

IN THE ENVIRONMENT COURT
AT AUCKLAND

I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU

Decision [2026] NZEnvC 263

IN THE MATTER OF

an appeal under clause 14 of the First
Schedule of the Resource Management
Act 1991

BETWEEN

CHANNEL INFRASTRUCTURE NZ
LIMITED

(ENV-2025-AKL-031)

Appellant

AND

WHANGĀREI DISTRICT COUNCIL

Respondent

Court: Judge J A Smith
Commissioner S C Myers

Hearing: 8 October 2026
Last case event: 8 October 2026

Appearances: C H Simmons and C N Todd for Channel Infrastructure NZ
Limited
S T Shaw for the Whangārei District Council, and as agent for
Patuharakeke Te Iwi Trust Board
M J Doesburg for the Northland Regional Council

Date of Decision: 12 October 2026

Date of Issue: 12 October 2026

RECORD OF ORAL DECISION OF THE ENVIRONMENT COURT



The Court allows the appeal in the terms set out in **Appendix A** of this decision.
Subject to the provisions of Appendix A, the appeal is otherwise dismissed.

B: There is no issue as to costs.

REASONS

Introduction¹

[1] This hearing relates to an appeal by Channel Infrastructure NZ Limited (**Channel Infrastructure**) against part of the decision of Whangārei District Council (**the Council**) on Proposed Plan Change 1: Natural Hazards (**PC1**) to the operative Whangārei District Plan.

[2] The appeal by Channel Infrastructure sought the following relief:

- (a) the PC1 provisions do not apply within Precinct 6 Marsden Point Energy Precinct (**PREC6**);
- (b) bespoke, site-specific natural hazard provisions be included in PREC6 to manage natural hazards; and/or
- (c) such consequential and/or alternative relief as may be necessary or appropriate to resolve its concerns.

[3] The Northland Regional Council (**NRC**) and Patuharakeke Te Iwi Trust Board (**Patuharakeke**) joined the appeal under s 274 of the Resource Management Act 1991 (**RMA**) as interested parties.

[4] Following comprehensive discussions, the parties reached full agreement to resolve the appeal in its entirety. On 29 July 2026, a joint memorandum with a draft consent order was filed with the Court.

[5] By Minute, the Court directed that the appeal be set down for hearing due to the complexity of the issues and on the basis that the appeal related to significant and nationally important infrastructure.

¹ This is a written record of an oral decision delivered on 8 October 2026. The Court has made changes to improve grammar and expression but not to matters of substance.

Background

[6] Channel Infrastructure owns and operates the Marsden Point Import Terminal (**the Import Terminal**) and the Ruakākā to Auckland Pipeline (**RAP**), a 170-kilometre-long high-pressure fuel pipeline. It occupies the site of the former Marsden Point refinery and utilises some of the assets that were formerly used by that entity.

[7] The Import Terminal occupies a coastal site at Marsden Point at the entrance to the Whangārei Harbour. The site is zoned Heavy Industrial Zone in the District Plan and is subject to the site-specific provisions of PREC6.

[8] PREC6 supports all activities that are related to the current and reasonably foreseeable future function of the site, and provides a permitted activity pathway for Marsden Point Energy Precinct (**MPEP**) Activities. Those activities are defined in the Operative Plan to include those associated with production, import, refining and/or distribution of energy products.

[9] There is no dispute that the Import Terminal is a major national infrastructure resource and both the Import Terminal and the RAP are identified as regionally significant infrastructure.

Channel Infrastructure's position on PC1

[10] In short, Channel Infrastructure's position is that PREC6 anticipates heavy industrial use, including MPEP activities and development at the site, notwithstanding its coastal location.

[11] In their view, there is a functional and operational need to locate this infrastructure at the site, adjacent to a natural deepwater harbour and jetty.

The proposed resolution

[12] The parties engaged in extensive negotiations to resolve the appeal, and the approach eventually adopted was somewhat different to that noted in the appeal. Rather than removing the natural hazard mapping from the site, the proposed

resolution retains the notified PC1 mapping but inserts a bespoke site-specific regulatory framework into PREC6.

[13] Essentially, it proposes that the energy activities be enabled within PREC6 through permitted and controlled pathways, provided they do not establish new vulnerable activities and do not create or exacerbate particular risks beyond the site. Originally, this related to sites beyond PREC6 but, as will be clear later, that position has now changed.

[14] We summarise the intent as follows from the parties' memorandum:²

The key PREC6 amendments agreed are:

- A permitted activity pathway for the operation, maintenance and repair, replacement and minor improvement of existing infrastructure, buildings and major structures associated with MPEP Activities within mapped hazard areas;
- A permitted activity pathway for underground infrastructure not in an area of moderate susceptibility to land instability hazards or coastal erosion.
- A permitted activity pathway for infrastructure, buildings and major structures within bunded areas (as shown on the precinct plans), where confirmation is provided that the bunds are maintained in a condition to impound water.
- A permitted activity pathway for new infrastructure, buildings and major structures used for MPEP Activities within a flood hazard area, coastal flooding hazard areas 0 – 2, or areas of moderate susceptibility to land instability hazards provided the activity does not create a new vulnerable activity and does not create or exacerbate a significant natural hazard risk outside of PREC6;
- A controlled activity pathway for new infrastructure, buildings and major structures used for MPEP Activities within an area that is mapped as a coastal erosion hazard area 0 – 2 provided the activity does not create a new vulnerable activity;
- A restricted discretionary activity status where the above permitted and controlled activities cannot be achieved.
- Exemption from district-wide PC1 rules for infrastructure, buildings and major structures used for MPEP Activities that are managed by the new bespoke rules; and
- Application of the district-wide PC1 rules for any activity that is not managed by the PREC6 rules or is not an MPEP Activity.

² Joint memorandum of parties in support of draft consent order dated 28 July 2026 at [20].

- New PREC6-REQ 1 Information Requirement for natural hazard consent applications requires evidence of engagement with Patuharakeke.

[15] For reasons which we will go into in due course, the outcomes achieved have been slightly changed, but the major thrust of the appeal are still maintained in the form now before the Court.

Evidence

[16] The matter proceeded at the hearing by way of joint evidence supplied by the parties and agreed by NRC in broad terms.

[17] Given the Court was the only party that had questions, at least initially, the evidence was subject to questions from the Court. We want to thank the witnesses for their full and frank assistance to the Court.

[18] There were three forms of evidence:

- (a) from a senior company representative, which was not the subject of any questions by the Court or anyone else and is accepted;
- (b) the water engineering evidence initially given by Ms Paice. Mr Seyb replaced Ms Paice at the last minute due to some personal issues, but he was her peer reviewer in respect of her evidence prepared; and
- (c) planning evidence was given by Mr Masefield and Mr Burgoyne.

The terminal

[19] The first issue that the Court discussed with Mr Seyb was the question of the terminal area. This is shown on an exhibit, attached hereto as **Appendix B**. It consists largely of the area containing the bunds and the various storage items, including the large ponds for distribution of stormwater and other water.

[20] The concern relates to ongoing and increasing levels of flood and inundation hazard. Mr Seyb, in answer to direct questions from the Court, was satisfied that the

existing pond and drainage system, consisting of two drains and two major ponds, was satisfactory for the operation of the site into the future.

[21] This was based in part upon the fact that any liquid contained in the bunds would need to be checked before it was discharged to the ponds. If it was found to be water without contaminants, it could be discharged to the ponds and thereafter to the sea, as other waters. But where it was contaminated, it was clear that arrangements were already in place, if necessary, to remove that where required.

[22] We accept that there is a human element to this control on site, but it continues a long history of operation over the site for at least 60 years.

[23] We want to mention here that the Judge dealt with a prosecution related to firefighting materials from a firefighting exercise which contaminated one of the ponds and then went to the harbour. That was unrelated to either storm or flood water. The prosecution is not relevant to the issues we are discussing here. What it does show, however, is that this system, like most of these systems in the world, are heavily reliant on human training, vigilance, and adherence to safety requirements. That remains unchanged.

[24] What was clear is, even on the most extreme event that we could put to Mr Seyb, which was a 2.3 metre RL rise for a 1% AEP coastal flood level, with a sea level rise by the year 2110 of 1.2 metres, and an inundation of the site, which largely has a ground level of three metres RL, (in other words it would be some half a metre underwater in places), he was satisfied:

- (a) that the dune structure was generally over four metres around the site and would provide some protection:
- (b) that the RL level at the top of the bunds was around five metres and therefore the bunds themselves would be well protected; and
- (c) that the flooding period would only be over peak tide and it would drain quickly as soon as the tide turned.

[25] Mr Seyb did not consider that the two drainage ponds would be compromised, in part because of the valve system that it operates on.

[26] Overall, we are satisfied that in the worst-case scenario, water over the terminal site might get to 300-500 millimetres deep, but would only be over a short period without compromising the infrastructure.

[27] Given the low velocity of water, Mr Seyb did not consider that there would be any erosion or damage to the infrastructure. We agree. This also assumes that no further protective works occur in the meantime, and we are talking about a period of another 70 years.

Bercich Drain

[28] In relation to the Bercich Drain, Mr Seyb noted that the drainage from the Marsden Solar site, which is the main drain into the site, appears to have now had an attenuation dam installed. He is confident that the drain will continue to deal with water from outside the site and from the limited water that is put into the drain from on site. He noted that only a very small proportion of the terminal site water relies on that drain.

[29] Overall, we are satisfied that even under a worst-case scenario, any inundation in this area would be temporary and drain through the Bercich Drain after peak tide.

Planning evidence

[30] Joint evidence was offered to the Court in relation to planning matters.

[31] We note that the Planners were agreed that there were objectives and policies of the plan which were directly relevant:³

Relevant PC1 objectives and policies

4.7 The PC1 decision version Natural Hazards Chapter includes several

³ Joint statement of evidence of Blair Taylor Masfield on behalf of the Appellant and Robert Adam Burgoyne on behalf of the Respondent dated 11 September 2026 at [4.7] – [4.9].

objectives that are directly relevant to the agreed provisions. In particular:

- (a) NH-O1 seeks that risk associated with natural hazards and their impacts on people, property, communities, infrastructure, electricity, infrastructure, and the environment are identified, assessed and managed;
- (b) NH-O2 seeks to manage, and where appropriate avoid, subdivision, land use, and development, particularly vulnerable activities, in areas subject to natural hazards;
- (c) NH-O3 seeks that natural hazard risk to existing development is not increased and that measures to reduce risk are encouraged where appropriate;
- (d) NH-O4A enables the operation, maintenance and repair, and minor upgrading of existing infrastructure and electricity infrastructure in areas subject to natural hazard risk; and
- (e) NH-O4B enables new or modified infrastructure and electricity infrastructure, particularly regionally significant infrastructure and critical infrastructure, in areas subject to natural hazard risk where risks are appropriately managed and infrastructure is appropriately designed.

4.8 In our opinions, NH-O4A and NH-O4B are particularly relevant to this appeal. They confirm that the PC1 framework is not intended to prevent infrastructure from locating or continuing to operate in natural hazard areas. Rather, the framework recognises that infrastructure may need to locate in those areas, provided risk is appropriately managed.

4.9 PC1 also contains several policies that are directly relevant. In particular:

- (a) NH-P2 requires assessment of natural hazard risk by a suitably qualified and experienced person prior to subdivision and, where appropriate, prior to use and development. It requires consideration of likelihood and consequences, uncertainty, activity type, risk transfer, and measures to avoid, mitigate or reduce risk;
- (b) NH-P3 directs that natural hazard risk be minimised, with consideration of the nature, frequency, and scale of hazards, risks within and beyond the site, location and design, vulnerable activities, the ability to adapt long-term changes, and whether there is a functional or operational need for the activity to be in the location;
- (c) NH-P4 supports risk reduction by directing vulnerable activities to locations that minimise risk, implementing risk reduction measures where appropriate, locating and designing development so that hazard risk is not transferred to or increased for other properties, and requiring measures to reduce risk at the time of redevelopment or land use change;
- (d) NH-P7A enables the operation, maintenance and repair, and minor

upgrading of existing infrastructure and electricity infrastructure on land identified as susceptible to natural hazards;

- (e) NH-P7 provides for new infrastructure and electricity infrastructure on land identified as susceptible to natural hazards where there is a functional or operational need to locate in that location, the location is the most appropriate to service community needs, the infrastructure has been designed with consideration of resilience, integrity and function during a natural hazard event, risks area reduced to the greatest extent practicable, and long-term effects have been considered;
- (f) NH-P9 seeks to ensure that new subdivision and development on land subject to flood hazards does not increase adverse effects on people, property, and the environment, including by not exacerbating or creating a flood hazard for other properties;
- (g) NH-P11 recognises that some land uses, including non-habitable buildings, infrastructure, and industrial land uses, can be resilient to flooding events and can be carried out in flood hazard areas;
- (h) NH-P14 seeks to minimise coastal hazard risk in areas with existing development and land use; and
- (i) NH-P15 recognises that some land uses, such as infrastructure and non-habitable buildings, are resilient to the adverse effects of coastal hazards and can be carried out in coastal hazard areas.

[footnotes omitted]

[32] We agree with the above assessment. We agree that a balanced approach to these objectives and policies is required.

[33] Given the importance of infrastructure recognised in the Plan and the lack of residents living on the site and immediately adjacent to it, we have concluded that the Plan seeks to avoid the introduction of vulnerable activities. The infrastructure in PREC6 is important. While PC1 does not seek to address all effects and risks, it is still concerned to avoid high and very high risks to both people on and off-site and to the infrastructure itself. We refer in particular in this regard to Appendix 1: Risk matrix of the National Policy Statement for Natural Hazards 2025 (**NPSNH**) and its categorisation of high and very high within that matrix.

[34] In our view, we conclude that this balances the need to allow the infrastructure to operate and improve against the risks to the wider community and environment. It is intentionally a high threshold before it will interfere with the operation of the

PREC6 area. We conclude that is entirely envisaged by the PC1 itself.

[35] The provisions that were provided to us are largely acceptable. Our major concern and the clarifications we have made related to how high and very high risks are identified and dealt with in terms of these provisions.

[36] Proposed PREC6-R7(3) provided that for new or existing infrastructure in banded areas and generally within MPEP Activities, there are controls which identified them as separate items, subject to two requirements for permitted activity status:

- (a) that the infrastructure, building or major structure does not create or contain a vulnerable activity; and
- (b) a statement to Council at least 20 working days prior to commencement of any applicable works that the bund is maintained in condition to impound water.

[37] Proposed PREC6-R7(4) provided, that the new or existing infrastructure, building or major structure is used for MPEP Activities, and:

- (a) the infrastructure, building or major structure does not create or contain a new vulnerable activity; and
- (b) a statement is provided by a Chartered Engineer certifying to Council, at least 20 working days prior to commencement of any applicable works, that the infrastructure, building or major structure will not create or exacerbate a significant risk from natural hazards on a site outside PREC6.

[38] An advice note was then required, because of the use of the word 'significant risk', to say:

A method to determine Significant risk is where the change in risk to a site outside PREC6 from the new building or major structure will result in High or Very High Risk using the risk matrix and tables in Appendix 1 of the National Policy Statement for Natural Hazards, 2025.

[39] This approach proved somewhat problematic to the Court.

The agreed solution

[40] Attached hereto as **Appendix C** is the original wording proposed by the parties. If that is compared with Appendix A, which are the provisions that this Court will be approving, it can be seen that the changes, although minor, do have relevance.

[41] The Appellant clearly has considered our concerns and discussed these with the other parties. While Channel Infrastructure pointed out that there are other regulatory and other requirements that would achieve the same outcomes, they agreed with the amendment. Certification by a Chartered Professional Engineer could be general rather than just concerning off-site effects.

[42] Our view is that the difference in workload for the Chartered Engineer would be negligible. A core concern of any design is to avoid risk to people or the environment. Accordingly, we do not consider it as onerous to achieve but provides greater clarity that it is not intended that high or very high risks would be contemplated. We conclude that the provision should be extended to certify that any infrastructure, building or major structure will not create, or in the case of existing infrastructure, exacerbate effects so that they are high or very high under the risk matrix of the NPSNH.

[43] The provisions that have now been provided to us (attached hereto as **Appendix A**) have simplified the structure of PREC6-R7. The question of whether an area is banded or not has now been abandoned because essentially a new or existing infrastructure, building or major structure, whether in the banded area or not, cannot contain a vulnerable activity. It must have a statement that it is not assessed as high or very high on the basis of the NPSNH risk matrix and tables.

[44] In our view that creates a much simpler system and also has the added advantage that we avoid the somewhat tenuous advice note that was added which put a gloss upon the NPSNH in relation to the word 'significant risk'.

[45] In that regard Mr Doesberg was anxious to remind us that significant risk does have a definition in the NPSNH which does not help and could create, in our view, significant confusion in due course.

Conclusion

[46] By direct reference to the NPSNH risk matrix, we are satisfied that we have clarity. We actually achieve what seems to be unwritten within this document anyway, that it is not intended to create new major risks to either life or the environment itself. When viewed in that way we conclude that the provisions are clear.

[47] They provide a clear path for consent, and they also provide a clear path for permitted activities. The majority of activities that would occur on the site would be intended to be permitted, some controlled, but it would seem unlikely that any would fall within the restricted discretionary criteria. We conclude that the objective of this area, which is to provide for energy precinct activities, will be better achieved by these provisions.

[48] A brief analysis was undertaken by the Planners in relation to the earlier wording under s 32AA RMA. For the reasons we have described we consider these provisions are even better and clearer at achieving the objectives, namely that the precinct is empowered to undertake work on its infrastructure both to maintain and improve it, and to add new energy related activities where those become appropriate, provided we do not achieve a high or very high risk outcome.

[49] We are satisfied that these provisions represent the intent of PC1. They achieve the objectives for the precinct and in our view are clear, certain, and enforceable. They leave little room for argument as to the meaning of words given the reliance upon the National Policy Statement.

Final comments

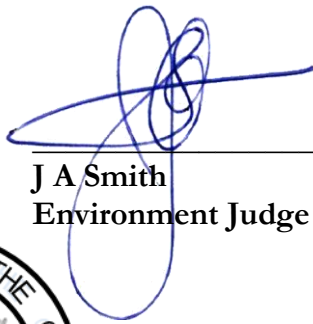
[50] I wish to thank counsel for their assistance and particularly the witnesses for their clarity in responses to us. Given the importance of this type of infrastructure we

are pleased that we have held the hearing because we have achieved a better outcome and clearer provisions which will be more easily workable for both the Council and Channel Infrastructure.

[51] The Court allows the appeal in the terms set out in Appendix A of this decision. Subject to the provisions of Appendix A, the appeal is otherwise dismissed.

[52] There is no issue as to costs.

For the Court



J A Smith
Environment Judge | Kaiwhakawā o te Kōti Taiao



Appendix A

The new provisions resolving the Channel Infrastructure appeal are to be inserted into the Part 3- Area Specific Matters – Heavy Industrial Zone, existing Marsden Point Energy Precinct (PREC6). These changes are shown as underlined text.

Issues

The Marsden Point Energy Precinct (MPEP) applies to the land and activities at Ralph Trimmer Drive, Ruakaka and identified as PREC6 on the District Plan maps. The Marsden Point Energy Precinct permits all activities that are related to the current and reasonably foreseeable future function of the site as an energy precinct supplying New Zealand's energy needs. Thus, in addition to the day-to-day running of the fuel import and distribution terminal, the Marsden Point Energy Precinct provides for the needs of staff and visitors, as well as people and communities in the District, including by adapting to changing technological, operational, economic, environmental and social conditions.

Objectives

PREC6-O1 Regional Significance

Recognise and provide for the regionally significant infrastructure within Marsden Point Energy Precinct, as identified in the Regional Policy Statement for Northland.

Policies

PREC6-P1 Refinery Functioning

To enable the operation, maintenance and upgrading of the Marsden Point Energy Precinct by providing for a range of activities associated with the production, import, refining and/or distribution of energy products.

Rules

PREC6-R1 Marsden Point Energy Precinct Activities

Activity Status: Permitted

PREC6-R2 Building and Major Structure Setbacks

Activity Status: Permitted

PREC6-R3 Building Height

Activity Status: Permitted

Where:

1. All buildings shall comply with HIZ-R3.

PREC6-R4 Major Structure Height

Activity Status: Permitted

Where:

1. The major structure exists at 15 July 2020 and following the alteration or replacement works, its height is not materially increased; or
2. The maximum major structure height is:

- a. 20m above ground level; or
 - b. 40m above ground level provided that no more than 25% of the net site area is occupied by buildings and major structure that exceed 20m above ground level; or
3. The construction of up to three additional columns to those existing at 15 July 2020 are constructed to a maximum height of 56m above ground level; or
 4. The construction of one additional furnace stack to that existing at 15 July 2020 is constructed to a maximum height of 75m above ground level; or
 5. The alteration or replacement of the flare stack that exists at 15 July 2020 does not exceed a maximum height of 130m above ground level.

Activity Status when compliance not achieved: Restricted Discretionary

Matters of discretion:

1. The effects of the bulk and location of the building or structure.
2. The effects on Cultural Values, High or Outstanding Natural Character, Outstanding Natural Landscapes and Outstanding Natural Features.
3. The operational and safety requirements for the structure.

PREC6-R5 Boundary Landscaping

Activity Status: Permitted

Note:

1. *This means that no activity within PREC6 shall require boundary landscaping.*

PREC6-R6 Lighting: Artificial Lighting Associated with Marsden Point Energy Precinct Activities

Activity Status: Permitted

PREC6-R7 Infrastructure, Buildings and Major Structures within a flood hazard area, coastal flooding hazard area 0 – 2, or areas of moderate susceptibility to land instability hazards

Activity Status: Permitted

Where:

1. Operation, maintenance and repair, replacement, or minor improvements to, existing Infrastructure, Buildings or Major Structures for Marsden Point Energy Precinct Activities, provided that;
 - a. a new vulnerable activity is not created; and
 - b. any replacement Infrastructure, Buildings and Major Structures occupy a similar area; or
2. The new or existing infrastructure is used for Marsden Point Energy Precinct Activities, is underground and is not in or partly in, an area of moderate susceptibility to land instability hazards; or
3. The new or existing Infrastructure, Building or Major Structure is used for Marsden Point Energy Precinct activities; and
 - a. The Infrastructure, Building or Major Structure does not create or contain a new vulnerable activity; and
 - b. A statement is provided to Council from a Chartered Professional Engineer at least 20 working days prior to commencement of any applicable works that the

Infrastructure, Building or Major Structure will not create or exacerbate a risk from natural hazards assessed as High or Very High based on the figure and tables in Appendix 1 of the National Policy Statement for Natural Hazards, 2025.

Activity Status when permitted activity standards are not achieved: Restricted Discretionary Matters of discretion:

1. The extent to which the Infrastructure, Buildings or Major Structures will exacerbate existing flood hazards or create a new flood hazard on a site outside of PREC6.
2. For Buildings that contain vulnerable activities, the provision of direct, safe access above flood levels from the building to land that is clear of the flood and / or coastal flood hazard.
3. For Infrastructure, Buildings or Major Structures that store or use hazardous substances, any management/mitigation requirements to prevent hazardous substances being inundated during a 100 year event.
4. The extent to which sea-level rise, and its potential impact have been considered in the location and design (including design life) of proposed Infrastructure, Buildings and Major Structures.
5. Recommendations of any site suitability report, engineer's assessment, or information provided through the consent process.

PREC6-R8 Infrastructure, Buildings and Major Structures within coastal erosion hazard area 0 – 2

Activity Status: Permitted

Where:

1. Operation, maintenance and repair, replacement, or minor improvements to, existing Infrastructure, Buildings or Major Structures for Marsden Point Energy Precinct Activities, provided that:
 - a. a new vulnerable activity is not created; and
 - b. any replacement Infrastructure, Buildings and Major Structures occupy a similar area.

Activity Status: Controlled

Where:

2. The new or existing Infrastructure, Building or Major Structure for Marsden Point Energy Precinct Activities does not create or contain a new vulnerable activity.

Matters of control:

1. The ability for Infrastructure, Buildings and Major Structures to maintain their integrity and function during a coastal hazard event.
2. The ability to decommission or relocate Infrastructure, Buildings and Major Structures outside of the coastal erosion hazard area.
3. The design life of any Infrastructure, Buildings and Major Structures and how that design life interacts with the predicted coastal hazard over this period.
4. The potential for any Infrastructure, Buildings and Major Structures to exacerbate erosion hazard risk on sites outside PREC6 and any measures to minimise such risk.

5. Ongoing measures to monitor the coastal erosion hazard.
6. Duration of consent in relation to coastal erosion risk.

Activity Status when not a permitted or controlled activity: Restricted Discretionary

Matters of discretion:

1. The ability for Infrastructure, Buildings and Major Structures to maintain their integrity and function during a coastal hazard event.
2. The potential for any Infrastructure, Buildings and Major Structures to exacerbate erosion hazard risk on sites outside PREC6 and any measures to minimise such risk.
3. The risk of adverse effects from coastal erosion on vulnerable activities, including risk to people's health and safety and provision for vehicular access/egress during a hazard event.
4. Recommendations of any site suitability report, engineer's assessment, or information provided through the consent process.
5. Ongoing measures to monitor the coastal erosion hazard.

PREC6-R9 Application of Natural Hazards Chapter Rules and Coastal Hazard Objectives, Policies and Rules

1. Any activity that is permitted under PREC6-R7 or PREC6-R8, or for which resource consent is applied for under PREC6-R7 or PREC6-R8, is not subject to rules NH-R1–NH-R13A in the Natural Hazards or rules CH-R2 – CH-R13 in the Coastal Environment chapter. Where resource consent is applied for under PREC6-R7 or PREC6-R8, the relevant objectives and policies in the Natural Hazards chapter shall be assessed along with any other objectives and policies that are relevant to that activity.
2. Any other activity that is not Infrastructure, Buildings or Major Structures used for Marsden Point Energy Precinct Activities, or is not a Marsden Point Energy Precinct Activity, is subject to the rules NH-R1 - NH-R13A in the Natural Hazards or rules CH-R1 - CH-R14 in the Coastal Environment chapter.

PREC6-REQ1 Information requirements for Natural Hazards consent applications

1. Any application for Resource Consent under PREC6-R7 or PREC6-R8 must include evidence of engagement with Patuharakeke. Evidence of engagement can be demonstrated by a letter or email from the proponent of a MPEP activity inviting a mandated representative of Patuharakeke hapū to engage or comment and any response received within 20 Working Days from the date of the letter or email.

Appendix B

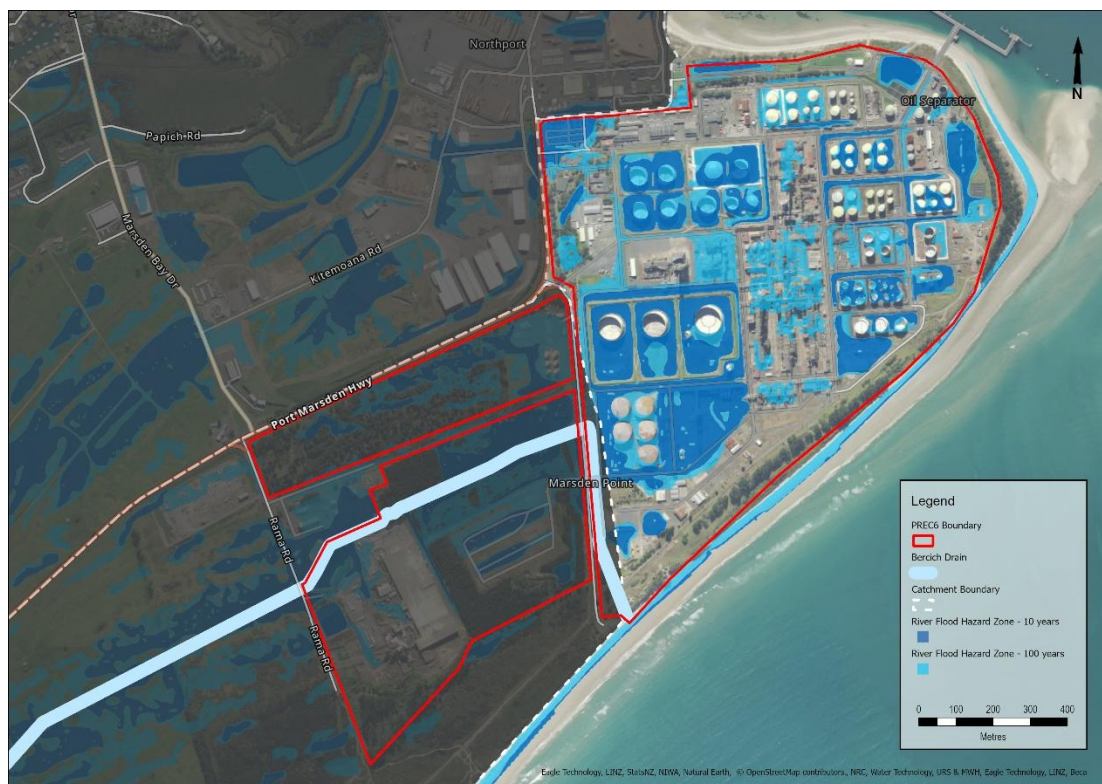


Figure 2 – Terminal Catchment – Flood Hazard

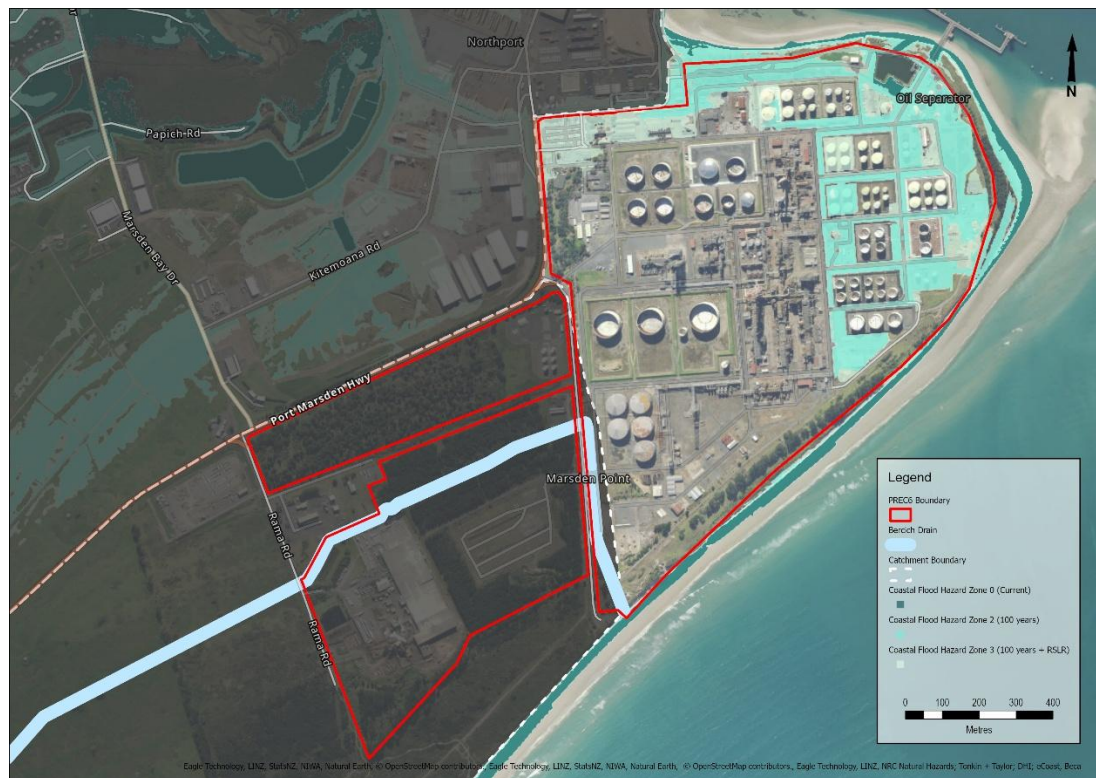


Figure 3 – Terminal Catchment – Coastal Inundation

Appendix C

The new provisions resolving the Channel Infrastructure appeal are to be inserted into the Part 3- Area Specific Matters – Heavy Industrial Zone, existing Marsden Point Energy Precinct (PREC6). These changes are shown as underlined text:

Issues

The Marsden Point Energy Precinct (MPEP) applies to the land and activities at Ralph Trimmer Drive, Ruakaka and identified as PREC6 on the District Plan maps. The Marsden Point Energy Precinct permits all activities that are related to the current and reasonably foreseeable future function of the site as an energy precinct supplying New Zealand's energy needs. Thus, in addition to the day-to-day running of the fuel import and distribution terminal, the Marsden Point Energy Precinct provides for the needs of staff and visitors, as well as people and communities in the District, including by adapting to changing technological, operational, economic, environmental and social conditions.

Objectives

PREC6-O1 Regional Significance

Recognise and provide for the regionally significant infrastructure within Marsden Point Energy Precinct, as identified in the Regional Policy Statement for Northland.

Policies

PREC6-P1 Refinery Functioning

To enable the operation, maintenance and upgrading of the Marsden Point Energy Precinct by providing for a range of activities associated with the production, import, refining and/or distribution of energy products.

Rules

PREC6-R1 Marsden Point Energy Precinct Activities

Activity Status: Permitted

PREC6-R2 Building and Major Structure Setbacks

Activity Status: Permitted

PREC6-R3 Building Height

Activity Status: Permitted

Where:

1. All buildings shall comply with HIZ-R3.

PREC6-R4 Major Structure Height

Activity Status: Permitted

Where:

1. The major structure exists at 15 July 2020 and following the alteration or replacement works, its height is not materially increased; or
2. The maximum major structure height is:
 - a. 20m above ground level; or
 - b. 40m above ground level provided that no more than 25% of the net site area is occupied by buildings and major structure that exceed 20m above ground level; or

3. The construction of up to three additional columns to those existing at 15 July 2020 are constructed to a maximum height of 56m above ground level; or
4. The construction of one additional furnace stack to that existing at 15 July 2020 is constructed to a maximum height of 75m above ground level; or
5. The alteration or replacement of the flare stack that exists at 15 July 2020 does not exceed a maximum height of 130m above ground level.

Activity Status when compliance not achieved: Restricted Discretionary

Matters of discretion:

1. The effects of the bulk and location of the building or structure.
2. The effects on Cultural Values, High or Outstanding Natural Character, Outstanding Natural Landscapes and Outstanding Natural Features.
3. The operational and safety requirements for the structure.

PREC6-R5 Boundary Landscaping

Activity Status: Permitted

Note:

1. *This means that no activity within PREC6 shall require boundary landscaping.*

PREC6-R6 Lighting: Artificial Lighting Associated with Marsden Point Energy Precinct Activities

Activity Status: Permitted

PREC6-R7 Infrastructure, Buildings and Major Structures within a flood hazard area, coastal flooding hazard area 0 – 2, or areas of moderate susceptibility to land instability hazards

Activity Status: Permitted

Where:

1. Operation, maintenance and repair, replacement, or minor improvements to, existing Infrastructure, Buildings or Major Structures for Marsden Point Energy Precinct Activities, provided that:
 - a. a new vulnerable activity is not created; and
 - b. any replacement Infrastructure, Buildings and Major Structures occupy a similar area; or
2. The new or existing infrastructure is used for Marsden Point Energy Precinct Activities, is underground and is not in or partly in, an area of moderate susceptibility to land instability hazards; or
3. The new or existing Infrastructure, Building or Major Structure is used for Marsden Point Energy Precinct Activities and is within a bunded area identified on Figure PREC6 1; and
 - a. The Infrastructure, Building or Major Structure does not create or contain a vulnerable activity; and
 - b. A statement is provided to Council at least 20 working days prior to commencement of any applicable works that the bund is maintained in a condition to impound water; or
4. The new or existing Infrastructure, Building or Major Structure is used for Marsden Point Energy Precinct activities; and

- a. The Infrastructure, Building or Major Structure does not create or contain a new vulnerable activity; and
- b. A statement is provided to Council from a Chartered Professional Engineer at least 20 working days prior to commencement of any applicable works that states the Infrastructure, Building or Major Structure will not create or exacerbate a significant risk from natural hazards on a site outside of PREC6.

Note:

1. A method to determine Significant risk is where the change in risk to a site outside PREC6 from the new building or major structure will result in High or Very High Risk using the risk matrix and tables in Appendix 1 of the National Policy Statement for Natural Hazards, 2025.

Activity Status when permitted activity standards are not achieved: Restricted Discretionary

Matters of discretion:

1. The extent to which the Infrastructure, Buildings or Major Structures will exacerbate existing flood hazards or create a new flood hazard on a site outside of PREC6.
2. For Buildings that contain vulnerable activities, the provision of direct, safe access above flood levels from the building to land that is clear of the flood and / or coastal flood hazard.
3. For Infrastructure, Buildings or Major Structures that store or use hazardous substances, any management/mitigation requirements to prevent hazardous substances being inundated during a 100 year event.
4. The extent to which sea-level rise, and its potential impact have been considered in the location and design (including design life) of proposed Infrastructure, Buildings and Major Structures.
5. Recommendations of any site suitability report, engineer's assessment, or information provided through the consent process.



Figure PREC6 1 Bundled Area

PREC6-R8 Infrastructure, Buildings and Major Structures within coastal erosion hazard area 0 – 2

Activity Status: Permitted

Where:

1. Operation, maintenance and repair, replacement, or minor improvements to, existing Infrastructure, Buildings or Major Structures for Marsden Point Energy Precinct Activities, provided that;
 - a. a new vulnerable activity is not created; and
 - b. any replacement Infrastructure, Buildings and Major Structures occupy a similar area.

Activity Status: Controlled

Where:

2. The new or existing Infrastructure, Building or Major Structure does not create or contain a new vulnerable activity.

Matters of control:

1. The ability for Infrastructure, Buildings and Major Structures to maintain their integrity and function during a coastal hazard event.
2. The ability to decommission or relocate Infrastructure, Buildings and Major Structures outside of the coastal erosion hazard area.
3. The design life of any Infrastructure, Buildings and Major Structures and how that design life interacts with the predicted coastal hazard over this period.

4. The potential for any Infrastructure, Buildings and Major Structures to exacerbate erosion hazard risk on sites outside PREC6 and any measures to minimise such risk.
5. Ongoing measures to monitor the coastal erosion hazard.
6. Duration of consent in relation to coastal erosion risk.

Activity Status when not a permitted or controlled activity: Restricted Discretionary

Matters of discretion:

1. The ability for Infrastructure, Buildings and Major Structures to maintain their integrity and function during a coastal hazard event.
2. The potential for any Infrastructure, Buildings and Major Structures to exacerbate erosion hazard risk on sites outside PREC6 and any measures to minimise such risk.
3. The risk of adverse effects from coastal erosion on vulnerable activities, including risk to people's health and safety and provision for vehicular access/egress during a hazard event.
4. Recommendations of any site suitability report, engineer's assessment, or information provided through the consent process.
5. Ongoing measures to monitor the coastal erosion hazard.

PREC6-R10 Application of Natural Hazards Chapter Rules and Coastal Hazard Objectives, Policies and Rules

1. Any activity that is permitted under PREC6-R7 or PREC6-R8, or for which resource consent is applied for under PREC6-R7 or PREC6-R8, is not subject to rules NH-R1–NH-R13A in the Natural Hazards or rules CH-R2 – CH-R13 in the Coastal Environment chapter. Where resource consent is applied for under PREC6-R7 or PREC6-R8, the relevant objectives and policies in the Natural Hazards chapter shall be assessed along with any other objectives and policies that are relevant to that activity.
2. Any other activity that is not Infrastructure, Buildings or Major Structures used for Marsden Point Energy Precinct Activities, or is not a Marsden Point Energy Precinct Activity, is subject to the rules NH-R1 - NH-R13A in the Natural Hazards or rules CH-R1 - CH-R14 in the Coastal Environment chapter.

PREC6-REQ1 Information requirements for Natural Hazards consent applications

1. Any application for Resource Consent under PREC6-R7 or PREC6-R8 must include evidence of engagement with Patuharakeke. Evidence of engagement can be demonstrated by a letter or email from the proponent of Marsden Point Energy Precinct Activities inviting a mandated representative of Patuharakeke hapū to engage or comment and any response received within 20 Working Days from the date of the letter or email.