

**Principal reason:** *This rule provides for the use of herbicides to control Spartina as a controlled activity subject to standards that reduce side effects and allow monitoring of effects. The rule is necessary to ensure that the adverse effects of excessive spraying and consequent contamination do not occur.*

#### **RADIO TRACERS and DYES**

**4.5.71** ▶ Except as provided for in the Resource Management (Marine Pollution) Regulations 1999, the discharge to the coastal marine area of biologically and chemically inert and non-radioactive tracers or dyes for the purposes of scientific investigations is a permitted activity provided the following standards and terms are met.

Standards and terms:

- a) The tracer or dye will not result in and change in the abundance or diversity of animal or plant life in the receiving environment.
- b) The GDC is advised at least one week prior to the discharge.

Provided that:

If a) is not met the activity is a discretionary activity.

**Principal reason:** *Non-toxic dyes and radiotracers are important tools for the investigation of the effects a discharge may have. For scientific research they are also important tools. It is considered that the slight and very occasional adverse effects of these substances is far outweighed by the potential benefits accrued from their use that their use should be permitted.*

#### **OBSERVANCE OF WATER QUALITY STANDARDS**

- 4.5.7J** ▶ All discharges to water of the coastal marine area, after reasonable mixing and disregarding the effect of any natural perturbations, shall observe any relevant water quality standards set out in Method 3.4.5L for the Classification Area defined in Appendix 7 of this Plan.

**Principal reason:** *Compliance with water classification standards is a requirement of Section 69(1) of the Resource Management Act 1991.*

#### **4.5.8 RULES FOR THE OCCUPATION OF SPACE IN THE CMA**

##### **OCCUPATION OF SPACE FOR PERMITTED OR CONTROLLED STRUCTURES (see chapter 4.5.6)**

- 4.5.8A** ▶ Notwithstanding anything else in Chapter 4.5 of this plan, the exclusive occupation of land of the Crown within the CMA, under Section 12(2) of the Resource Management Act 1991, for an activity that is permitted or controlled in Chapter 4.5.6 of this plan is a restricted discretionary activity.

Matters to which Council will restrict its discretion:

- a) The extent to which the exclusive occupation of space has an adverse effect on the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.
- b) The extent to which the exclusive occupation of space restricts or prevents public access to and along the Coastal Marine Area.
- c) The extent to which the exclusive occupation of space adversely affects any value identified within, or sought to be protected by a Protection Management Area.

Cross-Reference refer to:- Chapter 2, Chapter 3.1, Chapter 3.2, Chapter 4.6

**Principal reason:** *This rule requires very minor and almost exclusively beneficial coastal activities which require an exclusive occupation of space consent in the CMA to obtain a resource consent but limits the concerns of the Council to two narrow areas of cultural concern for unknown sites, any adverse effect on public access to and along the CMA and the possible effects on areas with high natural values. The requirements and standards elsewhere in the plan are not lessened by this rule.*

## TRANSFER OF PERMITS TO OCCUPY

**4.5.8B** ▶ The transfer of a permit for the occupation of space to another site in the Coastal Marine Area is a permitted activity provided that the following standards and terms are met.

Standards and terms:

- a) The transfer does not result in a change of use associated with the permit or, where the existing permit does not describe a use or purpose, the use at the new location is the same as that usually associated with the original location.
- b) When transfer occurs at least 90% of the space transferred will be used for the purpose for which the transfer relates.
- c) Transfer does not occur between different management areas.
- d) Transfer does not result in a reduction of public access to and across the Coastal Marine Area.
- e) Any existing structures at the site where the currently occupied space is held can be removed as a permitted or controlled activity under this plan.
- f) All parties to the transfer agree to terms of the transfer, and these include an agreement relating to the removal of all structures associated with the existing site.
- g) Council is notified in writing prior to the transfer.
- h) Consultation has occurred with the Hapu which is the kaitiaki of the site proposed.<sup>36</sup>

Footnote: Any person wishing to exercise this rule in relation to the transfer of permits involving marine farming permits or spat-catching permits is strongly advised to consult with the Ministry of Fisheries prior to exercising any right conferred by this rule.

**(Explanation of the rule)** Notwithstanding the above, nothing in this section of this plan implies the granting of a resource consent for any other activity set out in Section 12 of the Resource Management Act (1991) should a permit to occupy space be obtained through transfer, and nothing in this section absolves the owners of existing structures of the responsibility for ensuring that existing structures legally occupy space in the CMA.

**Principal reason:** *The principle reason for this rule is to provide a method of transferring consents to occupy space from inefficient to more efficient uses. The Coastal Environment is dominated by open space, is a public resource and is arguably utilised inefficiently. A huge number of existing structures exist and have no or limited use. This rule is supposed to encourage the transfer of permits to occupy from some of these lesser used structures to more efficient uses and result in a clean up of the coast. Many of the standards in this rule are similar to those used in the structures section and are primarily concerned with ensuring tangata whenua values are not undermined by transfer of occupation rights, that the values of a Protection Management Area are preserved and that existing (and presumably less efficient occupiers of space) are removed PRIOR to transfer. The latter is a matter for parties to negotiate over.*

<sup>36</sup> **NB:** Information on which hapu is the kaitiaki for a particular site and how they can be contacted can be obtained from Runanga, Gisborne District Council, Te Puni Kokiri or the Department of Conservation.

## TEMPORARY EXCLUSIVE OCCUPATION OF SPACE FOR MILITARY OR CIVIL DEFENCE EXERCISES AND CULTURAL OR RECREATIONAL EVENTS

**4.5.8C** ▶ The temporary occupation of space for a Military or Civil Defence exercise or a recreational or cultural activity which restricts or excludes public access to or across land of the Crown located in the Coastal Marine Area of the General Management Area is a controlled activity provided the following standards and terms are met.

Standards and terms:

- a) Any restriction or exclusion of the public from the Coastal Marine Area is for a period not exceeding two days.
- b) In the case of exclusion of access the exclusion is restricted to an area of 2ha. or less.
- c) Any exclusion does not prevent the use of boat ramps, public amenities or other structures.
- d) Any disturbance to the foreshore or seabed caused as a consequence of the occupation are no more than can be removed by two tide cycles.
- e) Public notice of the occupation is given in a local newspaper at least 10 working days prior to the activity occurring.

Council will restrict its control to limiting the direct or indirect adverse effects of the occupation of space on fragile ecosystems, public access to and along the CMA, and ensuring public safety.

Cross-Reference refer to Chapter 2, Chapter 3.2, Chapter 4.6

**Principal reason:** *The adverse effects of a temporary event that meets the standards would be minor if suitable conditions are set.*

## ILLEGAL OCCUPATION

**4.5.8D** ▶ Any use or occupation of the Coastal Marine Area for which no permit has been granted under the Harbours Act, 1950 or the Resource Management Act, 1991 are unauthorised. Unauthorised occupation or use which was established prior to January 1, 1995 and which is located in the Coastal Marine Area is a permitted activity for a period of two years from the date of this plan becoming operative provided that the following standards and terms are met.

Standards and terms:

- a) The Gisborne District Council is notified in writing of the location, owner and purpose of the structure within 3 months of this Plan becoming operative.

**Principal reason:** *This rule provides both Council and illegal owners with leeway to establish lawful status for occupations.*

## OCCUPATION OF SPACE A DISCRETIONARY ACTIVITY

**4.5.8E** ▶ Except as provided for in other rules of Chapter 4.5, any occupation of space involving Crown land within the Coastal Marine Area is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 3.2, Chapter 4.6, Chapter 4.7

**Principal reason:** *This method ensures that occupation of space occurs in a fashion that is consistent with the policies for this chapter. The rule principally affects structures which are treated as discretionary or non-complying.*

## OCCUPATION OF MORE THAN 10 HA

**4.5.8F** ▶ Any activity involving the occupation of Crown land in the Coastal Marine Area which:

- a) Would exclude or effectively exclude public access from areas of the Coastal Marine Area over 10 hectares;
- b) Would exclude or effectively exclude the public from more than 316 metres along the length of the foreshore; or
- c) Would involve the occupation or use of areas greater than 50 hectares of the Coastal Marine Area and such occupation or use would restrict public access to or through such area;

Is a discretionary and restricted coastal activity provided the following standards and terms are met.

Standards and terms:

The occupation or exclusion is for the purpose of protecting:

- a) Significant indigenous fauna, flora or significant habitats; or
- b) Maori cultural sites; or.
- c) Historic sites.

Provided that:

If these standards and terms are not met the activity is a non-complying activity.

Cross-Reference refer to Chapter 2, Chapter 3.1, Chapter 3.2, Chapter 4.6, Chapter 4.7

**Principal reason:** *The standards are designed to provide a vehicle for achieving the protection of Protection Management Area values should this be needed.*

#### 4.5.9 RULES FOR THE ALTERATION OF FORESHORE and SEABED

##### BURIAL OF MARINE MAMMALS

**4.5.9A** ▶ The shifting and burial of marine mammals in the Coastal Marine Area is a permitted activity, provided the following standards and terms are met:

Standards and terms:

- a) The Manager: Environment and Planning, Gisborne District Council has been consulted.
- b) The Department of Conservation has been consulted.
- c) The shifting or burial is supervised by an authorised officer of the Department of Conservation.

**NOTE:** The removal of marine mammals (dead or alive) is prohibited under the Marine Mammals Protection Act 1978, unless a permit has been obtained from the Director General of Conservation. In respect of (c) above, an authorised officer will be the holder of warrant under the Marine Mammals Protection Act 1978.

**Principal reason:** *The adverse environmental effects of not burying a marine mammal are likely to be greater than those of burying it. The standards will ensure that burial occurs in a sensitive and appropriate fashion.*

##### RECLAMATIONS

**4.5.9B** ▶ Notwithstanding other rules in chapter 4.5, any reclamation for the purpose of disposal of septic tank sludge, toxic wastes, or any other domestic or industrial refuse or waste material is a prohibited activity for which no Resource Consent will be granted.

**Principal reason:** *This type of activity is inconsistent with the purpose of the Resource Management Act and cannot be countenanced. The activity is prohibited to preclude it from the Coastal Marine Area.*

##### SAND and GRAVEL EXTRACTION

**4.5.9C** ▶ The extraction of up to 2 cubic metres of sand per individual per year, from the Poverty Bay foreshore between the navigational beacon at or about NZMS 260 Y18 440690, and the mouth of the Waipaoa River, is a permitted activity provided the following standards and terms are met.

Standards and terms:

- a) The sand is removed from below mean high water springs.
- b) No vegetation is removed or damaged during, or as a result of sand extraction.
- c) The sand is taken in an even manner and is not excavated beyond 500mm depth from the natural sand surface.
- d) The Gisborne District Council is notified prior to the extraction of any sand and details of the volume to be taken are supplied.

- 4.5.9D** ▶ Extraction of between 2 cubic metres and 3000 cubic metres of sand from Poverty Bay foreshore per annum between the navigation beacon at or about NZMS 260 Y18 440690, and the mouth of the Waipaoa River, is a controlled activity, provided the following standards and terms are met.

Standards and terms:

- a) Public access and safety is provided for at all times.
- b) The sand is removed from below mean high water springs.
- c) The sand is taken in an even manner and is not excavated beyond 500mm depth from the natural sand surface.
- d) No vegetation is removed or damaged during, or as a result of sand extraction.
- e) Structures, machinery or vehicles associated with sand extraction are not left on the foreshore when not in use for a continuous period exceeding 3 hours.

Council will restrict the exercise of its control to setting conditions on:

1. The exact location of the activity
2. The hours and days of operation.
3. The total volume of material to be removed.
4. The duration of the permit.

Cross-Reference refer to Chapter 2, Chapter 3.2, Chapter 4.6

- 4.5.9E** ▶ Extraction of between 3000 and 50,000 cubic metres of sand per annum from the Poverty Bay foreshore between the navigation beacon at or about NZMS 260 Y18 440690, and the mouth of the Waipaoa River, is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.2, Chapter 3.8, Chapter 4.6

**Principal reason:** *Rules 4.5.9C, 4.5.9D & 4.5.9E: This part of Poverty Bay is a known accreting beach with a history of sand extraction. Past extraction has had no known adverse effect and there is no reason to assume adverse effects will occur in the future. The exercise of control and discretion over the larger volumes of sand extraction is necessary to ensure that adverse effects are avoided, remedied or mitigated.*

- 4.5.9F** ▶ Removal of sand and other mineral materials from Wainui Beach and the Tolaga Bay foreshore is a prohibited activity for which no Resource Consent will be granted.

- 4.5.9G** ▶ Notwithstanding chapter 4.5.9 the movement of sand and other mineral materials from one section of the Wainui beach foreshore to another or one section of the Tolaga Bay foreshore to another is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.3, Chapter 3.8, Chapter 4.6

**Principal reason:** *Rules 4.5.9F and 4.5.9G: There is evidence to suggest that Wainui Beach and Tolaga Bays are losing sand. For this reason, and having regard to the potential adverse effects an acceleration of this process might have on human investments in the area extraction of sand is a prohibited activity for which no Resource Consent will be granted. The movement of sand within Wainui Beach and the Tolaga Bay foreshore is a discretionary activity in order to allow for the assessment of this potential future erosion mitigation measure.*

- 4.5.9H** ▶ Sand and sediment extraction from the Turanganui River for the purpose of maintaining navigation channels in the river is a controlled activity.

Council will restrict its control to setting conditions on:

1. The exact location of the activity.
2. The hours and days of operation.
3. The total volume of material to be removed.
4. The duration of the permit.

Cross-Reference refer to Chapter 2, Chapter 3.3, Chapter 4.7

**Principal reason:** *The Turanganui River is prone to siltation which can affect the navigability of this important recreational resource. It may be appropriate for Council to set conditions related to the adverse effects of this activity.*

- 4.5.9I** ▶ Removal of sand and other mineral materials from any other part of the General Management Area is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.3, Chapter 3.8, Chapter 4.6, Chapter 4.7

**Principal reason:** *There is very little known of the sand budgets in areas outside of those for which specific rules apply. For this reason the activity is a discretionary activity.*

- 4.5.9J** ▶ Notwithstanding rules 4.5.9C, 4.5.9E, 4.5.9F, 4.5.9G, 4.5.9H and 4.5.9I, any activity involving, in any 12 month period, disturbance of foreshore and seabed for specific purposes in the General Management Area, including any removal of sand or shingle:

- a) In volumes greater than 50,000 cubic metres; or
- b) Extracted from areas greater than 4 hectares; or
- c) Extending 1000 metres or more over foreshore or seabed;

is a discretionary activity.

Cross-Reference refer to:- Chapter 2, Chapter 3.3, Chapter 3.8, Chapter 4.6, Chapter 4.7

- 4.5.9K** ▶ The deposition of wind blown sand back to the Coastal Marine Area of the General Management Area is a permitted activity provided that the following standards and terms are met.

Standards and terms:

- a) The sand is deposited so as to not lie more than 200 mm above the natural relief of the bed or foreshore.
- b) The sand is not deposited on any hard shore.

**Principal reason:** *It is not uncommon for strong winds to blow sand onto roads or properties. This rule allows the return of the lost sand to the beach from which it came. If there are any adverse effects from this activity they will be minor.*

- 4.5.9L** ▶ The deposition of sand, shingle, or other natural material derived from any maintenance dredging operation to the Coastal Marine Area of the General Management Area is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.3, Chapter 4.6, Chapter 4.7

**Principal reason:** *The effects of deposition can be significant. This rule is necessary in order to allow an assessment of the effects of the activity.*

#### **BEACH GROOMING**

**4.5.9M** ▶ Notwithstanding Rule 4.5.9J and Rule 4.5.11A, the removal of driftwood and logs by the use of bulldozers, tractors or other machinery from Waikanae and Midway beaches, in any 12 month period, is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.3, Chapter 4.6, Chapter 4.7

**Principal reason:** *The annual removal of driftwood from Waikanae and Midway Beaches and ongoing maintenance has the potential to adversely affect the dune systems of the area. As this activity relies on heavy machinery to move large quantities of material the rule is restricted to the use of heavy machinery.*

**4.5.9N** ▶ Except as provided in 4.5.9M the removal of driftwood for personal use is a permitted activity in the General Management Area of the Coastal Marine Area.

**Principal reason:** *This rule enables people take driftwood for their own use. The rate of driftwood removal is very unlikely to impact upon natural processes.*

**4.5.9O** ▶ The opening of the Hamanatua and Wainui Streams to the sea is a permitted activity.

**Principal reason:** *The opening of these stream mouths is necessary to protect the public and property. Past experience indicates that there are no adverse effects.*

**4.5.9P** ▶ The opening of stream mouths other than those in 4.5.9 O above in the General Management Area is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.3, Chapter 3.8, Chapter 4.6, Chapter 4.7

**Principal Reason:** *The opening of stream mouths other than those in rule 4.5.9O will require an assessment of effects so that the impact of the activity on instream values, hydrology and cultural values can be assessed. For this reason the activity is a discretionary activity.*

#### **MINERAL EXTRACTION and EXPLORATION**

**4.5.9Q** ▶ The disturbance of the seabed and the deposition of substances used for mineral exploration or extraction in the General Management Area is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.3, Chapter 4.6, Chapter 4.7

**Principal reason:** *This rule is provided for clarity and recognises the potential risk associated with mineral exploration. Because of the likely scale of activities associated with exploration the activity will require an assessment of effects.*

## RECLAMATIONS

**4.5.9R** ▶ Any reclamation in the General Management Area is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.3, Chapter 4.5.7, Chapter 4.6, Chapter 4.7.

## DREDGING (Maintenance and Capital)

**4.5.9S** ▶ Dredging in the General Management Area of the Coastal Marine Area is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.3, Chapter 4.5.7, Chapter 4.6, Chapter 4.7

**Principal reason:** *Dredging can have serious adverse effects on the fauna and flora of the Coastal Marine Area. For this reason the activity is a discretionary one and will require an assessment of effects.*

## GENERAL DISTURBANCE

**4.5.9T** ▶ The disturbance of the foreshore or bed of the Coastal Marine Area in a General management area for the purpose of providing for network utility services is a controlled activity provided the following standards and terms are met.

Standards and terms:

- a) Any disturbance to the foreshore or bed is minor enough to be removed by two tide cycles; and
- b) The disturbance does not involve the removal of material from the Coastal Marine Area; and
- c) No explosives are used; and
- d) The disturbance to the foreshore or bed does not involve heavy machinery or the use of explosives; and
- e) Public access to and across the Coastal Marine Area is maintained except where temporary restrictions are necessary for reasons of public safety.

The Council will restrict the exercise of its control to setting conditions on:

- i. The points of vehicle access to the foreshore or bed of the CMA; and
- ii. The exact location of disturbance in order to avoid or mitigate adverse effects; and
- iii. The timing and duration of activities in order to avoid, remedy or mitigate adverse effects.

Provided that:

If any of these standards is not met the activity is a discretionary activity:

Cross-Reference refer to Chapter 2, Chapter 3.3, Chapter 4.6

**Principal Reason:** *The purpose of this rule is to allow, reasonably unencumbered, the laying of communication cables and other essential services. The standards are tight and will ensure only very minor adverse effects occur.*

#### 4.5.10 RULES FOR THE TAKE, USE, DAMMING and DIVERTING OF COASTAL WATER

##### TAKES OR USES OF WATER

**4.5.10A** ▶ Any activity involving the taking or use of water, other than water found in any river, stream, estuary, or aquifer in the coastal marine area is a permitted activity provided the following standards and terms are met.

Standards and Terms:

- a) The taking or use of water will not result in removal from the Coastal Marine Area of organisms greater than 5mm in diameter.

Cross-Reference refer to Chapter 2, Chapter 3.5, Chapter 4.6

**Principal reason:** *It is unlikely that taking, using, damming or diverting open water of the Coastal Marine Area will have adverse effects outside of those specifically addressed by the standards and terms of this rule. It is considered most likely that structures, effects on the foreshore and bed and discharges to the CMA pose a far greater risk to the CMA than reasonably foreseeable takes.*

##### OTHER TAKING, USE, DAMMING OR DIVERSIONS OF WATER

**4.5.10B** ▶ Any activity involving the taking, use, damming or diversion of water found in any river, stream, estuary, or aquifer in the Coastal Marine Area, other than open coastal water is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.5, Chapter 4.6, Chapter 4.7

**Principal reason:** *Taking, using, damming or diverting confined waters can have adverse effects. This rule is necessary in order to ensure that the effects of the activity addressed.*

**4.5.10C** ▶ Notwithstanding any other rule in chapter 4.5, the taking of any coastal waters in the Coastal Marine Area for firefighting purposes, or for the operational needs of vessels is a permitted activity.

**Principal reason:** *This rule implements Policy 5.2.5 of the NZCPS and reflects the fact that this type of activity is infrequent, cannot reasonably be expected to obtain a resource consent and in all likelihood reflect sustainable management of resources (ie enabling communities to protect infrastructural resources).*

#### 4.5.11 Rules for Noise

**4.5.11A** ▶ Subject to all other relevant rules in this plan, any activity which generates noise located within the Coastal Marine Area of the General Management Area is a permitted activity provided that the following standards and terms are met.

Standards and terms:

- A. Except as provided for in Standard and Term d), the average maximum noise level (L10) and maximum noise level (Lmax) generated within the Coastal Marine Area of the General Management Area as measured at or within the CMA adjoining (respectively) residential, rural, amenity and heritage reserve zones in the District Plan and adjoining Protection Management Areas within the Coastal Marine Area shall not exceed the following limits set out in Table 3.

**Table 3 - Noise Standards for the CMA of the General Management Area**

Land Adjoining the CMA of the General Management Area and Adjoining Protection Management Areas within the CMA	Monday - Saturday Maximum Average Noise Level (L10)				Sunday & Public Holidays Maximum Average Noise Level (L10)			
	7am – 6pm	6 pm – 10pm	10p m – 7am	Lmax 10pm – 7am	7am – 6pm	6pm – 10 pm	10pm – 7am	Lmax 10pm – 7am
Adjoining Residential Zones	55	45	40	65	50	45	40	65
Time Periods	7am – 9pm	9pm – 7am	Lmax 9pm – 7am		7am – 9pm	9pm – 7am	Lmax 9pm – 7am	
Adjoining Rural Zones	55	45	70		50	45	70	
Adjoining Amenity/Recreation Reserves	55	45	70		50	45	70	
Adjoining Heritage Reserves	50	50					50	

Adjoining Protection Management Areas within the Coastal Marine Area Only	Average Maximum Noise Level (L10) dBA at all times
	50

- B. Noise shall not reach or be of such a nature that it results in the long-term modification of the behaviour of aggregations of marine mammals or birds. Long-term, for the purpose of this standard, means any change in behaviour that is not corrected within 30 minutes and repetitive modifications to behaviour that culminate in more than 60 minutes of response to noise. Modification of behaviour includes any visible flight or flee response to noise – especially movement from a nesting or rearing site but does not include accommodatory responses such as re-orientation to the source of noise; or
- C. The noise is generated by any siren, bell, foghorn or any other device used for navigation and/or warning purposes.
- D. The noise standards established in Table 3 (above) shall not apply within or at the boundaries of the Specific Activity Area established for the exclusive use of Personal Watercraft, as described in Method 3.9.5A of the Regional Coastal Environment Plan for the Gisborne Region.

Provided that:

If the standards and terms are not met then the activity is a discretionary activity.

**Principle reason:** This rule establishes noise emission standards for the Coastal Marine Area that are consistent with the standards established in the District Plan for heritage, amenity, rural and residential areas adjoining the CMA.

#### 4.5.12 RULES FOR EXOTIC PLANTS

- 4.5.12A** ▶ The introduction of exotic plants to an area of the Coastal Marine Area that already contains established plants of that species is a discretionary activity.

Cross-Reference refer to Chapter 2, Chapter 3.7, Chapter 4.6

**Principal reason:** *This rule is necessary to ensure that the possible adverse effects of a new plant being introduced are fully assessed. This rule reflects potential costs that would fall upon the community should the adverse effects be significant.*

- 4.5.12B** ▶ The introduction of exotic plants to an area of the Coastal Marine Area that does not already contain established plants of that species is a non-complying activity.

Cross-Reference refer to Chapter 2, Chapter 3.7, Chapter 4.6, Chapter 4.7

**Principal reason:** *This rule is necessary to ensure that the possible adverse effects of a new plant being introduced are fully assessed. This rule reflects potential costs that would fall upon the community should the adverse effects be significant.*

- 4.5.12C** ▶ Notwithstanding 4.5.12A and 4.5.12B above, the planting of noxious plants or class B target plants within the Coastal Marine Area is a prohibited activity for which no Resource Consent will be granted.

**Principal reason:** *This rule reflects the established costs of introducing these plants and ties this chapter of the plan in with existing statutory documents.*

#### 4.5.13 RULES FOR ACTIVITIES ON THE SURFACE OF THE COASTAL MARINE AREA

- 4.5.13A** ▶ Except as provided for in Rule 4.5.13B, the establishment and use of Specific Activity Areas for the exclusive use of specific types of ships or specific classes of recreational activities on the surface of the sea is a permitted activity for those ships or activities provided that the following standards and terms are met.

Standards and terms:

The use of the Specific Activity Area is required for a period not exceeding 14 days in any one calendar year.

All permissions necessary under the Gisborne District Navigation Bylaws, and any Resource Consents necessary, have been obtained prior to providing written notification to the Council as set out in d) below.

Public notification of the intention to use a Specific Activity Area, including a description of any activity to be undertaken in the area and its timing and duration, and any restrictions imposed on other activities, shall be made at least two weeks prior to the establishment of such an area.

The Council is notified, in writing, of the intention to use an exclusive or semi-exclusive Specific Activity Area. Such notification must occur at least two weeks prior to the use of such an area and shall include:

- i) The name, address, contact phone number and contact person of the group or organisation seeking to use a Specific Activity Area.
- ii) A precise description and chart of the area to be used, and how it is to be marked and patrolled; and
- iii) A statement of the type of activity or class of ship for which the area is to be used and any restrictions on those ships or activities that will be imposed; and
- iv) A statement concerning restrictions on any other ship or activity within the area proposed to be used.
- v) The duration of the event which requires the use of a Temporary Specific Activity Area.
- vi) A summary of the consultation undertaken and the response made to issues raised during the consultation.

Provided that:

If the standards and terms are not met, and the Specific Activity Area proposed is located in waters administered under the Gisborne District Navigation Bylaws, then the establishment and use of Specific Activity Areas is a prohibited activity for which no resource consent can be granted.

(NB: Nothing in this rule may be substituted for or read as a permission under any other Act, Regulation or Bylaw.)

**Principal reason:** *Activities that may exclude or restrict public rights of access and recreational opportunity should be held up to public scrutiny and allowed only if sufficient public consultation has occurred and all other permissions necessary have been obtained.*

**4.5.13B** ▶ A. The establishment and use of Specific Activity Areas for the exclusive use of specific types of ships or specific classes of recreational activities on the surface of the sea, in waters administered under the Water Recreation Regulations 1979, is a permitted activity for which no Resource Consent is required provided that the following standards and terms are met.

Standards and terms:

- a) Any reservation necessary under the Water Recreation Regulations 1979 has been notified in the Gazette, and all Resource Consents necessary have been obtained.
- b) The Hydrographic Office of Land Information New Zealand is notified of the establishment of the Specific Activity Area, including any conditions attached to the Gazetted reservation under the Water Recreation Regulations 1979, prior to its establishment and use, and upon cessation of its use.

- c) The Gisborne District Council is notified in writing by the person or organisation who sought the reservation, of the Gazetted reservation, including any conditions of the reservation, issued under the Water Recreation Regulations 1979.

Provided that:

- i. If Standard and Term a) is not met then the establishment and use of Specific Activity Areas is a prohibited activity for which no resource consent can be granted.
  - ii. If Standards and Terms b) or c) are not met then the establishment and use of Specific Activity Areas is a controlled activity. The Council will restrict its control to setting conditions on the consent requiring notification of the Hydrographic Office of Land Information New Zealand.
- A. This Rule shall cease to have effect after the Water Recreation Regulations 1979 are revoked or after the close of the 31<sup>st</sup> of March 2003, whichever occurs first, and Rule 4.3.13A shall apply.

(NB: Nothing in this rule may be substituted for or read as a permission under any other Act, Regulation or Bylaw.)

**Principal reason:** *Rules in the Regional Coastal Environment Plan must be consistent with Regulations as a matter of statutory interpretation. The establishment of Reserved Areas is provided for in the Water Recreation Regulations 1979. If the establishment of such areas was prohibited under the provisions of the Regional Coastal Environment Plan then the provision would be inconsistent with the Water Recreation Regulations 1979 and Ultra Vires. The Water Recreation Regulations 1979 may be revoked and will cease to exist at the close of the 31<sup>st</sup> of March 2003.*

#### **SPECIFIC ACTIVITY AREA - PERSONAL WATER CRAFT**

**4.5.13C** ▶ Notwithstanding Rule 4.5.13A and any provision of the Gisborne District Navigation Bylaws 1999, the operation of Personal Water Craft within the Specific Activity Area described in Method 3.9.5A and on Map 2B.1 of Appendix 2 to this Plan, without speed restriction and to the exclusion of all other activities, within:

- a) 30 metres of any other personal water craft, or person in the water;  
*and*
- b) 200 metres of the shore.

Is a permitted activity provided that the following standards and terms are met.

Standards and terms:

- a) The area must be marked at all times by signs, marker posts and line-of-site markers according to the standards established by the Maritime Safety Authority for Buoys and Beacons in New Zealand.
- b) Prior to operating, operators of personal watercraft must advise any other person within the area of their presence.

Provided that:

If these standards and terms are not met then the operation of Personal Water Craft to the exclusion of all other activities, without speed restriction, is a prohibited activity for which no resource consent can be granted.

**Principal reason:** *Before a personal watercraft can be operated without speed restriction and to the exclusion of all other activities, the public must be certain about the location of the area within which such craft can be operated without restriction and members of the public recreating within the area should be warned of the impending operation of such craft.*

**4.5.13D** ▶ The use of any ship or the undertaking of recreational activities on the surface of the sea as provided for in the Gisborne District Navigation Bylaws 1999, including swimming, surfing and fishing, within the Specific Activity Area described in Method 3.9.5A and on Map 2B.1 of Appendix 2 to this Plan, is a permitted activity provided that the following standards and terms are met.

Standards and terms:

a) No personal watercraft is operating in the Specific Activity Area.

Provided that:

If standard and term a) is not met then, notwithstanding the provisions of the Gisborne District Navigation Bylaws 1999, the use of any ship or the undertaking of recreational activities on the surface of the sea in the Specific Activity Area is a prohibited activity for which no resource consent can be granted.

**Principal reason:** *When personal watercraft are operating in this area, there is an essential incompatibility with other forms of recreational use. When they are not operating there is no need to restrict other activities beyond the restrictions currently imposed through Navigation Bylaws.*

## 4.6 FINANCIAL CONTRIBUTIONS

### 4.6.1 Introduction

Where the Gisborne District Council grants a resource consent, it may impose a condition requiring that a financial contribution be made for the purposes specified in the Resource Management Act (Section 108).

The term "financial contribution" is defined in section 108(9) of the Act as a contribution of:

- a) Money; or
- b) Land, including an esplanade reserve or esplanade strip (other than in relation to a subdivision consent) but excluding Maori land within the meaning of the Maori Land Act 1993 unless that Act otherwise provides; or
- c) Works, including (but without limitation) the protection, planting or replanting of any tree or other vegetation or the protection, restoration, or enhancement of any natural or physical resource; or

- d) *Services or any combination thereof, made for the purposes specified in the plan (including the purpose of ensuring positive effects on the environment to offset any adverse effect) and which does not exceed in value the maximum amount specified in, or determined in accordance with, the plan.*

Financial contributions may be for various purposes specified in the Plan including the purposes of ensuring positive effects on the environment to offset any adverse effects (environmental compensation), but only where the adverse effects cannot be successfully avoided, remedied or mitigated.<sup>37</sup>

The provisions which follow are intended to reflect the requirements of Section 108(9) of the Act and Clause 5 of Part I of the Second Schedule of the Act and set out:

1. The circumstances when such contributions may be imposed.
2. The purposes for which such contributions may be required and used.
3. The maximum amount of any contribution.
4. Assessment criteria which the Council will have regard to when deciding whether to impose financial contribution, the types of contribution, and the amount of such contributions.

Under s112 of the Resource Management Act, the Crown may also fix charges. Specifically s112 (1) of the Act states:

*In every coastal permit authorising the holder to -*

- a) *Occupy, within the meaning of s12(4), any land of the coastal marine area; or*
- b) *Remove any sand, shingle, shell or other natural material, within the meaning of s12(4), from any such land -*

*There shall be implied a condition that the holder shall at all times throughout the period of the permit pay the relevant regional council, on behalf of the Crown -*

- c) *Where the permit was permitted to be granted by virtue of an authorisation granted under section 161, the rent and royalties (if any) specified in the authorisation held by the permit holder; and*
- d) *Any sum of money required to be paid by any regulations made under section 360(1)(c).*

The Crown has not established any requirements for coastal tenders but has, through the transitional fees provisions of the Resource Management Act regulations prescribed rents for occupying space. Part II of the Resource Management Act (Transitional Fees, Rents and Royalties) Regulations requires the payment of rents to be made in advance and in accordance with requirements of a coastal permit (or at quarterly intervals if not specified). The Regulations specify the following rentals (applying only to Coastal Marine Area owned by the Crown):

- \$1.70 per cubic meter of natural material removed from the Coastal Marine Area - with the Minister for the Environment able to refund if he/she thinks fit.
- \$60 per annum for pipelines used for personal purposes located in the Coastal Marine Area.

<sup>37</sup> Port Gisborne Consent Order 742/00

- \$85 per annum for other pipelines or submarine cables up to 30 meters in length and an additional \$15 per 30 meters thereafter.
- \$425 per annum for any commercial structure other than those already listed - including marine farms, boat buildings, boat repair slipway or other commercial activity.
- \$425 per annum + \$12 per meter of berthage + \$84 for every swing mooring for boat storage facilities catering for more than 10 boats.
- \$60 per annum for non-commercial structures (including mooring or whitebait jetties) less than 14 square metres.
- \$60 per annum or \$12 per metre of berthage for any mooring (whichever is the greatest amount) for moorings.
- \$84 per annum per swing mooring.
- \$115 per annum for non-commercial structures (including mooring or whitebait jetties) greater than 14 square metres but less than 28 square metres.
- \$230 per annum for non-commercial structures (including mooring or whitebait jetties) greater than 28 square metres but less than 56 square metres.
- \$290 per annum for non-commercial structures (including mooring or whitebait jetties) greater than 56 square metres but less than 84 square metres.
- \$425 per annum for non-commercial structures (including mooring or whitebait jetties) greater than 84 square meters.
- The Regulations also prescribe the following fees:
  - \$250 to the Minister of Conservation for an application for a Restricted Coastal Activity.
  - \$1000 to the Minister for the Environment for a Water Conservation Order application.
  - \$100 to Minister of Fisheries for an application for marine farming in the Coastal Marine Area.

As well as these provisions the regulations also stipulate that when a review of a permit occurs that rentals should apply if anticipated by the permit.

In deciding on any financial contribution, the Gisborne District Council will take into account that requiring a contribution may not be appropriate in every case, even where there are adverse effects. Every resource consent application needs to be considered as to the nature and extent of any contribution that may be required, if any.

The Gisborne District Council does not intend that environmental effects should be “fully mitigated” or fully compensated in every case. The “maximum amounts” indicated in this chapter are intended as an upper limit. The actual amount of particular contributions will vary depending upon the circumstances and the application of the criteria outlined above.

## **CIRCUMSTANCES, PURPOSE and MAXIMUM AMOUNT**

Financial contributions may be imposed on any coastal permit in the circumstances and for the purposes set out below. Contributions may be in the form of land, works, services or money or any combination of these. Contributions of money to the Council must be applied for the general purpose for which such contributions were taken.

The following provisions set out circumstances and purposes for which financial contributions may be imposed and used, and the method of calculating the maximum amount of the contribution in each case.

### **4.6.2 ISSUE**

After measures have been taken to avoid, remedy or mitigate the adverse effects of an activity that activity can still have residual adverse effects. Without a mechanism to offset these adverse effects there is potential for either significant cumulative adverse effects to occur, or unreasonable restrictions to development to be imposed.

### **4.6.3 OBJECTIVE**

The remedy or mitigation of adverse effects not practicably avoided, remedied or mitigated by other means through the imposition of conditions requiring financial contributions.

### **4.6.4 POLICY**

**4.6.4A Financial contributions will be imposed on coastal permits or resource consents when the following circumstances occur for the purposes described below:**

#### **4.6.4A2 Public Open Space and Facilities in the Coastal Marine Area**

**Circumstances:** Where the activity, for which a resource consent or coastal permit is granted, occupies or affects any part of the coastal marine area which is or was previously open to the public and contains or previously contained facilities or space used by the public in the coastal marine area.

**Purposes:** To mitigate or compensate for such effects by providing public open space or public facilities on or in the vicinity of the site, or at an alternative location in the Coastal Environment in the same general locality or serving the same general community (including a contribution to any public reserves).

**Maximum Amount:** The full actual cost of providing land, or an interest in land or works or services to provide public open space or public facilities of a reasonably equivalent standard or extent to those which are lost or affected by the granting of the consents.

#### **4.6.4A3 Planting or Maintenance of Coastal Vegetation**

**Circumstances:** Where the activity for which the resource consent or coastal permit is granted will or is likely to result in destruction or damage to vegetation or habitats.

**Purposes:** To mitigate, remedy or compensate for the loss of vegetation by planting, replanting, transplanting or maintaining new or existing plantings either at or adjacent to the site concerned or elsewhere in the same general locality.

**Maximum Amount:** The full actual costs of the works and of providing land, or an interest in land or works or services to provide for planting, replanting, transplanting or maintaining new or existing plantings.

#### 4.6.4A4 Landscaping and Planting

**Circumstances:** Where the activity for which resource consent or coastal permit is granted is likely to cause or contribute to adverse effects on visual amenities and/or involves land clearance or disturbance.

**Purposes:** To reduce the adverse effects of land clearance, land disturbance and structures in the coastal marine area by landscaping or replanting on or adjacent to the site in question.

**Maximum Amount:** The full actual costs of carrying out such works and of providing land sufficient to fully mitigate the adverse effects of the activity.

#### 4.6.4A5 Fencing or Screening

**Circumstances:** Where the activity for which a resource consent or coastal permit is granted is likely to contribute to adverse effects on visual amenities, heritage features or conservation areas.

**Purposes:** To contribute to screening to reduce adverse visual effects or to fencing or screening to protect or separate heritage features or conservation areas.

**Maximum Amount:** The full actual costs of carrying out such works to a standard sufficient to fully mitigate the adverse effects of the activity.

#### 4.6.4A6 Protection, Maintenance or Restoration of Protection Management Areas

**Circumstances:** Where the activity for which a resource consent or coastal permit is granted will or is likely to contribute to adverse effects on any coastal protection area.

**Purposes:** To mitigate or offset such effects by providing for works which protect or restore the values within the protection management area.

**Maximum Amount:** The full actual cost of works reasonably required to fully mitigate or reasonably compensate for such effects.

#### 4.6.4A7 Protection, Maintenance or Restoration of Sites of Historic or Cultural Importance

**Circumstances:** Where the activity for which consent is granted will adversely affect a historic site or one of cultural or spiritual significance to Maori.

**Purposes:** To mitigate or offset such effects by providing for works which protect or restore that site or to offset such effects by contributing to protection, maintenance or restoration or some alternative historic or cultural site elsewhere within the Coastal Environment in the same general locality.

**Maximum Amount:** The full actual cost of works and of purchasing land reasonably required to fully mitigate or reasonably compensate for such effects.

#### 4.6.4A8 Protection, Restoration or Enhancement of Marine Mammal or Bird Sites

**Circumstances:** Where the activity for which a resource consent or coastal permit is granted is likely to cause or contribute to adverse effects on any site identified in Appendix 2 of this Plan as being important to marine mammals or birds.

**Purposes:** To mitigate or offset the adverse effects of the activity by protecting, restoring or enhancing the site, including (without limitation) maintenance and planting of vegetation, fencing, and foreshore protection and including contribution to such measures elsewhere in the same general locality.

**Maximum Amount:** The full actual costs of works and of providing land sufficient to fully mitigate such effects.

#### 4.6.4A9 Protection, Restoration or Enhancement of Seabed and Foreshore

**Circumstances:** Where the activity for which a resource consent or coastal permit is granted is likely to cause or contribute to adverse effects on the seabed or foreshore.

**Purposes:** To mitigate or offset the adverse effects of the activity by protecting, restoring or enhancing the seabed or foreshore, including (without limitation) maintenance and planting of vegetation, sediment replenishment, erosion protection works, fencing, and foreshore protection and including contribution to such measures elsewhere in the same general locality.

**Maximum Amount:** The full actual costs of works to a standard sufficient to fully mitigate such effects.

#### 4.6.4A10 Reduction of Litter

**Circumstances:** Where the activity for which a resource consent or coastal permit is granted is likely to contribute directly or indirectly to littering of the coastal marine area.

**Purposes:** To mitigate or offset such effects by contributing to litter collection facilities, services or signage in the general area of the activity.

**Maximum Amount:** The full actual costs of contributions reasonably required to fully mitigate the effects referred to above.

#### 4.6.4A11 General Mitigation Works

**Circumstances:** Where the activity for which a resource consent or coastal permit is granted will cause or contribute to adverse effects on the environment which will not be adequately mitigated by any of the types of contribution described elsewhere in this section.

**Purposes:** Works on or adjacent to the site for the purpose of avoiding, remedying or mitigating the adverse effects of the activity, including protection, restoring or enhancing natural and physical resources or amenity values elsewhere in the Coastal Environment in the same general locality.

**Maximum Amount:** The full actual costs of providing offsetting positive effects reasonably equivalent in standard, amenity value or environmental value to those amenities or resources which will be lost, compromised or adversely affected.

**4.6.4 B** In deciding whether or not to impose financial contributions, the types of contribution and their value, the Council will have particular regard to the following matters:

- a) The extent to which any adverse effects deriving from the activity can and should be mitigated by way of works carried out on or near the site; or
- b) The extent to which a financial contribution may offset or provide compensation to the community or environment for adverse effects caused or contributed to by the activity and not otherwise avoided, remedied or mitigated by the consent holder.
- c) The extent to which a contribution is required to achieve objectives and policies of this Plan.
- d) In deciding the actual value of the financial contribution required, the Council will have particular regard to:
  - i) The significance of the effects attributable to the activity;
  - ii) Where such effects are contributed to by other activities, the extent to which those effects can be reasonably attributed to the activity for which consent is granted;
  - iii) The extent to which any positive effects of the activity offset any adverse effects.
- e) Financial contributions should relate to the effects of the activity for which consent is granted and be reasonably proportionate to the significance of any adverse effects.
- f) The costs of establishing and conducting the activity.
- g) The necessity for establishing or continuing the activity in the coastal marine area, the availability of alternative locations and the reasons for the activity occurring in the coastal marine area.

#### **4.6.5 ISSUE**

A majority of space of the Coastal Marine Area is owned by the Crown. The Crown has specified fees for the use of this space and these need to be applied if the Crown's interest in that space is to be recognised (applying rentals may also).

#### **4.6.6 OBJECTIVE**

The fair and consistent application and recovery of fees and rentals stipulated in the Resource Management Act (Transitional Fees, Rents and Royalties) Regulations.

#### **4.6.7 POLICY**

**4.6.7A** Fees and rents will be collected from occupiers of the Coastal Marine Area at the rate stipulated in the Resource Management Act (Transitional Fees, Rent and Royalties) Regs, 1991.

## 4.7 INFORMATION REQUIREMENTS

### 4.7.1 Introduction

The purpose of a Consent Authority requiring information from an applicant for a resource consent or coastal permit is to ensure that any decisions made by the Consent Authority are based on adequate information.

s88 of the Resource Management Act requires applicants for a resource consent to supply certain information in respect of the application. The details of exactly what information should be supplied depend upon the particular circumstances surrounding the application.

S92 of the Act allows a Consent Authority to suspend the processing of a resource consent if it believes that further information is required and adverse effects that are more than minor may occur to the environment as a result of the activity to which the resource consent application relates. The Act requires (s67(f)) that this plan should stipulate when the powers of s92 will be invoked and should also state what information is required to be supplied with a resource consent application.

The Resource Management Act places considerable discretion at the hands of Council when determining the adequacy of information supplied. For this reason it is important that applicants consult with staff of the Council for advice on how to prepare an assessment of effects for their application.

#### ***s88 of the Resource Management Act - Making an application***

- (4) Subject to subsection (5), an application for a resource consent shall be in the prescribed form and shall include-
- a) A description of the activity for which consent is sought, and its location; and
  - b) An assessment of any actual or potential effects that the activity may have on the environment, and the ways in which any adverse effects may be mitigated; and
  - c) Any information required to be included in the application by a plan or regulations; and
  - d) A statement specifying all other resource consents that the applicant may require from any Consent Authority in respect of the activity to which the application relates, and whether or not the applicant has applied for such consents; and
  - e) Where the application is for a subdivision consent, the information specified in section 219.
- (5) The assessment required under subsection (4)(b) in an application for a resource consent relating to a controlled activity, or a discretionary activity over which the local authority has restricted the exercise of its discretion, shall only address those matters specified in a plan or proposed plan over which the local authority has retained control, or to which the local authority has restricted the right to exercise its discretion, as the case may be.

- (6) Any assessment required under subsection (4) (b) or subsection (5)-
- a) Shall be in such detail as corresponds with the scale and significance of the actual or potential effects that the activity may have on the environment; and
  - b) Shall be prepared in accordance with the Fourth Schedule.
- (7) Without limiting subsection (4) or section 92, an application for a resource consent for reclamation shall be accompanied by adequate information to accurately show the area proposed to be reclaimed, including its size and location, and the portion of that area (if any) to be set apart as an esplanade reserve under section 246 (3).

#### 4.7.2 Information Requirements

Without limiting any provisions of the Resource Management Act, including the Fourth Schedule of the Act, the following information requirements apply to applications for coastal permits. These should be read in conjunction with Schedule 4 of the Resource Management Act and the relevant chapters of this plan:

##### FOR ALL MANAGEMENT AREAS

Any application for a coastal permit must include:

- 4.7.2A** ▶ A description of the activity to which the permit is sought which must include:
- Details of the applicant including their contact address and phone number; *and*
  - A description of what the application is for including details of major processes and transformations involved in the activity; *and*
  - A description of how supplies and products are proposed to be transported to or from the site and details of other movements associated with the activity; *and*
  - Details of the location of the application which should be based upon a map of at least NZMS 260 series accuracy; *and*
  - A clear photograph or photographs detailing the environment in which the activity will occur.
- 4.7.2B** ▶ An assessment of any actual or potential effects on the environment and the way in which any adverse effects may be mitigated. Any assessment should address issues of risk and cumulative effects as well as effects stemming directly from the activity.
- 4.7.2C** ▶ A statement specifying all other resource consents that the applicant may require from any Consent Authority in respect of the activity to which the activity relates, and whether or not the applicant has applied for such consents.
- 4.7.2D** ▶ Details of any monitoring that is proposed to be undertaken in order to monitor the effects of the activity.
- 4.7.2E** ▶ An application for reclamation shall be accompanied by adequate information to show the area proposed to be reclaimed, including its size and location and the portion of the area to be set aside as esplanade reserve (s246(3) of the Resource Management Act).

**IN RESPECT OF THE PROTECTION MANAGEMENT AREA**

Any assessment in 4.7.2B must detail the actual or potential adverse effects of the activity on values associated with that protection management area.

**IN RESPECT OF THE PORT MANAGEMENT AREA**

Any assessment in 4.7.2B should include details of any adverse effects on the efficiency and effectiveness of Port operations.

The following information may also be required with an application for a coastal permit:

- 4.7.2F** ▶
1. Any possible alternative locations or methods for undertaking the activity and the applicant's reasons for making the proposed choice.
  2. The consultation undertaken by the applicant and the results of that consultation.
  3. The extent to which habitats, feeding grounds, ecosystems or any other values will be adversely affected
  4. The extent to which Tangata Whenua values have been identified and the potential adverse effects of the activity on these.
  5. The way in which adverse effect will be avoided, remedied or mitigated and the effectiveness of this in reducing adverse effects.
  6. The extent to which public access might be affected.
  7. The extent to which navigation and safety issues have been addressed and details of any adverse effects which are more than minor.
  8. The cumulative effects of the activity, including details where appropriate of the extent of other such activities of the same nature.
  9. The extent to which the activity will affect and be affected by natural processes.
  10. Details of notification of other authorities (such as the NZ Hydrographic Office) as required for some activities in this plan.

**IN RESPECT OF THE PROTECTION MANAGEMENT AREA**

In respect of 4.7.2F(1), details of alternatives to locating in the Protection Management Area;  
*and*

In respect of 4.7.2F(3), details of the effects on any communities unique or special to the Protection Management Area.

## IN RESPECT OF THE PORT MANAGEMENT AREA

Details of any adverse effects on the ability of ships to navigate and use the harbour swing basin.

### 4.7.3 Additional Information Requirements

Information may be required in order to assess the effects of activities on the following values:

#### **Value: Natural Character**

- A description of the components of the natural character of the area which may include a description of biota, flora and fauna of the area and the extent of modification of this from a natural state, a description of the landscape units affected by the proposal and how they are affected.
- Where an activity will diminish natural character of the Coastal Environment details of the public benefit of the activity and details of the reasons why existing public or private facilities cannot be utilised.
- Any adverse effects the activity may have on natural character values associated with a Protection Management Area.

#### **Value: Maori Culture**

- A description of consultation undertaken and Maori cultural values identified as threatened for the area to which the resource consent application relates.
- Details of measure taken to avoid remedy or mitigate these and other adverse effects.

#### **Value: Economic, Cultural and Social Well Being**

- Details of the benefits and costs of the project (where appropriate) on likely economic well being of individuals or communities which may include:
  - i. An assessment of the costs of construction and maintenance of structures for at least 30 years; and
  - ii. The values sought to be protected; and
  - iii. An assessment of alternatives.
- Details of the benefits and costs of the project (where appropriate) on the important cultural values of communities or individuals.
- Details of the benefits and costs of the project (where appropriate) on likely social wellbeing of individuals or communities which may include:
  - i. Details of the effects the activity may have on people's leisure activities.
  - ii. Details of the effects the activity may have on people's perceptions of health and safety.
- Actual effects on health and safety.
- Details of effects on amenity.
- Details of existing usage of the area and an assessment of the value of the area for existing uses that may be lost.
- Any assessment should explicitly state assumptions used when calculating costs or benefits associated with risk, discount rates applied and should include an analysis of probable contingencies (sensitivity analysis).

**Value: Habitat and Coastal Processes**

- A description of the general ecology of the area and an outline of important visual elements the activity may adversely affect.
- Details of plants that will be removed, of fauna that will be displaced or destroyed and the effects of this on ecology of the area.
- The effects of any modification to natural systems on water quality of the area.
- The extent to which the activity will diminish open space and the effects this will have on biological communities and peoples perceptions of the value of the Coastal Environment.
- The effect the proposal will have on the transport of materials by dynamic coastal processes and the effects of this on coastal values.
- An assessment of the risk to any structure or investment from coastal processes and the anticipated life of the structure.
- In respect of the introduction of exotic plants, proof that the species planned to be introduced will be compatible with natural ecosystems of the receiving environment; and will be unlikely to adversely affect the ecology of the Coastal Marine Area beyond the immediate area to which it is introduced.

**Value: Water Quality**

- The level of treatment that will occur to discharge in the Coastal Marine Area.
- The extent of use by people of the Coastal Marine Area adjacent to or reasonably affected by the discharge.
- The conservation, natural, cultural and amenity values of the area adjacent to or reasonably affected by the discharge
- Demonstration of the flushing and assimilative capacities of the receiving environment and of the cumulative effects of the discharge.
- Demonstration of the effects of major contaminants of the discharge and of all heavy metals in the waste stream.
- A description of existing water quality, including biological communities and their habitats and, where appropriate, of their sensitivity to any contaminants.
- The effect of the activity on water quality and clarity.
- Details of any possible synergistic effects.
- Details of the solubility, transportability and likely residency times of contaminants, particularly pathogens and toxic compounds.
- The extent to which any adverse effects will impact upon other users of the Coastal Marine Area.
- The quantity and frequency of discharges and any special requirements related to the timing of discharges.
- The effect of the activity on biological communities including the potential to stimulate undesirable biological growth.

**Value: Structures and Unoccupied Space**

- The extent to which any proposed structure will add to the cumulative effects of the proliferation of structures within any one area, and the cumulative effects of the structure regionally.
- The extent to which the appearance of the structure is sympathetic to natural character and amenity values of the area, and the extent to which the structure effects any values of a Protection Management Area.
- The extent to which design and location has taken into account natural hazards and the likely life of the structure having regard to the frequency and return period for hazard events.
- Details of provisions made for sea level rise as set by the IPCC “best estimate” and the likely effects of this rise on the structure.
- The reasons for the structure locating in the Coastal Marine Area as opposed to elsewhere on dry land.
- The physical layout of the structure, including details of waste disposal facilities, moorings, public access points and safety devices.
- The method and type of construction, likely disturbances, timing of disturbances and their frequency.

**Value: Unmodified and Natural Substrates and Flora**

- The effects of any disturbance on plants or fauna and the time it will take for any adverse effects of disturbance to be remedied.
- The visual effects of any disturbance and the time it will take for any adverse effects to be remedied.
- The physical extent and dimensions of any disturbance to the foreshore or bed, and the volume (if any) of materials likely to be lost from the Coastal Marine Area as a result of the disturbance.
- In the case of deposition of material to the Coastal Marine Area - the comparison of particle size and composition between existing and introduced substrates.
- In the case of a reclamation - the necessity of the reclamation.

**Value: Public Access**

- The extent to which the proposal will enhance or restrict public access which may include details of:
  - the extent of current public use
  - alternatives to public access at the point affected
- Where public access is restricted a demonstration of the necessity of the restriction to:
  - protect areas of significant vegetation and/or significant habitats of indigenous fauna; or
  - to protect Maori cultural values; or
  - protect public health or safety; or
  - to ensure a level of security consistent with the purpose of a resource consent; or
  - in other exceptional circumstances sufficient to justify the restriction, notwithstanding the national importance of maintaining that access.

**Value: Peace, Quiet and Natural Background Noise**

- The level of noise emissions that are likely to occur, the frequency of those emissions and the timing and period of emissions.
- A description of any existing noises
- The locality of nearby breeding or roosting animals, or other species likely to be adversely affected by the noise.
- In the case of a possible adverse effect on animal species the likelihood and effects of any noise on those animal species.

**Value: High Quality Air**

- The contaminants the discharge to air contains, the volume of air likely to be discharged and the quantities of contaminant likely to enter the air.
- The nature of dispersal of the contaminants in the air column, the likely residues that will settle out of the air column and the effects of these.
- The visual effects of the discharge to air and its impacts on natural character of the Coastal Environment.

**4.7.4 Invoking S92 Powers**

Further information may be required from applicants if:

- Adequate information is not supplied and is necessary to better understand characteristics of the environment in which the activity will operate.
- Adequate information is not supplied and is necessary to better understand the nature of the activity proposed.
- Adequate information is not supplied and is required in order to understand the effects of the activity on the receiving environment.
- Adequate information is not supplied and is required in order to understand the effects of the activity on the community or individuals.
- The information that is supplied is inaccurate or misleading.