

**A REPORT TO THE BOARD OF INQUIRY ON THE PROPOSED NEW
ZEALAND COASTAL POLICY STATEMENT 2008**

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Introduction

This report has been prepared for the Board of Inquiry on the Proposed New Zealand Coastal Policy Statement 2008 (Proposed NZCPS). The Board commissioned the report under section 42A of the Resource Management Act 1991 (the Act). Graeme Speden and David Marshall, Senior Policy Analysts at the Department of Conservation, are responsible for its contents.

The matters on which the Board requested a report are summarised in the section headings. The specific questions raised by the Board in relation to each matter are set out at the beginning of each section.

1. Structural analysis

The Board requested a structural analysis of the proposed statement, specifically asking:

- a. why were the principles omitted? Does there need to be an overarching principle about Part II matters?
- b. why were the objectives listed in the order they are, particularly the first three?
- c. why were issues relating to objectives omitted when they could be helpful?
- d. why is there so much repetition of words and phrases in the RMA?

The questions raised by the Board are addressed in the context of a broader analysis of the structure of the Proposed NZCPS.

Approach

The Proposed NZCPS has a basis in the New Zealand Coastal Policy Statement 1994 (NZCPS 1994). Early workshops with local government staff on the NZCPS 1994, the independent review of the document by Dr Johanna Rosier¹, and comments in response to the Issues and Options document for the review² indicated that the 1994 statement had many valuable elements that should be retained. Drafting of the Proposed NZCPS did not begin with a blank page.

The NZCPS 1994 was widely complimented for its relative brevity. Comments received before drafting also favoured clearer and stronger policies, rather than more policies³. The Proposed NZCPS is intended to be a succinct, high-level policy statement, retaining key elements of the NZCPS 1994 but not necessarily constrained by its format.

It is intended that the Proposed NZCPS, if approved, will be supported by implementation and monitoring programmes. The identification of priority areas for guidance on interpretation and implementation will be informed by matters raised during the Board's inquiry into the Proposed NZCPS, and by engagement with local government and other relevant parties.

Overall structure

The Proposed NZCPS is structured simply, with few section headings, to emphasise that the policy statement is intended to be read as a whole. The option of eliminating section headings altogether was considered. There are however some self-evident groups of policies – on access, water quality, hazards and historic heritage – and it was concluded that a minimal heading structure would help readers navigate the document.

The structure of the NZCPS 1994 was considered to have shortcomings. The use of the clauses of section 58 of the Act as chapter headings produced long, clumsy headings and was not helpful for interpretation. The initial approach in drafting was to persist with the section 58 structure for the sake of continuity, while being prepared to restructure as required. The section 58 structure was abandoned as it became a hindrance, with chapter headings continually prompting concerns about how the scope or intent of policies would be understood. The Interpretation section of the document was included to deter readers from attributing any interpretive significance to the headings.

¹ *Independent Review of the New Zealand Coastal Policy Statement*, a report prepared for the Minister of Conservation by Dr Johanna Rosier, School of People, Environment and Planning, Massey University, May 2004.

² *Review of the New Zealand Coastal Policy Statement: Issues and Options*, Department of Conservation, August 2006.

³ *Review of the New Zealand Coastal Policy Statement: Summary of submissions in response to the Issues & Options paper*, prepared for the Department of Conservation by Enfocus Ltd, December 2006.

Inclusion of objectives

Amendments to section 58 of the Act in 2005 provided for the NZCPS to include objectives as well as policies. This was not an option when the NZCPS 1994 was drafted. The amendments were interpreted in preparation of the Proposed NZCPS to imply that the inclusion of objectives should be given positive consideration. The inclusion of objectives was generally supported in comments received before the proposed statement was drafted, in response to the Issues and Options paper. Including objectives is generally viewed within the public sector as good practice in policy drafting. It is envisaged by section 32 of the Act, with its requirement for evaluation of objectives in relation to the purpose of the Act and policies in relation to objectives. It is also consistent with local authority plans under the Act.

Order of objectives

Broadly, the objectives in the Proposed NZCPS are ordered from the general to the specific. No significance is attached to the order of the list. This is explicitly stated in the Interpretation section of the statement, which identifies the numbering as being solely for convenience and not to be interpreted as an indication of relative importance.

The objectives are intended to be read as a set of desired outcomes, not as a sequence or hierarchy. They relate, as a set, to the document as a whole. This is why they are grouped at the front of the document rather than, for example, being spread through the document above groups of policies.

Wording of objectives

The objectives in the Proposed NZCPS are phrased as outcome statements: each is a present-tense description of a desired state of affairs. This is common practice in central and local government policy statements.

During the preparation of the Proposed NZCPS no other national policy statement (NPS) with objectives existed. The National Policy Statement on Electricity Transmission has since come into effect. Its single objective is drafted as a statement of intention (“To recognise the national significance of the electricity transmission network ...”). A Proposed National Policy Statement for Freshwater Management has objectives worded in the same way. The Proposed NZCPS objectives could be redrafted along these lines, for consistency, with no change in their substance.

Omission of principles

The principles in the NZCPS 1994 were a source of uncertainty in interpreting the statement⁴. Their statutory weight was unclear as section 58 of the Act (at the time) expressly provided only for the inclusion of policies in the NZCPS. In amending section 58 in 2005, Parliament did not address the uncertain standing of the principles by expressly providing for their inclusion, but did expressly provide for the inclusion of objectives.

Comments received before the drafting of the Proposed NZCPS strongly favoured clearer and stronger policy. The department therefore sought to address areas of interpretive uncertainty in the NZCPS 1994, including the principles. It was evident that concepts of value from the 1994 principles could be incorporated in objectives and/or policies and this was the approach chosen.

⁴ Rosier, 2004, pp 30-31.

Overarching principle

We do not see a case for including in the NZCPS an overarching principle about Part II matters. A principle, identified as such, would be subject to the same uncertainties of interpretation as the principles in the NZCPS 1994. Section 56 of the Act sets out the relationship between the NZCPS and Part II. It is not clear what a principle in the NZCPS addressing the same matter might add to that. It is also unclear how an overarching principle, which is not expressly provided for in section 58, would stand in relation to the objectives that are expressly provided for.

Omission of issue statements

Section 58 of the Act expressly provides only for the statement of objectives and policies in the NZCPS. This contrasts with the Act's express requirement for regional policy statements to state issues and with its express permission for regional plans and district plans to state issues. The lack of any express requirement or permission for the NZCPS to state issues was taken during preparation of the Proposed NZCPS as a clear statutory signal that the NZCPS should include *only* objectives and policies.

The hierarchy, purposes and contents of national policy statements, regional policy statements and plans are fundamental elements of the Act. The 2005 amendments, although altering section 58 to allow objectives in the NZCPS, left undisturbed the contrast with the required and allowed contents of the other documents. The opportunity to amend section 58 to expressly provide for the statement of issues in the NZCPS, or any other elements (e.g. explanations for policies) was not taken. This reinforced the view that the contrast should be understood to limit the contents of the NZCPS.

The omission of issue statements also served the overall goal of producing an NZCPS that avoided interpretive uncertainties wherever possible. There is no doubt the statement can include objectives and policies. The inclusion of issue statements in the NZCPS and their resulting statutory weight is at least questionable. Omitting issue statements avoids this uncertainty.

The production of the section 32 report on the Proposed NZCPS made a summary of issues addressed by the statement publicly available. It remains open to the Department to produce a commentary on the NZCPS corresponding to that produced on the NZCPS 1994⁵. Other guidance and explanatory material can be produced as part of an implementation programme.

Repetition of words and phrases from the Act

As a general principle the drafters of the Proposed NZCPS sought to avoid repetition of the Act. In respect of the objectives, in particular, this proved difficult.

The purpose of an NZCPS is set out in section 56 (emphasis added):

56 Purpose of New Zealand coastal policy statements

The purpose of a New Zealand coastal policy statement is to state policies *in order to achieve the purpose* of this Act in relation to the coastal environment of New Zealand.

⁵ *Commentary of the New Zealand Coastal Policy Statement 1994*, prepared for the Department of Conservation by Denis Nugent and Maui Solomon, November 1994.

Section 56 requires a clear link between Proposed NZCPS policies and the purpose of the Act. The objectives must provide that link. In drafting objectives the Department found that section 5 (and the remainder of Part II, given that sections 6, 7 and 8 give guidance as to the way in which the purpose is to be achieved) had significant weight as implicit objectives for the policy statement.

This corresponds with the findings of the Board of Inquiry on the NZCPS 1994, which reported that:

The Act does not require a New Zealand coastal policy statement to state objectives but we have concluded that the Act intends a consistent regime, and that policies should relate to achieving some end point. In this context we have concluded that Parliament intended Part II of the Act, and in particular Section 5, to establish the objectives which the policies in the NZCPS should seek to achieve.⁶

Although the Act has since been amended to allow the NZCPS to state objectives, there is still no requirement for it to do so. This is consistent with the fact that the inclusion of objectives has not been necessary for the NZCPS 1994 to function as a national policy statement. In practice, Part II of the Act has evidently functioned as the 1994 Board concluded, providing a sufficiently clear “end point” for policies to enable their interpretation and implementation.

In considering possible objectives for the Proposed NZCPS, the drafting group found that Part II continued to function in this way. Explicit objectives had to coexist with the implicit objectives derived from Part II. If explicit objectives did not echo Part II, they prompted questions as to whether the implicit objectives had been adequately recognised. Questions also arose as to whether the proposed objectives were lawful in relation to Part II. This raised a risk that the lawfulness of the policies directed at the proposed objectives would come into question.

When the implicit Part II objectives were made explicit, to reduce uncertainty and risk, they formed a reasonably comprehensive set. This is the primary substance of the objectives in the Proposed NZCPS.

It might be noted that objectives in other national policy statements are less repetitive of the Act. We suggest that the statement in section 45 of the purpose of a national policy statement allows more latitude in this respect. Rather than stating objectives and policies “to achieve the purpose of the Act”, a national policy statement may state them “for matters of national significance that are relevant to achieving the purpose ...”.

There is also some repetition in Proposed NZCPS policies of words and phrases from the Act. The proposed statement uses the Act’s terminology – “provide for”, “have regard to”, “avoid, remedy, or mitigate” and so forth – to ease interpretation and we presume this level of repetition is not an issue. There are however policies that are significantly repetitive in both substance and phrasing of provisions in the Act, namely Policy 2 (The Treaty of Waitangi and tangata whenua) and Policy 4 (Transfer, delegation or sharing of local authority functions, powers and duties regarding characteristics of special value to tangata whenua). Other policies, such as Policy 6 (Integration), Policy 21 (Cumulative effects) and Policy 40 (Esplanade reserves and strips) might also be considered repetitive of the Act.

⁶ *Report and Recommendations of the Board of Inquiry into The New Zealand Coastal Policy Statement*, Department of Conservation, February 1994: p7.

Some of these policies originate with policies in the NZCPS 1994. Policy 2 is a development of NZCPS 1994 Policies 4.2.1 and 4.2.2. Policy 4 is based on NZCPS 1994 Policy 2.1.3. Policy 21 is a development of NZCPS 1994 Policy 3.2.4. Policy 40 is a development of NZCPS 1994 Policy 3.5.3. The relevant NZCPS 1994 policies in these cases arguably involve repetition of the Act. Some NZCPS 1994 policies (e.g. 3.2.9, 5.1.7) that were considered unnecessarily repetitive do not reappear in the Proposed NZCPS for that reason. For Proposed NZCPS Policies 2, 4 and 21, however, a significant consideration was the possible unwanted interpretations that could arise from omission. The Proposed NZCPS is likely to be read, at least initially, as a revision of the NZCPS 1994. Interpretations arising from comparison of the two documents must be anticipated. It was possible that the omission of policies comparable to those in the NZCPS 1994 on the Treaty and tangata whenua, transfer and delegation of powers, cumulative effects and esplanade reserves and strips would be interpreted as a signal that these matters were considered less important than they had been in 1994. This was not intended. The wish to avoid the unwanted interpretation outweighed the general principle of avoiding repetition.

Policy wording

The NZCPS policies affects local authority policy statements and plans, which must give effect to them, and persons exercising functions and powers under the Act in relation to the coastal environment (“decision-makers”), who must have regard to them. Some policies in the Proposed NZCPS refer directly to policy statements and/or plans (e.g. Policy 1). Others refer directly to decision-makers (e.g. Policy 2). In many cases, however, policies are intended to influence both planning documents and decision-makers (e.g. Policy 5). These policies are generally worded in the passive sense. Although active language is generally preferable, drafters found that the passive was the most economical way to express policies directed at both targets.

“Shall” is used in policies for which universal compliance is sought. “Should” is used where it is anticipated either that universal compliance might not be necessary (e.g. Policy 23) or where “shall” would risk an unnecessarily reductive interpretation (e.g. Policies 32, 49 and 57).

Schedules

The use of a schedule in the NZCPS 1994 to set out detailed directions relating to the implementation of the policy regarding Restricted Coastal Activities was accepted as a sound structural device. The Proposed NZCPS therefore retained this arrangement, and uses it for three other policies where a separation between the primary policy text and supplementary detail can be made.

Cross-referencing

Textual cross-references between policies and objectives, and between related policies, were initially proposed as an aid to interpretation. As with headings, however, the drafting group found that cross-references tended to raise risks that interpretation would be narrowed in unintended ways. Efforts to avoid this in early drafts resulted in cross-references proliferating to a point where they were clearly unhelpful. Drafters decided that the statement as a whole was short enough for relationships between policies and objectives to be discerned by the reader.

2. Section 32 analysis

Background

The Board asked, regarding the Section 32 report on the Proposed NZCPS: Is the cost and benefit analysis just a guesstimate?

Section 32 Methodology

Section 32 of the Act requires that an evaluation be carried out of a Proposed NZCPS before it is notified. That evaluation must examine:

- the extent to which each objective is the most appropriate way to achieve the purpose of the Act; and
- whether the policies are the most appropriate for achieving the objectives.

The evaluation of policies must have regard to their efficiency and effectiveness and take into account their:

- benefits and costs; and
- the risks of acting or not acting due to uncertainty or insufficient information.

The report *Proposed New Zealand Coastal Policy Statement 2008 Evaluation under Section 32 of the Resource Management Act 1991* (Department of Conservation, February 2008) summarises the evaluation carried out before notification of the Proposed NZCPS. The section 32 methodology used is detailed in that report.

Evaluation of benefits and costs

The evaluation of benefits and costs of the policies in the summary report is a qualitative one. Benefits and costs are assessed as low, medium or high in the report. A qualitative approach was adopted as many social and environmental benefits and costs cannot be quantified. In addition the costs that will be incurred by local authorities in amending policy statements and plans to give effect to the proposed NZCPS are highly variable and can only be stated in a qualitative way at the national level.

This form of evaluation is consistent with the section 32 evaluation of the National Policy Statement on Electricity Transmission and other evaluations of national policy statements currently under way. It is worth noting that even the most detailed evaluation will not result in a full quantification of all costs and benefits. Economic methods for determining non-tangible considerations do exist, but they tend to be costly, time-consuming and controversial. Also, given the scale of an NPS it is virtually impossible to apply such values on a national scale, as they are more suited to project-specific outcomes. The approach taken has been to identify as many of the potential benefits and costs as possible and in this regard they can be regarded as probabilities rather than certainties.

3. Consultation with Maori

The Board asked: What consultation occurred with Maori on the Proposed NZCPS?

Independent review

The independent review of the NZCPS 1994 by Dr Johanna Rosier 2003-04 included two hui – one in Gisborne and one in Christchurch – to canvass the views of Māori. Further hui were planned but did not occur due to a clash with a major series of hui on foreshore and seabed issues. Dr Rosier reported on issues raised, and recommended further consultation with Māori to confirm matters of importance to tangata whenua in the review.

Issues and Options paper

Comments were sought from all iwi authorities (and others) by way of an invitation to make submissions in response to an Issues and Options paper released in September 2006. The paper was mailed to all iwi authorities for which the Department was able to identify a mailing address, using the Te Kāhui Māngāi directory maintained by Te Puni Kōkiri.

A particular effort was made to solicit comment from iwi authorities in response to the Issues and Options paper. All iwi authorities were telephoned part-way through the two-month submission period, encouraged to submit, and offered an extension of time if necessary.

Submissions were received from seven iwi authorities: the Hauraki Māori Trust Board; the Waikato Raupatu Trustee Company; Ngāti Wai Māori Trust Board; Te Rūnanga o Ngāi Tahu; Te Ao Marama Incorporated; Te Rūnanga o Te Rarawa; Te Rūnanga o Ngāti Awa. Comments were also received from Te Ohu Kaimoana, the Huakina Development Trust and Wakatu Incorporation.

Reference group

Following the receipt of submissions on the Issues and Options paper the Department convened a reference group of resource management practitioners from iwi authorities to comment on draft policies. Letters requesting nominees for the reference group were sent to 73 iwi authorities. Nine authorities nominated people to attend. Three one-day meetings were convened (in July, August and September 2007) to discuss drafts of the Proposed NZCPS. Representatives of four authorities (Ngāi Tahu, Ngāti Awa, Ngāti Kahungunu and Tainui) attended and provided detailed feedback on policy drafts.

Ministerial meeting with iwi leaders

In January 2008 the Minister of Conservation and Associate Minister of Conservation met Māori leaders to discuss the Proposed NZCPS. Six leaders were invited to the meeting, representing Ngāti Porou, Ngāi Tahu, Ngāti Mutunga, Ngāti Kahungunu, Te Rarawa, and Ngāti Pukenga ki Waiau. The invited leaders were sent a copy of the Proposed NZCPS with the letter of invitation. Three leaders were associated with iwi authorities that had already expressed interest and provided input to the review process (Ngāi Tahu, Ngāti Kahungunu, Te Rarawa). The remaining three were associated with iwi authorities that had not so far responded to invitations to provide comment. Five of the invited leaders accepted the invitation and three attended the meeting. There was overall support for the NZCPS as a tool to protect Maori interests, and for continuing the Proposed NZCPS process.

4. International obligations

The Board asked: What are New Zealand's international obligations in the coastal marine area (CMA) and should they be more fully set out such as being identified in an appendix?

International obligations

New Zealand's international obligations regarding the coastal environment (including the CMA) arise from treaties and customary international law. They are broad in scope and variety. In most cases, obligations affecting the coastal environment also extend beyond it – e.g. to the limit of the Exclusive Economic Zone, or to New Zealand as a whole. International obligations are implemented variously through statute, regulation, policy statements, and administrative action by government agencies, as appropriate.

International agreements of particular relevance to the sustainable management of the CMA are:

- International Convention for the Regulation of Whaling, 1946
- Convention on Wetlands of International Importance Especially as Waterfowl Habitat, 1971 (Ramsar Convention)
- Convention for the Protection of World Cultural and Natural Heritage, 1972
- Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (London Convention)
- International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 (MARPOL)
- United Nations Convention on the Law of the Sea, 1982
- Convention for the Protection of Natural Resources and Environment in the South Pacific Region, 1986 (SPREP Convention)
- Protocol for the Prevention of Pollution of the South Pacific Region by Dumping, 1986
- Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal, 1989 (Basle Convention)
- United Nations Convention on Biological Diversity, 1992
- United Nations Framework Convention on Climate Change, 1992
- United Nations Conference on Environment and Development: Agenda 21: Chapter 17 (Protection of oceans, all kinds of seas including closed and semi-enclosed seas, coastal areas and the protection, rational use and development of their living resources), 1992
- Rio Declaration on Environment and Development, 1992.

Many international agreements to which New Zealand is a party state broad principles relevant to sustainable management of the coastal environment. Some require the establishment of specific statutory or policy measures (e.g. marine pollution regulations, the New Zealand Biodiversity Strategy). Binding obligations under international law are given effect in New Zealand law, as appropriate. More common, however, are less specific obligations to act in accordance with agreements that have moral and political weight rather than legally binding requirements.

Proposed NZCPS policies

Policy 31(a)(ii) of the Proposed NZCPS relates specifically to an international obligation, incurred through New Zealand's membership of the International Union for the Conservation of Nature, to protect threatened species. For the most part, however, the Proposed NZCPS is more generally related to New Zealand's international obligations. Policy 31 as a whole, for example, is consistent

with meeting New Zealand's obligations under the United Nations Convention on Biological Diversity (CBD), even though the primary policy instrument for meeting those obligations is the New Zealand Biodiversity Strategy rather than the NZCPS. Policies 51 and 52, similarly, are consistent with New Zealand's obligations under the United Nations Framework Convention on Climate Change (which include taking precautionary measures to mitigate the adverse effects of climate change), even though other government policy initiatives are the primary policy instruments for compliance with the Convention and its subsidiary agreement, the Kyoto Protocol.

Guidelines publication

New Zealand's international obligations regarding the coastal environment (including the coastal marine area) are addressed in detail in *A Guideline of New Zealand's International Obligations Affecting the Coastal Environment*, published by the Department of Conservation in November 1994 as a companion document to the NZCPS 1994. This document remains publicly available from the Department. The Department proposes to review and update the *Guideline* at an appropriate time, resources permitting.

An appendix to the NZCPS

We do not recommend setting out New Zealand's international obligations regarding the coastal environment (including the CMA) in an appendix to the NZCPS. These obligations will be subject to change over time with the development of customary international law and relevant international agreements that New Zealand ratifies. There is an established process for implementing international treaties in New Zealand by means of domestic legislation. Policy relevant to international obligations has been included in the Proposed NZCPS. If further policy is required in the NZCPS to meet international obligations the gap should be identified clearly and policy drafted accordingly. Obligations that do not require implementation through policy can be set out separately from the NZCPS, in guidance material that does not create uncertainty regarding their legal weight.

5. Coastal occupation charges

The Board asked: What legislation currently controls coastal occupation charges and how is it proposed this is integrated into the Proposed NZCPS if we consider coastal charging should be included in the document?

Sections 64A and 401A of the Resource Management Act

Section 64A of the Act controls the imposition of coastal occupation charges by regional councils. A coastal occupation charging regime would apply to persons occupying any part of the land of the Crown in the coastal marine area, or the coastal marine area vested in the regional council.

In preparing or changing a regional coastal plan or proposed regional coastal plan a council must consider whether or not to include a coastal occupation charging regime in the plan. The council must have regard to:

- (a) The extent to which public benefits from the coastal marine area are lost or gained; and
- (b) The extent to which private benefit is obtained from the occupation of the coastal marine area.

If it is decided that a coastal occupation charging regime should not be included in a plan the plan must include a statement to that effect. Where the council considers a coastal occupation charging regime should be included, section 64A specifies matters that should be stated in the plan including the level of the charges and how they will be used to promote the sustainable management of the coastal marine area.

Coastal occupation charges cannot be imposed on those carrying out recognised customary activities.

Section 401A(3) provides that councils were not required to comply with section 64A until 1 July 2007. Section 401A(4) requires that, where there is no provision for coastal occupation charges within a regional coastal plan by that date, the regional council must, in the first proposed regional coastal plan or plan change notified after 30 June 2007 include a statement or regime on coastal occupation charges.

Clause 69 of the Aquaculture Legislation Amendment Bill (No 2), a Government bill introduced on 24 July 2008, amends section 401A of the Act. The amendments defer the requirement for a regional coastal plan to include a statement or regime relating to coastal occupation charges until 12 months after a new New Zealand Coastal Policy Statement has been published in the *Gazette* after the commencement of the Bill.

Policy 24 and Schedule II of the Proposed NZCPS.

Regional Councils have identified issues with the coastal occupation charging regime in the Act and requested greater guidance and legislative change. The Proposed NZCPS provides greater guidance on coastal occupation charging in policy 24 and schedule II. These provisions are consistent with section 64A of the Act.

Policy 24 also requires that regional councils amend plans to give effect to that policy within 12 months of the gazettal of the new New Zealand Coastal Policy Statement. This is consistent and integrated with the amendment proposed to section 401A of the Act by the Aquaculture Legislation Amendment Bill (No 2).

6. Climate change time horizon

The Board asked: In terms of climate change why is a 100 year planning horizon identified? Given the current uncertainties about the progress of climate change why is such a fixed time frame acceptable?

Proposed NZCPS policies

The references in the Proposed NZCPS to a 100 year planning horizon for climate change are as follows (emphasis added):

Policy 27 (Reclamation) states (amongst other matters) that: “In considering a resource consent application for a reclamation, particular regard shall be had to: ... (b) the expected effects on the site of climate change and sea level rise, over *no less than 100 years*.”

Policy 51 (Identification of hazard risks) states (amongst other matters) that “Policy statements and plans shall identify areas in the coastal environment that are potentially affected by coastal hazards

(excluding tsunamis), giving priority to the identification of areas at high risk. Hazard risks shall be assessed over *at least a 100-year timeframe, ...*”

Policy 54 (Protection structures) states (amongst other matters) that “When considering the potential use of hard protection structures in response to coastal hazard risk, local authorities shall: ... (b) take into account the expected effects of climate change, over *at least a 100-year timeframe*; and (c) evaluate the likely public costs and benefits of any proposed hard protection structure, and the effects on the environment, over *at least a 100-year timeframe*.”

Analysis

As noted in the Section 32 Report for the Proposed NZCPS, the default period for planning decisions, influenced by the Building Act, has tended to be 50 years. During the preparation of the Proposed NZCPS it was considered that this was not sufficiently forward-looking for assessment of coastal hazard risks, particularly those associated with climate change.

Climate change impacts are routinely forecast over up to 100 years and more. A particularly relevant example is sea level rise. The Ministry for the Environment publication *Coastal Hazards and Climate Change: A guidance manual for local government in New Zealand* (July 2008) recommends that hazard risks are assessed taking account of projected sea level rise figures up to the 2090s and beyond 2100. The manual also notes recent Environment Court decisions upholding the application of 100-year time horizons for coastal planning⁷.

In submissions responding to the Issues and Options paper for the NZCPS review many local authorities called for the NZCPS to promote a 100-year planning horizon with respect to coastal hazards and especially in relation to the effects of climate change. The National Institute for Water and Atmospheric Research also supported a 100-year planning horizon.

The 100-year planning horizon in Proposed NZCPS Policies 27, 51 and 54 is expressed as a minimum (“*no less than 100 years*” and “*at least a 100-year timeframe*”). This is to ensure that the 100-year horizon is implemented, without preventing local authorities from identifying risks and taking account of effects that are likely to arise in the shorter term. An alternative considered in the course of policy drafting was to express the time horizon as *up to 100 years*. While this arguably encompasses shorter-term matters more clearly, it could be interpreted as fixing 100 years as an upper limit, and was rejected for that reason.

Regarding the relationship between the Resource Management Act and the Building Act, the Environment Court in *Bay of Plenty Regional Council v Western Bay of Plenty District Council (A 27/02)* commented that:

... the respective means of control under the RMA and the Building Act should not be narrowly construed as merely amounting to alternatives available to a Council to achieve the same ends. Rather they should be viewed in a broader light, both individually and in combination, of assisting to serve the public good. Were the contrary contention sound, Parliament’s recognition of the two separate Acts’ frameworks of authority and control might be seen as unnecessarily repetitious. Each in fact serves its particular purpose – that under the RMA of promoting the sustainable management of resources in the context of the wide environmental

⁷ The references are to *Bay of Plenty Regional Council v Western Bay of Plenty District Council A 27/02*; *Skinner v Tauranga District Council A 163/02* and *Fore World Developments Ltd v Napier City Council W 029/06*.

perspective that the Act embraces; and that under the Building Act by focussing on the integrity and safety of buildings wherever they are located. Logically, any relevant controlling provisions that govern a development proposal under the holistic management regime of the RMA will generally fall to be invoked initially, with the application of controls under the Building Act following as appropriate in terms of that Act.

The Building Code is under review. A discussion document for the review published in August 2007 by the Department of Building and Housing states:

The Building Code currently requires that 'surface water (flood) with a 2% Annual Exceedance Probability (AEP) must not enter buildings' to prevent the risk of flooding affecting a building. Some territorial authorities on the other hand generally require that 'surface water with a 1% annual exceedance probability must not enter buildings'. The 'surface water annual exceedance probability' refers to the likelihood of flooding in any 1-year period.

A 1 percent AEP (1 in 100-year flood) is a more stringent test than a 2 percent AEP (1 in 50-year flood) because it anticipates a higher surface water level.

We are considering changing the requirement to 1 percent AEP because it reflects the planning controls adopted by territorial authorities, and provides a precautionary approach to the impact of more frequent and higher intensity rain predicted as a result of climate change.⁸

At the time of writing this report, a government decision on this matter had not been made.

7. Areas at risk from coastal hazards

The Board asked: Should areas at risk from coastal hazards be identified at a national or regional level? Should the costs of this identification be borne at a national or regional level given many vulnerable areas (such as the West Coast) have a very small ratepayer base?

Proposed NZCPS Policy 51

Policy 51 in the Proposed NZCPS requires identification in policy statements and plans of areas potentially affected by coastal hazards:

Policy 51 Identification of hazard risks

Policy statements and plans shall identify areas in the coastal environment that are potentially affected by coastal hazards (excluding tsunami), giving priority to the identification of areas at high risk. Hazard risks shall be assessed over at least a 100-year timeframe, having particular regard to:

- a. short-term natural dynamic fluctuations of erosion and accretion;
- b. long-term trends of erosion or accretion;

⁸ *Building for the 21st Century: Review of the Building Code: Performance Requirements*, Department of Building and Housing, July 2007.

- c. slope stability or other geotechnical issues;
- d. the potential for natural coastal features and areas of coastal hazard risk to migrate as a result of dynamic coastal processes, including sea level rise; and
- e. the effects of climate change on:
 - i. matters (a) to (d) above;
 - ii. storm frequency, intensity and surges; and
 - iii. coastal sediment dynamics;

taking into account the most recent available national guidance on the likely effects of climate change on the region or district.

Identification of areas at risk

Under section 30 of the Act, regional council functions include the control of the use of land for the avoidance or mitigation of natural hazards. They can exercise this control through regional policy statements (section 62) and regional plans and rules (sections 65 and 68). Territorial authority functions, under section 31, also include the control of the effects of the use of land for the avoidance or mitigation of natural hazards. This control can be exercised through district plan objectives, policies and rules (sections 75 and 76), and through making decisions on subdivision and land use resource consent applications (section 104) and placing conditions on granted resource consents (sections 106, 108, 220). Under section 62(1)(i)(i) a regional policy statement must state the local authority responsible in the whole or any part of the region for the control of the use of land to avoid or mitigate natural hazards.

To be effective, controls on land use to avoid or mitigate natural hazards must be accompanied by identification of areas at risk. Without this identification it will be unclear where the controls apply. Uncertainty is minimised by precise identification, at a scale relevant to the consideration of specific land use proposals. The Ministry for the Environment publication *Coastal Hazards and Climate Change: A Guidance Manual for Local Government in New Zealand* remarks that:

The effectiveness of managing coastal hazard risk through the RMA process primarily comes down to:

- How effective are the rules in the district plan in controlling subdivision, use and development activities in coastal hazard areas?
- How well are the overarching policies and objectives – that are defined within the NZCPS, the regional policy statement and regional plans – encapsulated and specified within the district plans?⁹

The guidance manual goes on to state that:

Requirements will vary between districts and regions, but effective regional and district plans that relate to managing coastal hazard risks, and the effects of climate change, must include rules and other methods that:

...

⁹ *Coastal Hazards and Climate Change: A Guidance Manual for Local Government in New Zealand*, Ministry for the Environment, July 2008 (second edition), p67.

- recognise the importance of *specific and well-defined* coastal setback zones for coastal hazard areas covering a lengthy planning horizon such as 100 years. They need to be periodically reviewed and redefined and may also incorporate other setback requirements, such as those related to landscape and natural character requirements [*emphasis added*]

Identification of hazard risks at the scale of the district plan was also supported by a review of the coastal hazard provisions of the NZCPS 1994, commissioned as part of the independent review of the statement. The author of the hazards review concluded that “detailed district-level identification of coastal hazard zones is a cornerstone of sustainable coastal hazard management”¹⁰. He also noted “many councils (notably in Auckland) resisting the NZCPS [1994] policy seeking identification of coastal hazard areas”¹¹. This was confirmed by a stocktake of local authority plans undertaken for the NZCPS review, which found that “planning documents often make reference to coastal hazards without specifically identifying areas of concern in relation to those hazards”¹². Only 21 of 89 planning documents reviewed in the stocktake included maps of areas susceptible to coastal hazards.

Mapping is the most precise way to identify areas at risk from coastal hazards. For mapping to be effective in conjunction with district plan rules controlling subdivision, use and development activities, areas at risk must be mapped *at least* at the scale of the regional plan, and preferably at the scale of the district plan. These maps should be incorporated in those plans. Because much of the relevant underpinning information, including aerial photography and historical survey data, is held by local authorities it is unlikely to be efficient for maps at the scale of regional or district plans to be prepared by central government and included in the NZCPS.

This approach is reinforced by consideration of the hierarchy of policy statements and plans established by the Act. The NZCPS is a national policy statement, not a national coastal plan. It is to provide national-level guidance, through objectives and policies, while regional and district plans provide increasingly specific levels of detail and control at progressively smaller scales.

Costs of identification

The allocation by the Act of responsibilities for management of natural hazard risks means the implementation costs fall primarily on regional and district councils. To the extent that the benefits of effective management of coastal hazard risks go primarily to the affected community (and often to a small subset of landowners) it is not unreasonable for these costs to be borne by the community through the rating system. Central government, which is responsible for providing national policy and supplementary guidance (e.g. the guidance notes on hazard risk management and planning for climate change provided through the Quality Planning programme) bears the costs of those responsibilities.

Proposed NZCPS Policy 51, on the identification of hazard risks, requires areas at risk to be identified in policy statements and plans. It specifically allows, however, for priority to be given to identification of areas at high risk. This recognises the resource constraints on councils by allowing the identification of risk areas to be undertaken progressively. The discretion to prioritise the

¹⁰ *Review of the New Zealand Coastal Policy Statement 1994 – Coastal Hazards*, a report prepared for the Minister of Conservation by Mike Jacobson, February 2004, p92.

¹¹ Jacobson, p92.

¹² *Stocktake and Analysis of Regional Coastal Plans, District Plans and Regional Policy Statements for the New Zealand Coastal Policy Statement Review*, prepared for the Department of Conservation by Beca Carter Hollings and Ferner Ltd, January 2007, p43.

identification of hazard risk areas was included particularly to ease compliance for councils with limited ratepayer bases. At the same time it is intended to ensure that action is taken.

The Board's question regarding compliance costs for smaller councils highlights the fundamental question of the level of performance that should be demanded of local authorities by the NZCPS. Councils vary widely in their resources, capability and the priorities that have been applied to their diverse responsibilities under the act. This means that Proposed NZCPS policies can simultaneously be demanding for some councils but behind current practice for others. A national policy statement that raised no questions about the ability of the lowest-resourced councils to give effect to it would be pitched significantly behind best practice – and public expectations – in many areas. Conversely a statement whose objectives and policies consistently demanded best practice or higher would not be one to which local government could give effect. The Proposed NZCPS is intended to strike a reasonable balance, overall, between asking too much and asking too little.

It is intended that the Proposed NZCPS, if confirmed, will be supported by an implementation programme. This is not however a matter that can be specified in the NZCPS, as any such programme will require appropriations that must be authorised by Parliament.

8. Policy 53: Natural defences against hazards

The Board asked: As to Policy 53, this appears to impose a statutory duty on local authorities making them liable if the protective mechanisms fail. On what legal basis was this policy put forward?

Proposed NZCPS Policy 53

Policy 53 of the Proposed NZCPS reads as follows:

Policy 53 Natural defences against hazards

Local authorities shall provide for the protection or restoration of natural features in the coastal environment that protect land uses from coastal hazards.

This policy is a development of Policy 3.4.3 in the NZCPS 1994:

Policy 3.4.3

The ability of natural features such as beaches, sand dunes, mangroves, wetlands and barrier islands, to protect subdivision, use, or development should be recognised and maintained, and where appropriate, steps should be required to enhance that ability.

Policy 53 in the Proposed NZCPS is intended to implement in part Objective 8. One of the components of Objective 8 is the recognition of the important role that natural features can play in protecting landward areas from the effects of coastal processes.

Policy 53 is intended to require action by local authorities that *contributes to* the protection or restoration of natural features that protect land uses from coastal hazards. It was envisaged in the preparation of the Proposed NZCPS that this would entail first identifying, in the region or district, natural features in the coastal environment that function in this way. The local authority would

additionally be required to take action to protect or enhance these features in recognition of their protective function.

The requirement in the policy for local authorities *to provide for* protection or restoration (rather than *to protect or restore*) was intended to recognise that a wide range of possible methods could be employed, and that councils should have the discretion to identify the most appropriate. Likewise the policy deliberately does not specify that this matter must be addressed in policy statements or plans. While it was intended that this matter could be addressed in planning documents, it was also envisaged that other methods, including non-statutory initiatives (e.g. community-based dune care programmes) could be relevant.

The policy was not intended to impose a statutory duty on local authorities making them liable if the protective mechanisms fail. If the Board was to find that it did so, this effect would be inadvertent and it would be necessary to reword the policy to capture the intent described.

9. Iwi management plans

The Board asked: What councils have so far shown an interest in iwi management plans for their region? Is it proposed that the iwi authorities identified under Policy 4 be funded and if so who by?

Council engagement with iwi management plans

Iwi management plans (IMPs) are amongst documents that must be taken into account when preparing or changing regional policy statements and regional and district plans, provided that they are recognised by an iwi authority, relevant to the resource management issues of the region/district, and have been lodged with the relevant council (sections 61(2A)(a), 66(2A)(a), and 74(2A)(a) of the Act refer). A Ministry for the Environment guidance note for councils and resource management practitioners regarding IMPs advises that they can also assist implementation of the Acts's provisions for Māori interests in resource management, particularly sections 6(e), 6(f), 6(g), 7(a), and inform the assessment of applications for resource consent¹³. Councils can provide funding, expertise or resources to help iwi or hapū prepare IMPs. There are therefore a range of ways in which councils can take an interest.

A Local Government New Zealand survey of council engagement with Maori published in 2004 found that 43 of 86 councils surveyed held iwi management plans, as indicated in the tables below:¹⁴

	Number surveyed	Number holding IMPs	Percentage holding IMPs
All Councils	86	43	50
Regional Councils	12	10	83
Metropolitan Councils	9	3	33
Provincial / Unitary Councils	38	17	45
Rural Councils	27	13	48

¹³ *Frequently Asked Questions on Iwi Management Plans*, Ministry for the Environment, July 2008.

¹⁴ *Local Authority Engagement with Māori: Survey of Current Council Practices*, Local Government New Zealand, July 2004.

REGIONAL COUNCILS	IMP(s)
Auckland Regional Council	✓
Environment Bay of Plenty	✓
Environment Canterbury	✓
Environment Southland	✓
Environment Waikato	✓
Greater Wellington	✓
Hawkes Bay Regional Council	✓
Horizons MW	✓
Northland Regional Council	✓
Otago Regional Council	✓
Taranaki Regional Council	✗
West Coast Regional Council	✗

METROPOLITAN COUNCILS	IMP(s)
Auckland City Council	✗
Christchurch City Council	✗
Dunedin City Council	✓
Hamilton City Council	✓
Hutt City Council	✗
Manukau City Council	✗
North Shore City Council	✓
Waitakere City Council	✗
Wellington City Council	✗

PROVINCIAL COUNCILS	IMP(s)
Ashburton District Council	✓
Far North District Council	✗
Franklin District Council	✓
Gisborne District Council	✓
Hastings District Council	✗
Horowhenua District Council	✗
Invercargill City Council	✓
Kapiti Coast District Council	✓
Manawatu District Council	✗
Marlborough District Council	✓
Masterton District Council	✗
Matamata-Piako District Council	✓
Napier City Council	✗
Nelson City Council	✓
New Plymouth District Council	✗
Palmerston North City Council	✗
Papakura District Council	✗
Porirua City Council	✗
Rodney District Council	✗
Rotorua District Council	✗
Selwyn District Council	✓
South Taranaki District Council	✗
South Waikato District Council	✗
Southland District Council	✓
Tasman District Council	✗
Taupo District Council	✓
Tauranga City Council	✓
Thames-Coromandel District Council	✗
Timaru District Council	✓
Upper Hutt City Council	✗
Waikato District Council	✓
Waimakariri District Council	✓
Waipa District Council	✓
Waitaki District Council	✗
Wanganui District Council	✗
Western Bay of Plenty District Council	✓
Whakatane District Council	✗
Whangarei District Council	✗

RURAL COUNCILS	IMP(s)
Banks-Peninsula District Council	✓
Buller District Council	✗
Caterton District Council	✗
Central Hawkes Bay District Council	✓
Central Otago District Council	✗
Chatham Islands Council	✗
Clutha District Council	✓
Gore District Council	✓
Grey District Council	✗
Hauraki District Council	✓
Hurunui District Council	✓
Kaikoura District Council	✓
Kaipara District Council	✗
Kawerau District Council	✗
MacKenzie District Council	✓
Opotiki District Council	✓
Otorohanga District Council	✗
Queenstown District Council	✓
Rangitikei District Council	✗
Ruapehu District Council	✓
South Wairarapa District Council	✗
Stratford District Council	✗
Tararua District Council	✗
Waimate District Council	✓
Wairoa District Council	✓
Waitomo District Council	✗
Westland District Council	✗

Eight councils reported specifically that they had provided funding or other support for the development of iwi management plans (Environment Bay of Plenty; Rotorua District Council, Horizons Manawatu, Nelson City Council; Kaikoura District Council; Environment Canterbury; Otago Regional Council; Environment Southland).

Iwi views on the effectiveness of IMPs were investigated in a report prepared for the Ministry for the Environment in 2004¹⁵. This included iwi views on the way councils had responded to IMPs. The reviewers contacted 77 Māori organisations (iwi, hapū or sub-tribe) and were provided by councils with a list of 38 recorded IMPs. Ten IMPs were chosen as case studies, including interviews. The reviewers reported that:

The review found that the majority of the 10 iwi organisations interviewed thought an IMP was a useful tool in environmental and resource management.

In particular, the IMP was considered useful in providing key information to councils, consent applicants and consultants to enhance their understanding before they engaged with iwi and hapū.

Nevertheless, only half of the iwi organisations interviewed were confident there was sufficient awareness of the IMP in their community, and most respondents felt that IMPs were still not being utilised as they should be by councils and consultants.

.... The establishment of effective relationships, processes and protocols with councils were the most significant outcomes that the iwi were seeking from their IMP. That is, iwi only expected to have an impact on environmental outcomes if they have an effective working relationship with their councils. Overall, the respondents considered their relationships with councils were still poor.

Even in situations where there was high recognition of the IMP in council plans, and high awareness of the IMP amongst resource consent applicants, iwi respondents stated that it was still too easy for councils and applicants to ignore the views of iwi.

The review found a number of the IMPs reviewed to be of a very high quality, but noted that none contained all of the elements the reviewers identified as important. A proportion of the IMPs reviewed lacked one or more of:

- a basic description of the particular hapū or iwi
- a description of the rohe covered by the plan (either in text or by map)
- practical guidance for external agencies on how to consult the particular hapū or iwi.

Some iwi organisations recorded by councils as having an IMP were found by the review to be unaware that they had one.

Funding for iwi authorities identified under Proposed NZCPS Policy 4

Proposed NZCPS Policy 4 concerns the transfer, delegation or sharing of local authority powers and duties regarding characteristics of the coastal environment of special value to tangata whenua.

¹⁵ *Review of the Effectiveness of Iwi Management Plans: An Iwi Perspective*, Ministry for the Environment, 2004.

Iwi authorities can be identified under clauses (a), regarding transfers of powers etc., and (c), regarding joint management agreements:

Policy 4 **Transfer, delegation or sharing of local authority functions, powers and duties regarding characteristics of special value to tangata whenua**

Where characteristics of the coastal environment have been identified as being of special value to tangata whenua, local authorities shall consider, with tangata whenua in accordance with tikanga Maori:

- a. the transfer of local authority functions, powers and duties to an iwi authority or board of a foreshore and seabed reserve in relation to the management of those characteristics of the coastal environment, in terms of Section 33 of the Resource Management Act 1991; and/or
- b. the delegation of local authority functions, powers and duties to a committee of the local authority representing and comprising representatives of the relevant tangata whenua, in relation to the management of those characteristics of the coastal environment, in terms of Section 34 of the Act; and/or
- c. a joint management agreement, regarding those characteristics of the coastal environment, with an iwi authority or group that represents hapu, in terms of section 36B of the Act.

Transfers

Under section 33 of the Act a local authority can only transfer powers, functions and duties to an iwi authority by agreement, after following a special consultative procedure set out in section 83 of the Local Government Act 2002. Both parties must agree that:

- they want the transfer to take place;
- the iwi authority is the appropriate group able to deliver the duties, functions or powers efficiently; and
- the iwi authority has the expertise to exercise the powers.

The Act does not state who has the final responsibility for costs when powers, functions or duties are transferred. It is up to the parties to the agreement – the council and the iwi authority – to identify any costs involved and establish funding responsibilities as part of the agreement. As the administrative costs associated with the functions, powers or duties concerned would otherwise fall on the local authority, it is the logical source of funding.

Joint management

The resources required for a joint management agreement between a local authority and an iwi authority, and arrangements for meeting the administrative costs, must be specified in the agreement. This is expressly required by section 36B of the Act (emphasis added):

36B Power to make joint management agreement

- (1) A local authority that wants to make a joint management agreement must—
 - (a) notify the Minister that it wants to do so; and
 - (b) satisfy itself—

- (i) that each public authority, iwi authority, and group that represents hapu for the purposes of this Act that, in each case, is a party to the joint management agreement—
 - (A) represents the relevant community of interest; and
 - (B) has the technical or special capability or expertise to perform or exercise the function, power, or duty jointly with the local authority; and
 - (ii) that a joint management agreement is an efficient method of performing or exercising the function, power, or duty; and
 - (c) include in the joint management agreement details of—
 - (i) *the resources that will be required for the administration of the agreement; and*
 - (ii) *how the administrative costs of the joint management agreement will be met.*
- (2) A local authority that complies with subsection (1) may make a joint management agreement.

As with transfers of powers, functions, or duties, the resources and funding required to administer the matter for joint management would otherwise be supplied by the local authority. It is therefore a logical source for any additional resources or funding necessary to enable the iwi authority to participate.

10. Crown interests in land of the Crown in the coastal marine area

The Board asked: What are Crown interests in the coastal marine area apart from defence and infrastructure matters of national importance?

Crown interests under the Resource Management Act

The Act provides in section 58(d) for the NZCPS to “state objectives and policies about ... the Crown’s interests in land of the Crown in the coastal marine area”. The nature of these interests is not defined. Given that they are interests *in land of the Crown*, however, they were understood in the preparation of the Proposed NZCPS to be the interests the Crown has *as a landowner*.

Where the Act refers to an interest or interests in land it consistently refers to a property relationship. References to an interest in land are frequently in conjunction with other terms relating to property. These include references to “an estate or interest” in sections 2¹⁶, 185 and 198; references to “right, interest or title” in section 354 and “right, title or interest” in sections 355, 355AA, 355AB, and 417. Specific forms of interest in land referred to in the Act are a leasehold interest (sections 185, 186, 198, 355AA) and a chattel interest (sections 413, 415).

The Crown’s interests in land of the Crown are distinct from the functions, duties and powers of the Crown and its ministers under the Act. Functions, duties and powers are expressly conferred by the Act. Interests are recognised rather than conferred, as their origins lie elsewhere.

¹⁶ Section 2 definitions of “company lease”, “cross lease” and “owner” refer.

The Foreshore and Seabed Act

The statutory basis of the Crown's interests in land of the Crown in the coastal marine area is now set out in the Foreshore and Seabed Act 2004 (FSA), which vested public foreshore and seabed in the Crown.

The nature of the Crown's interest in land of the Crown in the coastal marine area, according to section 13(1) of the FSA, is "full legal and beneficial ownership". This ownership is not encumbered by "any fiduciary obligation, or any obligation of a similar nature, to any person" (section 13(4)). It is subject to other constraints, however. No part of the public foreshore and seabed may be alienated or otherwise disposed of, except subject to an Act of Parliament or the vesting provisions for reclaimed land of the Resource Management Act (section 14 FSA). General rights of access and navigation across the Crown's land are also provided for by the FSA, along with various existing use rights including those customary rights provided for in section 13(3).

Scope for policies about Crown ownership interests

Section 58 of the Resource Management Act enables the NZCPS to state objectives and policies *about* the Crown's interests in land of the Crown in the coastal marine area. In drafting the Proposed NZCPS this was understood to mean that the NZCPS, rather than describing the nature of the Crown's interests, could state objectives the Crown has as landowner, and policies on how the Crown intends to exercise its ownership interest. The possible scope of the Crown's objectives and policies as landowner is constrained by the object of Crown ownership as set out in and the FSA and the purpose of NZCPS policies as set out in the Resource Management Act.

Crown ownership of public foreshore and seabed is vested by the FSA to give effect to the object of the Act, set out in section 3:

"... to preserve the public foreshore and seabed in perpetuity as the common heritage of all New Zealanders in a way that enables the protection by the Crown of the public foreshore and seabed on behalf of all the people of New Zealand, including the protection of the association of whanau, hapu, and iwi with areas of the public foreshore and seabed."

The Crown's objectives or policies about its interest in land of the Crown in the coastal marine area should therefore give effect to this object. The same consistency is expressly required by the FSA when the Minister of Conservation exercises "functions, duties, and powers of the Crown as owner of the public foreshore and seabed". In doing so, the Minister must have particular regard to the object of the FSA (section 28).

The constraint imposed by the Resource Management Act is that the Crown's ownership objectives and policies must, like the rest of the NZCPS, serve the purpose of promoting sustainable management.

Crown interest matters in the Proposed NZCPS

Subject to regulatory requirements, landowners including the Crown may choose whether and how their land is used, developed and protected. The opportunity for the NZCPS to state objectives or policies about the Crown's interests in land of the Crown in the coastal marine area is an opportunity to state Crown preferences as landowner on these matters, including the approach that should be taken to particular activities or kinds of activity. The value lies in communicating those

preferences to the regional councils to which most decision-making on use, development and protection of the coastal marine area is delegated.

The Proposed NZCPS contains policies about the Crown's interests as landowner in relation to:

- the status and purpose of conservation land (Policy 7) and the purpose of proposals for statutory protection of land (Policy 8);
- use and development of Crown land in the coastal marine area for infrastructure of national importance (Policy 17); renewable energy generation (Policy 17); aquaculture (Policy 18); and defence purposes (Policy 23);
- private occupation of land of the Crown in the coastal marine area (Policy 24);
- the vesting of rights in reclaimed land (Policy 28)
- types of activities that have or are likely to have significant or irreversible adverse effects on the coastal marine area (Policy 37).

Protection

Proposed NZCPS policies 7 and 8 are to protect the Crown's ability, as owner of land in the coastal marine area and elsewhere in the coastal environment, to take an integrated, coherent approach to land protection.). There is creates a risk that ad hoc activities and allocation of space in the coastal marine area prevent or undermine the coherent arrangement of protected areas of Crown land. Processes for establishing more marine protected areas are under way.¹⁷ The Crown as owner of most of the coastal marine area, and of land including protected land above mean high water springs, has reason to pursue a rational pattern of use, development and protection across its holdings as a whole.

Use and development for particular activities

The Crown owns land in the coastal marine area on behalf of the public. This ownership function includes preserving and protecting it according to the object of the Foreshore and Seabed Act, but those objects do not preclude use and development of land in the coastal marine area, as long as that use and development is also consistent with the RMA.

In general, proposals for use and development of land in the coastal marine area that are determined to be appropriate under the RMA are presumed to be acceptable to the Crown as the landowner. No separate 'landowner consent' is required¹⁸.

The Crown is not necessarily neutral, however, regarding the relative merits of different activities involving use and development of the coastal marine area.

Proposed NZCPS Policies 17, 18 and 23 identify activities involving use and development of land of the Crown in the coastal marine area towards which the Crown is positively inclined, given their potential public benefits. National defence is a fundamental responsibility of the Crown and certain defence activities (e.g. naval operations) require use of the Crown's land in the coastal marine area.

¹⁷ Processes to establish marine protected areas are proceeding under the *Marine Protected Areas Policy and Implementation Plan*, Department of Conservation and Ministry of Fisheries, December 2005. Areas may be protected under several Acts or by special legislation, hence the general reference to "statutory protection" in Proposed NZCPS Policy 8.

¹⁸ In some circumstances permission is required under another Act, e.g. the Sugar Loaf Islands Marine Protected Area Act 1991, where a part of foreshore and seabed is classified as a conservation area.

Infrastructure of national importance, renewable energy generation and aquaculture were also identified, in the preparation of the Proposed NZCPS, as activities that the Crown is generally inclined to encourage in the coastal marine area, providing the effects are acceptable.

Private occupation

As owner of land in the coastal marine area on behalf of the public, the Crown has reason to seek a fair return to the public for any private occupation of that land. Policy 24 of the Proposed NZCPS sets out the Crown's preferences regarding the establishment of fair charges for occupation of the lands of the Crown in the coastal marine area, including guidance on circumstances in which charges should be reduced or waived.

Vesting of rights in reclaimed land

The ability of the Minister of Conservation, under sections 355 and 355AA of the RMA, to vest a right, title or interest in Crown land in the coastal marine area which has been reclaimed, or is proposed to be reclaimed, arises directly from Crown ownership. This is reflected in Proposed NZCPS Policy 28.

Activities with significant or irreversible adverse effects

Certain types of activities can be undertaken at scales that produce significant or irreversible adverse effects on the coastal marine area, including the land of the Crown. Such effects can damage or destroy valued attributes of the land. Options for other forms of use, development or protection can be closed off for long periods, or permanently. Activities of these types and scales have the potential to challenge directly the Crown's ability to achieve the object of its ownership.

When activities have the potential to put the achievement of this object at risk, the RMA recognises that it is appropriate for the Crown to take direct responsibility for decision making. The RMA expressly provides for this to happen, by providing for the Minister of Conservation to decide on coastal permits for activities with the potential for significant and or irreversible adverse effects, and for the relevant types of activities to be defined in the NZCPS. Policy 24 of the Proposed NZCPS, by establishing the Restricted Coastal Activities regime, enables decision-making at the level appropriate to the Crown's ownership role.

11. Conservation lands and reserves

The Board asked: Why do Conservation lands and reserves etc. need specific identification when they can come within "Other Matters" in the analysis of resource consents?

Proposed NZCPS Policies 7 and 8

Policy 7 of the Proposed NZCPS requires the status and purpose of conservation land to be taken into account when activities are classified in plans, and provides related direction on the consideration of applications for resource consents:

Policy 7 Conservation land

Where land in the coastal environment is held or managed under the Conservation Act 1987, or an Act listed in the 1st Schedule to that Act, its status and purpose shall be taken into account when determining the status of activities in plans. Further, where such land could be affected by an application for a resource

consent, its status and purpose and the effects of the proposed activity on it shall be given due regard in the determination of the application.

Policy 8 provides similar direction on the consideration of applications for resource consents in relation to areas proposed for statutory protection:

Policy 8 Areas proposed for statutory protection

If an application for a resource consent affects an area of the coastal environment for which a proposal for statutory protection has been publicly notified, the purpose of the proposal and the effects of the proposed activity on it shall be given due regard in the determination of the application.

Policies 7 and 8 are similar to Policies 4.1.1 and 4.1.2, respectively, of the NZCPS 1994.

Analysis

Policy 7 of the Proposed NZCPS is intended to ensure that effective statutory protection of areas of the coastal environment for conservation purposes is not compromised by a lack of appropriate controls in plans, or by inadequate analysis during decision-making on resource consents. Policy 8 is intended to ensure that a strategic and coordinated approach to statutory protection of areas of the coastal environment is not unnecessarily compromised by ad hoc consent decisions whose consequences have not been fully considered.

Effects on conservation land and on proposals for statutory protection can be considered under section 104(1)(c) of the Act, which requires a consent authority to have regard to “any other matter the consent authority considers relevant and reasonably necessary to determine the application”. This does not ensure, however, that all relevant and reasonably necessary matters always receive enough attention or are given appropriate weight.

Department of Conservation planners advised during the preparation of the Proposed NZCPS that Policies 4.1.1 and 4.1.2 in the NZCPS 1994 had helped to draw attention in local authority plan and resource consent processes to issues regarding conservation land and areas proposed for protection, and to ensure those issues were considered. To enhance this effect and conform with the general shift in drafting towards more direct wording, the policies were revised to require rather than encourage the appropriate consideration.

The first clause of Policy 7 is focused on plans, while the intent of the policy as a whole is to provide direction regarding both plans and decision-making on resource consent applications. The second clause of Policy 7 addresses consent decision-making for the avoidance of any doubt as to the intent, particularly in comparison to Policy 4.1.1. in the NZCPS 1994, which expressly addresses both plans and resource consent decisions.

12. Surf breaks, aquaculture, Maui's dolphin

The Board asked: Why are surf breaks, aquaculture and Maui Dolphins in the CMA singled out for specific mention?

Proposed NZCPS policies

Proposed NZCPS policies 18, 20, and 38 refer specifically to aquaculture, surf breaks and Maui dolphins:

Policy 18 Crown interest in aquaculture activities

Policy statements and regional coastal plans shall have regard to the Crown's interest in making opportunities available for aquaculture activities in the coastal marine area, where such use and development would meet the purpose of the Act.

Policy 20 Surf breaks of national significance

The surf breaks at Ahipara, Northland; Raglan, Waikato; Stent Road, Taranaki; White Rock, Wairarapa; Mangamaunu, Kaikoura; and Papatowai, Southland, which are of national significance for surfing, shall be protected from inappropriate use and development, including by:

- a. ensuring that activities in the coastal marine area do not adversely affect the surf breaks; and
- b. avoiding, remedying or mitigating adverse effects of other activities on access to, and use and enjoyment of the surf breaks.

Policy 38 Maui dolphin

Adverse effects of activities on the habitat of Maui dolphin shall be avoided. Plans shall include provisions for avoiding threats to Maui dolphin arising from relevant activities, including land use, discharges, activities on the surface of water, and disturbance of foreshore or seabed. Regional coastal plans and proposed regional coastal plans shall include, in accordance with section 55 of the Resource Management Act 1991 and as soon as practicable, the maps of areas of Maui dolphin habitat in Schedule IV.

Analysis

The NZCPS is able to address matters that are of particular currency at the time it is produced. Section 58 of the Act provides for the NZCPS to address national priorities for the preservation of natural character, the Crown's interests in land of the Crown in the coastal marine area, and any other matter relating to the purpose of an NZCPS. The issues and preferred policy responses in relation to these and other matters can change over time. A policy statement that responds to emerging issues and matters that have assumed a high priority for government policy can be expected to single out some such topics for particular attention. This is the case with Policies 18, 20 and 38 in the Proposed NZCPS.

Policy 18 reflects the high priority the government has placed on statutory, policy and administrative reform to support the development and sustainable management of aquaculture. This priority has resulted in substantial amendments to the RMA and a continuing multi-agency implementation programme. During preparation of the Proposed NZCPS it was determined that the policy statement should reflect the importance attributed to aquaculture reform by including a distinct policy on the Crown's approach to use of land of the Crown in the coastal marine area for aquaculture purposes.

Substantial submissions identifying surf break protection as a sustainable management issue and advocating a policy response in the NZCPS were received in response to the Issues and Options paper for the NZCPS review. To that extent Policy 20 is a consequence of the process demanded by section 46 of the Act, which requires comments to be sought and considered before an NZCPS is prepared. It was accepted that the issue was genuine and merited a response and the reasoning is summarised in the section 32 report.

As with aquaculture, Policy 38 on Maui's dolphin is a reflection of current government policy priorities. The dolphin is listed internationally as critically endangered, which means there is a high risk of it becoming extinct in the near future¹⁹. It is New Zealand's rarest dolphin, an estimated 111 left in the wild. A suite of measures has been introduced to protect Maui's dolphin, including research, a ban on set netting in its habitat and a notified proposal for a marine mammal sanctuary. Further initiatives are under consideration²⁰. It was determined that it would be appropriate in this context for the NZCPS to include policy specifically addressing the adverse effects on Maui's dolphin of activities that can be controlled under the RMA.

13. Restricted Coastal Activities

The Board asked, regarding Restricted Coastal Activities:

- What is the policy basis for these?
- Where are some examples currently located?
- What are their costs and benefits?
- What number of RCAs are we talking about?
- What studies have been done that indicate the inclusion of such activities under the Minister's authority is more effective than the resource consent process undertaken by the normal authorities?

Proposed NZCPS policy

The RMA provides for the Minister of Conservation to be the final decision-maker on resource consent applications for activities that are specified in the NZCPS as Restricted Coastal Activities (RCAs). These are activities 'which have, or are likely to have, a significant or irreversible adverse effect on the coastal marine area' (section 58(e)(i) RMA).

Policy 37 in the Proposed NZCPS states that the Minister shall determine resource consents for activities that are defined in Schedule 1 of the policy statement as RCAs. It requires relevant

¹⁹ 2007 IUCN Red List of Threatened Species, International Union for Conservation of Nature and Natural Resources, 2007.

²⁰ Draft Hector's and Maui's Dolphin Threat Management Plan, Department of Conservation and Ministry of Fisheries, August 2007.

planning documents to incorporate the RCAs through a process specified in section 55 of the Act and sets out transitional provisions.

Policy 37 is a development of Policy 5.3.1 in the NZCPS 1994. Schedule 1 is a development of the corresponding schedule in the 1994 statement.

Policy basis

As noted in the section 32 report on the Proposed NZCPS, the existence of RCAs reflects the Crown's role in coastal management as the owner of most of the coastal marine area, on behalf of the public of New Zealand, and provides for the recognition of national interests in the coastal environment. Section 58(e) of the Act provides for RCAs as "matters to be included in any or all regional coastal plans in regard to the preservation of the natural character of the coastal environment". The preservation of natural character is the outcome to which Ministerial decisions on RCAs must be directed. The contribution of the RCA process to that outcome, coupled with the unique status of the coastal marine area, provide the policy basis for implementing the decision-making process provided for by the Act.

The RCA process provides a level of national consistency in decision-making on similar activities that would not otherwise be assured. A notable example concerns decisions on applications for discharges of sewage to the coastal marine area. Ministerial decision-making has enabled a consistent approach to the terms of consents for discharges, which has accelerated improvements in discharge quality. The independent review of the NZCPS 1994 found that the statement had been "effective in changing the practice of directly discharging sewage effluent into the coastal marine area". It was concluded during preparation of the Proposed NZCPS that the centralisation of decision-making on sewage discharges through the RCA process was a significant factor in achieving that change.

Records on RCAs provide central government with information on a range of activities on significant scales in the coastal marine area. This information has been compiled in a database to allow assessment of trends to inform administration of the regime and future policy development.

A pool of potential Ministerial appointees to RCA hearing panels is supported by the Department of Conservation with guidelines, workshops, information and advice on the performance of their function. Appointees have a clear brief to ensure national issues and the Crown's landowner role are considered in hearings. Other panel members can be (legitimately) more focused on matters of regional or local significance. Ministerial appointees can also bring useful independence and expertise to a hearing panel.

As noted in part 10 of this report, activities that have or are likely to have significant or irreversible adverse effects on the coastal marine area, including the land of the Crown, can damage or destroy valued attributes of the land and foreclose future options. In doing so they can challenge directly the Crown's ability to achieve the object of its ownership, as set out in the Foreshore and Seabed Act 2004. Continued provision for RCAs enables decision-making on such activities at the appropriate level for the Crown to fulfil its ownership role.

All RCA applications must be publicly notified. This recognises the nature of most of the coastal marine area as the common heritage of all New Zealanders. It ensures that everyone with an interest in the coastal marine area, for both public and private use and development and for its protection, has the opportunity to be involved in the decision-making process. Some activities that are dealt

with as RCAs could be publicly notified in the absence of the RCA regime, but this would not be certain in all cases.

Although section 58(e)(ii) provides for Ministerial determination of resource consent applications relating to “areas in the coastal marine area that have significant conservation value”, the Proposed NZCPS does not include policy to implement this. A policy to do so was proposed for the NZCPS 1994 but deleted on the recommendation of the Board of Inquiry, which found the proposed wording inadequate²¹. Regional councils have since taken their own approaches to identifying and protecting such areas in regional coastal plans²². In principle the Crown’s ownership role is no less important regarding areas of significant conservation value than it is regarding types of activities having or likely to have significant or irreversible adverse effects. It was considered practical, however, to avoid disruption to practices and methodologies developed since 1994 and maintain the regime established by the earlier policy statement.

Examples

All RCAs processed to date are listed in Appendix 1 to this report.

Costs and benefits

Costs and benefits of the RCA regime are discussed in the Section 32 Report on the Proposed NZCPS, but are not presented in a table as for other policies. The following table incorporates the Section 32 information.

	Benefits	Costs
Central government	<p>High</p> <p>Communicates the Minister’s interest in retaining the decision-making role for activities with the potential for significant and or irreversible adverse effects [in order to fulfil the Crown’s role as landowner in the coastal marine area].</p> <p>Communicates the types of activities the Minister considers have the potential for significant and or irreversible adverse effects.</p> <p>Assists in the preservation of natural character of the coastal marine area.</p> <p>Representation of national interest perspective on hearing panel, through Ministerial appointee.</p> <p>National collection of information on activities with potential for significant or irreversible adverse effects on the coastal marine area.</p>	<p>Medium</p> <p>Implementation, processing of RCA applications, and monitoring of the effectiveness of the policy and the RCA process.</p>
Local authorities	<p>Medium</p> <p>Certainty as to what types of activities the Minister considers have the potential to adversely affect the natural character of the coastal marine area, and clearly defined thresholds that can be incorporated into rules in regional coastal plans.</p>	<p>Low to Medium</p> <p>Additional costs for fees and expenses of Ministerial appointee to consent hearing panel (if or to the extent that these are not passed on to the applicant).</p>

²¹ *Report and Recommendations of the Board of Inquiry into The New Zealand Coastal Policy Statement*, Department of Conservation, February 1994, p82.

²² *Stocktake and Analysis of Regional Coastal Plans, District Plans and Regional Policy Statements for the New Zealand Coastal Policy Statement Review*, prepared for the Department of Conservation by Beca Carter Hollings and Ferner Ltd, January 2007, p21.

Resource users	<p>Medium</p> <p>Certainty as to what types of activities the Minister considers have the potential to adversely affect the natural character of the coastal marine area, and clearly defined thresholds incorporated into rules in regional coastal plans.</p> <p>Public notification of all applications.</p>	<p>Medium to High</p> <p>Additional time required for Ministerial decision-making (+5 days, with possibility of extension)</p> <p>Additional costs for fees and expenses of Ministerial appointee to consent hearing panel.</p> <p>Additional costs of notification, submission and hearing process, for those applications that would not otherwise have been notified.</p>
Environment	<p>Medium to High</p> <p>Nationally consistent approach for activities with the potential for significant or irreversible adverse effects on the coastal marine area, which assists in the preservation of natural character.</p>	<p>Low</p> <p>Adverse effects on natural character from approved activities that are RCAs.</p>

Numbers

The table below sets out the number of RCA applications processed by the Minister of Conservation to date:

RCAs processed by the Minister of Conservation		
Divided according to the RCA criteria in Schedule 1 NZCPS 1994		
S1.1	Reclamations	119
S1.2	Impound or effectively contain	4
S1.3	Parallel structures	74
S1.4	Perpendicular structures	26
S1.5	Petrochemical structures (storage)	2
S1.6	Disturbance	114
S1.7	Deposition	23
S1.8	Exotic plants	0
S1.9	Occupation	28
S1.10	Discharges - sewage	129
S1.10	Discharges - other	7
	Total	526²³

²³ The total of 526 is larger than the total of 434 RCAs listed in Appendix 1, as some projects listed in Appendix 1 involved more than one RCA application.

The following table provides a breakdown of the above figures, including subcategories of RCAs and purposes:

RCAs processed by the Minister of Conservation: Details by category			
S1.1	Reclamations	<i>119</i>	119
S1.2	Impound or effectively contain	4	4
S1.3	Parallel structures		74
	<i>Protection works / seawalls</i>	53	
	<i>Marinas / ports</i>	10	
	<i>Reclamations</i>	10	
	<i>Pipeline</i>	1	
S1.4	Perpendicular structures		26
	<i>Dredging</i>	3	
	<i>Pipelines</i>	8	
	<i>Reclamations</i>	2	
	<i>Breakwaters and groynes (for ports, marinas, canal housing and protection works)</i>	13	
S1.5	Petrochemical structures (storage)	2	2
S1.6	Disturbance		114
	<i>Dredging</i>	30	
	<i>Pipelines (petrochem, power, sewage of telecommunications)</i>	23	
	<i>Reclamations</i>	11	
	<i>Ports & marinas</i>	16	
	<i>Sand & gravel extractions</i>	29	
	<i>Protection works / seawalls</i>	2	
	<i>Canal housing</i>	2	
	<i>Mangrove removal</i>	1	
S1.7	Deposition		23
	<i>Dredge</i>	14	
	<i>Reclamations</i>	3	
	<i>Breakwaters/seawalls/wharfs etc</i>	4	
	<i>Beach replenishment</i>	2	
S1.8	Exotic plants		0
S1.9	Occupation		28
	<i>Marine farms</i>	19	
	<i>Petrochemical - pipelines</i>	3	
	<i>Marinas</i>	2	
	<i>Ports</i>	3	
	<i>Power generation (turbines)</i>	1	
S1.10	Discharges - sewage	129	129
S1.10	Discharges – other (<i>associated with other activities - dredging, marina, reclamations etc</i>)	7	7
	Total	526	526

Studies

The effectiveness of RCAs relative to the resource consent process undertaken by local authorities must be considered relative to the dual objects of the preservation of natural character and appropriate recognition of the Crown's ownership of the majority of land in the coastal marine area. Although studies of the effectiveness of RCAs have been undertaken²⁴, none has specifically sought to compare the effectiveness of Ministerial decision-making compared to the resource consent process undertaken by the usual authorities. It is difficult to envisage how such a study might be constructed, in the absence of parallel processes for comparable activities.

14. Small council funding

The Board asked: How do you consider small councils with a small ratepayer base will be able to pay for additional requirements placed upon them if the Proposed NZCPS is adopted?

Costs

In preparing the Proposed NZCPS consideration was given to the costs the policy statement may place on local authorities. Local Government New Zealand (LGNZ) provided an estimate of some of the costs of implementing an early draft version of the Proposed NZCPS and Department of Conservation conservancy planners discussed with local authorities the costs incurred in implementing the draft Proposed NZCPS.

From this information it is clear that the costs that would be placed on individual local authorities by the Proposed NZCPS varied considerably. Furthermore the estimates of the cost of carrying out some of the actions (such as natural character assessments) required to implement the Proposed NZCPS were also subject to considerable variation.

One of the variable factors is the degree to which local authorities' planning documents are due for review within five years. Proposed NZCPS Policy 13 states that all local authorities shall amend documents as necessary to give effect to the Proposed NZCPS no later than five years after the date of gazettal, using the process set out in Schedule 1 of the Resource Management Act 1991, except where the Proposed NZCPS specifies otherwise.

The cost of implementing the provisions of the Proposed NZCPS will be considerably reduced if undertaken as part of the overall review of planning documents. Within the five-year implementation period for the Proposed NZCPS:

- 14 out of 16 Regional Policy Statements;
- 7 out of 16 Coastal Plans; and
- 32 out of 63 relevant District Plans (i.e. for districts with a coast);

are due for review. Overall approximately 55% of these planning documents are due for review within the five year period specified by Proposed NZCPS Policy 13. A review timetable for Regional Policy Statements, Regional Coastal Plans and District Plans is attached to this report as Appendix 2.

Another significant variable is the degree to which local authorities have already undertaken the actions required by the Proposed NZCPS as part of their functions, duties and powers under the

²⁴ *Restricted Coastal Activities in Regional Coastal Plans*, Woodward-Clyde for the Department of Conservation, June 1998; *A Review of Restricted Coastal Activities*, T. Yeboah, Department of Conservation, March 1999.

RMA. The Proposed NZCPS, as is noted in the response to question seven, may be behind the best practice of some local authorities but demanding for other, less well resourced, local authorities. A Proposed NZCPS that failed to place some demands on less well resourced local authorities may also fail to provide adequate guidance on best practice, particularly for the second generation of policies and plans.

Funding

It is recognised that there is considerable variation in the ratepayer base and resources of local authorities. The Proposed NZCPS is intended, as noted in section 7, to strike a balance in the demands placed on local authorities that recognises that variation. A five year time frame to give effect to the Proposed NZCPS has been selected in order to allow for local authorities to provide for the implementation of the Proposed NZCPS within existing budgets and planning document reviews as much as possible. Given the ten year timeframe for the review of the Proposed NZCPS it is considered that a longer timeframe to give effect to the Proposed NZCPS would detract from the monitoring of its effectiveness.

It is also intended, as is noted in the response to question seven, that a new NZCPS, once gazetted, will be supported by an implementation programme. This is not however a matter that can be specified in the Proposed NZCPS, as any such programme will require appropriations that must be authorised by Parliament.

15. Glossary

The Board asked: Many submitters have identified many further terms to be included in the Glossary. How should definitions for these be identified if they are deemed to be acceptable?

Analysis

The Glossary in the Proposed NZCPS covers words and phrases used in the policy statement for which a specific meaning is intended that might not otherwise be understood. Definitions of words and phrases that are defined in the RMA are not repeated. For all other words and phrases used in the statement, interpretation was intended to follow standard English usage, dictionary definitions and case law where appropriate. Introducing glossary definitions for these words and phrases could inadvertently change the intended effect of the objectives or policies concerned.

If the Board concludes from its analysis of submissions and the Proposed NZCPS that particular words and phrases are a source of interpretive uncertainty an effective solution could be to reword the objectives or policies concerned. In some cases it might be appropriate to include further definitions in the Glossary. In either case the Board might consider requesting, under section 41(4) of the RMA, further information or advice from the authors of this report on the intended meanings, alternative wordings or potential definitions.

16. Precedent

The Board asked: Why is “Precedent” included as an issue when it is not a statutory matter?

Proposed NZCPS Policy 22

Policy 22 of the Proposed NZCPS addresses precedent effects arising from approval of activities:

Policy 22 Precedent effects

In managing subdivision, use, and development in the coastal environment, regard shall be had to the potential for an activity, if approved, to set a precedent for approval of further, similar activities. Where the effects of the activity or such further activities would undermine the relevant plan or regional policy statement, or a national policy statement, the precedent should be avoided.

Analysis

In the preparation of the Proposed NZCPS considerable attention was given to the issue of effective management of the cumulative effects of activities on the coastal environment. A related but distinct matter is the issue of the precedent effects that can arise from approval of resource consents for activities. This issue is commonly referred to as “planning creep”, describing situations where approval for one instance of a particular activity (e.g. a modest residential subdivision in a rural area) opens a gate for more of the same. The risk is that the intentions of policy and planning documents (e.g. to direct urban growth in particular directions) can be undermined by the patterns of use and development that follow upon the initial approval. The Proposed NZCPS is intended to support the development of policy statements and plans that are more effective in achieving sustainable management of the coastal environment. It was determined therefore that the issue of precedent effects was a matter *relating to the purpose of a New Zealand coastal policy statement*, which section 58(h) of the Act allows the NZCPS to address.

The Court of Appeal has found that the precedent effect of granting a resource consent is a relevant factor for a consent authority to take into account when considering a resource consent application. Specifically it held that the issue falls for consideration under sections 105(2A)(b) and 104(1)(d) of the Act²⁵ (now sections 104(1)(b) and 104D). The Court observed that the granting of a resource consent “has no precedent in the strict sense”, in that a consent authority “is not formally bound by a previous decision of another authority”, and that “the most that can be said is that the granting of one consent may well have an influence on how another should be dealt with. The extent of that influence will obviously depend on the extent of the similarities”²⁶. It is this influence with which Policy 22 is concerned. In the same decision the Court held that precedent effects are not cumulative effects²⁷. This is why precedent effects are addressed in a distinct policy in the Proposed NZCPS.

Policy 22 is worded in the passive as it is intended to influence both the preparation of policy statements and plans and the determination of resource consents. Regarding policy statements and (particularly) plans, it is intended to promote and support the formulation of strong objectives and

²⁵ *Dye v Auckland Regional Council* [2002] 1 NZLR 337, paragraph 49.

²⁶ *Ibid*, paragraph 32.

²⁷ *Ibid*., paragraph 39.

policies, accompanied by appropriate classification of activities, as these are most likely to characterise planning documents whose integrity is robust enough to be protected. Regarding the determination of resource consents, the policy might weigh against approval of some applications, but cannot by itself be used to justify declining a proposal. The direction is that precedent *should* be avoided in the circumstances specified, not that it *shall* be avoided. In the scheme of the policy statement that signifies a course of action that is preferred but not required (see section 1 of this paper).

17. Definition of coastal environment

The Board asked: What does the definition of coastal environment look like on the ground?

Proposed NZCPS Policy 1

Policy 1 of the Proposed NZCPS reads as follows:

Policy 1 The coastal environment

In promoting the sustainable management of the coastal environment, policy statements and plans shall recognise that the coastal environment includes, at least:

- a. the coastal marine area;
- b. land and waters where coastal qualities or influences are a significant part or element;
- c. land and waters affected by active coastal processes;
- d. areas at risk from coastal hazards;
- e. coastal vegetation and habitat; and
- f. landscapes and features that contribute to the natural character, visual qualities or amenity values of that environment.

Analysis

Policy 1 of the Proposed NZCPS is not a definition of the coastal environment. The policy provides direction on elements that would need to be included in any definition of the coastal environment in a policy statement or plan. It does not however require these documents to define the coastal environment.

Interpretations vary as to what constitutes a definition of the coastal environment. Approaches taken in policy statements and plans include maps, criteria, descriptions, and combinations of these²⁸. The intention of Policy 1 is not to standardise a specific approach but to ensure that, at minimum, planning documents demonstrably recognise the factors influencing the extent of the coastal environment so that appropriate policies, rules and other such provisions are applied at the relevant scale.

²⁸ *Stocktake and Analysis of Regional Coastal Plans, District Plans and Regional Policy Statements for the New Zealand Coastal Policy Statement Review*, prepared for the Department of Conservation by Beca Carter Hollings and Ferner Ltd, January 2007, pp12, 34-35, 54.

The policy provides nationally consistent minimum criteria for the determination of the coastal environment. “On the ground” recognition or definition of the coastal environment will occur at a regional, district or local level.

The policy is particularly directed towards district plans. While most regional policy statements and nearly all regional plans contain some form of definition of the coastal environment, only 7 percent of district plans do so²⁹. In drafting the Proposed NZCPS it was considered that more explicit recognition of the coastal environment in district plans could promote more integrated management of the coastal environment, particularly with regard to control of subdivision.

²⁹ *Ibid*, p54.

Appendix 1: RCA applications received and processed by the Minister of Conservation since 1991

RCA ID	Date of Hearing Committee Recommendation	Applicant	Activity Summary	Location
411	06/Jan/1992	Otago Regional Council	Erosion protection works	Newhaven
379	04/Mar/1992	Ports of Auckland Limited	Dredging	Westhaven Marina
393	05/Mar/1992	Westgate Transport Limited	Dredging	Port Taranaki
304	23/Mar/1992	Port Marlborough New Zealand Limited	Reclamation	Shakespeare Bay
208	08/Apr/1992	Auckland City Council	Sand extraction	Pakiri Beach
324	28/Apr/1992	Buller Port Services Limited	Dredging	Westport Harbour
396	21/May/1992	Wanganui District Council	Sewage	Wanganui River Estuary
405	29/May/1992	Port of Timaru Limited	Dredging	Timaru Harbour
244	23/Jun/1992	Whitianga Marina Society	Marina	Whitianga
403	07/Jul/1992	Port Marlborough New Zealand Limited	Reclamation	Waikawa, Picton
386	14/Jul/1992	Pauanui Waterways Limited	Canal housing	Pauanui
407	27/Jul/1992	Department of Internal Affairs & Chatham Islands Ports Limited	Reclamation	Waitangi
406	31/Jul/1992	Lyttelton Port Company	Sewage	Lyttelton Harbour
247	19/Aug/1992	Opotiki District Council	Sewage	Tarawa Creek
210	24/Aug/1992	Outboard Boating Club	Dredging	Whakatakataka Bay
380	24/Aug/1992	Telecom NZ International Limited	Cable - fibre optics - disturb	Waitemata Harbour
410	27/Aug/1992	Dunedin City Council	Sewage	Sawyers Bay
246	01/Sep/1992	Tauranga District Council	Sewage	Otumoetai Channel, Tauranga Harbour
264	05/Oct/1992	New Plymouth District Council	Sewage	Waitara Outfall
188	14/Oct/1992	ACI New Zealand Glass Manufacturers	Sand extraction	Parengarenga Harbour
385	30/Oct/1992	Thames Coromandel District Council	Reclamation	Te Kouma (Sugarloaf)
366	02/Nov/1992	Muriwhenua Incorporation	Marine farm	Parengarenga Harbour
371	05/Nov/1992	Franklin District Council	Protection Works	Grahams Beach
363	16/Nov/1992	Semenoff Sand Blasting Supplies	Sand extraction	Waipu River mouth
375	19/Nov/1992	Rodney District Council	Sewage	Waiwera Estuary
265	04/Dec/1992	New Plymouth District Council	Sewage	Waitara Outfall
394	04/Dec/1992	Westgate Transport Limited	Reclamation	Port Taranaki
370	14/Dec/1992	Minister of Defence	Sewage	Hobsonville Air Base, Wallace Inlet
373	16/Dec/1992	Pine Harbour Marina Limited	Marina	Pine Harbour Marina, Beachlands
364	21/Dec/1992	Mt Rex Shipping Limited	Sand extraction	Pouto, Kaipara Harbour
390	30/Dec/1992	Port of Napier Limited	Reclamation	Port Napier

RCA ID	Date of Hearing Committee Recommendation	Applicant	Activity Summary	Location
186	11/Jan/1993	SeaTow Limited	Sand extraction	Mangawhai Harbour
187	11/Jan/1993	M P Wilkinson	Sand extraction	Mangawhai Harbour
376	20/Jan/1993	SeaTow Limited	Sand extraction	Pakiri Beach
377	20/Jan/1993	McCallum Brothers Limited	Sand extraction	Pakiri Beach
372	28/Jan/1993	Manukau City Council	Sewage	Beachlands and Maraetai
378	01/Feb/1993	Mt Rex Shipping Limited	Sand extraction	Banks, Kaipara Head
387	16/Feb/1993	Transit New Zealand New Zealand	Causeway - reclamation	Waiomu
189	23/Feb/1993	Pukepoto Quarries Limited	Sand extraction	Reef Point, Ahipara
395	26/Mar/1993	South Taranaki District Council	Sewage	Opunake
382	05/Apr/1993	Kaipara Excavators Limited	Sand extraction	Pakiri Beach
381	08/Apr/1993	Ports of Auckland Limited	Reclamation	Viaduct Basin
397	16/Apr/1993	Ocean Terminals Ltd	Dredging	Wanganui harbour basin
248	24/May/1993	J W Patterson and Sons Limited	Sand extraction	Otamarakau Beach
299	26/May/1993	Tasman District Council	Construction of a groyne	Port Motueka
409	14/Jun/1993	Transit New Zealand	Protection works	Katiki Beach
384	17/Jun/1993	Manukau City Council	Protection works	Tamaki River
383	07/Jul/1993	Department of Conservation	Cable	Motutapu Island cable, Matuihe Channel
369	23/Jul/1993	Tutukaka Marina Management Trust	Sewage	Tutukaka Harbour
401	06/Aug/1993	Wellington City Council	Sewage	Karori Stream
314	09/Aug/1993	Rural Management Limited	Sewage	Akaroa Harbour
216	23/Aug/1993	Rodney District Council	Beach replenishment	Orewa beach
367	26/Aug/1993	Kaipara Water Transport Limited	Sand extraction	Kaipara Harbour
368	27/Aug/1993	Kerikeri Cruising Club Inc	Marina	Doves Bay
388	01/Sep/1993	Waikato District Council	Sewage	Raglan Harbour
391	07/Sep/1993	Port Gisborne Limited	Dredging	Port Gisborne
412	27/Sep/1993	Otago Regional Council	Extension of rock training wall	Matau Mouth, Clutha River
330	08/Oct/1993	Dunedin City Council	Sewage	Burkes, Otago Harbour
214	13/Oct/1993	Auckland International Airport Limited	Reclamation	Auckland International Airport
404	18/Oct/1993	Banks Peninsula District Council	Sewage	Pauohinekotou Head, Lyttelton Harbour
218	27/Oct/1993	Auckland City Council	Protection works	Riverside Avenue Reserve and Wai-O-Taiki Reserve, Tamaki Estuary
300	12/Nov/1993	Nelson Regional Sewage Authority	Sewage	Waimea Inlet
262	05/Dec/1993	Gisborne District Council	Sewage	Midway Beach, Poverty Bay
392	05/Dec/1993	Weddell New Zealand Limited	Outfall Structure	Kaiti Beach, Poverty Bay
408	09/Dec/1993	K J Eggeling	Seawall	Okuru Estuary
331	13/Dec/1993	Dunedin City Council	Sewage	Burkes, Otago Harbour
398	24/Dec/1993	Wellington City Council	Sewage	Lavender Bay
399	24/Dec/1993	Wellington City Council	Sewage	Owhiro Bay

RCA ID	Date of Hearing Committee Recommendation	Applicant	Activity Summary	Location
400	24/Dec/1993	Wellington City Council	Sewage	Karori Stream
275	07/Jan/1994	Wellington City Council	Sewage	Island Bay
276	07/Jan/1994	Wellington City Council	Sewage	Ngauranga Stream
277	07/Jan/1994	Wellington City Council	Sewage	Tory Street
278	07/Jan/1994	Wellington City Council	Sewage	Evans Bay
279	07/Jan/1994	Wellington City Council	Sewage	Taranaki Street
280	07/Jan/1994	Wellington City Council	Sewage	Aotea Quay (Inter-islander Ferry Terminal)
281	07/Jan/1994	Wellington City Council	Sewage	Aotea & Waterloo Quays intersection
282	07/Jan/1994	Wellington City Council	Sewage	Waring Taylor Street
283	07/Jan/1994	Wellington City Council	Sewage	Herd Street - Overseas Passenger Terminal
191	20/Jan/1994	Whangarei District Council	Protection works	One Tree Point
257	08/Feb/1994	Transit New Zealand	Causeway - reclamation	Ahuriri Estuary
212	07/Mar/1994	Transit New Zealand Limited	Reclamation	Rosebank Peninsula, Waitemata Harbour
315	10/Mar/1994	Kaikoura District Council	Reclamation	South Bay, Kaikoura
305	14/Mar/1994	Squally Cove Aquaculture Partnership	Marine farm	Croisilles Harbour
258	05/Apr/1994	Port of Napier Limited	New Wharf	Port of Napier
389	22/Apr/1994	Transit New Zealand	Reclamation	Te Puru
194	03/May/1994	Far North District Council	Sewage	Whangaroa Harbour
285	18/May/1994	Hutt City Council	Sewage	Bluff Point - Pencarrow Head
336	16/Jun/1994	Southland District Council	Sewage	Riverton, Foveaux Strait
221	01/Jul/1994	Sandspit Yacht Club	Reclamation	Matakana River, Matakana Harbour
306	12/Jul/1994	Department of Conservation	Sewage	Momorangi Bay, Queen Charlotte Sound
319	18/Jul/1994	Banks Peninsula District Council	Sewage	Te Awaparahi Bay, Lyttelton Harbour
316	05/Aug/1994	Banks Peninsula District Council	Sewage	Duvauchelle
317	05/Aug/1994	Banks Peninsula District Council	Sewage	Green Point, Akaroa
249	13/Sep/1994	Western Bay of Plenty District Council	Sewage	Katikati township via outfall off Matakana Island
334	27/Oct/1994	Dunedin City Council	Sewage	Grassy Point
286	01/Nov/1994	Wellington Waste Water Services Limited	Sewage	Karori Stream Mouth
226	02/Nov/1994	Fulton Hogan Holdings Limited	Reclamation	Tarata Creek, Manukau Harbour
268	07/Nov/1994	New Plymouth District Council	Protection works	Te Henui Stream mouth, New Plymouth
333	21/Nov/1994	Dunedin City Council, Port Chalmers Yacht Club and Terra Nova Monowai Sea Scouts Group	Reclamation	Deborah Bay
36	25/Nov/1994	Marlborough District Council	Sewage	Kaipupu
308	25/Nov/1994	Marlborough District Council	Sewage	Kaipupu Point Outfall
250	19/Dec/1994	Opotiki District Council	Sewage	Tarawa Creek

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193	04/Jan/1995	Golden Bay Cement Company Limited	Reclamation	Whangarei Harbour
190	09/Jan/1995	Mangawhai Harbour Restoration Committee	Dredging	Mangawhai Harbour
195	09/Jan/1995	Far North District Council	Protection works	Ahipara
292	09/Jan/1995	Nelson City Council	Sewage	Nelson Haven
251	19/Jan/1995	Port of Tauranga Limited	Reclamation	Tauranga Harbour
224	20/Jan/1995	Department of Conservation	Sewage	Mansion House Bay, Kawau Island
225	09/Feb/1995	Auckland City Council	Protection works	Riverside Avenue Reserve, Tamaki Estuary
227	18/Apr/1995	Manukau City Council	Protection Works	Kauri Point, Manukau Harbour
309	15/Jun/1995	G Cains, Portage Hotel	Sewage	Portage Bay, Kenepuru Sound
252	03/Jul/1995	Pacific Freeholds (Tauranga) Limited	Marina	Tauranga Harbour
287	31/Aug/1995	Porirua City Council	Protection works	Pauatahanui Inlet
261	24/Oct/1995	Gisborne District Council	Reconstruction	Wherowhero Lagoon
223	10/Nov/1995	Gibbs Investment Limited	Protection works	Kakanui Point, Kaipara Harbour
254	24/Jan/1996	Western Bay of Plenty District Council	Reclamation	Maketu Beach
228	29/Feb/1996	Waitakere City Council	Protection works	Beach Road, Te Atatu North
321	15/Mar/1996	Banks Peninsula District Council and Lyttelton Port Company	Marina	Magazine Bay
320	28/Mar/1996	Banks Peninsula District Council	Sewage	Te Awaparahi Bay, Lyttelton Harbour
293	17/Apr/1996	Nelson City Council	Sewage	Nelson Haven
288	22/Apr/1996	Wellington Regional Council	Gravel extraction	Hutt River Mouth
260	29/Apr/1996	Hawkes Bay Regional Council	Dredging	Clive River
301	08/May/1996	R E Cox & M J Solly	Reclamation	Collingwood Haven
197	31/May/1996	Tutukaka Marina Management Trust	Dredging	Tutukaka Harbour
198	04/Jun/1996	Far North District Council	Reclamation	North Hokianga Harbour
270	30/Jul/1996	New Plymouth District Council	Sewage	Tasman Sea near Waiwhakaiho River Mouth
322	28/Aug/1996	Banks Peninsula District Council	Reclamation	Duvauchelle Bay
295	02/Sep/1996	Nelson City Council	Marina	Nelson Marina
202	09/Sep/1996	Whangarei District Council	Sewage	Upper Whangarei Harbour
271	11/Sep/1996	Kiwi Co-operative Dairies Limited	Structure - marine outfall & diffuser	Coastal Marine Area adjacent to the end of Rifle Range Road, Hawera
337	19/Sep/1996	New Zealand Aluminium Smelters Limited	Sewage	Awarua Bay
298	27/Sep/1996	Port Nelson Limited	Reclamation	Main Wharf, Port Nelson
310	15/Oct/1996	Primary Producers' Co-operative Society	Sewage	Wairau River Estuary

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118	05/Dec/1996	Watercare Services Ltd	Sewage	Mangere, Manakau Harbour
207	05/Dec/1996	Minister of Defence	Sewage	Hobsonville Air Base, Wallace Inlet
237	05/Dec/1996	Ports of Auckland Limited	Dredging	Fergusson Container Terminal
240	05/Dec/1996	Auckland Regional Services Trust	America's cup facilities inc. reclamation, dredging and seawalls	Viaduct Basin
289	09/Dec/1996	Hutt City Council	Sewage	Bluff Point, Pencarrow Head
256	11/Dec/1996	TrustPower Limited	Cable - fibre optics - disturb	Tauranga Harbour
327	11/Dec/1996	Buller District Council	Stopbank Construction	Punakaiki
238	18/Dec/1996	Manukau City Council	Protection works	Sunkist Bay, Beachlands
425	20/Dec/1996	Whangamata Marina Society	Marina	Whangamata Harbour
245	23/Dec/1996	Whangamata Marina Society	Marina	Moanaanuanu Estuary, Whangamata Harbour
307	06/Jan/1997	Department of Conservation	Sewage	Momorangi Bay, Queen Charlotte Sound
328	03/Feb/1997	Transit New Zealand	Dropout repairs	Rapahoe Bluffs
234	21/Feb/1997	Winstone Aggregates Limited	Sand extraction	Kaipara Harbour
235	21/Feb/1997	Mt Rex Shipping Limited	Sand extraction	Kaipara Harbour
200	04/Apr/1997	Whangaroa Marina Society	Marina	Kents Bay, Whangaroa
302	10/Apr/1997	Motueka Power Boat Club	Reclamation	Moutere Inlet
242	22/Apr/1997	Auckland City Council	Reclamation	Viaduct and Lighter Basins
88	24/Apr/1997	Far North District Council	Revetment	Ahipara
89	06/May/1997	Far North District Council	Protection works	Waipiro Bay
243	08/May/1997	Gulf Harbour Developments Limited	Marina	Gulf Harbour Marina, Whangaparaoa
38	15/May/1997	Richard McLeod	Sewage	Endeavour Inlet
312	15/May/1997	Richard McLeod	Sewage	Furneaux Lodge, Endeavour Inlet, Queen Charlotte Sound
15	24/Jun/1997	South Taranaki District Council	Sewage	Opunake
273	24/Jun/1997	South Taranaki District Council	Sewage	Middleton Bay, Opunake
339	14/Jul/1997	Noel McLellan	Marine farm	Awarua Bay
37	31/Jul/1997	Tranz Rail Limited	Reclamation	Clifford Bay
311	04/Aug/1997	Tranz Rail Limited	Port	Clifford Bay
39	22/Sep/1997	Edwin Fox Society	Reclamation	Picton
296	26/Sep/1997	Nelson City Council	Marina	Nelson Marina
162	13/Oct/1997	Transit New Zealand	Road Reclamation	Oturu
126	17/Oct/1997	Rodney District Council	Sewage	Orewa
239	17/Oct/1997	Rodney District Council	Sewage	Leigh Road, Orewa into Whangaparaoa Bay
40	14/Nov/1997	Outward Bound Trust	Sewage	Anakiwa
117	05/Dec/1997	Gulf Harbour Developments	Dredging	Auckland
326	10/Dec/1997	Coal Corporation of NZ Limited	Jetty, wharf and barge	Granity

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201	19/Dec/1997	Northland Port Corporation NZ Limited	Reclamation	Marsden Point
35	11/Feb/1998	Nelson City Council	Dredging	Nelson
297	11/Feb/1998	Nelson City Council	Marina	Nelson Marina
2	23/Feb/1998	Port of Napier	Deposition Activity	Port Napier
14	23/Feb/1998	South Taranaki District Council	Sewage	Hawera
272	23/Feb/1998	South Taranaki District Council	Sewage	Hawera township into Tasman Sea
175	03/Mar/1998	Western Bay of Plenty District Council	Sewage & outfall	Katikati
41	16/Apr/1998	Port Nelson	Reclamation	Port Nelson
91	20/Apr/1998	T Bunn	Reclamation	Northland
338	23/Apr/1998	Milford Sound Development Authority Limited	Sewage	Milford Sound
95	24/Jun/1998	Opuia Marina Management Trust	Reclamation	Opuia Marina
16	28/Jul/1998	Paradise Ab	Pipeline	Taranaki
92	31/Jul/1998	Far North District Council	Protection works	1 Tree Pt
93	01/Aug/1998	Whangarei District Council	Reclamation	Kissing Pt
120	04/Aug/1998	Telecom	Cable - fibre optics - disturb	Auckland
164	07/Aug/1998	W Stephenson	Protection works	Firth of Thames
94	13/Oct/1998	Kingfish Lodge Ltd	Reclamation	Kingfish Bay, Whangaroa Harbour
123	19/Oct/1998	Kaipara Excavators Ltd	Sand extraction	Pakiri
142	19/Oct/1998	Kaipara Excavators Ltd	Sand extraction	Kaipara
3	01/Dec/1998	Port Gisborne	Dredging	Port Gisborne
42	15/Dec/1998	Port Marlborough	Breakwater	Waikawa
122	16/Dec/1998	Manukau City Council	Protection works	Manukau Harbour
43	25/Feb/1999	B White	Sewage	Blackwood
44	25/Feb/1999	W Bay Holding	Sewage	Wharetukura
45	10/Jun/1999	Rayner	Reclamation	Port Ligar
24	01/Jul/1999	Porirua City Council	Sewage	Titahi Bay
124	16/Jul/1999	Auckland City Council	Protection works	Kohimarama
4	27/Aug/1999	Wairoa District Council	Sewage	Wairoa River
100	07/Sep/1999	Kerikeri Cruising Club & Kerikeri Cruising Marina Ltd	Marina	Doves Bay, Northland
1	09/Sep/1999	Hawkes Bay Regional Council	Dredging	Clive River
97	20/Sep/1999	Far North District Council	Reclamation	Kerikeri Inlet
96	11/Oct/1999	Northland Port Corporation NZ Limited	Reclamation	Whang Harbour
125	26/Oct/1999	Ryan	Reclamation	Shoal Bay
47	15/Nov/1999	Port Marlborough	Reclamation	Port Havelock
167	15/Nov/1999	Whit Waterways	Canal housing	Whitianga
48	18/Nov/1999	Richmond Hort	Reclamation	Richmond
178	18/Nov/1999	J Patterson and Son Sand Quarry	Sand extraction	Bay of Plenty
46	22/Nov/1999	McLeod	Sewage	Endeavour Inlet

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7	26/Nov/1999	Gisborne District Council	Sewage	Poverty Bay
165	16/Feb/2000	Coromandel Marina Society	Marina	Coromandel
49	09/Mar/2000	Port Marlborough	Reclamation	Westshore
127	22/Mar/2000	Transit New Zealand	Reclamation	Orewa
176	07/Apr/2000	Port of Tauranga	Dredging	Tauranga
8	26/Apr/2000	Transit New Zealand	Protection works	Tatapouri
6	02/Jun/2000	Napier District Council	Sewage	Clive
52	15/Jun/2000	Punga Cove	Sewage	Punga Cove
177	16/Sep/2000	Western Bay of Plenty District Council	Protection works	Tauranga
5	16/Oct/2000	Hastings District Council	Sewage	Clive
99	26/Oct/2000	Far North District Council	Reclamation	Northland
55	31/Oct/2000	Telecom	Cable - fibre optics - disturb	Levin - Nelson
25	15/Nov/2000	Telstra Saturn	Cable - fibre optics - disturb	Lyll Bay to Kaikoura
26	16/Nov/2000	Telstra Saturn	Cable - fibre optics - disturb	Wang to Waikanae
27	16/Nov/2000	Telstra Saturn	Cable - fibre optics - disturb	Paraparaumu to Titahi Bay to Paraparaumu
50	07/Dec/2000	Motueka PBC	Reclamation	Motueka
128	18/Dec/2000	Telstra Saturn	Cable	Ak-NP
166	18/Dec/2000	Telstra	Cable - fibre optics - disturb	TS Ltd
351	18/Dec/2000	Telstra	Cable - fibre optics - disturb	NP to CMA boundary
53	22/Dec/2000	Clifford Bay Marine Farms Ltd	Marine farm	Clifford Bay
414	22/Dec/2000	Clifford Bay Marine farms Ltd	Marine Farm	Clifford Bay
129	27/Feb/2001	Manukau City Council	Reclamation	Whitford
130	22/Mar/2001	North Shore City Council	Sewage	Mairangi Bay
17	28/Mar/2001	South Taranaki District Council	Sewage	Opunake
76	17/Apr/2001	Nori Products	Marine Farm	Bluff Harbour
28	03/May/2001	Transit New Zealand	Protection works	Pauatahanui
131	07/May/2001	Ports of Auckland Ltd	Dredging	Fergusson T
101	31/May/2001	KCC/KCM Ltd	Reclamation	Kerikeri
179	13/Jul/2001	Tauranga District Council	Sewage & outfall	Ohope
58	23/Aug/2001	Wakatu Incorporation	Reclamation	Marahau
132	12/Sep/2001	Milford Mariners	Protection works	Mlfd Auckland
133	15/Oct/2001	Transit New Zealand	Reclamation	Hobsonville
134	23/Oct/2001	Ports of Auckland	Dredging	Rangi Chnl
29	29/Oct/2001	Wellington City Council	Sewage	Karori
102	15/Nov/2001	Whangarei District Council	Sewage	Whang
154	19/Dec/2001	Transit New Zealand	Temp causeway	Waiwera Est
78	20/Dec/2001	Otago University	Sewage	Portobello
63	10/Jan/2002	Tasman District Council	Reclamation	Marahau/Otuwhero Spit/Sandy Bay
180	25/Jan/2002	Port of Tauranga	Reclamation	Tauranga
20	29/Jan/2002	Westgate Transport	Deposition Activity	Port Taranaki

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145	12/Feb/2002	Auckland City Council	Protection works	Mangere
30	19/Feb/2002	Wellington City Council	Reclamation	Oriental Bay
82	21/Mar/2002	Invercargill City	Sewage	Clifton
135	22/Mar/2002	Waitakere City Council	Reclamation	Waitakere City
9	04/Apr/2002	Napier Mussels Ltd	Marine Farm	Hawke Bay
136	15/Apr/2002	Franklin District Council	Protection works	Hudson Beach
11	10/May/2002	Eastern Sea Farms Ltd	Marine Farm	Opotiki
60	13/May/2002	Totaranui Ltd	Marine farm	Onauku Bay
137	20/May/2002	Manukau City Council	Breakwater	Kawakawa Bay
103	29/May/2002	Stonehill Ltd	Reclamation	Northland
138	07/Jun/2002	Transit New Zealand	Reclamation	Tamaki
62	14/Jun/2002	Tasman District Council	Disturbance for Pipeline	Tapu Bay
83	24/Jun/2002	Steve Rout Contracting Ltd	Reclamation	Jacobs River Riverton
104	28/Jun/2002	Whangarei District Council	Sewage	Whangarei
181	01/Jul/2002	Tauranga City Council	Protection works	Tauranga
139	08/Jul/2002	Waikopu Ldge	Reclamation	Waiheke Is
67	24/Jul/2002	Port Nelson Ltd	Dredging	Port Nelson
155	12/Sep/2002	Papakura District Council	Tidal Gates	Papakura
10	02/Oct/2002	Contact Energy	Intake&Outlet structures	Whirinaki
140	03/Oct/2002	Franklin District Council	Reclamation	Waiuku
84	15/Oct/2002	Grey District	Sewage	Greymouth
141	27/Nov/2002	North Shore City Council	Pipeline	Mairangi Bay
21	05/Dec/2002	Shell Todd Oil Services	Pohokura gas field development	Taranaki
66	23/Dec/2002	Transit New Zealand	Protection works	Ruby Bay
68	13/Jan/2003	Nelson Regional Sewerage Business Unit	Sewage	Waimea Inlet
143	27/Jan/2003	North Shore City Council	Reclamation	Takapuna
182	03/Feb/2003	Pachoud	Sheet piling & jetty structure	Tauranga
144	12/Feb/2003	Auckland City Council	revetment	Otahuhu
146	12/Feb/2003	Manukau City Council	Revetment	Waiomanu Bay
147	09/Apr/2003	Manukau City Council	Sewage	Tamaki Str
105	14/Apr/2003	Far North District Council	Protection works	Wairoa Riv
56	19/May/2003	Wakatu Incorp	Marine farm	Croisilles
57	19/May/2003	Wakatu Incorp	Marine farm	d'Urville
171	29/May/2003	Otorohanga District Council	Protection works	Aotea Harbour
148	30/Jun/2003	Waitakere City Council	Waste pipe-disturb	Manukau Harbour
85	15/Jul/2003	Buller District	Sewage	Little Wanganui
183	21/Jul/2003	Western Bay of Plenty District Council	Pipeline	Waihi Estuary
32	25/Jul/2003	Hutt City Council	Sewage	Seaview to Pencarrow
149	28/Jul/2003	Keystone Ltd	Protection works	Kaipara
106	11/Sep/2003	FN Hldgs	Reclamation	Houhora
86	15/Sep/2003	Dunedin City	Sewage & Outfall	Tahuna
107	18/Sep/2003	Far North District Council	Reclamation	Mangonui
108	26/Sep/2003	MCLtd	Dredging	Whang Harbour
150	30/Sep/2003	Orakei Mar. Lt	Marina	Waitemata Hb
172	03/Nov/2003	Buffalo Beach Home Owners Ass.	Protection works	Buffalo Beach-Whitianga

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151	01/Dec/2003	Auckland City Council	Breakwater	Waiheke Is
173	02/Dec/2003	Tairua Marine Ltd & Pacific Paradise Ltd	Marina	Tairua
70	08/Dec/2003	Nelson City Council	Reclamation	Haven Holes, Nelson
184	22/Dec/2003	Port of Tauranga	Reclamation	Tauranga
152	22/Jan/2004	Waitakere City Council	Protection works	Manukau Harbour
185	22/Jan/2004	Tauranga District Council	Mangrove removal	Tauranga
109	03/Feb/2004	FN Holdings Ltd	Reclamation	Opua
110	19/Mar/2004	Whangarei District Council	Sewage	Whangarei
111	24/Mar/2004	Northland Port Corporation NZ Limited	Port	Whangarei
33	01/Apr/2004	Wellington City Council	Sewage	Moa Point
112	11/May/2004	Parua Bay Marina	Marina	Whangarei
72	17/May/2004	Tasman District Council	Reclamation	Pohara - Golden Bay
71	10/Jun/2004	Port Nelson Ltd	Dredging	Nelson Harbour
153	19/Jul/2004	Manukau City Council	Sewage	Waitemata Harbour
18	05/Aug/2004	South Taranaki District Council	Sewage	Opunake
114	13/Sep/2004	Norsand etc	Sand extraction	Mangawhai
22	23/Sep/2004	Shell Todd Oil Services	Pipeline	Himatangi
156	08/Oct/2004	Watercare Services	Pipeline	Hobson Bay
69	28/Oct/2004	Nelson City Council	Sewage	Tasman Bay
360	24/Jan/2005	Origin Energy Resources (Kupe) Limited	Hydrocarbon Pipeline	Inaha Road, South Taranaki
426	31/Jan/2005	Rodney District Council	Sewage & Outfall	Martins Bay
74	28/Feb/2005	Waitaki District Council	Protection works	Kakanui, Nth Otago
23	11/Mar/2005	Westgate Transport	Dredging	Port Taranaki
113	11/Mar/2005	Kaipara Water Transport Ltd	Sand extraction	Kaipara Harbour, Millers Bank
157	31/Mar/2005	Sea Tow Ltd	Sand extraction	Mangawhai
158	31/Mar/2005	McCallum Brothers	Sand extraction	Mangawhai
34	13/Apr/2005	Masterton District Council	Protection works	Castlepoint
436	10/May/2005	Winstone Aggregates Ltd	Sand extraction	Kaipara
174	12/May/2005	Waikato District Council	Protection works	Raglan
357	22/Aug/2005	Department of Conservation	Sewage	Deep Cove, Doubtfull Sound
354	30/Aug/2005	Icon Mining Limited	Gravel Extraction	Taramakau River Mouth to Paroa
352	16/Sep/2005	Manukau City Council	Reclamation	Tamaki Estuary, Pakauranga
353	21/Sep/2005	Tauranga City Council	Sewage	Tauranga Harbour, Chapel Street
361	28/Nov/2005	Transit New Zealand	Seawall	Bruce Bay, Southland
355	12/Dec/2005	South Taranaki District Council	Sewage	Patea River
359	13/Dec/2005	Nelson City Council	Outfall Structure	Nelson Haven
427	19/Jan/2006	Watercare Services	Wastewater overflow	Westmere Pk Waitemata Harbour
428	13/Feb/2006	Watercare Services	Wastewater overflow	Edgars Creek Waitemata Harbour
430	08/Mar/2006	Western Bay of Plenty District Council	pipeline	Te Puna

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356	10/Mar/2006	Dunedin City Council	Reclamation	Vauxhall to Harrington Point
431	11/Apr/2006	Far North District Council	Stopbank Construction	Rawene
432	18/Apr/2006	Western Bay of Plenty District Council	Seawall	Waihi Bch
429	27/Apr/2006	Manukau City Council	Reclamation	Tamaki Str
433	11/May/2006	Port Tauranga Ltd	Dredging	Tauranga
358	13/May/2006	Kaiuma Park Estate Limited	Marina	Kaiuma Bay, Pelorus Sound
434	10/Jul/2006	Tairua Marina/Pacific Paradise Ltd	Marina	Tairua
435	25/Jul/2006	Telecom	Cable	Tauranga
415	24/Nov/2006	Dunedin City Council	Road Reclamation	Company Bay & Portobello Bay, Otago Peninsula
438	05/Dec/2006	Transit New Zealand	Reclamation	Mangapai
416	03/Jan/2007	Wellington City Council	Sewage & Outfall	Western Wastewater Treatment Plant, Karori
440	19/Jan/2007	A&T Properties	Reclamation	Parua Bay
441	30/Mar/2007	Auckland City Council	Breakwater	Orakei Basin, Auckland
417	30/Apr/2007	MTP Limited	Seawall	Okuru, South Westland
418	22/May/2007	Buller District Council	Seawall	Punakaiki
420	03/Aug/2007	Engineering & Works Department of the Gisborne District Council	Sewage & Outfall	Gisborne
442	08/Aug/2007	New Plymouth District Council	Seawall	Urenui, Taranaki
444	22/Aug/2007	Primeport	Reclamation	Timaru
421	27/Aug/2007	Christchurch City Council	Redevelopment of Ferrymead Bridge	Ferrymead, Avon-Heathcote Estuary, Chch
422	06/Sep/2007	Milford Sound Development Authority Ltd	Breakwater	Freshwater Basin harbour, Milford Sound, Fiordland
423	08/Oct/2007	Dunedin City Council	Sewage & Outfall	Tahuna WWTP, Lawyers Head, Dunedin
445	15/Oct/2007	Transit New Zealand	Reclamation	Titfords Bridge
12	01/Jan/2008	Gisborne District Council	Sewage	Gisborne District Council
13	01/Jan/2008	Bay of Plenty Mussels Ltd	Marine Farm	Bay of Plenty Mussels Ltd
19	01/Jan/2008	Whanganui District Council	Sewage	Whanganui River
31	01/Jan/2008	CentrePort Ltd	Dredging	Wellington Harbour Entrance
51	01/Jan/2008	Transit New Zealand	Reclamation	Ruby Bay
54	01/Jan/2008	Nelson City Council	Reclamation	Wakefield Quay, Nelson
59	01/Jan/2008	Te Kuku Seafoods	Marine farm	Admiralty Bay
61	01/Jan/2008	Beatrix Bay Consortium	Marine farm	Beatrix Bay
64	01/Jan/2008	Transpower	Cable - fibre optics - disturb	Cook Strait
65	01/Jan/2008	Cloudy Bay Aquaculture Ltd	Marine farm	Cloudy Bay
75	01/Jan/2008	Port Otago	Dredging	Otago Harbour
77	01/Jan/2008	Dunedin City Council	Sewage	Lawyers Head
79	01/Jan/2008	Sanford Bluff Ltd	Marine farm	Bluff Harbour
80	01/Jan/2008	Port Otago	Dredging	Otago Harbour

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81	01/Jan/2008	Sanford (SI) Ltd	Marine farm	Karatane
90	01/Jan/2008	Far North District Council	Protection works	Te Ti Beach
98	01/Jan/2008	Northland Port Corporation NZ Limited	Port	Marsden Point
115	01/Jan/2008	Gulf Harbour Developments	Marina	Gulf Harbour
116	01/Jan/2008	Pine Harbour Marina	Dredging	Auckland
119	01/Jan/2008	Ports of Auckland	Reclamation	Auckland
121	01/Jan/2008	Carmichael	Protection works	Tongue Pt
159	01/Jan/2008	Mt Rex Shipping	Sand extraction	Kaipara
160	01/Jan/2008	Winstone Aggregates	Sand extraction	Kaipara
161	01/Jan/2008	Rodney District Council	wastewater disc	Martins Bay
163	01/Jan/2008	Thames Coromandel District Council	Sewage	Thames
168	01/Jan/2008	Telstra	Cable	Auckland-Raglan
169	01/Jan/2008	Thames Coromandel District Council	Sewage	Thames sewage
170	01/Jan/2008	Whangamata Marina Society	Marina	Whangamata
192	01/Jan/2008	Far North Maritime Limited	Reclamation	Opuia
196	01/Jan/2008	Northland Port Corporation NZ Limited	Sewage	Marsden Point
199	01/Jan/2008	Far North District Council	Reclamation	Kents Bay, Ratcliffes Bay, Whangaroa
203	01/Jan/2008	Whangarei District Council	Sewage	Limeburners Creek, upper Whangarei Harbour.
204	01/Jan/2008	Far North District Council	Protection works	Foreshore Rd, Ahipara
205	01/Jan/2008	Far North District Council	Reclamation	Waipiro Rd, Manawaora Rd, Manawaroa
206	01/Jan/2008	Northland Port Corporation NZ Limited	Dredging	Whangarei Harbour
209	01/Jan/2008	Franklin District Council	Sewage	Clarkes Beach, Manukau
211	01/Jan/2008	Ports of Auckland	Dredging	Port of Auckland
213	01/Jan/2008	Mt Rex Shipping Limited	Reclamation	Kaipara Harbour
215	01/Jan/2008	Sir Gordon Tait	Reclamation	Waiheke Island
217	01/Jan/2008	Rodney District Council	Beach replenishment	Orewa beach
219	01/Jan/2008	Auckland City Council	Sewage	Oakley Creek, Waterview, Whau Estuary, Avondale and Tamaki Estuary Glendowie.
220	01/Jan/2008	Rodney District Council	Sewage	Helensville Oxidation Ponds, Kaipara River
222	01/Jan/2008	Sandspit Yacht Club	Reclamation	Matakana River, Matakana Harbour
229	01/Jan/2008	Pacific Lithium Ltd	Seafarm to extract lithium from seawater.	Firth of Thames - 7km offshore Waimaungu Point
230	01/Jan/2008	Pacific Steel Limited	Reclamation	Harania Inlet, Otahuhu
231	01/Jan/2008	Franklin District Council	Protection works	Kaiaua - East Coast Road between Matingarahi and Wharekawa
232	01/Jan/2008	The Rapana-Hill Topu	Sand extraction	Kaipara Harbour
233	01/Jan/2008	Franklin District Council	Sewage	Clarkes Beach, Manukau
236	01/Jan/2008	Watercare Services Limited	Sewage	Manakau Harbour

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241	01/Jan/2008	Auckland Regional Services Trust	America's cup facilities inc. reclamation, dredging and seawalls	Viaduct Basin
253	01/Jan/2008	Pacific Freeholds (Tauranga) Limited	Marina	Tauranga Harbour
255	01/Jan/2008	Whakatane District Council and Beca Carter Hollings and Ferner Ltd	Western training wall	Whakatane River mouth
259	01/Jan/2008	Napier City Council	Sewage	Awatoto
263	01/Jan/2008	Gisborne District Council/Residents	Protection works	Wainui Beach
266	01/Jan/2008	New Plymouth District Council	Sewage	Waitara Outfall
267	01/Jan/2008	Methanex Waitara Valley Limited	Sewage	Waitara
269	01/Jan/2008	New Plymouth District Council	Protection works	Te Henui Stream mouth, New Plymouth
274	01/Jan/2008	Ocean Terminals Limited	Dredging	Wanganui Port
284	01/Jan/2008	New Zealand Rail Limited	Sewage	Lambton Harbour
290	01/Jan/2008	Transit New Zealand	Reclamation	Stoke Bypass
291	01/Jan/2008	Port Nelson Limited	Dredging	Port Nelson
294	01/Jan/2008	Nelson City Council	Marina	Nelson Marina
303	01/Jan/2008	Industrial Marine Limited	Marine farm	Clifford Bay
313	01/Jan/2008	Banks Peninsula District Council	Sewage	Sticking Point, Lyttelton Harbour
318	01/Jan/2008	Lyttelton Port Company	Dredging	Lyttelton Harbour
323	01/Jan/2008	Timaru District Council	Sewage	Timaru outfall near Seadown
325	01/Jan/2008	Buller Port Services Limited	Dredging	Westport Harbour
329	01/Jan/2008	Port Otago Limited	Drill, blast and excavate.	Port Chalmers
332	01/Jan/2008	Waitaki District Council	Sewage	Oamaru Harbour
335	01/Jan/2008	Invercargill City Council	Sewage	Ocean Beach, Bluff
362	01/Jan/2008	Otamatea Maori Trust Board	Marine farm	Whakaki Inlet, Kaipara Harbour
365	01/Jan/2008	Marine Production Systems Limited	Marine farm	Karikari Bay
374	01/Jan/2008	North Shore City Council	Sewage	Waitemata harbour
402	01/Jan/2008	Wellington City Council	Sewage	Moa Point
419	01/Jan/2008	Biomarine Limited	Marine Farm	Kaipara Harbour
424	01/Jan/2008	Wellington City Council	Sewage & Outfall	Moa Point WWTP, Wellington
437	01/Jan/2008	Mt Rex Shipping Ltd	Sand extraction	Kaipara
443	01/Jan/2008	Transit New Zealand	Reclamation	Manukau Harbour
446	01/Jan/2008	North Shore City Council	Outfall Structure	Rangitoto Chan
447	01/Jan/2008	Crest Energy	Power generation	Kaipara Harbour
448	02/May/2008	Christchurch City Council	Reclamation	Allendale, Lyttelton Harbour
439	04/Sep/2008	Watercare Services	Reclamation	Hobson Bay

Appendix 2: Review timetable for various planning documents prepared under the Resource Management Act 1991

Planning documents are included if they have a coastal environment. 2008 is used as the benchmark year on the basis that the Proposed NZCPS, if it is approved, could come into effect from 2008.

Document type	Due for review			Proposed
	Within 3 years	Within 3-5 years	Over 5 years	
Regional Policy Statement	Auckland (2009) Bay Of Plenty (2009) Canterbury (2008) Southland (2007) Wellington(2005) Northland (2009) Otago (2008) Tasman (2011) Taranaki (2004) Marlborough (2005) Nelson (2007) West Coast (2010) Total = 12	Waikato (2012) Gisborne (2013) Total = 2	Hawkes Bay (2016) Total = 1	Horizons (2007) 2 nd generation Total = 1
Regional Coastal Plan	Otago (2011) Taranaki (2007) Wellington (2010) West Coast (2011) Total = 4	Bay Of Plenty (2013) Marlborough (2013) Total = 2	Auckland (2014) Canterbury (2015) Southland (2017) Waikato (2015) Nelson (2014) Northland (2014) Total = 6	Horizons (2007) 2 nd generation Hawkes Bay (2006) 2 nd generation Gisborne (1997) 1 st generation Tasman (1996) 1 st generation Total = 4

continued on next page

Document type	Due for review			Proposed
	Within 3 years	Within 3-5 years	Over 5 years	
District Plans	Ashburton (2011) Auckland Isthmus ³⁰ (2009) Buller (2010) Chathams (2011) Clutha (2008) Franklin (2010) Hauraki (2007) Horowhenua (2009) Kaipara (2007) Kapiti (2009) Napier Bay View ³¹ (2006) Napier Western Hills (2008) Napier Ahuriri (2011) Otorohanga (2009) Papakura ³² (2009) Porirua (2009) Rangitikei (2009) Southland (2011) Stratford (2007) Tararua (2008) Waimate (2011) Waitomo (2009) Total = 24	Hutt City (2013) Manawatu (2012) Manukau(2012) Tauranga (2013) Waitakere (2013) Western Bay Of Plenty (2012) Westland (2012) Central Hawkes Bay (2013) Hastings (2013) Hurunui (2013) Total = 10	Gisborne (2016) Nelson (2014) Auckland (Central) (2015) Christchurch (2015) Dunedin (2016) Far North (2017) Gisbourne (2016) Grey (2015) Invercargill (2015) New Plymouth (2015) North Shore (2016) Opotiki (2015) South Taranaki (2014) Thames/Coromandel (2017) Timaru (2015) Waimakariri (2015) Wairoa (2015) Wanganui (2014) Whangarei (2017) Total = 19	Auckland (Hauraki) (2006) Banks Peninsula (1997) Hamilton (1999) Kaikoura (2000) Napier City (2000) Rodney (2000) Selwyn (2000) Waikato (2004) Whakatane (2006) Motiti Island (2006) Tuhua Island ³³ (2006) Wairarapa Combined (2006) Total = 12

³⁰ Auckland City has three district plans.

³¹ Napier City has three district plans.

³² Papakura has three district plans all due for review at the same time.

³³ Motiti and Tuhua Islands both prepared by Internal Affairs on behalf of Minister of Local Government