

INTERPRETATION OF RULE 51 OF THE COASTAL PLAN FOR TARANAKI

PURPOSE

To provide guidance to the applicant for the purpose of determining whether the occupation of their existing lawfully established structure was a permitted activity at the time of placement or erection.

WHERE DOES THIS RULE APPLY?

- Replacement/Renewal of Coastal Permits for the purpose of continued occupation
- Structures placed or erected before 01 October 1991.

RULE 51

Activity	Rule	Coastal management area	Classification	Standards/terms/conditions
Continued occupation of the common marine and coastal area, with an existing lawfully established structure, where the occupation was a permitted activity at the time of placement or erection.	51	Outstanding Value Estuaries Unmodified Estuaries Modified Open Coast Port	Permitted	(a) The structure is being used for its originally permitted purpose; (b) the structure does not cause erosion or scour; (c) the structure does not have an adverse effect on significant indigenous biodiversity, including those identified in Schedule 4 [Significant indigenous biodiversity]; and (d) the structure does not have a significant adverse effect on the values associated with taonga species identified in Schedule 5 [Taonga species].

WHAT DOES THE RMA SAY?

SECTION 384 – EXISTING PERMISSIONS TO BECOME COASTAL PERMITS

Note:

If authorisation was held pre-October 1991 for the existing structure, consider this section. If not, proceed to Section 418 below.

If authorisation was held under either the Town and Country Planning Act 1977 or the Harbours Act 1950 (mentioned in Section 384 (1) below), a coastal permit is required for the occupation of the structure.

(1) Every –

- a. Permission granted under any of Parts 2, 4, and 5 of the Town and Country Planning Act 1977 (or the corresponding provisions of any former enactment); and
- b. License or permit granted under section 146A or section 156 or section 162 or section 165 of the Harbours Act 1950, Order in Council made under section 175 of that Act, and every approval granted under section 178(1)(b) or (2) of that Act (or the corresponding provisions of any former enactments); and
- c. License, permit, or authority granted under any Act that was at the time of its enactments, a special Act within the meaning of the Harbours Act 1950 or any other enactments that provides for any right of occupation-

in respect of any area in the coastal marine area, being a permission, license, permit, or authority in force immediately before the date of commencement of the Act, shall be deemed to be a coastal permit granted under this Act on the same conditions (including those set out in any enactment, whether or not repealed or revoked by this Act, except to the extent that they are inconsistent with the provisions of the Act) by the appropriate consent authority,; and the provisions of this Act shall apply accordingly.

SECTION 418 – CERTAIN EXISTING PERMITTED USES MAY CONTINUE

Note:

If the structure did not require any authorisation to be undertaken before 01 October 1991, a Coastal Permit is not required under (6B).

If the structure require authorisation before 01 October 1991 and was entered into under section 173(f) of the Harbours Act 1950, a Coastal Permit is not required under (6C).

- (6B) For the purposes of this Act, section 12(1) and (2) shall not apply in respect of any activity lawfully being carried out in the coastal marine area, before 1 October 1991, which did not require any license or other authorisation relating to such activity under any of the Acts, regulations, or bylaws, or parts thereof, amended, repealed, or revoked by this Act, until a regional coastal plan provides otherwise.
- (6C) For the purposes of this Act, section 12(2)(a) shall not apply in respect of the occupation of any warehouse, building, wharf, or other structure in or partly within the coastal marine area under any lease, license, permit, or other authorisation in force immediately before 1 October 1991, and entered into under section 173(f) of the Harbours Act 1950 (or any former enactment).

WHAT DOES THIS MEAN

If the subject structure was required under section 384 of the RMA to become a coastal permit, then replacement/renewal of the consent for occupation of the CMA is required.

The replacement/renewal application for the continued occupation of the CMA by the structure will be considered under Rule 53 of the Coastal Plan for Taranaki as a discretionary activity.

If the structure doesn't come within section 384, section 418 must be considered to determine whether the continued occupation of the CMA by the structure is permitted.

WHAT NEXT

If the applicant determines that the continued occupation of the CMA by the structure is permitted in accordance with section 418 of the RMA, the applicant must consider whether the activity meets the standards/terms/conditions of Rule 51 in the Coastal Plan for Taranaki.

If all the conditions of Rule 51 are met, resource consent for the continued occupation of the CMA by the structure is not required.

If all the conditions can't be met, resource consent for the continued occupation is required under Rule 53 of the Coastal Plan for Taranaki.

EXAMPLES

1. A boat ramp installed before 01 October 1991 (i.e. installed 1977), that didn't require any certification, authorisation or permission, can be assessed against the permitted standards/terms/conditions of Rule 51 in the Coastal Plan for Taranaki. If these are met, the continued occupation of the boat ramp does not require resource consent. Where this determination is made, the consent holder may request that the existing consent be surrendered or where an application has been lodged, request that the application be withdrawn.
2. A groyne installed before 01 October 1991, that required authorisation under the relevant sections of the Harbours Act, requires resource consent for the continued occupation of the structure in the Coastal Marine Area. The consent holder is required to lodge an application for a replacement consent before the existing consent expires. These structures are assessed against Rule 53 of the Coastal Plan.
3. Rock revetment installed after 30 September 1991, that has an existing Coastal permit (issued under the RMA), requires resource consent for the continued occupation when the current permit expires. The consent holder should lodge an application for consent before the expiry of the current permit. Depending on the activity status of the activity at time of placement or erection, the ongoing occupation of the Coastal Marine Area will be assessed against either Rule 52 or Rule 53 of the Coastal Plan.