

**IN THE ENVIRONMENT COURT  
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA  
KI TĀMAKI MAKĀURAU**

**Decision [2022] NZEnvC 174**

IN THE MATTER OF an appeal under Clause 14 of Schedule 1  
of the Resource Management Act 1991

BETWEEN TRANSPOWER NEW ZEALAND  
LIMITED

(ENV-2019-AKL-000107)

CEP SERVICES MATAUWHI  
LIMITED

(ENV-2019-AKL-000111)

YACHTING NEW ZEALAND  
INCORPORATED

(ENV-2019-AKL-000118)

TOP ENERGY LIMITED

(ENV-2019-AKL-000125)

ROYAL FOREST AND BIRD  
PROTECTION SOCIETY OF NEW  
ZEALAND INCORPORATED

(ENV-2019-AKL-000127)

Appellant

AND

NORTHLAND REGIONAL  
COUNCIL

Respondent

Court: Environment Judge J A Smith sitting alone pursuant to section 279  
of the Act

Topic 1 - Coastal Activities - Proposed Northland Regional Plan



Date of Order: 23 September 2022

Date of Issue: 23 September 2022

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## CONSENT DETERMINATION

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A: Under section 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeals are allowed in accordance with **Annexures A and B** to this order;
- (2) the appeals remain open on the issues identified in **Annexure C**.

B: Under section 285 of the Resource Management Act 1991, there is no order as to costs.

## REASONS

### Introduction

[1] This determination relates to appeals against Northland Regional Council's (**Council**) decision on the Proposed Regional Plan for Northland (**Proposed Plan**), in respect of provisions within Topic 1 – Coastal Activities.

[2] The parties participated in Court-assisted mediation on 2 September 2019 and 23 October 2019 and have engaged in discussions in the intervening years. The parties have reached agreement on the following provisions under appeal:

- Definition – Structure
- Definition – Functional need
- New Definition – Operational need
- New Definition – National Grid Structure
- Definition – Recognised Recreational Anchorages
- Definition – Regionally Significant Anchorages
- Objective F.1.7 – Use and development in the coastal marine area

- Policy D.5.8 – Coastal Commercial Zone and Marsden Point Port Zone Purpose
- Policy D.5.9 – Coastal Commercial Zone and Marsden Point Port Zone
- Policy D.5.10 – Whangārei City Centre Marine Zone
- Policy D.5.15 – Marinas – managing the effects of marinas
- Policy D.5.17 – Marina zones – purpose
- Policy D.5.28 Significant Surf Breaks
- Rule C.1.1.1 Existing structures – permitted activity
- Rule C.1.1.2 Minor structures in a Coastal Commercial Zone, Marsden Point Port Zone and the Whangārei City Centre Marine Zone – permitted activity
- Rule C.1.1.3 Temporary coastal structure – permitted activity
- Rule C.1.1.4 Aids to navigation – permitted activity
- Rule C.1.1.5 Signs – permitted activity
- Rule C.1.1.7 Reconstruction, replacement, maintenance or repair of a structure – permitted activity
- Rule C.1.1.8 Maintenance, repair or removal of hard protection structures – permitted activity
- Rule C.1.1.9 Additions or alterations to structures – permitted activity
- Rule C.1.1.10 Removal or demolition of structures – permitted activity
- Rule C.1.1.11 Additions or alterations to structures in the Coastal Commercial Zone or Marsden Point Port Zone – controlled activity
- Rule C.1.1.13 Structures in the Whangārei City Centre Marine Zone – controlled activity
- Rule C.1.1.14 Existing authorised structures in a Coastal Commercial Zone, Marsden Point Port Zone or Marina Zone – controlled activity
- Rule C.1.1.15 Works to a Historic Heritage Site within the scope of a historic heritage management plan – restricted discretionary activity
- Rule C.1.1.16 Structures in the Marsden Point Port Zone – restricted discretionary activity
- Rule C.1.1.21A National Grid Structures in Mooring and General Zones – discretionary activity
- Rule C.1.1.26 Structures with no functional need – non-complying
- Rule C.1.2.1 Vessels not underway – permitted activity

- Rule C.1.2.2 Vessels – sewage management – permitted activity
- Rule C.1.2.6 Relocation of a mooring by the Harbourmaster – permitted activity
- New Rule C.1.2.10a Vessels not underway – restricted discretionary activity
- Rule C.1.2.12 Vessels not underway and sewage management – discretionary activity
- Rule C.6.9.8 Discharges of untreated sewage from a ship or offshore installation – prohibited activity
- Maps relating to Recognised Recreational Anchorages and Marine Pollution Limits in the Bay of Islands

[3] The following people gave notice of their intention to become parties under s 274 of the RMA and have signed the memorandum of the parties dated 7 September 2022:

- (a) Aquaculture New Zealand, Moana New Zealand Ltd and the New Zealand Oyster Industry Association;
- (b) Far North District Council;
- (c) Minister of Conservation;
- (d) Northport Limited;
- (e) Royal Forest and Bird Protection Society of New Zealand Incorporated (**Forest and Bird**);
- (f) Federated Farmers of New Zealand Incorporated;
- (g) Mr Dean Farmer;
- (h) Mr Christopher Mace;
- (i) Mr Philip Thornton;
- (j) Mangawhai Harbour Restoration Society Incorporated;
- (k) Channel Infrastructure NZ Limited (formerly The New Zealand Refining Company Limited);
- (l) Top Energy Limited;
- (m) Whangarei District Council;
- (n) Yachting New Zealand Incorporated;
- (o) Bay of Islands Maritime Park Incorporated;
- (p) CEP Services Matauwhi Limited;

- (q) Waka Kotahi;
- (r) Northpower Limited;
- (s) Patuharakeke Te Iwi Trust Board;
- (t) Transpower New Zealand;
- (u) Minister of Defence.

### **Agreement reached and rationale**

[4] A summary of the agreed changes including the rationale for the changes is set out below.

#### ***Definition – Structure***

[5] The definition was appealed by Transpower New Zealand who requested that it be amended to be consistent with the definition (of structure) in the National Planning Standards and the RMA.

[6] Through mediation, Transpower New Zealand agreed to no longer pursue their requested new definition. The parties agreed that the definition in the Proposed Plan is specific to the coastal marine area and the definition of structure should be retained as follows:

<i>Structure (in rules for activities in the coastal marine area)</i>	A building, equipment, device, pipeline or other facility which is fixed to land. It includes a <b>structure</b> which is fixed to another <b>structure</b> , which is fixed to land.
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#### ***Definition – Functional need***

[7] This definition was appealed by Forest and Bird and Transpower New Zealand, who both requested that it be amended to be consistent with the definition (of functional need) in the National Planning Standards. Transpower New Zealand also sought that the definition of ‘operational need’ from the National Planning Standards be included in the Proposed Plan.

[8] Through mediation, the parties agreed to amend the definition of functional need to include a new definitional of operational need as set out below:

<p><i>Functional need</i></p>	<p><del>When an activity or network (including structures) is dependent on a particular location to operate, or is required to traverse, locate or operate in a particular environment due to its technical or operational requirements.</del></p> <p><u>The need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.</u></p> <p><i>Note:</i></p> <p><i>This excludes dwellings and guest houses, hotels, motels, cafes, restaurants and shops.</i></p>
<p><u>Operational need</u></p>	<p><u>The need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints.</u></p>

[9] The parties consider these amendments to the Proposed Plan are appropriate as they will ensure consistency with relevant terminology in the National Planning Standards. The amendments also clarify the distinction between activities with a “functional” vs. “operational” need, which is an important distinction for some provisions of the Proposed Plan.

***Definition – National Grid Structure***

[10] Transpower’s appeal sought that the Proposed Plan include rules relating to “National Grid structures” in the CMA (see, for example, Rule C.1.1.21A National grid structures in Mooring and General Marine Zones – discretionary activity, addressed below).

[11] As consequential and related relief, the parties agreed that it would be appropriate to provide a definition of “National Grid Structure” to clarify the type of structure that such rules apply to. The agree definition is based on the definition of the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (**NESETA**) and provides as follows:

<u>National Grid structure</u>	<u>The facilities and structures used for, or associated with, the overhead or underground transmission of electricity in the National Grid. It includes transmission line support structures (a tower or pole), telecommunication cables, and telecommunication devices, but does not include an electricity substation.</u>
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[12] The parties consider that including a definition of National Grid structure is appropriate as it improves the clarity and workability of the Proposed Plan, by removing uncertainty about what is a “National Grid structure”. The definition also provides alignment with the NESETA, which is important national direction relating to electricity transmission activities.

***Definition – Recognised Recreational Anchorages***

***Definition – Regionally Significant Anchorages***

[13] Yachting New Zealand’s appeal sought that the Proposed Plan include definitions for Recognised Anchorages and Recognised Recreational Anchorages.

[14] Through mediation, the parties agreed to the following definitions of Recognised Recreational Anchorages and Regionally Significant Anchorages:

<u>Recognised Recreational Anchorages</u>	<p><u>A recognised recreational anchorage identified in I Maps, which is:</u></p> <ol style="list-style-type: none"> <li>1. <u>Referred to in cruising guides and similar publications as being of value to the boating community because of its shelter, holding, amenity and/or significant recreational value; and</u></li> <li>2. <u>Commonly used and utilised for overnight anchoring in suitable conditions.</u></li> </ol>
<u>Regionally Significant Anchorages</u>	<u>A regionally significant anchorage identified in I Maps, which is a strategic anchorage referred to in cruising guides and similar publications as being important shelter for small/large craft in adverse weather.</u>

[15] The parties consider the new definitions are appropriate as they identify the areas where anchorages provide value to the boating public, which is a spatial resource that needs to be managed.

***Objective F.1.8 – Use and development in the coastal marine area<sup>1</sup>***

[16] This objective was appealed by Forest and Bird who sought the inclusion of an objective for integrated management in the coastal environment, recognising that use and development in the coastal marine area can have adverse effects landward and vice versa.

[17] Through mediation, the parties agreed to insert a new clause 5) into the objective as follows:

**F.1.8 Use and development in the coastal marine area:**

Use and development in the coastal marine area:

- 1) makes efficient use of space occupied in the common marine and coastal area, and
- 2) is of a scale, density and design compatible with its location, and
- 3) recognises the need to maintain and enhance public open space and recreational opportunities, and
- 4) is provided for in appropriate places and forms, and within appropriate limits, and;
- 5) is undertaken in a way that recognises it can have effects outside the coastal marine area

[18] The parties consider that this amendment is appropriate. As amended the objective recognises that use and development within the coastal environment can have effects on the landward environment, which is important in achieving integrated management, and assists with giving effect to Policy 4 (Integration) of the New Zealand Coastal Policy Statement 2010 (**NZCPS**), which provides:

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<sup>1</sup> Previously F.1.7.



Provide for the integrated management of natural and physical resources in the coastal environment, and activities that affect the coastal environment. This requires:

- a. co-ordinated management or control of activities within the coastal environment, and which could cross administrative boundaries, particularly:
  - i. the local authority boundary between the coastal marine area and land;
  - ii. local authority boundaries within the coastal environment, both within the coastal marine area and on land; and
  - iii. where hapū or iwi boundaries or rohe cross local authority boundaries.

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***Amendments to Policies D.5.8, D.5.9, D.5.10, D.5.15 and D.5.17***

[19] Five policies relating to development within particular coastal zones were appealed by Forest and Bird.<sup>2</sup>

[20] Forest and Bird sought that Policies D.5.8, D.5.9, D.5.10 and D.5.17 be amended to clarify that they enabled development, subject to achieving the requirements of other directive policies related to natural character, natural features, natural landscapes and indigenous biodiversity. In the alternative, Forest and Bird requested that Policies D.5.8, D.5.10 and D.5.17 be deleted.

[21] In relation to Policy D.5.15,<sup>3</sup> Forest and Bird sought that the policy be amended by adding “In addition to any other requirement to avoid adverse effects” at the start of the policy. Forest and Bird also sought that the policy be amended by

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<sup>2</sup> D.5.8 – Coastal Commercial Zone and Marsden Point Port Zone Purpose, D.5.9 Coastal Commercial Zone and Marsden Point Port Zone, D.5.10 Whangarei City Centre Marine, D.5.15 Marinas – managing the effects of marinas, and D.5.17 Marine Zones Purpose.

<sup>3</sup> Previously D.5.13.

adding a note referring to the directive policies related to natural character, natural features, natural landscapes and indigenous biodiversity.

[22] Through mediation, the parties agreed to alternative relief to address the relationship between enabling and directive coastal plan policies. Rather than addressing the relationship between policies in every individual policy, the parties agreed to a general provision to guide the interpretation and application of competing policies.

[23] The general provision was subject to wide discussion and has led to the resolution of other appeal points on the relationship between policies. The note clarifies for users of the Proposed Plan that all objectives and policies must be considered and applied according to their terms. This approach is consistent with the Supreme Court's decision in *Environmental Defence Society Inc v New Zealand King Salmon Company Ltd*,<sup>4</sup> which found that apparent conflict between competing provisions can often be resolved by paying close attention to their expression (with more directive provisions generally prevailing over less directive provisions).

[24] Waka Kotahi is a section 274 party to the appeal. It does not oppose the proposed note as a way to resolve the relevant appeal point and will abide by agreement of the other parties and the decision of the Court on this matter.

[25] The agreed wording is:

**Application of objectives and policies:**

1. Regard must be had to all the relevant objectives and policies in the Plan when considering an application for a resource consent.
2. Where policies in this plan are in conflict, the more directive policies shall prevail.
3. Regard must be had to any relevant provisions of the Regional Policy Statement and National Policy Statements, and where appropriate Part 2 of the RMA, when considering an application for a resource consent

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<sup>4</sup> *Environmental Defence Society Inc v New Zealand King Salmon Company Ltd* [2014] NZSC 38.

[26] The parties consider that the proposed general provision is appropriate as it reflects the current law on the interpretation of conflicting provisions, and is a more efficient and effective solution than addressing the relationship between policies in each and every policy.

***Policy D.5.28 Significant surf breaks***

[27] Forest and Bird appealed Policy D.5.28 Significant surf breaks, seeking that it be amended to better give effect to Policy 16 of the NZCPS. Through mediation, the parties agreed to amend Policy D.5.28 as follows:

**D.5.28 Significant surf breaks**

Provide for the use and enjoyment of Nationally and Regionally Significant Surf Breaks (refer: | Maps | Ngā mahere matawhenua) by ~~ensuring that:~~

- 1) ~~ensuring that~~ resource consent applications for activities within the coastal marine area that are within a one kilometre radius of a Nationally Significant Surf Break or a Regionally Significant Surf Break are accompanied by an assessment of environmental effects of the activity on the identified values of the surf break, and
- 2) ~~avoiding~~ adverse effects on the characteristics, qualities and values that contribute to make Nationally Significant Surf Breaks significant, ~~are avoided~~, and
- 3) ~~avoiding~~ significant adverse effects on the characteristics, qualities and values that contribute to make Regionally Significant Surf Breaks significant, ~~are avoided~~, and
- 4) ~~avoiding, remedying or mitigating other adverse effects on Nationally and Regionally Significant Surf Breaks, and~~
- 5) ~~maintaining or enhancing~~ access to Nationally and Regionally Significant Surf Breaks ~~is maintained or enhanced.~~

[28] The parties consider that the agreed wording is appropriate as it achieves Policy 16 of the NZCPS, while also providing clarification about the treatment of ‘other effects’ and otherwise improves the clarity of Policy D.5.28. Policy 16 of the

NZCPS requires that adverse effects on nationally significant surf breaks (and access to, use and enjoyment of those breaks) are avoided. That is reflected in Policy D.5.28(2), which focuses on effects on the values that make those surf breaks significant. The new clause (4) in the policy fills a potential gap in the policy about how other effects on a surf break are treated.

[29] The other minor amendments retain the intent of the policy, but place the verb first to clarify the direction that each clause provides.

***General amendment to Rules C.1.1.1, C.1.1.2, C.1.1.3, C.1.1.4, C.1.1.5, C.1.1.7, C.1.1.8, C.1.1.9, C.1.1.10***

[30] These nine rules were appealed by Forest and Bird who requested the same amendment to all rules. Forest and Bird sought that instead of requiring compliance with “all relevant” provisions of the Coastal General Conditions, that the activities comply with all Coastal General Conditions.

[31] Through mediation, the parties agreed to amend the rules by deleting reference to “all relevant” conditions, meaning that the activity now has to comply with all Coastal General Conditions. The parties consider this is appropriate as it ensures that all general conditions apply, avoiding any potential argument about which general conditions are relevant to a particular permitted activity.

***Rule C.1.1.1 Existing structures – permitted activity***

[32] This rule was appealed by CEP Services Matauwhi Limited (**CEP Services**) who sought the addition of a new permitted activity standard as follows:

The activity is not within a Coastal Commercial Zone that abuts any area shown as “Historic Heritage Adjacent to the Coastal Marine Area” in the maps.

[33] CEP Services agreed not to pursue this appeal point in light of agreement reached on other provisions.

***Rule C.1.1.2 Minor structures in a Coastal Commercial Zone, Marsden Point Port Zone and the Whangārei City Centre Marine Zone – permitted activity***

[34] This rule was appealed by CEP Services who sought the inclusion of a new permitted activity standard as follows:

The activity is not within a Coastal Commercial Zone that abuts any area shown as “Historic Heritage Adjacent to the Coastal Marine Area” in the maps.

[35] Through mediation, the parties agreed to alternative drafting and the inclusion of a permitted activity standard clause 8) in Rule C.1.1.2 as follows:<sup>5</sup>

8) is not located within the Russell or Mangonui Harbour Coastal Commercial Zone.

[36] The parties consider this amendment is appropriate as it clearly identifies particular Coastal Commercial Zone areas proximate to heritage features and the control assists with giving effect to Policy 17 (Historic heritage identification and protection) of the NZCPS.

***Rule C.1.1.3 Temporary coastal structure – permitted activity***

[37] Forest and Bird requested this rule be amended to also enable the removal of temporary coastal structures, and to clarify that it enabled the “associated disturbance of or disposition of a substance in the bed” of the CMA.

[38] Forest and Bird also sought an amendment to clause 3) of the rule to clarify the standard relating to regionally significant infrastructure.

[39] Finally, Forest and Bird also requested to insert the following new conditions:

x) the activity is not within a mapped significant ecological area; and

y) the activity is not undertaken within any Significant Bird Areas during the period of 1 August and 31 March (inclusive).

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<sup>5</sup> It was agreed that CEP Services Matauwhi would no longer pursue their appeal on rule C.1.1.1.

[40] The parties agreed to add the clarification that the rule also provided for removal of temporary coastal structures, as well as the amendment to clause 3). The reference to removal is required because under section 12(1)(b) of the RMA, consent is required to remove a structure from the coastal marine area unless authorised by a rule in a plan. While it is implicit that temporary coastal structures would ultimately be removed, Rule C.1.1.3 does not explicitly enable this. The amendment clarifies that Rule C.1.1.3 enables placement and removal of temporary structures and removes any uncertainty around whether resource consent is required under another rule for removal in accordance with section 12(1)(b). The amendment to clause 3) adds clarity to the rule.

[41] Forest and Bird agreed not to pursue its other relief on C.1.1.3:

- (a) the reference to disturbance and disposal activities is unnecessary, as Rule C.1.1.3 already includes a note clarifying which activities it enables;
- (b) the proposed additional standards were also not required, as Rule C.1.1.3 is subject to the Coastal General Conditions, which ensure that potential adverse effects on significant ecological areas and significant bird areas are avoided. If those general conditions are not met, resource consent is required.

***Rule C.1.1.5 Signs – permitted activity***

[42] This rule was appealed by Forest and Bird, CEP Services and Top Energy Limited.

[43] Forest and Bird requested a new condition as follows:

x) any lighting of signs (other than necessary for safety) is not continued after business hours or during the hours of 10pm to 5am.

[44] CEP Services sought the inclusion of a new clause as follows:

x) The activity is not within a Coastal Commercial Zone that abuts any area shown as “Historic Heritage Adjacent to the Coastal Marine Area” in the maps.

[45] Top Energy Limited sought that the rule be amended to permit cable markers for infrastructure providers on the sea floor and conductor markers for overhead lines over water bodies, and provide for signs in the coastal marine area placed by a network utility operator relating to information or safety matters.

[46] The parties agreed to amend conditions 6)b) and 6)d) and insert a new condition 7) as follows:

- 6) if the sign is on the exterior of an authorised structure and the sign relates directly to goods, services or facilities operated at or on the structure, then:
  - a) the total area of signs per enterprise or activity must not exceed 1.25 square metres, and
  - b) except for road or maritime risk signage installed by a road controlling authority or network utility operator, the sign (or any part of the sign) must not be reflective, flashing or neon, and
  - c) the bottom of the sign must not be more than four metres above deck level, and
  - d) the bottom of the sign over a walkway must be at least 2.4 metres above the walkways, and
  - e) the total combined area of all signs (under this rule) on the structure must not exceed five square metres, and
- 7) signs in a Mooring Zone or General Coastal Zone must not be lit between 10pm and 5am, unless necessary for maritime safety purposes.

[47] The amendments recognise that certain signs may need to be reflective or flashing, such as signs for maritime safety or network utilities. However, other than for road, maritime risk or network utility signs, the amendments recognize that signs in Mooring Zones or the General Coastal Zone should not be lit at night-time to reduce light pollution, unless the signage is necessary for maritime safety purposes. The parties consider that the amendments appropriately balance the need to ensure maritime safety with managing the adverse effects of light on the environment.

***Rule C.1.1.7 Reconstruction, replacement, maintenance or repair of a structure – permitted activity***

[48] This rule was appealed by Top Energy Limited and Forest and Bird.

[49] Forest and Bird sought the addition of the following conditions:

x) the activity is not undertaken in Significant Bird Areas during the period of 1 August and 31 March (inclusive);

y) access to the structure is via formed road or does not result in any disturbance of the foreshore or seabed.

[50] Top Energy sought that the rule be amended to provide for minor (infrastructure) upgrades as a permitted activity.

[51] Forest and Bird agreed to no longer pursue their requested new conditions and the parties agreed to amend condition 3) in response to Top Energy's appeal as follows:

3) there is no change to the authorised location of the structure, except where the structure is a network utility pole, and the location of any reconstructed or replaced pole is within 2 lineal metres of the location of the existing network utility pole it replaces, and ...

[52] The parties consider that this amendment is appropriate as this provides a pragmatic approach to enabling ongoing management and operation of network utility infrastructure. It is also considered to give effect to relevant provisions in the Regional Policy Statement for Northland, particularly Policy 5.3.3(2), which seeks to enable the effects of maintaining or upgrading regionally significant infrastructure.

***Rule C.1.1.9 Additions or alterations to structures – permitted activity***

[53] This rule was appealed by Forest and Bird who requested the addition of the following conditions:

x) the activity is not within a Significant Ecological area;



z) the activity in not undertaken in a Significant Bird Areas during the period of 1 August and 31 March (inclusive).

[54] Forest and Bird agreed to no longer pursue these appeal points. The parties agreed that this rule only applies to a very limited number/type of structures and protection is afforded to significant ecological areas and significant bird areas by the requirement to comply with all General Coastal Conditions.

***Rule C.1.1.10 Removal or demolition of structures – permitted activity***

[55] Forest and Bird also sought the addition of the following condition:

x) the activity in not undertaken in a Significant Bird Area during the period of 1 August and 31 March (inclusive).

[56] Forest and Bird agreed to no longer pursue this appeal point. The parties agreed that adequate protection is afforded to significant bird areas by the requirement to comply with all General Coastal Conditions.

***Rule C.1.1.11 Additions or alterations to structures in the Coastal Commercial Zone or Marsden Point Port Zone – controlled activity***

[57] This rule was appealed by CEP Services who sought the inclusion of a new clause stating:

the activity is not within a Coastal Commercial Zone that abuts any area shown as “Historic Heritage Adjacent to the Coastal Marine Area” in the maps

[58] Through mediation, the parties agreed to amend the rule by inserting a new matter of control as set out below:

8) Effects on Russell and Mangonui heritage precincts

[59] As for Rule C.1.1.2 above, the parties consider this is appropriate as it will help give effect to Policy 17 (Historic heritage identification and protection) of the NZCPS.

***Rule C.1.1.13 Structures in the Whangārei City Centre Marine Zone – controlled activity***

[60] This rule was appealed by Forest and Bird who requested an amendment by adding “Effects on indigenous biodiversity” as an additional matter of control.

[61] Through mediation, the parties agreed to an amendment to matter of control 5) as follows:

Effects on aquatic ecosystem health and indigenous biodiversity.<sup>6</sup>

[62] The parties consider this is appropriate because it will ensure that effects on indigenous biodiversity can be taken into account. This gives effect to relevant policies in the Regional Policy Statement for Northland and the NZCPS.

***Rule C.1.1.14 Existing authorised structures in a Coastal Commercial Zone, Marsden Point Port Zone or Marina Zone – controlled activity***

[63] This rule was appealed by CEP Services who sought a new clause stating:

the activity is not within a Coastal Commercial Zone that abuts any area shown as “Historic Heritage Adjacent to the Coastal Marine Area” in the maps.

[64] Through mediation, CEP Services agreed to no longer pursue this appeal point, subject to amendments to rules C.1.1.2, C.1.1.5 and C.1.1.11 to reflect concerns over potential impacts on historic heritage. These amendments were agreed and are referred to above.

***Rule C.1.1.15 Works to a Historic Heritage Site within the scope of a historic heritage management plan – restricted discretionary activity***

[65] This rule was appealed by CEP Services who sought to include a matter of discretion relating to effects on marine mammals and seabirds. CEP Services subsequently confirmed it is not pursuing this appeal point.

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<sup>6</sup> For consistency, it was agreed that all controlled or restricted discretionary activity rules in the Proposed Plan that referred to ‘effects on aquatic ecosystem health’ would be amended to refer to ‘effects of aquatic ecosystem health and indigenous biodiversity’.

***Rule C.1.1.16 Structures in the Marsden Point Port Zone – restricted discretionary activity***

[66] This rule was appealed by Yachting New Zealand who sought to further restrict structures establishing within recognised anchorages and recognised recreational anchorages, and by CEP Services, who sought to include matters of discretion for marine mammals and seabirds.

[67] Through mediation, both parties agreed not to pursue their relief.

***Rule C.1.1.21A National grid structures in Mooring and General Marine Zones – discretionary activity***

[68] Transpower New Zealand’s appeal sought the inclusion of a new discretionary activity rule for National Grid structures in a Mooring Zone or General Marine Zone that are associated with regionally significant infrastructure and which have a functional or operational need to be located in the coastal marine area.

[69] Following mediation, the parties agreed to insert new Rule C.1.1.21A. The parties consider that a discretionary activity status rule (as opposed to non-complying under Rule C.1.1.27 Structures within a significant area – non-complying activity) is appropriate for managing the effects of National Grid infrastructure.

***Rule C.1.1.26 Structures with no functional need – non-complying activity***

[70] This rule was appealed by Transpower NZ Limited who sought an amendment so that the rule refers to “operational need” (in addition to functional need).

[71] Through mediation, the parties agreed to amend the rule (as set out below), noting that the parties also agreed to include a definition for operational need in the Proposed Plan. It is considered that this will ensure consistency with the National Planning Standards and ensure that activities without an operational need to locate in the coastal marine area are discouraged.

**C.1.1.26 Structures with no functional need or operational need – non-complying**

The use erection or placement of a structure with no functional need or operational need to occupy....

***Rule C.1.2.1 Vessels not underway – permitted activity and new Rule C.1.2.10a Vessels not underway – restricted discretionary activity***

[72] This rule was appealed by Yachting New Zealand who sought to delete or amend the restriction in C.1.2.1 that limits anchoring in an area to a maximum time limit of 14 days.

[73] As alternative relief, the parties agreed to a package of rules that:

- (a) retain the limit on anchoring in one place for longer than 14 days;
- (b) provide a consenting pathway for short stays, enabling people to apply for consent as a restricted discretionary activity to anchor in one place for up to 28 days; and
- (c) discourages longer anchoring by requiring people to apply for consent as a discretionary activity to anchor in one place for more than 28 days.

[74] It was agreed that Rule C.1.2.1 is to be amended to change the permitted standards in clause 4)b) as follows:

- i) the vessel is not secured or placed in one position, or within 1000 metres of that position, for longer than 14 consecutive days or part days, and
- ii) if it leaves that position, or within 1000 m of that position after 14 consecutive days, the vessel does not return to that location within three calendar days or part days, and

[75] A new rule C.1.2.10a Vessels not underway – restricted discretionary activity is to be inserted as set out in Annexure A, providing for anchoring for longer than 14 days, but no more than 28 days.

[76] Rule C.1.2.12 Vessels not underway and sewage management – discretionary activity is to be amended to clarify that it applies where vessel anchoring is not a permitted activity (under Rule C.1.2.1) or a restricted discretionary activity (under new Rule C.1.2.10a):

**C.1.2.12 Vessels not underway and sewage management – discretionary activity**

Staying overnight on a vessel within a Marine Pollution Limit (refer | Maps | Ngā mahere matawhenua) or temporarily:

- 1) securing a vessel to land (seabed, foreshore or shore), or
- 2) securing a vessel to a structure (excluding authorised moorings), or
- 3) grounding a vessel,

that is not a permitted or a restricted discretionary activity in section C.1.2 of this Plan are discretionary activities.

[77] The parties consider that the amendments are appropriate as they enable a consenting pathway for an extended anchoring period (28 rather than 14 days), but retain the discretionary activity status (and associated discouragement) for longer periods. The parties consider that the provisions achieve an appropriate balance between enabling extended anchoring in certain cases, but discouraging long-term occupation of the CMA by vessels without consent.

***Rule C.1.2.2 Vessels – sewage management – permitted activity***

[78] This rule was appealed by Yachting New Zealand who requested an amendment to the rules relating to sewage from vessels, to better align the provisions with the Marine Pollution Regulations.

[79] Through mediation, the parties agreed to delete the permitted activity standards in clauses 2) and 3) and to amend clause 4) as follows:

- ~~2) no person stays overnight on the vessel with a sewage holding tank or composting toilet if one or more people have already stayed overnight on~~

~~board the vessel for more than 10 preceding nights (consecutive or not), and within the 10 preceding nights the vessel has not:~~

- ~~a) pumped out all of the sewage from the vessel's sewage holding tank at a sewage pump-out facility, or~~
- ~~b) navigated into waters seaward of the marine pollution limit (refer to Maps to Ngā mahere matawhenua) and disposed of all its sewage into those waters, and~~
- ~~3) no person stays overnight on the vessel with a portable toilet, if one or more people have already stayed overnight on board the vessel for more than 10 preceding nights (consecutive or not), and within the 10 preceding nights have not legally disposed of the sewage on land, and~~
- 4) upon request of the Regional Council, the skipper and/or owner of the vessel, keeps and provides the Regional Council with:
  - a) photographic evidence of the method and capacity of sewage containment, or
  - b) a copy of written evidence from a boatbuilder or marine engineer detailing the method and capacity of sewage containment, and
  - c) the number of persons staying overnight

[80] These changes more appropriately manage the risk of unlawful sewage discharge when people stay aboard. The amendments provide for the individual circumstances on each vessel i.e., number of people and volume of containment rather than using the blunt 10-day limit which has potential to both underestimate and overestimate holding capacity depending on the volume of storage and number of people on board. i.e., the same vessel may well have capacity for 15 days if one person is aboard but only a few days if 10 people are aboard.

***Rule C.1.2.6 Relocation of a mooring by the Harbourmaster – permitted activity***

[81] CEP Services sought the addition of “Outstanding Natural Landscape Buffer” as a further identified mapped area. CEP Services also sought to replace the phrases

“Significant Ecological Area” and “Significant Bird Area” with “Significant Ecological Area or Significant Bird Area or any other area that meets the criteria for ‘significance’ given in Appendix 5 of the Regional Policy Statement for Northland for any indigenous biodiversity other than marine mammals or seabirds.”

[82] This rule was also appealed by Yachting New Zealand who requested that the rule not enable the relocation of moorings within Recognised Anchorages and Recognised Recreational Anchorages.

[83] Through mediation, the parties agreed on the addition of a new clause 4a) to resolve Yachting New Zealand’s appeal as follows:

4a) Recognised Recreational Anchorage, or

[84] The effect of the change is that moorings cannot be relocated within Recognised Recreational Anchorages without resource consent.

[85] The parties recognise that moorings and anchoring compete for sheltered coastal space. In the past anchoring areas have been reduced by the placement of moorings. Recognised Recreational Anchorage have been recognised as having value to the boating public for anchoring. The placement of a mooring will reduce the potential for anchoring. The parties consider that it is appropriate to assess this risk through a consenting process and to determine the most appropriate use of that space.

[86] The amendments sought by CEP Services have not yet been resolved and remain live issues. As we understand the position, the changes sought by CEP Services in relation to SEA and SBA are significantly broader than mooring relocation. The rule change here is that existing moorings would continue but relocation might engage the broader changes sought by the CEP Services appeal.

[87] Overall, we consider this change can be made now and will not be affected by any changes made to the Rule by the CEP Services appeal.

***Rule C.6.9.8 Discharges of untreated sewage from a ship or offshore installation – prohibited activity***

[88] Yachting New Zealand appealed a number of provisions relating to restrictions on the discharge of sewage from vessels.

[89] Following mediation, the parties agreed to provide a limited exception to the prohibition of discharges of untreated sewage from vessels. The exception enables the discharge from vessels that are seeking safe haven in Whangaroa Harbour during significant weather events, subject to standards intended to minimise the potential effects of any such discharge:

The discharge of untreated sewage from a vessel or offshore installation is prohibited within:

- 1) any location landward of the Marine pollution limits (refer | Maps | Ngā mahere matawhenua), except Whangaroa Harbour provided:
  - a) wind conditions at the mouth of the Harbour exceed 25 knots and sea swells exceed 2.5metres, and
  - b) Discharge may only take place during the first 3 hours of an outgoing tide, and
  - c) The discharge occurs more than 500 metres from mean highwater springs and in water depths greater than 5 metres, and

...

[90] The parties consider that this limited exception appropriately recognises the importance of being able to seek haven in Whangaroa Harbour (a recognised safe anchorage during inclement weather) and to be able to discharge sewage during such events. The limited exception recognises that:

- (a) the ability to pump sewage from vessels to land is limited in the vicinity of the Whangaroa Harbour;



- (b) the entrance to the Harbour is narrow and at times it can be unsafe to navigate out into open waters;
- (c) the limited exception reflects a similar provision under the operative Regional Coastal Plan for Northland.

[91] Patuharakeke Te Iwi Trust Board (**Patuharakeke**) is a signatory to these consent documents as a section 274 party to the Forest and Bird appeal. Patuharakeke is not a section 274 party to the Yachting New Zealand appeal. As such, Patuharakeke records that its agreement to the consent documents is limited to the matters raised in the Forest and Bird appeal, and Patuharakeke is not a party to this provision.

***Maps relating to Recognised Recreational Anchorages in Rule C.1.2.6  
Marine Pollution Limits in the Bay of Islands in Rules C.1.2.2, C.1.2.12 and  
C.6.9.8***

[92] The maps relating to Recognised Recreational Anchorages and the Marine Pollution Limits in the Bay of Islands were appealed by Yachting New Zealand.

[93] Following mediation, the parties agreed to amend the Regionally Significant Anchorages map to identify Recognised Anchorages and Recognised Recreational Anchorages.

[94] The parties also agreed to amend the Marine Pollution Limit:

- (a) on the seaward side of Roberton, Moturua, Motukiekie, Okahu Islands and Marsden Cross to reflect Resource Management (Marine Pollution) Regulations 1998; and
- (b) in Roberton Island to 500m off Black Rocks to Howe Point.

[95] The revised maps are attached as **Annexure B** to this determination.

[96] The parties consider that amending the Regionally Significant Anchorages map is consistent with Policy D.5.12, which aims to recognise the value of anchorages commonly used by the boating community because of their shelter, holding or community values. Further, the parties consider that the amendment to the Marine

Pollution Limit better aligns the maps with expectations of marine pollution and the Resource Management (Marine Pollution) Regulations 1998.

### **Outstanding appeal points within Topic 1**

[97] With the resolution of the provisions set out in this determination there remain the following outstanding appeal points within Topic 1 attached hereto as **Annexure C**.

[98] The Council is engaging with the appellants and s 274 parties in the interest of trying to resolve these matters. A further report in relation to Topic 1 (and other topics) is expected by 30 September 2022.<sup>7</sup> We comment on the remaining issues shortly.

### **Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F)**

[99] Section 44A of the RMA requires local authorities to recognise national environmental standards in their plans and proposed plans. Where there is a national environmental standard s 44A directs the local authority to amend the plan or proposed plan to remove the duplication or conflict “without using the process in Schedule 1; and as soon as practicable after the date on which the standard comes into force”.

[100] Some of the provisions addressed in this determination have the potential to conflict with the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F) in relation to coastal wetlands.

[101] As previous decisions have set out,<sup>8</sup> the burden of plan alignment is on the Council, not the Court. The Council has adopted an interim measure to include in the proposed plan a statement as follows:

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<sup>7</sup> Email from Registry to parties dated 7 July 2022.

<sup>8</sup> See for example, *Mangawhai Harbour Restoration Society Inc v Northland Regional Council* [2022] NZEnvC 114 and *Mangawhai Harbour Restoration Society Inc v Northland Regional Council* [2022] NZEnvC 119.

A rule in this Plan prevails over a standard in the NES-F if it is more stringent than a standard. A standard in the NES-F prevails over a rule in this Plan if it is more stringent than the rule.

[102] Any conflict will need to be addressed by the Council using its powers under section 44A of the RMA. The parties consider that the amendments agreed do not increase any conflict or duplication between the Proposed Plan and NES-F and are therefore appropriate for the Court's endorsement. I accept this.

### **Consideration**

[103] The Court has now read and considered the consent memorandum of the parties dated 7 September 2022. This determination does not represent the outcome of a full hearing by the Court, but rather an agreement reached between parties represented by experienced counsel.

[104] Section 32AA of the Act requires a further evaluation for any changes to a proposal since the initial s 32 evaluation report. It is difficult for the Court to undertake a full evaluation of the issues raised in the absence of evidence. I have relied on the parties evaluation. I understand that the parties have carefully considered their positions and consider that the overall agreement reached meets their concerns.

[105] I am satisfied that the agreement reached is balanced, pragmatic and manages risk. In my view the agreement reached achieves integrated management and is an appropriate planning outcome. The agreement gives effect to the NZCPS, Regional Policy Statement for Northland, and national standards and regulations, is consistent with the RMA, and ensures clarity.

[106] On broad analysis the changes:

- (a) clarify meaning and consolidate phrases used elsewhere the plan. Put simply these ensure consistency, certainty of expression, and improve drafting and thus clarity;
- (b) some seek to minimise or avoid affects. For example, C.1.1.7 seeks to avoid activity within the bird roosting season; and

- (c) seek to give better effect to objectives and policies, including the NZCPS. An example is C.1.1.2 and C.1.1.11.

[107] Although most changes are minor, they represent incremental improvements to the Plan drafting. It is more difficult to see that the significant delays in finalising the protective features of the plan are worth the delay and costs to the parties or environment. The balance of provisions should be resolved forthwith, or the Court will need to consider a hearing to finalise wording. This applies particularly to the matters listed in **Annexure C**.

[108] The Court is making this order under section 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

[109] The Court must also try to avoid conflicts with appeals yet to be decided and maintain consistency. Rule C.1.2.6 is an example where an unresolved appeal might be affected by this consent document. However I am satisfied that if the CEP Services appeal is successful Rule C.1.2.6 can be drafted to avoid conflict with the change made in this determination.

[110] I conclude the agreed amendments are the most appropriate way to achieve the purpose of the Act and the objectives in the Plan. Overall, I consider the sustainable management purpose and the other relevant requirements of the Act are broadly met.

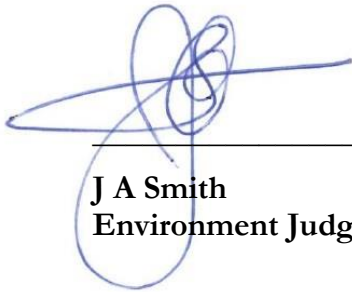
## Orders

[111] Therefore, the Court orders, by consent, that the Proposed Regional Plan for Northland be amended as set out in **Annexures A and B** to this determination.

[112] The determination resolves the provisions set out at [2] above, apart from Rule C.1.2.6 for which the amendments sought by CEP Services have not been resolved and remain outstanding.

[113] There remain the matters in **Annexure C which now require urgent resolution.**

[114] There is no order as to costs.



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**J A Smith**  
Environment Judge



## ANNEXURE A: AGREED PROVISIONS

Insert the following interpretation statement at the beginning of Chapter D Policies | Ngā Kaupapa and Chapter F.1 Objectives | Ngā whāinga of the Proposed Regional Plan for Northland:

**Application of objectives and policies:**

1. Regard must be had to all the relevant objectives and policies in the Plan when considering an application for a resource consent.
  
2. Where policies in this plan are in conflict, the more directive policies shall prevail.
  
3. Regard must be had to any relevant provisions of the Regional Policy Statement and National Policy Statements, and where appropriate Part 2 of the RMA, when considering an application for a resource consent.

### Definitions

<i>Structure (in rules for activities in the coastal marine area)</i>	A building, equipment, device, pipeline or other facility which is fixed to land. It includes a structure which is fixed to another structure, which is fixed to land.
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...

<i>Functional need</i>	<p><del>When an activity or network (including structures) is dependent on a particular location to operate, or is required to traverse, locate or operate in a particular environment due to its technical or operational requirements.</del></p> <p><u>The need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.</u></p> <p><b>Note:</b></p> <p><i>This excludes dwellings and guest houses, hotels, motels, cafes, restaurants and shops.</i></p>
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<u>Operational need</u>	<u>The need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints.</u>
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...

<u>National Grid structure</u>	<u>The facilities and structures used for, or associated with, the overhead or underground transmission of electricity in the National Grid. It includes transmission line support structures (a tower or pole), telecommunication cables, and telecommunication devices, but does not include an electricity substation.</u>
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...

<u>Recognised Recreational Anchorages</u>	<p><u>A recognised recreational anchorage identified in I Maps, which is:</u></p> <ol style="list-style-type: none"> <li>1. <u>Referred to in cruising guides and similar publications as being of value to the boating community because of its shelter, holding, amenity and/or significant recreational value; and</u></li> <li>2. <u>Commonly used and utilised for overnight anchoring in suitable conditions.</u></li> </ol>
<u>Regionally Significant Anchorages</u>	<u>A regionally significant anchorage identified in I Maps, which is a strategic anchorage referred to in cruising guides and similar publications as being important shelter for small/large craft in adverse weather.</u>

## Objective

### F.1.8 Use and development in the coastal marine area

Use and development in the coastal marine area:

- 1) makes efficient use of space occupied in the common marine and coastal area, and
- 2) is of a scale, density and design compatible with its location, and
- 3) recognises the need to maintain and enhance public open space and recreational opportunities, and

- 4) is provided for in appropriate places and forms, and within appropriate limits, and
- 5) is undertaken in a way that recognises it can have effects outside the coastal marine area.

## Policies

### D.5.8 Coastal Commercial Zone and Marsden Point Port Zone Purpose

Recognise that the purpose of the Coastal Commercial Zone and Marsden Point Port Zone is to enable the development and operation of existing and authorised maritime-related commercial enterprises or industrial activities located within these zones.

### D.5.9 Coastal Commercial Zone and Marsden Point Port Zone

Development in the Coastal Commercial Zone and the Marsden Point Port Zone will generally be appropriate provided it is:

- 1) consistent with:
  - a) existing development in the Coastal Commercial Zone or the Marsden Point Port Zone, and
  - b) existing development on adjacent land above mean high water springs, and
  - c) development anticipated on the land above mean high water springs by the relevant district plan, or
- 2) associated with regionally significant infrastructure in the Marsden Point Port Zone.

Development that is inconsistent with 1) or 2) will not necessarily be inappropriate.

### D.5.10 Whangārei City Centre Marine Zone

Recognise that the purpose of the Whangārei City Centre Marine Zone is to enable the development of structures for amenity and public good purposes.

### D.5.15 Marinas – managing the effects of marinas

Marinas must:

- 1) provide convenient facilities on-site for the containment, collection and appropriate disposal of:
  - a) refuse from vessels, and
  - b) sewage and sullage from vessels, and



- c) recyclable material, including waste oils, from vessels, and
  - d) spills from refuelling operations and refuelling equipment, and
  - e) the discharge of stormwater generated from the marina complex, and
- 2) provide shore-based facilities, including parking, public toilets, boat racks, public access, and
  - 3) mitigate any loss of public access to, along and within the coastal marine area, including the provision of facilities such as public boat ramps and alternative access for other users, and
  - 4) be designed and constructed in a manner that reflects the benefits of landscaping and urban design treatment, and
  - 5) be consistent with any relevant council structure plans, concept plans, strategies, reserve management plans, designations or additional limitations that apply to the adjoining land.

### D.5.17 Marina Zones – purpose

Recognise that the purpose of Marina Zones is to provide for the development and operation of marinas.

### D.5.28 Significant surf breaks

Provide for the use and enjoyment of Nationally and Regionally Significant Surf Breaks (refer: I Maps | Ngā mahere matawhenua) by ~~ensuring that~~:

- 1) ensuring that resource consent applications for activities within the coastal marine area that are within a one kilometre radius of a Nationally Significant Surf Break or a Regionally Significant Surf Break are accompanied by an assessment of environmental effects of the activity on the identified values of the surf break, and
- 2) avoiding adverse effects on the characteristics, qualities and values that contribute to make Nationally Significant Surf Breaks significant, ~~are avoided~~, and
- 3) avoiding significant adverse effects on the characteristics, qualities and values that contribute to make Regionally Significant Surf Breaks significant, ~~are avoided~~, and
- 4) avoiding, remedying or mitigating other adverse effects on Nationally and Regionally Significant Surf Breaks, and
- 45) maintaining or enhancing access to Nationally and Regionally Significant Surf Breaks ~~is maintained or enhanced~~.

## Rules

### C.1.1.1 Existing structures – permitted activity

The occupation of the common marine and coastal area by the following structures that:

- 1) existed at 30 June 2004, or
  - 2) were previously authorised, or
- are permitted activities:
- 3) outlet pipes, and
  - 4) road and railway culverts, and
  - 5) bridges, and
  - 6) aerial and submarine electricity line and telecommunications line structures, including any support structures, and
  - 7) suspended and submarine pipelines, and
  - 8) jetties up to 10 square metres in area, and
  - 9) hard protection structures in the coastal marine area within enclosed waters (I Maps | Ngā mahere matawhenua), and
  - 10) boat ramps and concreted slipways less than 15 metres in length and less than four metres in width, and
  - 11) dinghy skids used solely for private boat launching and retrieval, and
  - 12) steps, and
  - 13) wharves, jetties, boat ramps, concrete spillways and mooring dolphins in the Coastal Commercial Zone and Marsden Point Port Zone, and
  - 14) non-habitable buildings and structures on and attached to wharves and jetties in the Coastal Commercial Zone and Marsden Point Port Zone

provided:

- 15) the structure complies with ~~all relevant conditions of~~ C.1.8 Coastal works general conditions, and
- 16) the structure is not within a Marina Zone, and
- 17) the structure owner can provide, if requested by the Regional Council:
  - a) clear written or photographic evidence the structure existed at 30 June 2004, or
  - b) a copy of the necessary authorisation(s) for the structure.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Occupation of the common marine and coastal area with a structure (s12(2)).
  - Any erection or placement of an existing structure in, on, under or over any foreshore (s12(1)).  
Note - this is included to cover the circumstance (should it arise) where an existing structure is deemed to trigger the s12(1)(b) restriction on erecting or placing a structure.

### C.1.1.2 Minor structures in a Coastal Commercial Zone, Marsden Point Port Zone and the Whangārei City Centre Marine Zone – permitted activity

The erection, placement, alteration or extension of a structure in a Coastal Commercial Zone, Marsden Point Port Zone or the Whangārei City Centre Marine Zone, and any occupation of the common marine and coastal area by the structure, are permitted activities, provided the structure:

- 1) is not an aquaculture activity, and
- 2) does not exceed a five metre vertical projection above mean high water springs, and
- 3) is attached to a structure which is attached to the seabed or foreshore (for example, a wharf), and
- 4) does not extend beyond the horizontal footprint of an existing structure, and
- 5) is above mean high water springs in a vertical projection, and
- 6) does not include advertising or marketing signage, and
- 7) complies with ~~all relevant conditions of C.1.8 Coastal works general conditions,~~ and
- 8) is not located within the Russell or Mangonui Harbour Coastal Commercial Zone.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection, placement, alteration or extension of a structure in, on, under or over any foreshore or seabed and any incidental disturbance of the foreshore or seabed (s12(1)).
- Occupation of the common marine and coastal area with a structure (s12(2)).

### C.1.1.3 Temporary coastal structure – permitted activity

The erection, placement, alteration, ~~or~~ extension or removal of a temporary coastal structure in the coastal marine area and any occupation of the common marine and coastal area by the structure are permitted activities, provided:

- 1) the temporary coastal structure is not an aquaculture activity, and
- 2) the Regional Council's Compliance Manager and the Regional Council's harbourmaster are given at least 10 working days' notice (in writing or by email) of the start date of construction or placement of the structure, and
- 3) other than for a temporary coastal structure necessary for activities involving the repair or maintenance of regionally significant infrastructure, the temporary coastal structure does not exceed an area of 10 square metres (excluding any anchor(s) and anchor line(s) ~~and any structure being used for construction, repair or maintenance purposes~~), and
- 4) the temporary coastal structure does not exceed a two metre vertical projection above mean high water springs or the foreshore (excluding any structure being used for construction or maintenance purposes), and
- 5) the temporary coastal structure does not include advertising or marketing signage, and
- 6) other than for temporary scaffolding, weather protection wrap or fencing associated with the repair or maintenance of regionally significant infrastructure, the temporary coastal structure is

not in the coastal marine area for a period exceeding a total of 30 days or part days during a 12-month period, inclusive of the placement and removal, and

- 7) the temporary coastal structure is removed within seven days of the completion of the event or use, and
- 8) the temporary coastal structure does not prevent existing public access to and along the foreshore, and
- 9) the temporary coastal structure is not in a mapped Site or Area of Significance to tangata whenua (refer [I Maps | Ngā mahere matawhenua](#)), and
- 10) ~~all relevant conditions of the temporary coastal structure activities comply with~~ C.1.8 Coastal works general conditions ~~are complied with~~.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection, placement, alteration removal or extension of a structure in, on, under or over any foreshore or seabed and any incidental disturbance of the foreshore or seabed (s12(1)).
- Occupation of the common marine and coastal area with a structure (s12(2)).<sup>1</sup>

#### C.1.1.4 Aids to navigation – permitted activity

The erection, placement, alteration or extension of an aid to navigation structure in the coastal marine area and any occupation of the common marine and coastal area by the structure are permitted activities, provided:

- 1) it is owned and operated by:
  - a) the Regional Council or its agents, or
  - b) Northport, or
  - c) Refining NZ, or
  - d) Maritime New Zealand or its agents, and
- 2) it is not in a mapped Site or Area of Significance to tangata whenua (refer [I Maps | Ngā mahere matawhenua](#)), and
- 3) the Regional Council's Harbourmaster is given at least 10 working days' notice (in writing or by email) of the start date of construction or placement of the structure, and
- 4) it complies with the all-relevant conditions of C.1.8 Coastal works general conditions.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection, placement, alteration or extension of a structure in, on, under or over any foreshore or seabed and any incidental disturbance of the foreshore or seabed (s12(1)).
- Occupation of the common marine and coastal area with a structure (s12(2)).<sup>2</sup>

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<sup>1</sup> Appeal to Environment Court by Royal Forest & Bird Protection Society NZ ENV-2019-AKL-000127

<sup>2</sup> Appeal to Environment Court by Royal Forest & Bird Protection Society NZ ENV-2019-AKL-000127

### C.1.1.5 Signs – permitted activity

The erection, placement, alteration or extension of a sign (including cable markers on the seafloor) in the coastal marine area and any occupation of the common marine and coastal area by the sign, placed:

- 1) by a central or local government agency (or their agent) directly relating to information or safety matters concerning the coastal marine area, or
- 2) to fulfil a regulatory or legislative requirement, or
- 3) by the operator of a facility in the Coastal Commercial Zone, Marsden Point Port Zone or a Marina in the Marina Zone, displaying information and safety material relating to the safe and efficient operation of the facility, or
- 4) on the exterior of an authorised structure and the sign relates directly to goods, services or facilities operated at or on the structure,

are permitted activities, provided:

- 5) the activities comply with ~~all relevant conditions of~~ C.1.8 Coastal works general conditions, and
- 6) if the sign is on the exterior of an authorised structure and the sign relates directly to goods, services or facilities operated at or on the structure, then:
  - a) the total area of signs per enterprise or activity must not exceed 1.25 square metres, and
  - b) except for road or maritime risk signage installed by a road controlling authority or network utility operator, the sign (or any part of the sign) must not be reflective, flashing or neon, and
  - c) the bottom of the sign must not be more than four metres above deck level, and
  - d) the bottom of the sign over a walkway must be at least 2.4 metres above the walkways, and
  - e) the total combined area of all signs (under this rule) on the structure must not exceed five square metres, and
- 7) signs in a Mooring Zone or General Coastal Zone must not be lit between 10pm and 5am, unless necessary for maritime safety purposes.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection, placement, alteration or extension of a sign in, on, under or over any foreshore or seabed and any incidental disturbance of the foreshore or seabed (s12(1)).
- Occupation of the common marine and coastal area with a sign (s12(2)).

### C.1.1.7 Reconstruction, replacement, maintenance or repair of a structure – permitted activity

The reconstruction, replacement, maintenance or repair of a structure, or part of a structure, in the coastal marine area is a permitted activity, provided:

- 1) the structure is authorised, and
- 2) there is no increase in the authorised structure's footprint, other than that resulting from routine maintenance or repair activities, and

- 3) there is no change to the authorised location of the structure, except where the structure is a network utility pole, and the location of any reconstructed or replaced pole is within 2 lineal metres of the location of the existing network utility pole it replaces, and
- 4) it is not a reconstruction of a Historic Heritage Site (refer I Maps | Ngā mahere matawhenua), and
- 5) in the case of maintenance and repair of a Historic Heritage Site (refer I Maps | Ngā mahere matawhenua), work must be within scope of what is defined in this Plan as Historic Heritage Site Repair and Historic Heritage Site Maintenance and must not result in any of the following:
  - a) changes to the existing surface treatment of fabric,<sup>3</sup> painting of any previously unpainted surface, or the rendering of any previously unrendered<sup>4</sup> surface, or
  - b) the use of abrasive or high-pressure cleaning methods, such as sand or water blasting, or
  - c) the affixing of scaffolding to the building or structure, or
  - d) changes to the extent, floor levels, location of internal walls, form, proportion and scale of the building or structure, or
  - e) the use of materials in the fabric other than those that are the same as the original or their closest equivalent, or
  - f) disturbance of the foreshore or seabed where there is a registered archaeological site and no archaeological authority has been granted, and
- 6) the reconstruction, replacement, maintenance or repair complies with the all-relevant conditions of C.1.8 Coastal works general conditions.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Reconstruction, replacement, maintenance or repair of structures in, on, under or over any foreshore or seabed and any incidental disturbance of the foreshore or seabed (s12(1) and s12(3)).

### C.1.1.8 Maintenance, repair or removal of hard protection structures – permitted activity

The maintenance, repair or removal of a hard protection structure is a permitted activity, provided:

- 1) the Regional Council's Compliance Manager is given at least 10 working days' prior notice (in writing or by email) of the start date of activities involving either the use of vehicles on the foreshore or seabed, or the removal of hard protection structures, and
- 2) the maintenance, repair or removal complies with the all-relevant conditions of C.1.8 Coastal works general conditions, and
- 3) there is no increase in length, width, or height of the structure, other than to provide for the settlement of earthen stopbanks, and
- 4) the hard protection structure is authorised (unless the hard protection structure is being removed).

**For the avoidance of doubt this rule covers the following RMA activities:**

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<sup>3</sup> Fabric refers to doors, windows, and exterior walls and surfaces of a building or structure.

<sup>4</sup> Rendering generally refers to the application of plastering material.

- Maintenance, repair or removal of hard protection structures on land (s9(2)).
- Maintenance, repair or removal of hard protection structures in, on, under or over any foreshore or seabed and any incidental disturbance of the foreshore or seabed (s12(1) and s12(3)).<sup>5</sup>

### C.1.1.9 Additions or alterations to structures – permitted activity

An addition to, or alteration of, the following structures in the coastal marine area and the occupation of the common marine and coastal area by the addition or alteration, are permitted activities:

- 1) aerial and submarine telecommunications cables or aerial or electricity transmission lines provided:
  - a) the additions or alterations will not require additional support structures as a result of any increase in the design voltage, and
  - b) the new or altered aerial lines will not be lower in height above the foreshore or seabed, and
- 2) insulators, circuits, earth wires, earth peaks and lightning rods, and
- 3) bridge footpaths, bridge side rails, bridge road seal, bridge road signs, bridge road lighting, and cables or pipes attached to bridges,

provided:

- 4) the structure to be altered or added to is authorised, and
- 5) the addition or alteration complies with ~~the all-relevant~~ conditions of C.1.8 Coastal works general conditions, and
- 6) the addition or alteration does not cause an increase in flood levels for a one percent annual exceedance probability flood event.

**Note:**

*Clause 1 of Rule C.1.1.9 relating to an increase in the design voltage does not apply to an existing (as at 14 January 2010) National Grid line as that activity is covered by Regulation 10 of the Resource Management (National Environmental Standards for Electricity Transmission Activities).*

For the avoidance of doubt this rule covers the following RMA activities:

- Addition (a form of extension) or alteration of a structure in, on, under or over any foreshore or seabed and any incidental disturbance of the foreshore or seabed (s12(1) and s12(3)).
- Occupation of the common marine and coastal area with the addition or alteration to a structure (s12(2)).

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<sup>5</sup> Appeal to Environment Court by Royal Forest & Bird Protection Society NZ ENV-2019-AKL-000127

### C.1.1.10 Removal or demolition of structures – permitted activity

The removal or demolition of a structure (excluding a hard protection structure) in the coastal marine area is a permitted activity, provided:

- 1) the activity complies with ~~the all-relevant~~ conditions of C.1.8 Coastal works general conditions, and
- 2) the structure is not a Historic Heritage Site (refer [I Maps | Ngā mahere matawhenua](#)).

**For the avoidance of doubt this rule covers the following RMA activities:**

- Removal or demolition of structures in, on, under or over any foreshore or seabed and any incidental disturbance of the foreshore or seabed (s12(1)).

### C.1.1.11 Additions or alterations to structures in the Coastal Commercial Zone or Marsden Point Port Zone – controlled activity

The addition to or alteration of a structure in the Coastal Commercial Zone or Marsden Point Port Zone, the use of the addition or altered part of the structure, and any occupation of the common marine and coastal area by the addition or alteration, that is not a permitted activity under [Rule C.1.1.2](#) or [Rule C.1.1.9](#), are controlled activities provided:

- 1) the structure to be altered or added to is authorised, and
- 2) the existing structure has a functional need to be located in the coastal marine area, and the addition or alteration is necessary for the safe or efficient operation of the activity undertaken in the zone.

**Matters of control:**

- 1) Effects on coastal processes, including effects on shoreline stability in the vicinity.
- 2) Effects on public access to and along the coastal marine area.
- 3) Effects on aquatic ecosystem health and indigenous biodiversity.
- 4) Effects on public open space and visual amenity.
- 5) Height of the addition or alteration to the structure.
- 6) Effects of disturbance, deposition and discharge associated with construction, including use of heavy machinery.
- 7) Use of the addition or alteration to the structure.
- 8) Effects on Russell and Mangonui heritage precincts<sup>6</sup>.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Addition to or alteration of a structure in, on, under or over any foreshore or seabed and any incidental disturbance of the foreshore or seabed (s12(1) and s12(3)).

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<sup>6</sup> As set out in the Far North District Plan



- Occupation of the common marine and coastal area with the addition or alteration to a structure (s12(2)).
- Use of a structure in the coastal marine area (s12(3)).

### C.1.1.13 Structures in the Whangārei City Centre Marine Zone – controlled activity

The use, erection, placement, alteration or extension of a jetty, boat ramp, pontoon, walkway, board walk or viewing platform in the Whangārei City Centre Marine Zone and any occupation of the common marine and coastal area by the structure that is not a:

- 1) permitted activity under Rule C.1.1.1 Existing structures – permitted activity, or
- 2) permitted activity under Rule C.1.1.2 Minor structures in a Coastal Commercial Zone, Marsden Point Port Zone and the Whangārei City Centre Marine Zone – permitted activity

are controlled activities, provided:

- 3) there is no restriction on public use of the structure.

**Matters of control:**

- 1) Effects on coastal processes including effects on shoreline stability in the vicinity.
- 2) Effects on public access to and along the coastal marine area.
- 3) Effects on public open space and visual amenity.
- 4) Use of structure.
- 5) Effects on aquatic ecosystem health and indigenous biodiversity.
- 6) Effects of disturbance, deposition and discharge associated with construction, including use of heavy machinery.

**Notification:**

Resource consent applications under this rule are precluded from notification (limited or public).

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection, placement, alteration or extension of a structure in, on, under or over any foreshore or seabed and any incidental disturbance of the foreshore or seabed (s12(1)).
- Occupation of the common marine and coastal area with a structure (s12(2)).
- Use of a structure in the coastal marine area (s12(3)).

### C.1.1.14 Existing authorised structures in a Coastal Commercial Zone, Marsden Point Port Zone or Marina Zone – controlled activity

The use of, and any occupation of, the common marine and coastal area, by an existing authorised structure in a Coastal Commercial Zone, Marsden Point Port Zone or Marina Zone, that is not a permitted activity under Rule C.1.1.1 Existing structures – permitted activity are controlled activities, provided:

- 1) if the existing structure is in a Marina Zone, it is associated with a marina.

#### **Matters of control:**

- 1) Effects on-coastal processes including effects on shoreline stability in the vicinity.
- 2) Effects on aquatic ecosystem health and indigenous biodiversity.
- 3) Effects on public access to and along the coastal marine area.
- 4) Use of the structure.

#### **Notification:**

Resource consent applications under this rule are precluded from notification (limited or public).

#### **For the avoidance of doubt this rule covers the following RMA activities:**

- Occupation of the common marine and coastal area with an existing authorised structure (s12(2)).
- Use of a structure in the coastal marine area (s12(3)).
  - Any erection or placement of an existing structure in, on, under or over any foreshore (s12(1)).  
Note - this is included to cover the circumstance (should it arise) where an existing structure is deemed to trigger the s12(1)(b) restriction on erecting or placing a structure.

### C.1.1.15 Works to a Historic Heritage Site within the scope of a historic heritage management plan – restricted discretionary activity<sup>7</sup>

The use, erection, reconstruction, placement, alteration, extension, removal, or demolition of a historic heritage site and any occupation of the common marine and coastal area by the structure that is not a permitted activity under:

- 1) Rule C.1.1.7 Reconstruction, replacement, maintenance or repair of a structure – permitted activity, or
- 2) Rule C.1.1.10 Removal or demolition of structures – permitted activity

are restricted discretionary activities, provided the works are within the scope of a historic heritage management plan developed by a suitably qualified and experienced professional.

#### **Matters of discretion:**

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<sup>7</sup> Appeal to Environment Court by CEP Services Matauwhi Ltd ENV-2019-AKL-000111

- 1) Effects on historic heritage values.
- 2) Effects on public access to and along the coastal marine area.
- 3) Use of the structure.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection, reconstruction, placement, alteration, extension, removal, or demolition of any historic heritage site or any part of a historic heritage site that is fixed in, on, under, or over any foreshore or seabed and any incidental disturbance of the foreshore or seabed (s12(1)).
- Occupation of the common marine and coastal area with a structure (s12(2)).
- Use of a structure in the coastal marine area (s12(3)).

### C.1.1.16 Structures in the Marsden Point Port Zone – restricted discretionary activity

The use, erection, placement, alteration or extension of a structure in the Marsden Point Port Zone and any occupation of the common marine and coastal area by the structure that is not a permitted or controlled activity in section C.1.1 of this Plan, are restricted discretionary activities.

**Matters of discretion:**

- 1) Effects on coastal processes including effects on shoreline stability in the vicinity.
- 2) Effects on aquatic ecosystem health and indigenous biodiversity.
- 3) Effects on public access to and along the coastal marine area.
- 4) Use of the structure.
- 5) The positive effects of the activity.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection, placement, alteration or extension of a structure in, on, under or over any foreshore or seabed and any incidental disturbance of the foreshore or seabed (s12(1)).
- Occupation of the common marine and coastal area with a structure (s12(2)).
- Use of a structure in the coastal marine area (s12(3)).

### C.1.1.21A National grid structures in Mooring and General Marine Zones – discretionary activity

The erection, reconstruction, placement, alteration, extension, maintenance, repair, removal or demolition of a National Grid structure in a Mooring Zone or the General Marine Zone and any occupation of the common marine and coastal area by the structure that is not a permitted, controlled or restricted discretionary activity in section C.1. of this Plan and the use of the structure are discretionary activities, provided the structure has a functional or operational need to be located in the coastal marine area.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection, reconstruction, placement, alteration, extension, maintenance, repair, removal or demolition of structures in, on, under or over any foreshore or seabed and any incidental disturbance of the foreshore or seabed (s12(1) and s12(3)).
- Occupation of the common marine and coastal area with a cable (s12(2)).
- Use of a structure in the coastal marine area (s12(3)).

### C.1.1.26 Structures with no functional need or operational need – non-complying

The use, erection or placement of a structure with no functional need or operational need to occupy the common marine and coastal area, and any occupation of the common marine and coastal area by the structure, are non-complying activities.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection or placement of a structure in, on, under or over any foreshore or seabed and any incidental disturbance of the foreshore or seabed (s12(1)).
- Occupation of the common marine and coastal area with a structure (s12(2)).
- Use of a structure in the coastal marine area (s12(3)).

### C.1.2.1 Vessels not underway – permitted activity

- 1) Securing a vessel to land (seabed, foreshore or shore), or
  - 2) securing a vessel to a structure, or
  - 3) placing a vessel in contact with the foreshore or seabed (deliberately or unintentionally),
- are permitted activities, provided:
- 4) the vessel is not:
    - a) in enclosed water (refer l Maps | Ngā mahere matawhenua) for more than 14 consecutive days or part days. At the conclusion of this period the vessel must leave the enclosed water and cannot return to that enclosed water within three calendar days or part days, or

- b) in the outer Bay of Islands and outer Whangaroa Harbour (refer ! Maps | Ngā mahere matawhenua) between 1 November and 31 March, and
- i. ~~the vessel is not secured or placed in one location~~ position, or within 1000 metres of that position, for longer than 14 consecutive days or part days, and
  - ii. ~~and if it leaves that location~~ position, or within 1000 m of that position after 14 consecutive days, the vessel does not return to that location within three calendar days or part days, and
- 5) any vessel secured to a structure is authorised to be secured to the structure by the structure owner or manager, and
- 6) the vessel (including its anchor) is not within 75 metres of an authorised marine farm structure.

**Exclusions:**

- 7) Clauses 4(a) and 4(b) and clause 6 do not apply to a vessel secured to an authorised mooring or marina berth, and
- 8) Clauses 4(a) and 4(b) do not apply where a longer period is made necessary due to bad weather<sup>8</sup>, accident, or emergency.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Securing a vessel located in the coastal marine area to land or a structure on land (s9(2)).
- Placing a vessel in contact with the foreshore or seabed, or securing a vessel to the foreshore, seabed or a structure in the coastal marine area (s12(3)).
- Disturbance of the foreshore or seabed incidental to securing a vessel to land or to a structure s12(1).

### C.1.2.2 Vessels – sewage management – permitted activity

Staying overnight on a vessel within a marine pollution limit (refer ! Maps | Ngā mahere matawhenua) is a permitted activity provided:

- 1) the vessel is equipped with:
  - a) a sewage treatment system which is specified in Schedule 5 or 7, or is compliant with Schedule 6, of the Resource Management (Marine Pollution) Regulations 1998 and which is installed, maintained and operated in accordance with the manufacturer's instructions, or
  - b) a sewage holding tank, or
  - c) a portable toilet, or
  - d) a composting toilet, and

---

<sup>8</sup> For the purpose of this rule bad weather means: wind conditions at the seaward boundary of the enclosed water exceed 25 knots and sea swells exceed 2.5 metres.

- ~~2) no person stays overnight on the vessel with a sewage holding tank or composting toilet if one or more people have already stayed overnight on board the vessel for more than 10 preceding nights (consecutive or not), and within the 10 preceding nights the vessel has not:
  - ~~a) pumped out all of the sewage from the vessel's sewage holding tank at a sewage pump-out facility, or~~
  - ~~b) navigated into waters seaward of the marine pollution limit (refer to Maps | Ngā mahere matawhenua) and disposed of all its sewage into those waters, and~~~~
- 3) no person stays overnight on the vessel with a portable toilet, if one or more people have already stayed overnight on board the vessel for more than 10 preceding nights (consecutive or not), and within the 10 preceding nights have not legally disposed of the sewage on land, and
- 4) upon request of the Regional Council, the skipper and/or owner of the vessel, keeps and provides the Regional Council with:
  - a) photographic evidence of the method and capacity of sewage containment, or
  - b) a copy of written evidence from a boat builder or marine engineer detailing the method and capacity of sewage containment, and
  - c) the number of persons staying overnight
- 5) the vessel is not aground or secured to land or secured to a structure overnight within 500 metres from an authorised marine farm, except for:
  - a) vessels associated with the operation of the marine farm, and
  - b) a vessel attached to an authorised mooring, and
  - c) the following marine farms, where anchoring up to 200 metres from the marine farm is permitted:
    - i. in the Waikare Inlet, any marine farm west of a line from 1703263mE 6092240mN to 1703691mE 6092173mN (all coordinates in New Zealand Transverse Mercator 2000), and
    - ii. adjacent to Stephenson Island.

**Notes:**

*Also refer to the Resource Management (Marine Pollution) Regulations 1998 in relation to the following discharges:*

- 1) *grade A or B treated sewage, or*
- 2) *sewage discharges near a marine farm, marine reserve or mataitai reserve.*

**For the avoidance of doubt this rule covers the following RMA activities:**

- Staying overnight on a vessel in the coastal marine area (s12(3)).

### C.1.2.6 Relocation of a mooring by the Harbourmaster – permitted activity

The relocation of a mooring as directed by the Regional Council's Harbourmaster, for navigation safety purposes and the efficient use of available space, is a permitted activity, provided the mooring is not relocated into the following mapped areas (refer I Maps | Ngā mahere matawhenua):

- 1) Outstanding Natural Feature, or
- 2) Area of Outstanding Natural Character, or
- 3) Significant Ecological Area outside a Mooring Zone, or
- 4) Regionally Significant Anchorage, or
- 4a) Recognised Recreational Anchorage, or
- 5) Site or Area of Significance to tangata whenua, or
- 6) Marina Zone, or
- 7) Historic Heritage Area or Historic Heritage Site.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Relocation of a mooring in, on, under or over any foreshore or seabed and any incidental disturbance of the foreshore or seabed (s12(1) and s12(3)).

### C.1.2.10a Vessels not underway – restricted discretionary activity

- 1) Securing a vessel to land (seabed, foreshore or shore), or
- 2) securing a vessel to a structure, or
- 3) placing a vessel in contact with the foreshore or seabed (deliberately or unintentionally),

in one position, or within 1000m of that position for up to 28 days or part days is a restricted discretionary activity, provided:

- a. The vessel (including its anchor) is not secured or placed within a mapped (refer I Maps | Ngā mahere matawhenua):
  - i. a Regionally Significant Anchorage or
  - ii. Site or Area of Significance to tangata whenua, or
  - iii. Historic Heritage Site, or
  - iv. Marina Zone, and
- b. the vessel (including its anchor) is not within 75 metres of an authorised marine farm structure

### **Matters of Discretion**

- 1) Effects on the opportunity for recreational use of the waters in the vicinity.
- 2) Effects on navigation and safety.
- 3) Effects on the characteristics, qualities and values of mapped significant ecological areas (refer I Maps | Ngā mahere matawhenua).
- 4) Methods to contain or treat sewage.
- 5) Positive effects of the activity.

### **For the avoidance of doubt this rule covers the following RMA activities:**

- Securing a vessel located in the coastal marine area to land or a structure on land (s9(2)).
- Staying overnight on a vessel in the coastal marine area, placing a vessel in contact with the foreshore or seabed, or securing a vessel to the foreshore, seabed or a structure in the coastal marine area (s12(3)).
- Disturbance of the foreshore or seabed incidental to the activity ((s12(1))

## **C.1.2.12 Vessels not underway and sewage management – discretionary activity**

Staying overnight on a vessel within a Marine Pollution Limit (refer I Maps | Ngā mahere matawhenua) or temporarily:

- 1) securing a vessel to land (seabed, foreshore or shore), or
- 2) securing a vessel to a structure (excluding authorised moorings), or
- 3) grounding a vessel,

that is not a permitted or a restricted discretionary activity in section C.1.2 of this Plan are discretionary activities.

### **For the avoidance of doubt this rule covers the following RMA activities:**

- Securing a vessel located in the coastal marine area to land or a structure on land (s9(2)).
- Staying overnight on a vessel in the coastal marine area, placing a vessel in contact with the foreshore or seabed, or securing a vessel to the foreshore, seabed or a structure in the coastal marine area (s12(3)).
- Disturbance of the foreshore or seabed incidental to the activity ((s12(1)).

## **C.6.9.8 Discharges of untreated sewage from a ship or offshore installation – prohibited activity**

The discharge of untreated sewage from a vessel or offshore installation is prohibited within:

- 1) any location landward of the Marine pollution limits (refer I Maps | Ngā mahere matawhenua), except Whangaroa Harbour provided:
  - a. wind conditions at the mouth of the Harbour exceed 25 knots and sea swells exceed 2.5 metres, and
  - b. Discharge may only take place during the first 3 hours of an outgoing tide, and
  - c. The discharge occurs more than 500 metres from mean highwater springs and in water depths greater than 5 metres, and
- 2) the 'Marine pollution limits – Bay of Islands large vessel limits' (refer I Maps | Ngā mahere matawhenua) for vessels that have a certificate of survey to carry more than 49 passengers and



crew.

For the avoidance of doubt this rule covers the following RMA activities:

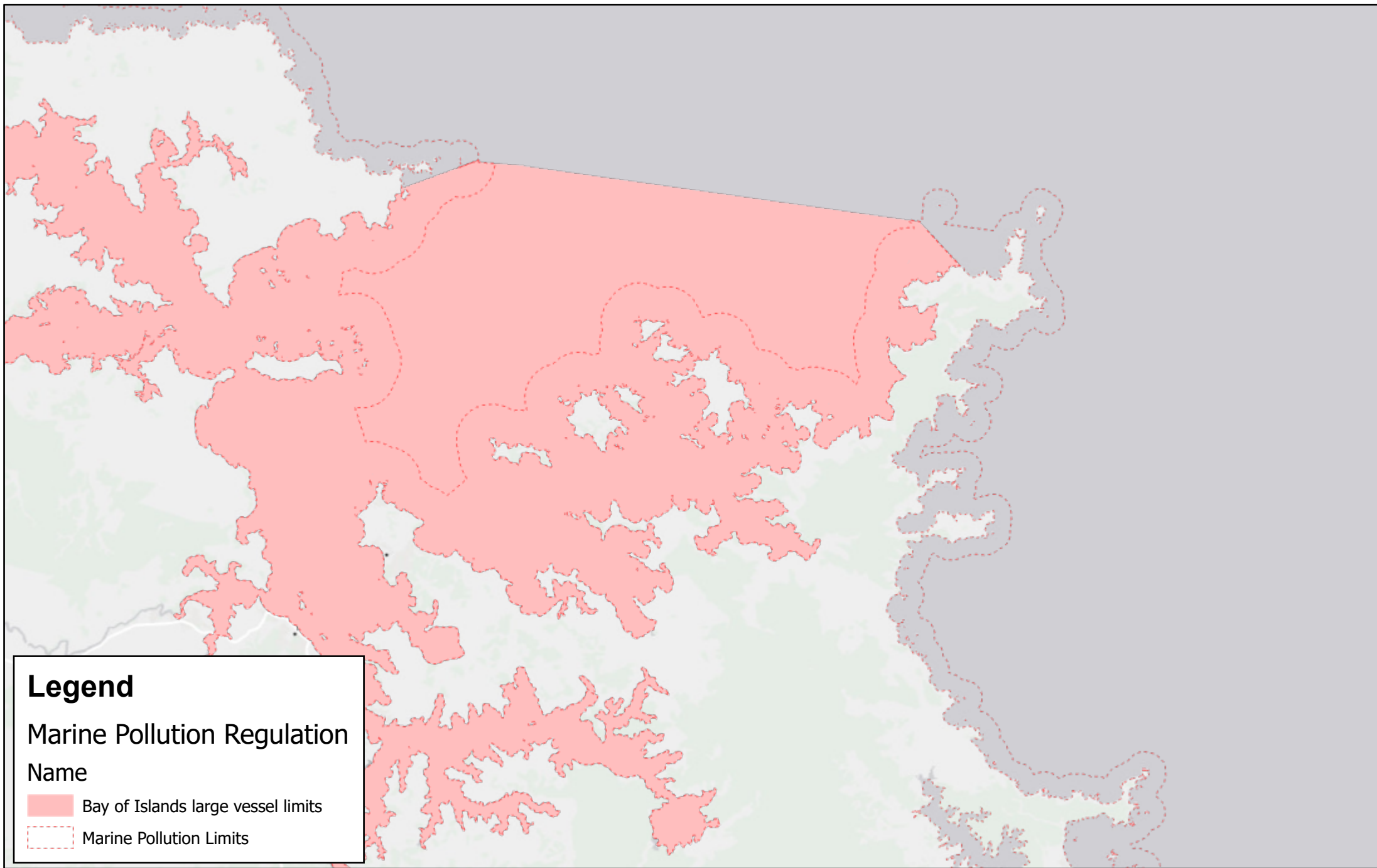
- Discharge of untreated sewage from a vessel or offshore installation into the coastal marine area (s15B).

## **Annexure B – Mapping amendments**

## **Marine Pollution Limits and Bay of Islands Large Vessel Limits**

Amend the Marine Pollution Limits and Bay of Islands Large Vessel Limits maps to:



1. reduce the extent of the Marine Pollution Limit on the seaward side of Roberton, Moturua, Motukiekie, Okahu Islands and Marsden Cross to reflect Resource Management (Marine Pollution) Regulations 1998 (i.e. from extending 1km offshore to 500m offshore);
  2. increase the extent of the Marine Pollutions Limit from Tapeka Point to a line between 500m offshore from Black Rocks (Moturoa Island) to Howe Point (Motuarohia Island) and reduce the extent of the Bay of Islands Large Vessel Limits accordingly;
- as shown.



### Legend

#### Marine Pollution Regulation



#### Name

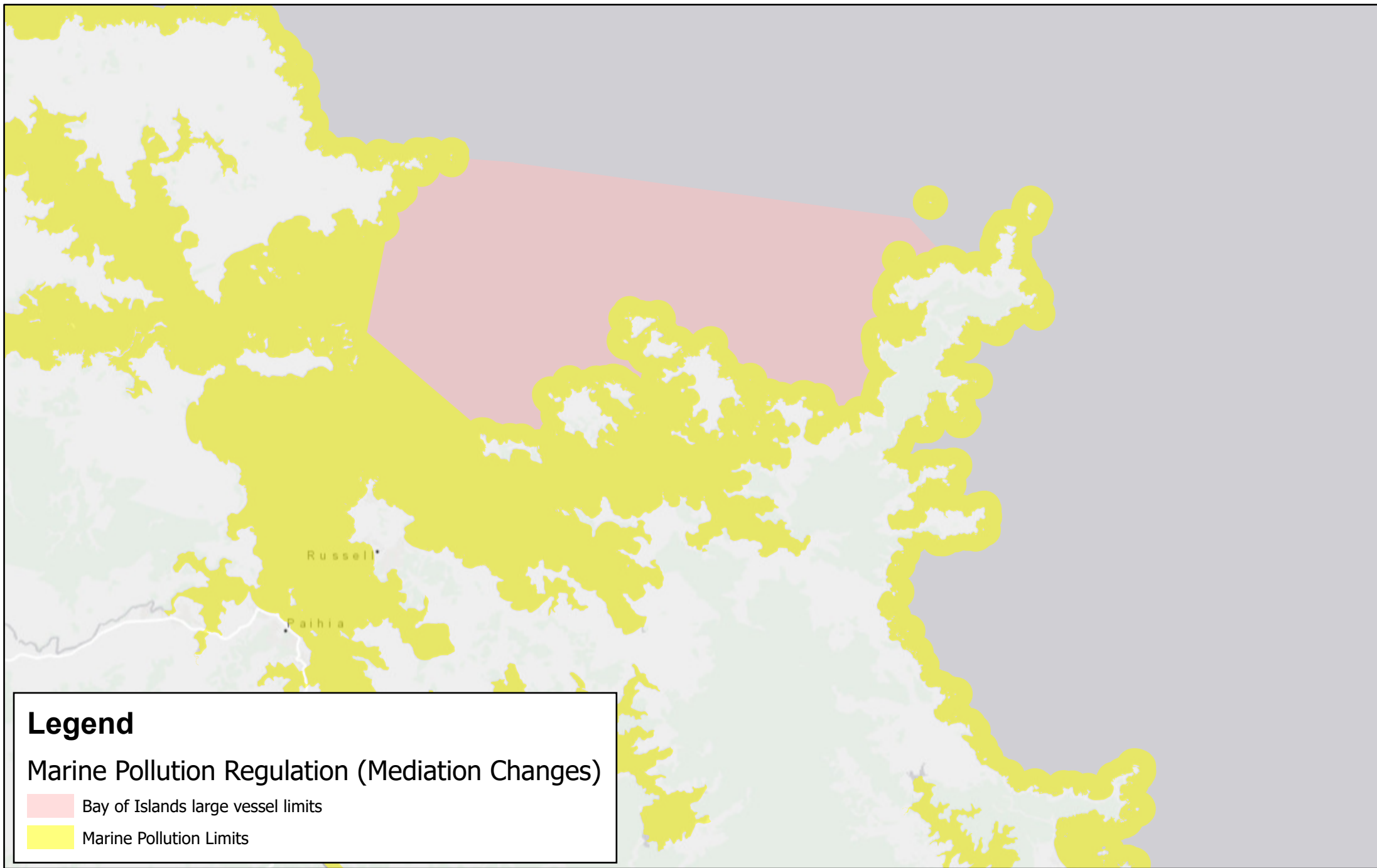
-  Bay of Islands large vessel limits
-  Marine Pollution Limits



### Marine Pollution Limits - Decisions Version

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Projection NZTM. Datum NZTM2000.  
DISCLAIMER:  
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**Legend**

**Marine Pollution Regulation (Mediation Changes)**

- Bay of Islands large vessel limits
- Marine Pollution Limits



Marine Pollution Limits - Agreed amendments

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0 0.75 1.5 3 4.5 6 7.5 km

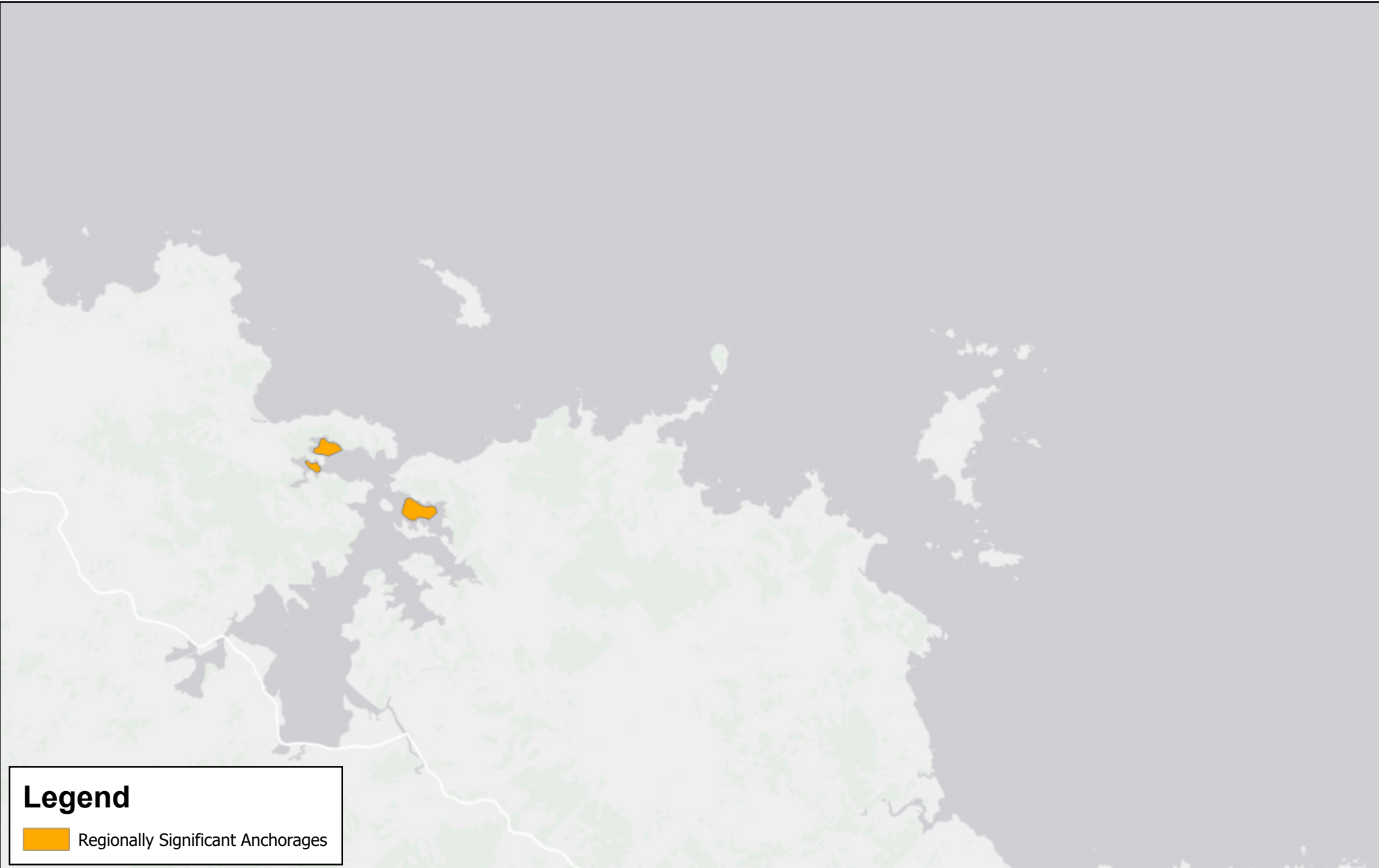
N

## **Regionally Significant Anchorages**

Amend the Regionally Significant Anchorages maps to:

1. Add a new Regionally Significant Anchorage at Mahinepua Peninsula, Whangaroa;
2. Add a new Regionally Significant Anchorage at Awaawaroa Bay, Bay of Islands;
3. Remove two Regionally Significant Anchorages at Muno Bay, Whangārei Harbour (one of which has been made a Recognised Recreational Anchorage);

as shown.



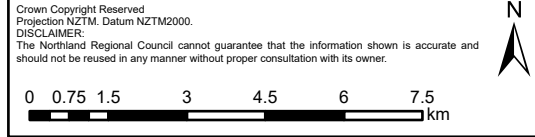
## Legend

 Regionally Significant Anchorages



## Regionally Significant Anchorages - Decisions Version - Mahinepua

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A scale bar showing distances in kilometers: 0, 0.75, 1.5, 3, 4.5, 6, 7.5. To the right of the scale bar is a north arrow pointing upwards, labeled with the letter 'N'.



**Legend**


 Regionally Significant Anchorages

**Northland**  
REGIONAL COUNCIL 

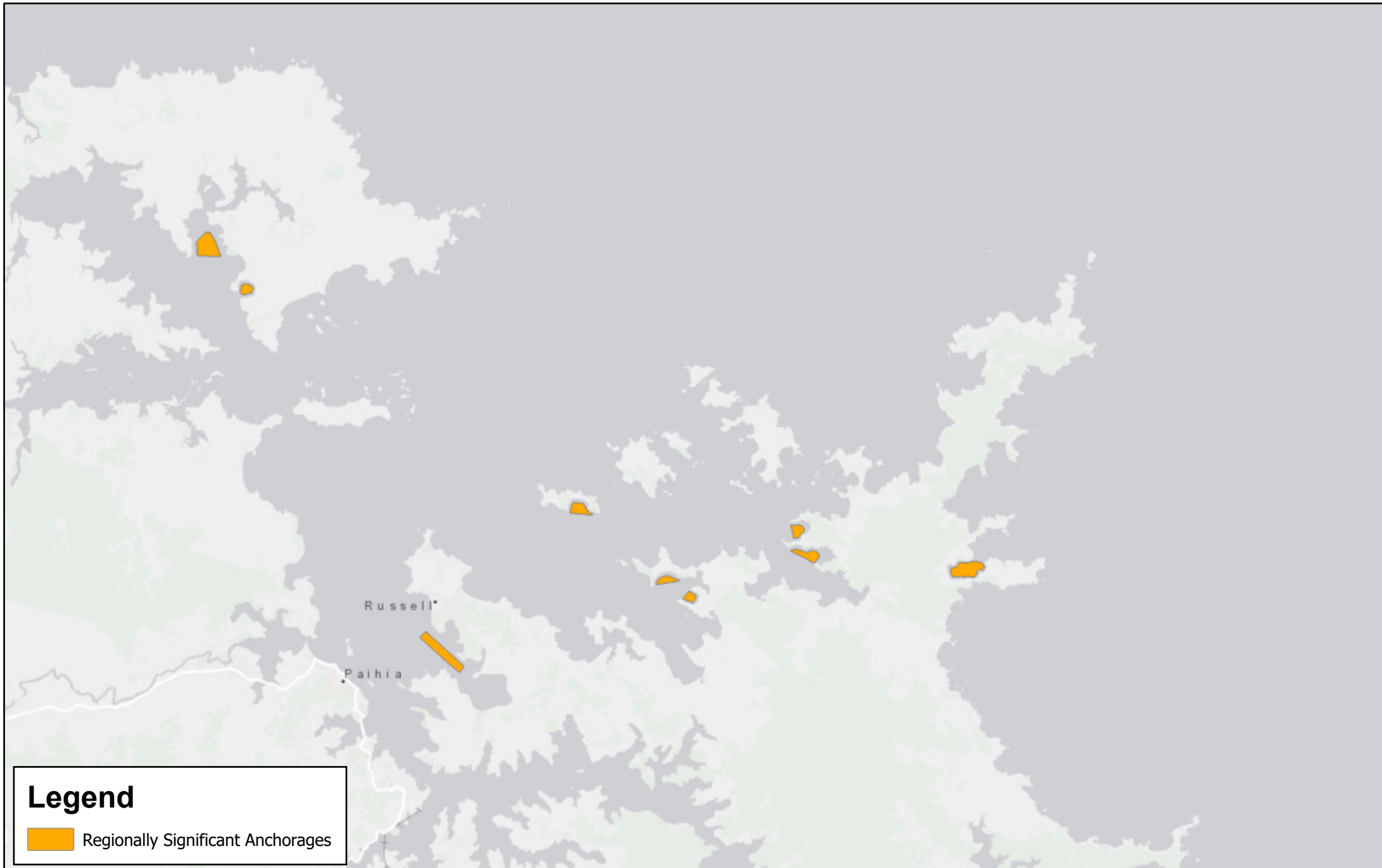
Regionally Significant Anchorages - Agreed Amendments - Mahinepua

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0 0.75 1.5 3 4.5 6 7.5 km







**Legend**


 Regionally Significant Anchorages

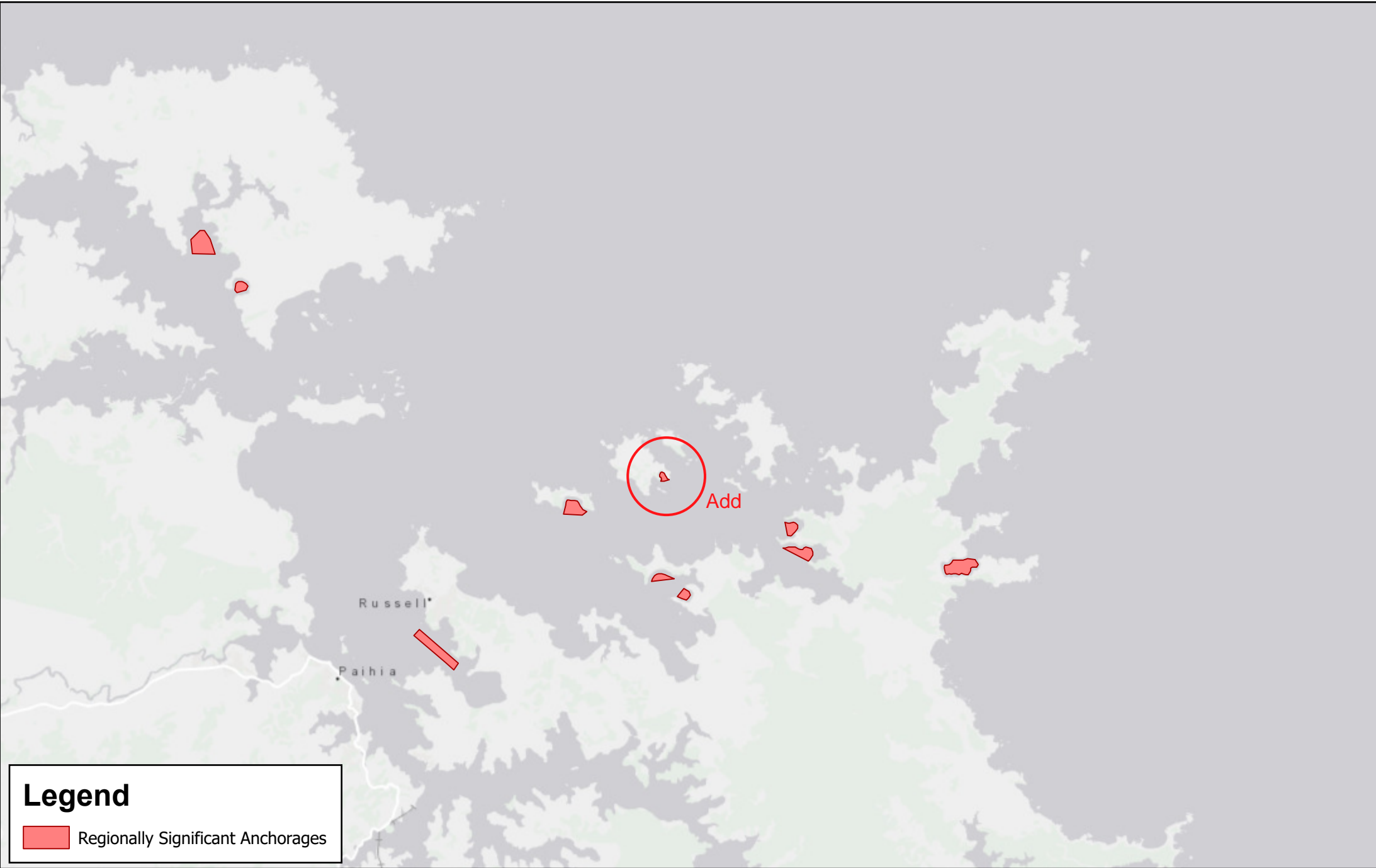
**Northland**  
REGIONAL COUNCIL 

Regionally Significant Anchorages - Decisions Version - Bay of Islands

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0 0.75 1.5 3 4.5 6 7.5 km





**Legend**


 Regionally Significant Anchorages

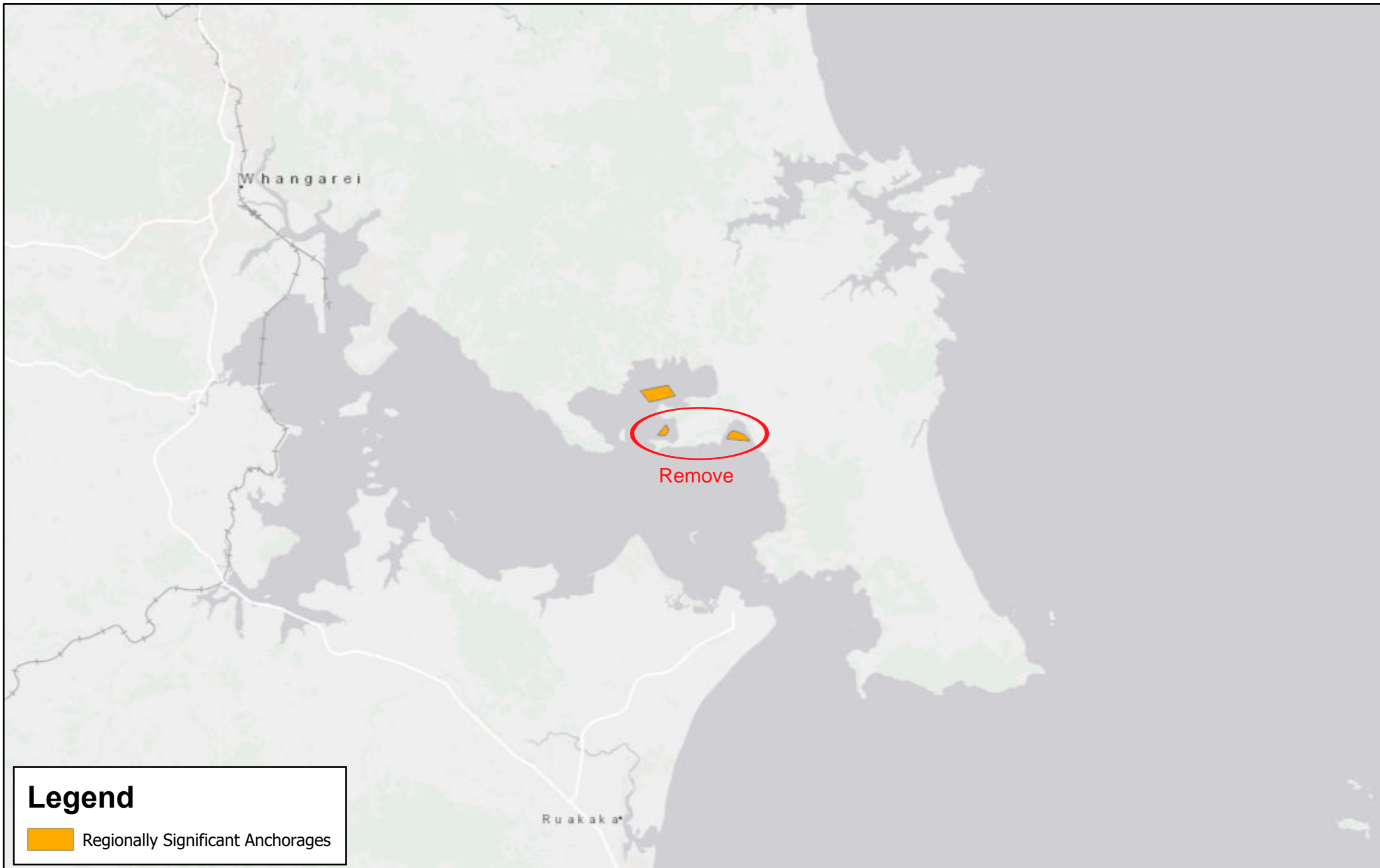
**Northland**  
REGIONAL COUNCIL 

Regionally Significant Anchorages - Agreed Amendments - Bay of Islands

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0 0.75 1.5 3 4.5 6 7.5 km



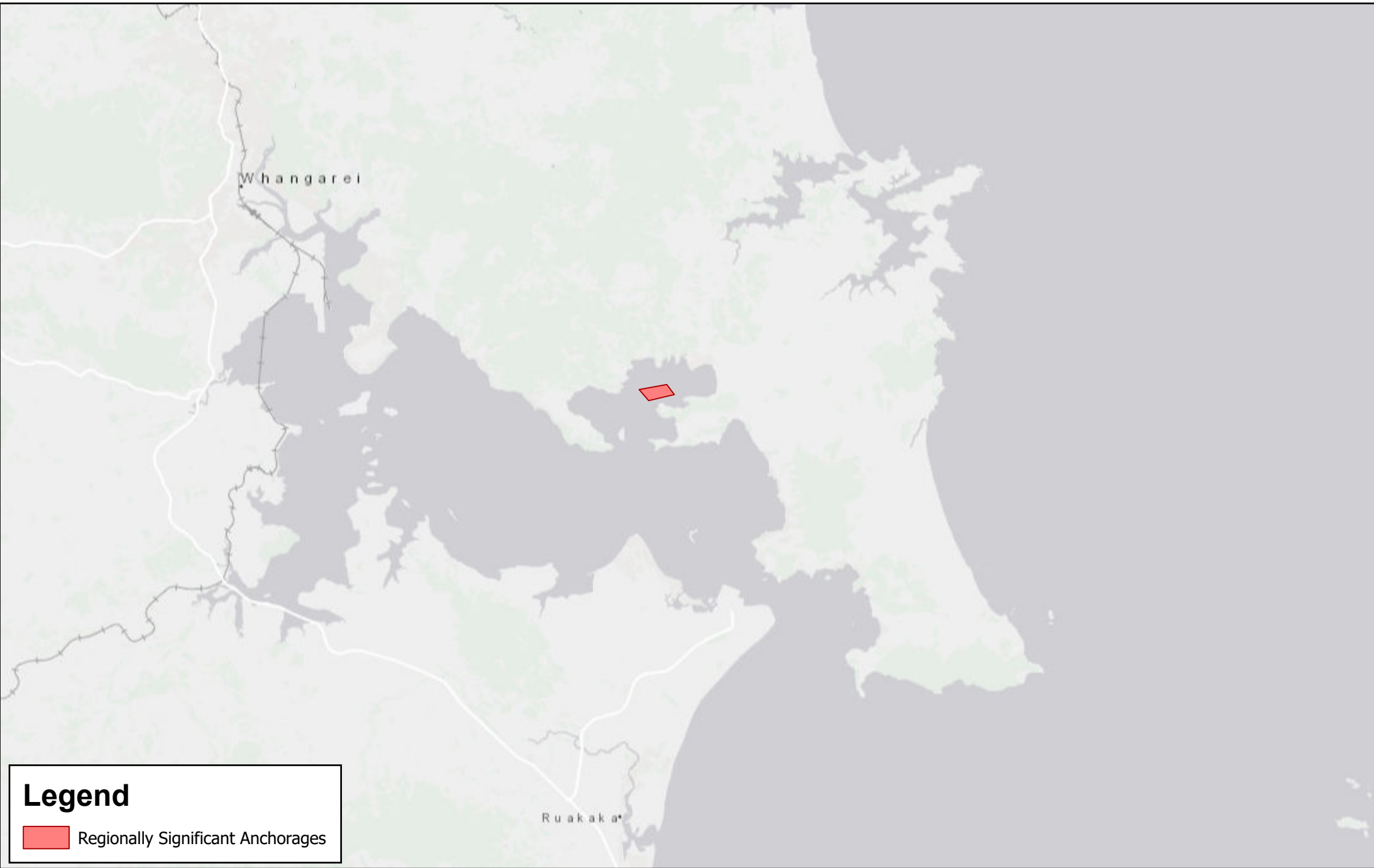


### Regionally Significant Anchorages - Decisions Version - Whangarei Harbour

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0 0.75 1.5 3 4.5 6 7.5 km

July 5 2022





**Legend**

 Regionally Significant Anchorages



Regionally Significant Anchorages - Agreed Amendments -  
Whangarei Harbour

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should not be reused in any manner without proper consultation with its owner.




0 0.75 1.5 3 4.5 6 7.5 km

## **Recognised Recreational Anchorages**

Amend the maps to include Recognised Recreational Anchorages as shown.



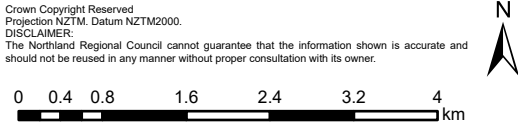
**Legend**

 Recognized Recreational Anchorages



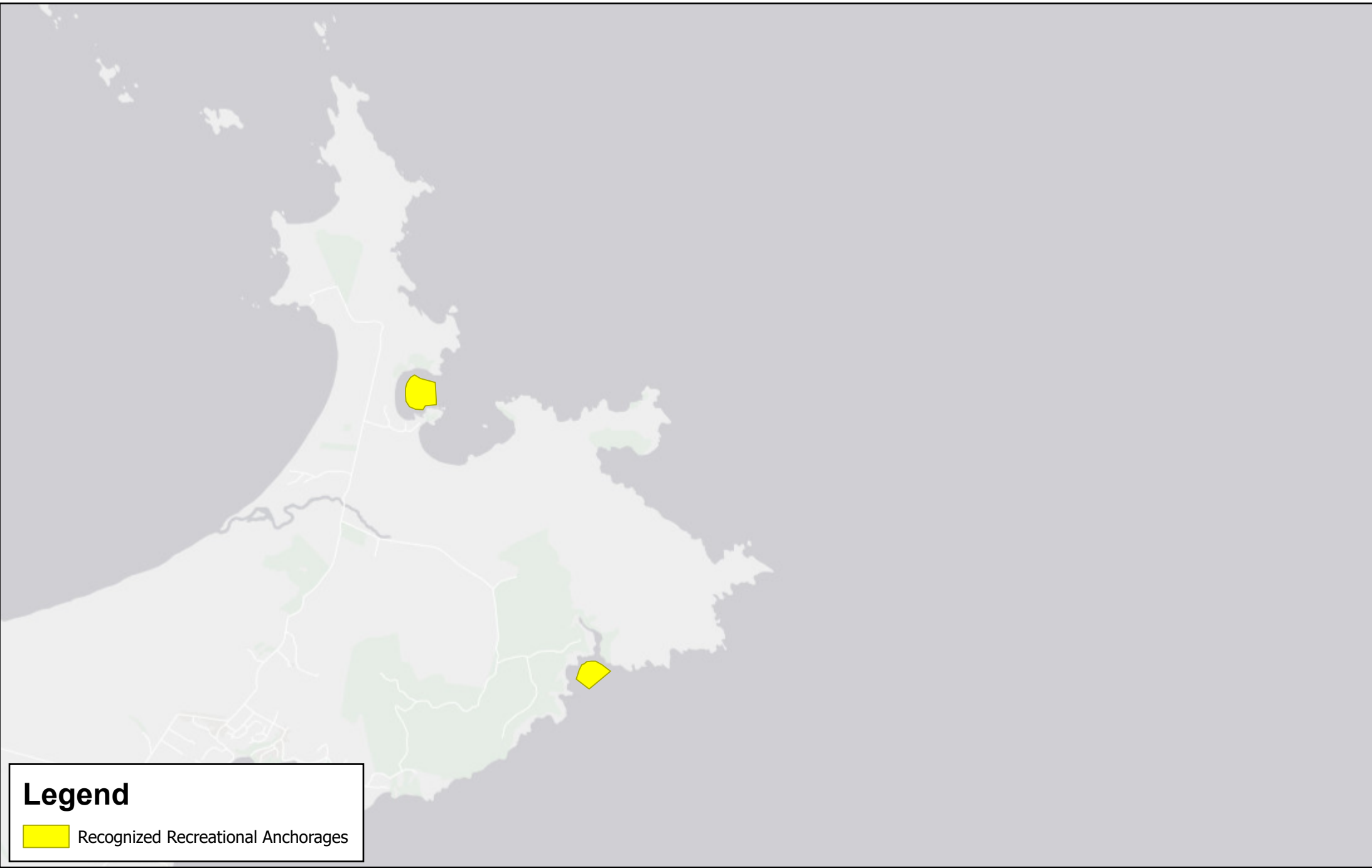
Recognised Regional Anchorages - Parengarenga Harbour

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0 0.4 0.8 1.6 2.4 3.2 4 km

N



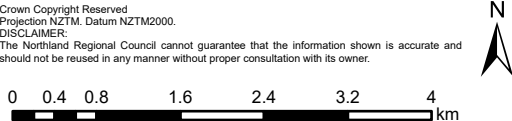
**Legend**

 Recognized Recreational Anchorages




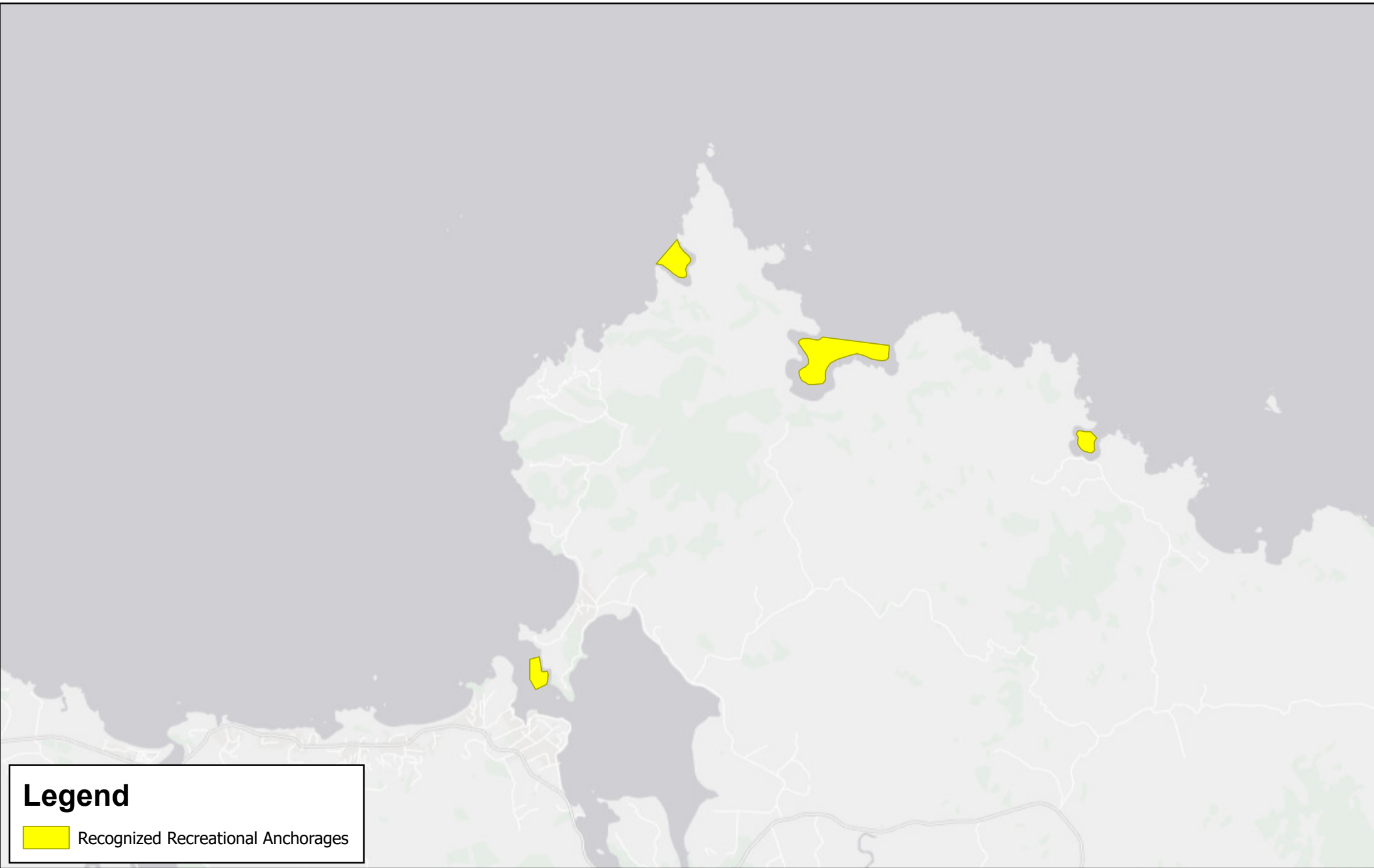
Recognised Regional Anchorages - Cape Karikari

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0 0.4 0.8 1.6 2.4 3.2 4 km





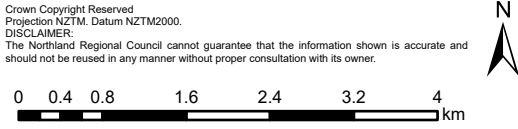
**Legend**

 Recognized Recreational Anchorages



Recognised Regional Anchorages - Mangonui Harbour

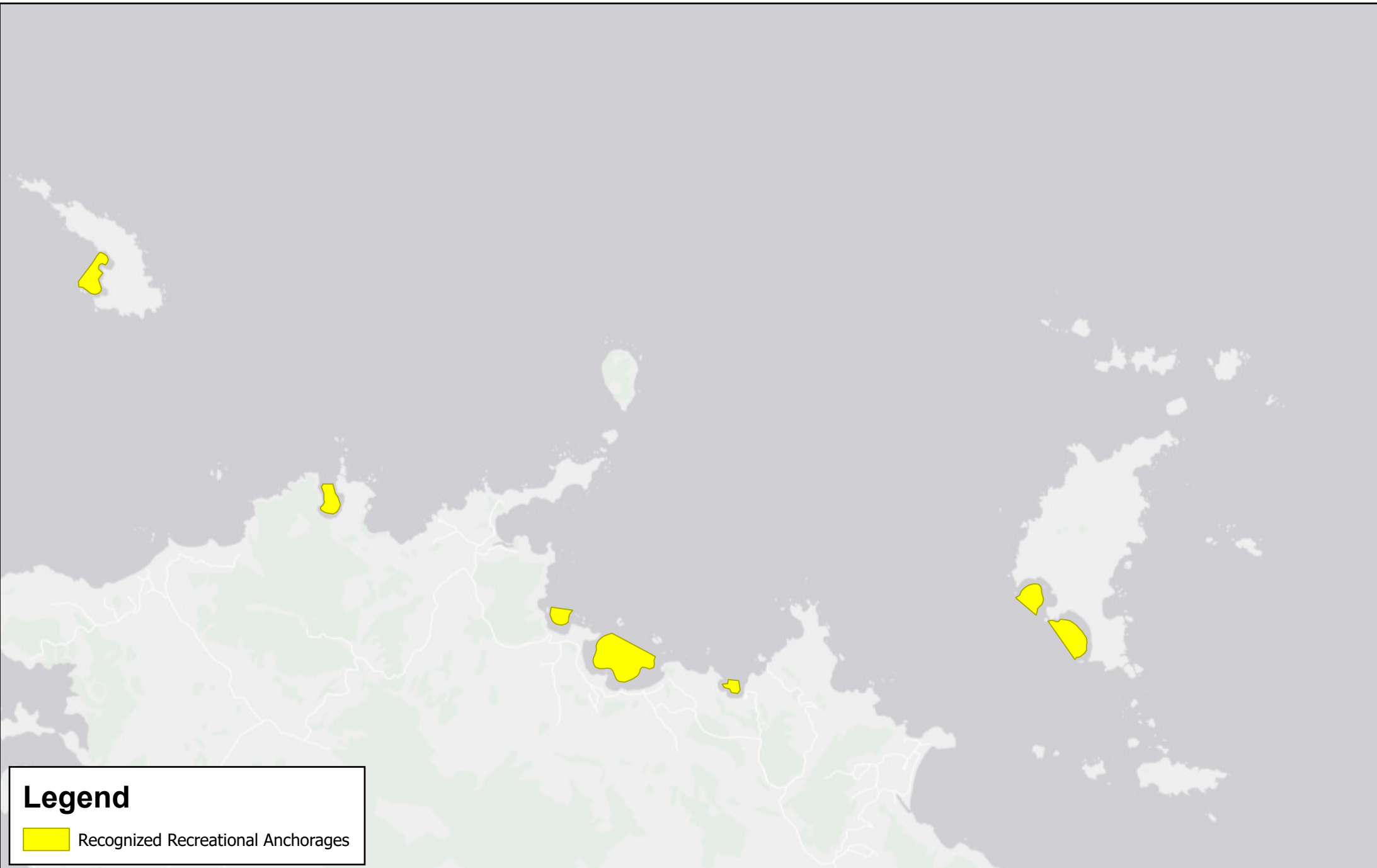
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0 0.4 0.8 1.6 2.4 3.2 4 km

N





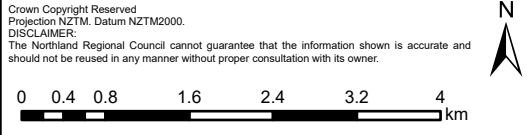
**Legend**

 Recognized Recreational Anchorages



Recognised Regional Anchorages - Manapouri

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0 0.4 0.8 1.6 2.4 3.2 4 km

N



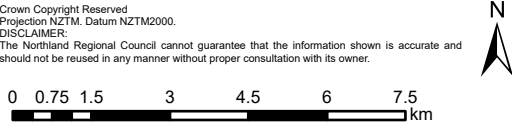
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 Recognized Recreational Anchorages



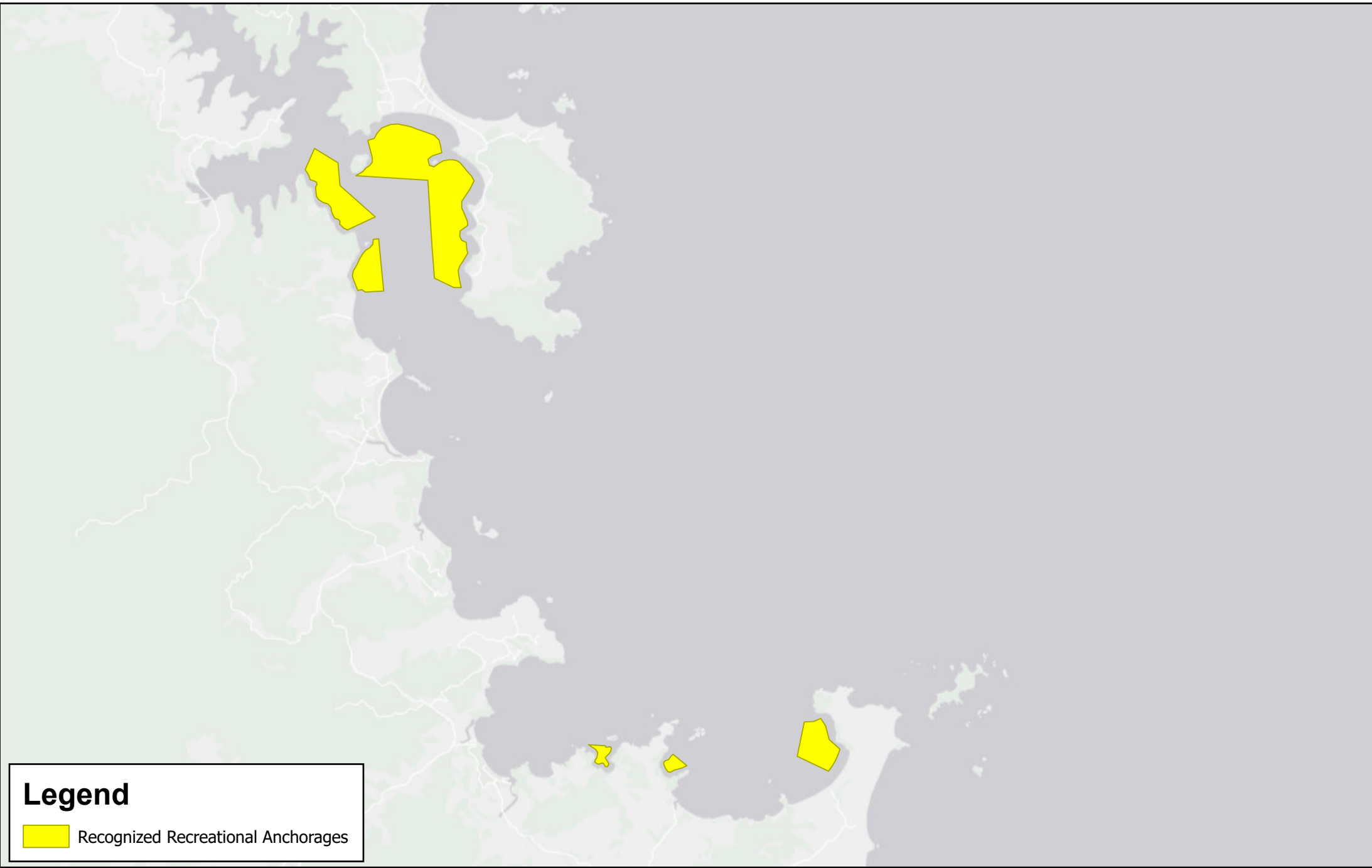
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0 0.75 1.5 3 4.5 6 7.5 km

N



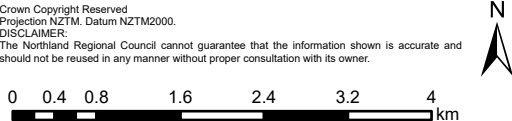
**Legend**

 Recognized Recreational Anchorages



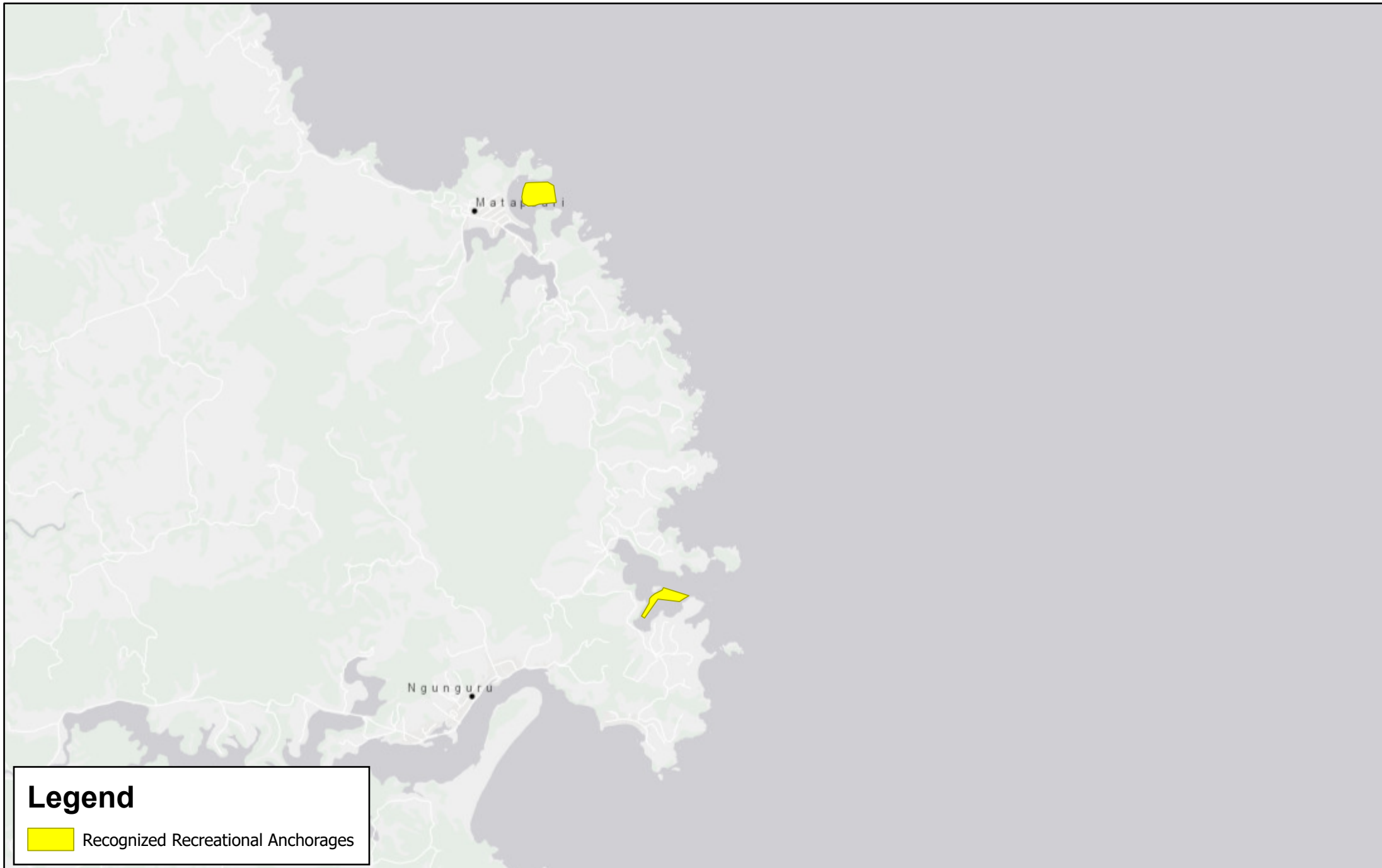
Recognised Regional Anchorages - Mimiwhangata to Whangaruru

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0 0.4 0.8 1.6 2.4 3.2 4 km

N



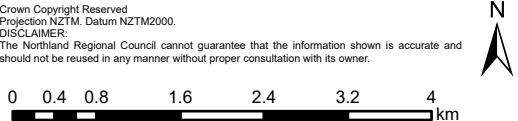
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 Recognized Recreational Anchorages




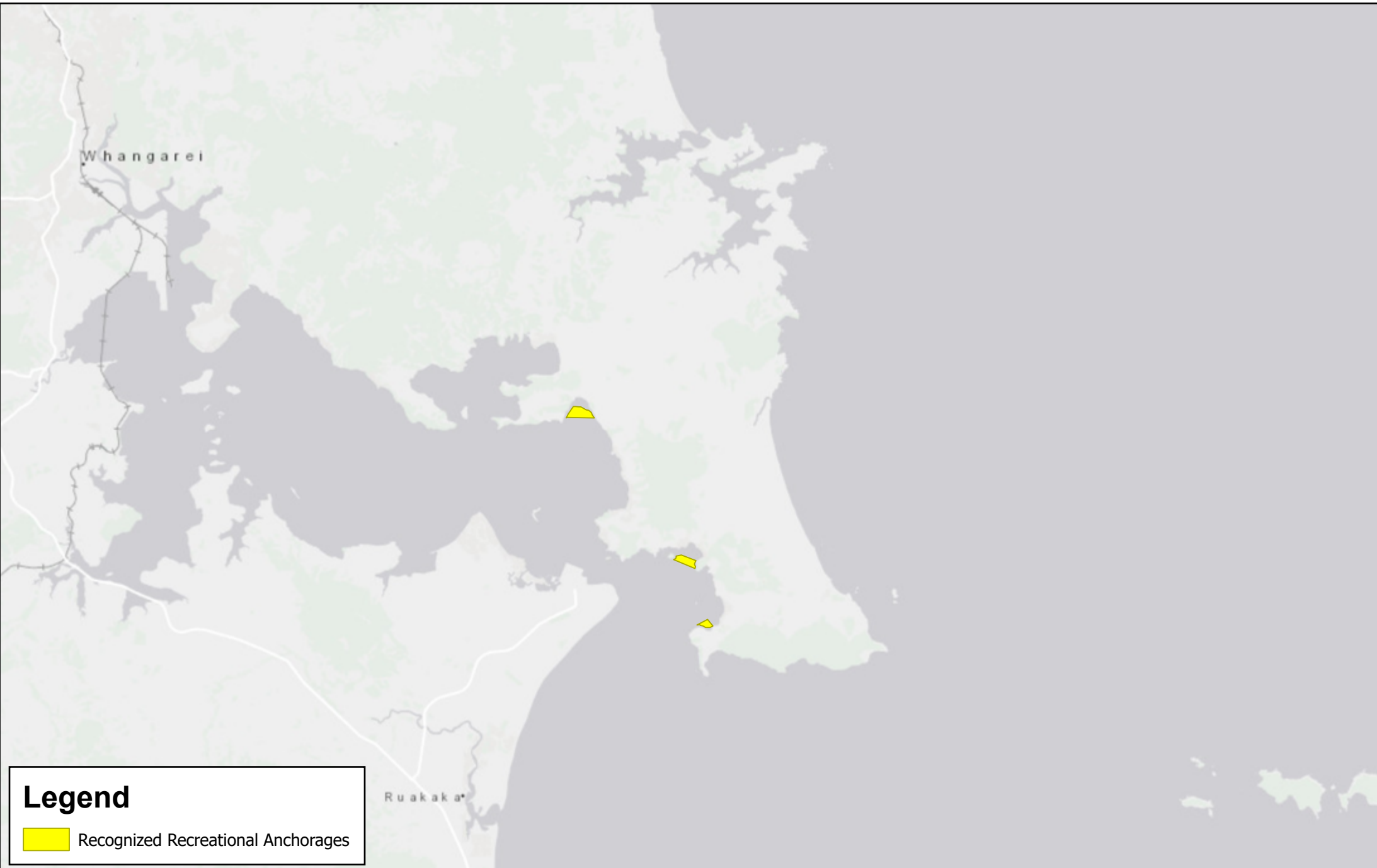
### Recognised Regional Anchorages - Tutukaka and Matapouri

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0 0.4 0.8 1.6 2.4 3.2 4 km





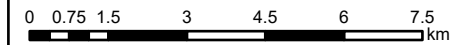
### Legend

 Recognized Recreational Anchorages



## Recognised Regional Anchorages - Whangarei Harbour

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## Annexure C

### Outstanding appeal points within Topic 1

- Policy D.5.11 Mooring outside Mooring Zones
- Policy D.5.26<sup>1</sup> Dumping (deliberate disposal) of dredge spoil and other waste material
- Rule C.1.1.6 Monitoring and sampling equipment – permitted activity
- Rule C.1.1.12 Structures for scientific research, monitoring, or education purposes, matters of control – controlled activity
- Rule C.1.1.21 Structures in Mooring and General Marine Zones discretionary activity
- Rule C.1.1.22 Hard protection structures – discretionary activity
- Rule C.1.1.23 Hard protection structures associated with regionally significant or core local infrastructure – discretionary activity
- Rule C.1.1.27<sup>2</sup> Structures within a significant area – non-complying activity
- Rule C.1.2.5 Existing swing mooring outside a Mooring Zone – permitted activity
- Rule C.1.2.6 Relocation of a mooring by the Harbourmaster – permitted activity. This is resolved in part, but the CEP Services appeal remains extant
- Rule C.1.2.13 New moorings in significant areas – non-complying activity
- Rule C.1.5.3 Removal of nuisance plant debris – permitted activity
- Rule C.1.5.5 Cleaning of pipe outlets – permitted activity
- Rule C.1.5.7 Clearing tidal stream mouths – permitted activity
- Rule C.1.5.10 Beach scraping – restricted discretionary activity
- Rule C.1.5.11 Deposition of material for beneficial purposes – restricted discretionary activity
- Rule C.1.5.12 Dredging, deposition, and disturbance activities – discretionary activity
- Rule C.1.5.14 Other dredging, deposition, and disturbance activities – non-complying
- Rule C.1.6.3 Reclamation for regionally significant infrastructure – discretionary activity

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<sup>1</sup> Previously D.5.24.

<sup>2</sup> Previously C.1.1.22.

- Rule C.1.6.5 Reclamation – discretionary activity
- Rule C.1.8 Coastal works general conditions
- Maps – Marsden Point Port Zone