

44 Marsden Point Port Environment Rules

44.1 Introduction

This chapter contains rules governing land uses in the Marsden Point Port Environment. The area and boundaries of this Environment are shown on the Planning Maps and include the land owned by the Northland Port Corporation at Marsden Point.

Road Transport rules and Resource Area rules also apply in this Environment. The Resource Area rules apply only to the areas indicated on the Planning Maps.

44.2 Prohibited Activities

The following activity is a prohibited activity, for which no resource consent shall be granted:

- Use, storage or disposal of radioactive material with an activity exceeding 1000 terabequerels.

44.3 Marsden Point Port Environment - Activity Rule Table

44.3.1 Activities Generally

<p>Any activity is a permitted activity if:</p> <ol style="list-style-type: none"> It does not involve the construction of a residential unit; and The area for retail activity, including display, does not exceed 100.0m² gross floor area; and It does not involve food irradiation; and It is not an activity that is classified as an offensive trade in the Health Act 1956; and It does not result in the construction of any new building, or the extension of an existing building, within 20m of the centreline of a high voltage transmission line (66kV or greater) <p>Note: In order to establish safe clearance distances, consultation with the affected transmission line owner will be necessary where a proposal involves the construction of a new building, or extension of existing building, within 20m of the centreline of a high voltage transmission line.</p>	<p>Any activity that does not comply with a condition for a permitted activity is a discretionary activity if:</p> <ol style="list-style-type: none"> It does not involve the construction of a residential unit; and It does not involve the care of elderly or sick people or the education or care of children. <p>Any activity that does not comply with a standard for a discretionary activity is a non-complying activity.</p> <p>Any activity that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> The use, design and location of the building; and The mature size and location of any associated tree planting; and The degree of compliance with the NZ Electrical Code of Practice for Electrical Safe Distances (NZECP34:2001).
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44.3.2 Hazardous Substances

<p>a) The use, storage or on-site movement of hazardous substances is a permitted activity if it complies with the conditions for permitted activities in Appendix 8; and</p> <p>b) The movement of hazardous substances between sites is a permitted activity if conducted by means of an underground pipeline.</p>	<p>a) The use, storage or on-site movement of hazardous substances is a discretionary activity if it does not comply with a condition for permitted activities in Appendix 8; and</p> <p>b) The movement of hazardous substances between sites is a discretionary activity if conducted by means of an aboveground pipeline.</p>
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44.3.3 Network Utility Services

<p>The following activities related to network utility services excluding electricity infrastructure are a permitted activity:</p> <p>a) The establishment of junction boxes, substations and other equipment cabinets required as part of a utility network that have a height no greater than 2.5m and a ground coverage not exceeding 4.5m²; and</p> <p>b) The establishment of, or extension to, overhead telecommunication lines located on single poles; and</p> <p>c) The establishment of network utility operations for the purposes of wireless communication, or the measurement, collection and distribution of meteorological information, that comply with the rules for Aerials and Aerial Support Structures; and</p> <p>d) The minor upgrading, replacement, removal and maintenance of existing facilities; and</p> <p>e) The establishment of, or extension to, underground network utility services, including gas lines that have a maximum operating pressure not exceeding 2000 kilopascals.</p>	<p>Network utility services that do not comply with a condition for a permitted activity are a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> i. Scale, bulk and form of the installation(s) above ground; ii. Cumulative effects of additional structures; iii. Shading effects; iv. Effects on amenity values; v. Effects on landscape/ streetscape values; vi. Effects on ecological values; vii. Effects on heritage values; viii. Effects on cultural values; ix. Effects on public health and safety; x. Issues of reverse sensitivity.
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44.3.4 Provision of Parking Spaces

<p>Any activity is a permitted activity if:</p> <p>a) Parking spaces are provided in accordance with Chapter 47; and</p> <p>b) No formed parking space is constructed or provided within 2.0m of a road boundary.</p>	<p>Any activity that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> i. Those matters listed in the Chapter 47 Road Transport Rules; ii. Those matters listed in Rule 44.5.5 (Landscaping).
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44.3.5 Traffic Movements

<p>Any activity is a permitted activity if:</p> <p>a) It does not generate more than 200 traffic movements in any 24-hour period, where the activity gains access to a Local Road; or</p> <p>b) The activity complies with Sheet 4 of the Whangarei District Council's Environmental Engineering Standards 2010 where it gains access to a Collector or Arterial Road, or a State Highway.</p>	<p>Any activity that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> i. Parking, loading and manoeuvring requirements; ii. Need for acceleration and deceleration lanes; iii. Location of activity; iv. Type, frequency and timing of traffic; v. Access design, number and location of vehicle crossings; vi. Safety of pedestrians; vii. Efficiency and safety of roads; viii. Traffic safety and visibility; ix. Effects on the amenity of the locality; x. Effects of dust; xi. Need for forming or upgrading roads in the vicinity of the site; xii. Need for traffic control, including signs, signals and traffic islands.
<p>Provided always and notwithstanding the traffic movements requirements in this Rule, if the activity under consideration is a mineral extraction activity and it is located within a Mineral Extraction Area then the traffic movements requirements for that activity will be determined in accordance with the rules in Chapter 64.</p>	

44.3.6 Signs

<p>a) The construction or placement of a sign which is not visible from a public place or neighbouring property(s) is a permitted activity.</p> <p>b) The construction or placement of a sign which is visible from a public place or neighbouring property(s) is a permitted activity if:</p> <ul style="list-style-type: none"> i) The sign is required under health and safety legislation; or ii) The sign is erected by a road control authority for the purposes of traffic control or public safety and it is located within the legal road reserve; or iii) The sign does not obscure any official signs or traffic signals; and iv) The sign is static, and not flashing; and v) If illuminated, the added illuminance (horizontal or vertical) onto any other site measured at the boundary does 	<p>Construction or placement of a sign that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> i. Traffic safety; ii. The visual amenity of the locality.
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<p>not exceed 10 lux at any receiving property boundary or 15 lux at any road reserve boundary; and</p> <p>vi) Where the road has a speed limit of 70 kph or greater, the sign is located so as to provide an unrestricted view to the motorist for a minimum distance of 250.0m;</p> <p>Notes:</p> <ol style="list-style-type: none"> 1. Signs within the legal road boundary, or on road verges and road reserves are regulated by Council Bylaws. 2. Temporary signs, and signs on vehicles are regulated by Council Bylaws. 3. Signs located in public places are regulated by Council Bylaws. 	
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44.3.7 Fences

<p>Any activity is a permitted activity if:</p> <p>a) Fences within 4.5m of the road boundary are no higher than 3.0m.</p>	<p>Any activity that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> i. Effects on amenity values; ii. Effects on visual amenity; iii. Effects on traffic safety; iv. Effects on health and safety.
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44.3.8 Artificial Lighting

<p>Artificial lighting is a permitted activity if either:</p> <ol style="list-style-type: none"> a) The lighting is required under health and safety legislation; or b) The light is a street light, navigation light, or traffic signal; or c) The following standards are complied with <ol style="list-style-type: none"> i. The added illuminance onto any other site measured at the boundary does not exceed 10 lux at any receiving property boundary, or 15 lux at any road reserve boundary; and ii. The artificial light is shielded in such a manner that light emitted by the fixture is projected below a horizontal plane running through the lowest point on the fixture; and iii. The lower edge of the shield, as required by ii) above, is to be at or below the centreline of the 	<p>Any activity that does not comply with a standard for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is limited to:</p> <ol style="list-style-type: none"> i. Orientation, strength, intensity, colour, frequency of flashing of the light; ii. Effects on traffic safety; iii. Positive effects on pedestrian safety; iv. Effect on amenity values.
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<p style="text-align: center;">light source; and</p> <p>d) The light is static, and is not flashing; (except in the case of lighting on vehicles associated with mineral extraction and related activities, or flashing beacons in accordance with the Land Transport Road Use Rule 2004.</p> <p>e) The artificial lighting complies with AS/NZS 1158/1996.</p> <p>Notes:</p> <ol style="list-style-type: none"> 1. If the object or device that contains Artificial Lighting is a sign, then Rule 43.4.5 Signs is solely applicable. 2. See Appendix 15 for illustration of c) (ii) and (iii) above. 	
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44.3.9 Noise (*Deleted – refer to Noise and Vibration Chapter*)

44.3.10 Construction Noise (*Deleted – refer to Noise and Vibration Chapter*)

44.3.11 Vibration (*Deleted – refer to Noise and Vibration Chapter*)

44.3.12 Electricity Transmission Lines (*Deleted 13/01/2014 - refer to Network Utilities Chapter*)

44.3.13 Electromagnetic Radiation

<p>Any activity is a permitted activity if:</p> <p>a) Exposures comply with NZS 2772.1:1999, Radio Frequency Fields Part 1: Maximum Exposure Levels 3 kHz – 300 GHz.</p>	<p>Any activity that does not comply with a condition for a permitted activity is a discretionary activity.</p>
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44.3.14 Outdoor Storage

<p>Any activity is a permitted activity if:</p> <p>a) Outdoor areas of storage or stockpiles of materials or equipment comply with building height, setbacks and daylight angle rules; and</p> <p>b) Outdoor areas of storage or stockpiles of materials or equipment are contained or maintained to prevent the dispersal of dust or airborne contaminants beyond the site; and</p> <p>c) Materials are stored in a way that does not provide a food source for vermin; and</p> <p>d) The best practicable option is adopted to prevent or minimize contaminants from stockpiles</p>	<p>Any activity that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> i. Dust effects; ii. Smell effects; iii. Visual effects; iv. Amenity effects; v. Effects on amenity values; vi. Effects on health and safety; vii. Quality of the stormwater runoff.
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<p>entering watercourses or water bodies.</p>	
<p>Provided always and notwithstanding the requirements in this Rule, if the activity under consideration is a mineral extraction activity and it is located within a Mineral Extraction Area then the outdoor storage requirements for that activity will be determined in accordance with the rules in Chapter 64.</p>	

44.3.15 Aerials and Aerial Support Structures

<p>Aerials and/or aerial support structures are a permitted activity if:</p> <p>a) No dish aerial exceeds a diameter of 2.4m; and</p> <p>b) No aerial and/or aerial support structure exceeds a height of 39.0m; and</p> <p>c) All aerials and/or aerial support structures comply with the relevant building setback and daylight angle requirements for the Environment within which they are located.</p>	<p>Any aerial and/or aerial support structure that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <p>i. The design and external appearance of buildings and structures;</p> <p>ii. Landscape treatment and screening;</p> <p>iii. Site location and layout;</p> <p>iv. Amenity effects, including visual effect and glare;</p> <p>v. Construction materials.</p>
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44.4 Marsden Point Port Environment - Building Rule Table

44.4.1 Building Height

<p>Construction or alteration of a building is a permitted activity if:</p> <p>a) The height of the building does not exceed 20.0m; or</p> <p>b) If the building is a floodlighting tower, chimney, silo, tank, digester, cycling gantry, pipe work, conveying system, crane or other loading equipment, in which case the maximum height is 40.0m.</p>	<p>Construction or alteration of a building that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <p>i. The scale and bulk of the building in relation to the site;</p> <p>ii. The built characteristic of the neighbourhood;</p> <p>iii. The extent to which the effects of the height can be mitigated by setbacks, planting, design or the topography of the site;</p> <p>iv. Effects on landscape values;</p> <p>v. Effects on availability of daylight;</p> <p>vi. Effects on amenity values;.</p>
<p>Provided always and notwithstanding the height requirements in this Rule, if the activity under consideration is a mineral extraction activity and it is located within a Mineral Extraction Area then the building height requirements for that activity will be determined in accordance with the rules in Chapter 64.</p>	

44.4.2 Building Setbacks

<p>Construction or alteration of a building is a permitted activity if the building is set back at least:</p>	<p>Construction or alteration of a building that does not comply with a condition for a permitted activity is a restricted</p>
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<p>a) 10.0m from road boundaries, or any building line restriction shown on the Planning Maps; and</p> <p>b) 3.0m from other boundaries.</p> <p>Note:</p> <p>1. This Rule does not apply to harbour-related structures (wharves, associated loading/unloading structures or buildings), pipelines, conveyors, track ways or other transport infrastructure or related buildings or structures, which must, of necessity, be sited within this area.</p> <p>2. The provisions of Rules 58.2.6 and 59.2.3 also apply to building setbacks.</p>	<p>discretionary activity.</p> <p>Discretion is restricted to:</p> <p>i. The outlook and privacy of adjoining and adjacent properties;</p> <p>ii. Shading of adjoining properties.</p>
<p>Provided always and notwithstanding the setback requirements in this Rule if the activity under consideration is a mineral extraction activity and it is located within a Mineral Extraction Area then the building setback requirements for that activity will be determined in accordance with the rules in Chapter 64.</p>	

44.4.3 Building Setbacks from Water Bodies

<p>Construction or alteration of a building is a permitted activity if the building is set back at least:</p> <p>a) 27.0m from Mean High Water Springs, except in the port areas specified in Appendix 5; or</p> <p>b) From the top of the bank of any river that has a width of less than 3.0m or a lake under 8ha</p> <p style="margin-left: 20px;">i) 5.0m where the dominant slope is less than 8 degrees;</p> <p style="margin-left: 20px;">ii) 10.0m where the dominant slope is greater than 8 degrees but less than 15 degrees;</p> <p style="margin-left: 20px;">iii) 20.0m where the dominant slope is more than 15 degrees; or</p> <p>c) 27.0m from the top of the bank of a river equal to 3.0m or more in width, any lake over 8ha in area or any river identified in Appendix 5 as an Esplanade Priority Area; or</p> <p>d) 5.0m from the top of the bank of all other water bodies unless an esplanade reserve already exists, in which case a 5.0m setback from the edge of the landward side of the esplanade reserve shall apply.</p> <p>Note:</p> <p>The provisions of Rules 58.2.6 and 59.2.3 also apply to building setbacks.</p>	<p>Construction or alteration of a building that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <p>i. The continued availability of land in Esplanade Priority Areas;</p> <p>ii. Effects on natural character;</p> <p>iii. Effects on natural functioning of an ecosystems;</p> <p>iv. Effects on landscape values;</p> <p>v. Effects on heritage values;</p> <p>vi. Effect on public access;</p> <p>vii. Effect on river maintenance and hazards;</p> <p>viii. The protection of the conservation, ecological, recreation, access and hazard mitigation values of land in Esplanade Priority Areas and existing esplanade reserves or strips;</p> <p>ix. The suitability of the proposed location of the building on the site.</p>
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44.4.4 Building Daylight Angles

<p>Construction or alteration of a building is a permitted activity if:</p> <p>a) Any building on a site adjacent to any Living or Open Space Environment does not penetrate the building daylight angles defined in Appendix 11, measured from the Environment boundary.</p>	<p>Construction or alteration of a building that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> i. The available daylight to adjoining properties; ii. The privacy of the adjoining properties; iii. Effects on shading; iv. Effects on amenity.
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44.4.5 Landscaping

<p>Construction of a building, or site redevelopment, is a permitted activity if:</p> <p>a) All land within 4.0m of the road boundary, other than accesses, is planted in trees or shrubs sufficient to create a visual screen between the road and the site, to a height of at least 2.0m; and</p> <p>b) The whole of the building setback area adjoining Blacksmiths Creek is landscaped; and</p> <p>c) The planting is completed within 6 months of occupation of the building, or completion of the site redevelopment, and is maintained continuously thereafter.</p>	<p>Construction of a building, or site redevelopment, that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> i. Effects on neighbours; ii. Amenities of locality; iii. Alternative means of landscaping or screening.
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44.4.6 Coastal Minimum Floor Level

<p>Construction or alteration of a building or structure is a permitted activity if:</p> <p>a) There is a minimum floor level of 2.5m above One Tree Point Datum Mean Sea Level 1964.</p>	<p>The construction or alteration of a building, or structure that does not comply with a condition for a permitted activity, is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> i. Construction or alteration of a building or structure in relation to its location; ii. The avoidance, remediation or mitigation of coastal hazards; iii. Floor level in relation to One Tree Point Datum Mean Sea Level 1964
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44.5 Principal Reasons for Rules / Explanations

Prohibited Activities

The level of radioactivity stated as a prohibited activity allows for use of household smoke detectors and similar levels of radioactivity, but does not allow for large installations, as this is not seen to be appropriate in the Marsden Point Port Environment.

Activities Generally

The Marsden Point Port Environment needs to provide an environment in which port-related industry can function effectively, and which ensures that public health and safety is not compromised by inappropriate location of sensitive activities.

Hazardous Substances

Hazardous substances have the potential to adversely affect public safety and the physical environment. However, as the Marsden Point Port Environment caters for transshipment of goods (which may include hazardous substances), it is necessary to make appropriate provision for these substances to be used, stored and transported safely.

Provision of Parking Spaces

The activities provided for in the Marsden Point Port Environment will generate a need for parking by staff, visitors and traffic associated with the operation of the port activities. The standards set out in Rule 44.4.3 are intended to ensure that the reasonable parking requirements of activities are provided for on-site, thereby preserving the safety and amenity of the roading system within the Marsden Point Port Environment, and the convenience of staff and visitors.

Traffic Movements

Significant increases in traffic movements can result in adverse effects due to loss of amenity, reduction in safety and efficiency, and noise, dust, odour and parking difficulties. The rule recognises that there is a hierarchy of roads, and requires an overview by Council of the traffic effects of activities on roads intended to have, and designed for, lower traffic volumes.

Signs

The restrictions imposed by the rule apply only to flashing, moving or illuminated signs, as signs of this kind can adversely affect the visual amenity and traffic safety in this Environment. Other signs are not controlled by the rule, and therefore can be erected, as of right.

Fences

It is recognised that fences are necessary for security purposes and the rule provides for fences to be erected. However, high fences near the road can detract from amenity values and reduce the feeling of open space.

Artificial Lighting

The rule is to prevent unreasonable levels of light spilling onto neighbouring properties. Different levels are specified for light received on-site within the Port Environment, compared with sites within the Living Environment. This recognises the sensitivity of areas containing dwellings.

Outdoor Storage

The storage of materials outside can have adverse visual effects. The rule recognises that the amenity value of the area can be adversely affected if storage of materials exceeds the maximum height, setbacks and daylight angle rules that are imposed on buildings. Given the nature of this Environment, it is likely to be the storage of materials, rather than buildings, which will be the main potential cause of loss of amenity.

Aerials and Aerial Support Structures

The size and location of aerials and aerial support structures is controlled due to the visual intrusion or dominance that aerials and aerial support structures can have. Chapter HH of the Plan also seeks to control the visual impact that aerials and aerial support structures can have on Built Heritage.

Building Height

The general building height is limited to a scale considered acceptable in this Environment. The permitted activity standard allows some flexibility to accommodate individual circumstances, by providing that certain parts of buildings or structures such as floodlighting towers, chimneys, silos, tanks, digesters, cycling gantry, pipe work, conveying systems, cranes and other loading equipment are permitted to a height of 40.0m. This is to accommodate those structures that are necessary for port activities. Buildings which exceed the permitted activity height restrictions require further assessment as to their suitability, and a resource consent will be required.

Building Setbacks

The required front yard setback is designed to maintain the existing streetscape, and to maintain a degree of spaciousness in an area. Other setbacks are to provide adjacent properties with some protection from the bulk of buildings in close proximity, and also to assist in the provision of open space between sites. The setback from Blacksmiths Creek is necessary in order to protect the sensitive natural environment of this area.

Coastal Minimum Floor Level

Coastal flooding is a hazard that needs to be addressed, and this hazard is not restricted to those areas covered by the coastal hazard areas. By ensuring that the floor levels of structures and buildings is at least 2.5m above One Tree Point Datum Mean Sea Level 1964, this risk will be significantly reduced. The 2.5m will take into account a rise in sea level of 0.5m, plus the instances of a spring tide and the surges associated with coastal storms.

Daylight Angles

The daylight angles are set to provide a reasonable amount of protection of daylight to a site from buildings on adjacent sites. This rule only applies to those industrial activities that are situated at the boundary of any Living or Open Space Environment.

Landscaping

This rule is to ensure activities maintain a high standard of amenity, and to mitigate the adverse visual effects of expanses of tarmac, parking spaces, yards and storage areas.

Revision and Sign-off Sheet

Date Approved	Editor	Paragraph	Change Reference	Decision Date	Approved By
27 June 2007	FP	44.4.3	Deletion of references to sections of Chapter 47		PW
29 October 2007	FP	44.4	This paragraph should be Heading 3 and read 44.4.1.		PW
5 November 2007	FP	44.3.4	Insertion of hyperlink to Plan Change 41 Signs.		PW
11 July 2008	FP	44.3.6	Plan Change 41 Signs after Council decision	ES 9 July 2008	PW
11 July 2008	FP	44.3.8	Plan Change 42 Artificial Lighting after Council decision	ES 9 July 2008	PW
11 December 2009	FP	44.5.3	Plan Change 98 Setbacks from Water Bodies	Operative Date 12 January 2010	NW
14 September 2010	FP	Reference to Chapter 2.3.3	Plan Change 106 consequential changes, this provision no longer exist.	Record 10/96471	NW
12 September 2012	LB	44.3.5	Plan Change 123B Referencing of EES 2010 Consequential Changes.	Operative Date 25 September 2012	NW
11 December 2013	MD	44.3.3 44.3.12 44.5	Plan Change 123A consequential changes 'Electricity Infrastructure'.	Operative Date 13 January 2014 TRIM 14/4071	NW
11 May 2016	TB	44.3.9 44.3.10 44.3.11	Deletion of Rules as a result of Plan Change 110 becoming operative.	Operative Date 24 May 2016 TRIM 16/52692	MM
14 September 2016	JM	44.3.15 44.5	Plan Change 124 becoming operative.	Operative date 28 September 2016 TRIM 16/106480	MM

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