

Independent Review of the New Zealand Coastal Policy Statement

**A report prepared for the Minister of Conservation
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Storm damage to boat ramp on Horowhenua Coast.

Rolling out the beach access ramp (Greg Jenks, EBOP).

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SECTION 1.0

EXECUTIVE SUMMARY

1.1 BACKGROUND

This report presents the findings of the independent review of the New Zealand Coastal Policy Statement (NZCPS). The Minister of Conservation commissioned the review in 2003. It meets the NZCPS policy requirement that effectiveness of the NZCPS be reviewed independently of the Minister no later than nine years after its gazettal in 1994 (NZCPS Policy 7.1.1).

1.2 OBJECTIVES AND SCOPE

The primary objectives of this report are to review the effectiveness of the NZCPS by:

- summarising the emerging issues in coastal management and assessing the adequacy of NZCPS policies in addressing these;
- examining how NZCPS policies have been implemented through plans and resource consents;
- consulting with users from government, industry and other organisations about implementation of the NZCPS; and
- making recommendations to the Minister of Conservation for the need, if any, to review, change or revoke any policies in the NZCPS.

The Minister of Conservation's functions under Section 28 of the Resource Management Act 1991 (RMA), in relation to NZCPS preparation, regional coastal plan approval, and monitoring are not reviewed. However, the report comments on the Minister's role in deciding restricted coastal activity applications.

This review is independent of the other policy reviews being undertaken by government, including the development of the proposed Foreshore and Seabed Framework, the Oceans Policy review, and Aquaculture Reform policy processes. The review scope excludes the NZCPS created by the Hauraki Gulf Marine Park Act 2000 (HGMPA).

The review assumes that the RMA 2003 amendments will have little effect on plans and policy statements prepared before August 2003. The review notes that at this stage in the implementation of the RMA, it is currently impossible to accurately monitor the direct effect of the NZCPS in sustainable management of natural and physical resources in the coastal environment. Further monitoring is required at all levels of planning before that is possible.

1.3 REVIEW METHODOLOGY

The review process has used a number of different study methods including analysis of case law, assessment of plans and policy statements across three regions (Auckland, Bay of Plenty and Southland) and review of resource consents in the coastal environment.

A separate study by Mike Jacobson about the effectiveness of the NZCPS natural hazard provisions accompanies this report. His findings and recommendations are incorporated into Sections 7.5.2 and 7.5.3.

A variety of consultation techniques was used to generate discussion about issues arising out of NZCPS implementation. Fifty three written public submissions were received and read as part of the review process. Other methods included consultation with coastal planning practitioners in central and local government, and meetings with coastal users and interest groups around the country. Two hui were held – one in Gisborne and one in Christchurch. The effects on NZCPS policies of reviews being carried out by central government (Section 2.8) were considered, along with the effects of non-statutory methods (Section 2.9).

1.4 FINDINGS ON THE EFFECTIVENESS OF THE NZCPS

The review finds that the preparation and implementation of the first NZCPS have effectively generated debate about New Zealand's national priorities for coastal management. Along with the RMA provisions, the NZCPS has also encouraged local government to change the way in which coastal issues are considered in local planning frameworks.

There is considerable public interest in the content and implementation of the NZCPS and any future changes to it, with good attendance at consultation discussions, effective engagement by interest groups, and the receipt of 53 written submissions. Coastal issues such as the Government's proposed Foreshore and Seabed Framework, public access reviews, and aquaculture management received considerable profile throughout the review period which may have focused some of this interest.

NZCPS policies have been implemented effectively through the regional policy statements and regional coastal plans analysed in this review. While all regional coastal plans are not yet operative (seven still need to be approved by the Minister), the NZCPS has been effective in changing the practice of directly discharging sewage effluent into the coastal marine area. Restricted coastal activities (RCAs) have been implemented where appropriate in regional coastal plans.

However, the NZCPS has been only partially effective in influencing district plans and subsequent land use planning decisions within the coastal environment. The review finds that while the NZCPS has assisted management of subdivision and land use changes within the coastal environment, there are some concerns about the degree to which the principles and policies are reflected in district plan contents and implementation. It is also acknowledged that there are other factors, beyond the NZCPS, that determine land use outcomes. The NZCPS alone cannot determine sustainable management outcomes in the coastal environment.

The report finds that the NZCPS is only generally referred to in resource consent applications and council officer reports about resource consents. The resource consent process, particularly in territorial authorities, was difficult to assess and may be the subject of further analysis. By comparison, Environment Court judges make more detailed reference to NZCPS policies in dealing with statutory plans and policy statements.

The area of poorest implementation has been in monitoring environmental outcomes and assessing the degree to which plans and policy statements have influenced environmental results. There is often a reluctance to implement national requirements because of funding implications. It is difficult to judge how significant that problem is. However, action is needed at a national level of planning to clarify responsibilities for environmental monitoring.

While DoC did not prepare an implementation strategy for the NZCPS, a series of actions was carried out (Section 2.6). These were not explicitly related to achieving specified NZCPS policy outcomes. Many of the actions were aimed at resourcing DoC staff to carry out their duties in relation to NZCPS implementation at conservancy level.

1.5 RECOMMENDATIONS

It is recommended that the NZCPS be formally reviewed to revoke policies now obsolete because of other policy developments since 1994, and to provide additional policy guidance required by sub-national levels of planning. The timing of the review should consider the Government's proposed Foreshore and Seabed Framework and future Oceans Policy regime. Any NZCPS policies that duplicate or conflict with the Biodiversity National Policy Statement policies should not be revoked until that NPS is operative.

Other matters identified for inclusion within the scope of the NZCPS review include guidance about when a NZCPS should be prepared, and the applicability of the Hauraki Gulf Marine Park Act 2000 (HGMPA) model in guiding the preparation of a *place based* NZCPS to achieve integrated coastal and fisheries management in nationally significant coastal seascapes and landscapes – with community and industry involvement. For example, implementation of the Fiordland Marine Conservation Strategy could benefit from this type of multi-agency NZCPS.

Given the 2003 RMA amendments, councils are now required to *give effect* to the NZCPS and other national policy statements in the preparation of policy statements and plans – ensuring that some of the implementation difficulties experienced from 1994 to 2003 may be overcome. More specific provisions are needed regarding the requirements for environmental monitoring and coastal occupation charges. However, consideration of this issue needs to be coordinated with debate about aquaculture reforms and the proposed Foreshore and Seabed Framework.

On completion of foreshore and seabed negotiations, DoC needs to initiate comprehensive consultation with Maori based on matters outlined in Section 6.4. These matters were raised at hui in Gisborne and Christchurch before consultation was curtailed.

Once an amended NZCPS is approved, DoC needs a transparent implementation strategy. DoC needs to be more accountable for implementation actions and analysis, including criteria for monitoring the effectiveness of the HGMPA in its role as a NZCPS.

Other recommendations relating to individual NZCPS chapters are included in Section 9.4, but are summarised here for convenience. They include:

1. Consider incorporating the principles section into policies.
2. Correct omission by including a heading for the principles section of the NZCPS.
3. Provide an explanation of the role of NZCPS principles in preparing plans and policy statements.
4. Collaborate with tangata whenua and local authorities to develop guidelines or criteria enabling councils to define the *coastal environment* in each region.
5. Investigate the application of the HGMPA model as a possible method for improving integrated sustainable management of nationally significant coastal landscapes and seascapes – *living* protected landscapes.
6. Carry out more detailed analysis of case law and international practice to provide guidance for identifying natural character on land and sea in the coastal environment.
7. Maintain the hierarchy of adverse effects to be avoided, remedied or mitigated (NZCPS Policy 1.1.2(a) and (b)). If there are national priorities for preservation of landscapes, this analysis should be carried out at the national level of planning.
8. Amend NZCPS Policy 1.1.2(c) so that important marine ecosystems are protected and managed. This may require an amendment to the RMA so that the term *protect* facilitates appropriate management of marine important ecosystems outside conservation areas.
9. Combine Chapters 2 and 4 of the NZCPS to demonstrate the Crown's partnership with Maori and a commitment to develop coastal and marine policy that reflects the partnership represented by the Treaty of Waitangi.
10. Undertake further consultation with Maori to confirm matters of importance to tangata whenua in the review of NZCPS policies. This consultation is crucial because the hui concerning this review were curtailed.
11. Clearly state in the NZCPS the interests of the Crown in the Coastal Marine Area (CMA) for the purpose of preparing plans and policy statements under the RMA, and deciding resource consents in and adjoining the CMA.
12. Provide clarification on the following part of Policy 4.2.2(c): '*relevant planning document recognised by the appropriate iwi authority*' (i.e is '*relevance*' decided by iwi or by council?). Provide further guidance for councils about developing more proactive relationships with tangata whenua.
13. Provide further guidance about processes to determine the protection of archaeological sites and other sites of cultural importance to Maori, so that the local authorities rely more on tangata whenua for information about culturally important sites.
14. Ensure that amended policies reflect the new requirements of the Local Government Act in regard to Treaty of Waitangi obligations, and relevant case law.

15. Clarify responsibilities for monitoring the effectiveness of NZCPS matters and the effectiveness of relevant parts of the HGMPA in its role as a NZCPS.
16. Provide guidance about criteria to be considered in determining the duration of resource consents in the coastal environment – particularly on land above Mean High Water Springs (MHWS).
17. Clarify which government department is to manage matters related to occupation of space in the CMA, and provide national guidance about assessing the duration of consents to occupy space in the CMA.
18. Revise Policy 3.2.3 to include the circumstances in which plans and policy statements shall require a financial contribution (e.g. alienation of foreshore or seabed through reclamation), and the timing for including provisions in regional coastal policy statements.
19. Revoke Policy 3.2.9.
20. Consider the degree to which NZCPS policies should specify criteria for assessing appropriate or inappropriate subdivision, use and development and what constitutes a ‘*minor effect*’ for the purposes of non-notification of resource consents.
21. Retain the Policies 3.3.1 and 3.3.2 with guidance about implementation of the precautionary approach and adaptive management principles in regional and district plans, in a strategic planning framework.
22. Research the degree of national guidance needed to integrate resource consent monitoring and State of Environment reporting, to ensure that cumulative adverse effects of many activities on the coastal environment may be assessed and changes made to the duration of resource consents and conditions.
23. Retain NZCPS policies about natural hazards. However, policies need to be strengthened to encourage more effective research, monitoring of coastal processes, and sustainable management of coastal hazards.
24. Implement Jacobson’s (2004) recommendation that changes to the NZCPS are needed to:
 - a. Articulate a vision of reduced risk to property assets, and of greater protection from the adverse effects of protection works such as seawalls for coastal habitats, ecosystems and natural features with their associated values including public access, amenity values and recreation); and
 - b. Include more specific policies that address the particular challenges of sustainable coastal hazard management (including the relationship between coastal hazards and the natural dynamic coastal processes that create and maintain coastline assets such as beaches; the difficulties of managing property development in coastal hazard zones over the longer term; the effects of property protection works on public coastline assets; and the effects of climate change).

25. Provide guidance in the NZCPS about locations in the coastal environment where the vesting of an esplanade reserve is important to provide long-term certainty of public access to and along the CMA. Some differentiation is needed between '*walking access*' and other forms of access, including boat access in the marine environment.
26. Carry out research at a national level in partnership with tangata whenua, industry and local authorities to identify the strengths and weaknesses of various methods of managing vehicle access to and along the CMA for a range of purposes.
27. Co-ordinate changes to public access policies with foreshore and seabed provisions. Further consultation may also be needed with tangata whenua in relation to public access and management of areas for customary harvesting of kaimoana.
28. Retain NZCPS Policies 5.1.1–5.1.4. It would be unfortunate if New Zealand reduced national policy standards about sewage effluent treatment. Communities have many years in which to plan changes to treatment systems.
29. Review NZCPS Policies 5.2.1–5.2.5 so that policies that conflict with marine pollution regulations are revoked. However, policies regarding the provision of rubbish collection and sewage collection points (5.2.1 and 5.2.2) should be retained.
30. Review the system for appointing Ministers' representatives on RCA hearing committees. Consider the following changes:
 - a. Maintain a central pool of potential appointees with a variety of expertise and regional knowledge.
 - b. Ensure that appointees have training and information about the role of the NZCPS in the RMA planning regime; national priorities for the Minister of Conservation as agent managing Crown interests in the CMA; implementing the NZCPS; and honouring Treaty of Waitangi obligations at a national level. If appointments were made centrally, many of the criticisms could be overcome.
31. Consider additional RCA criteria to ensure effective Ministerial input to decisions about the location of infrastructure, aquaculture, transportation and storage of hazardous chemicals, and reclamations. These should be guided by recent case law.
32. Retain the same '*trigger points*'. Changes to the RCA Schedule and thresholds or trigger points simply move the debate along the spectrum of possible thresholds. The trigger points should remain until ecological or other evidence from regional council monitoring suggests that another threshold is more appropriate.

SECTION 2.0

INTRODUCTION AND METHODOLOGY

2.1 INTRODUCTION AND REPORT OBJECTIVES

The New Zealand Coastal Policy Statement (NZCPS) Policy 7.1.1 requires that the *effectiveness* of the NZCPS be reviewed within nine years of its gazettal. The primary objectives of this report are to review the effectiveness of the NZCPS by:

- summarising the emerging issues in coastal management and assessing the adequacy of NZCPS policies in addressing these;
- examining how NZCPS policies have been implemented through plans and resource consents;
- consulting with users from government, industry and other organisations about the implementation of the NZCPS; and
- making recommendations to the Minister of Conservation for the need, if any, to review, change or revoke any policies in the NZCPS.

2.2 WHAT DOES EFFECTIVENESS MEAN?

Chapter 7 of the NZCPS contains three policies about monitoring the effectiveness of the NZCPS, as follows:

Policy 7.1.1

The effectiveness of the New Zealand Coastal Policy Statement will be reviewed by a person or persons independent of the Minister no later than nine years after its gazettal, and the Minister shall then consider the desirability of reviewing, changing or revoking the Statement.

Policy 7.1.2

The Minister of Conservation shall monitor the effectiveness of the New Zealand Coastal Policy Statement in achieving the purpose of the RMA by:

- a. assessing the effect of the statement on all subordinate regulatory planning instruments; and*
- b. working with regional councils and with all other interested bodies willing to co-operate to establish a national state of the coastal environment monitoring programme.*

Policy 7.1.3

In order to assist in the establishing of a national state of the coastal environment monitoring programme, local authority policy statements and plans should identify the procedures and methods which the local authority intends to use to

gather information and monitor the state of their coastal environment' (DoC 1994 p18.)

The following criteria will also be considered in reviewing the effectiveness of the NZCPS:

- Does the NZCPS provide clear and sufficient guidance for the preparation of plans and policy statements at regional and district levels of planning?
- Does the NZCPS achieve sustainable management of the coastal environment - the purpose of Part II of the Resource Management Act (RMA)?
- How well do the policies of the current NZCPS deal with emerging coastal issues in New Zealand?
- What is the definition of the '*coastal environment*' as it affects the implementation of NZCPS policies?

2.3 REVIEW SCOPE

This review focuses on the effectiveness of NZCPS policies; its scope is limited by the following factors.

1. The Minister of Conservation's functions under Section 28 of the RMA will not be reviewed.
2. The review is based on the assumption that the RMA amendments (2003) will have little effect on previous implementation of NZCPS policies. However, the amendments may significantly alter the nature of local authority policy statement and plan changes initiated after 1 August 2003. RMA S.55 now requires that plans and regional policy statements must '*give effect*' to national policy statements, including the NZCPS.
3. It is currently impossible to accurately monitor the direct effect of the NZCPS in achieving sustainable management of coastal resources. Many plans are still proposed and some resource consents approved under fully operative RMA plans, and policy statements have not yet been implemented or monitored by local authorities.
4. Young's report (2003) is a summary of views by a limited number of officers and councillors around the country. Workshops arranged by the Department of Conservation inform this review. Several local authorities have made submissions to the review and some examples of good practice are included in this report.
5. This is a statutory review and is independent of other policy reviews being undertaken by government in relation to the Marine Reserves Act, Oceans Policy, Aquaculture reform and debate about ownership of the foreshore and seabed. However, the review does consider views concerning the integration of coastal and marine policies at a national level.
6. This review does not look specifically at the NZCPS policies that resulted from the enactment of the Hauraki Gulf Marine Park Act (HGMPA), even though the HGMPA model is considered as a possible model for a place-based NZCPS.

2.4 EVOLUTION OF THE MINISTER OF CONSERVATION'S ROLE

There has been an ongoing debate about the appropriate management of New Zealand's coastal environment. Morton, Thom and Locker (1973) identified some of the key issues in the management of New Zealand's shoreline and also identified the urgent need for a national policy which would assist in the management of the coastal environment. By the time the RMA was enacted in 1991, a number of seminars and meetings had addressed coastal management problems in New Zealand (Minister of Works and Development, 1974; Ministry of Transport, 1980; Commission for the Environment, 1982; and Department of Lands and Survey, 1984).

By 1991, matters of national importance identified in seminars and meetings included preserving natural character; public access; avoiding development and encroachment onto public land; sporadic subdivision; protecting wetlands and marine habitats; and also challenges in marine research. Emerging issues at the time included fisheries management and the need to understand physical coastal processes – in particular coastal erosion.

In all cases, it was agreed that national policy was needed to deal with important matters and to provide a clear definition of the '*coastal environment*'. This was considered necessary because of the sensitivity of the coastal environment, the complexity of the interface between land and sea, and the long-term cycles of environmental change and fluctuation. The coastal environment was also seen as a finite resource that would be subject to increasing and competing demands for economic development and human activities. The aim of early policy was to protect nationally significant values from the adverse effects of such development - not to '*second guess*' future activities.

The Minister of Conservation inherited responsibilities for coastal management in 1987. The reasons for the Minister of Conservation's various roles were outlined in the first draft of the NZCPS (DoC 1990) and in the opening statement to the Board of Inquiry on behalf of the Minister of Conservation (1993), as summarised below:

1. The Minister of Conservation is the agent of the Crown concerned with protecting the Crown's national interests in the Coastal Marine Area (CMA). In 1991 when the RMA was enacted, the Minister of Conservation's involvement reflected a public expectation that beaches and the sea should be common property resources available to all New Zealanders.
2. The seabed and the foreshore are also areas of national importance because of Maori concerns about the Crown meeting its obligations under the Treaty of Waitangi in relation to management of the CMA.
3. The Department of Conservation also had management functions under the Harbours Act on behalf of the Crown for all environmental matters except for ports and marine farming. Through the enactment of the RMA, these functions were transferred to regional councils and territorial authorities in 1991. The Minister of Conservation retains some responsibility because there was a concern in 1991 that regional councils did not have the skills or expertise to take on this new role without national policy direction.

4. It is a principle (accepted through the Resource Management Law Reform process) that there is a national community of interest to be represented in policy-making about the coastal environment, even though local authorities are responsible for its day-to-day management.

The Minister's current roles under the RMA provisions include approval of the NZCPS; approval of regional coastal plans (management of CMA) and restricted coastal activities (RCAs); approval for vesting of land reclaimed under the RMA; and tendering of space in the CMA.

2.5 THE FIRST NEW ZEALAND COASTAL POLICY STATEMENT

The purpose of the NZCPS as outlined in Section 56 of the RMA is '*to state policies in order to achieve the purpose of this Act in relation to the coastal environment of New Zealand*'. Section 57 of the RMA requires that there shall be at least one NZCPS in place at all times. Section 58 contains the matters that shall be provided for in the NZCPS (RMA Sections are contained in Appendix 3).

The preparation of the NZCPS took several years and after the Section 32 analysis was complete, an inter-departmental committee again reviewed the draft before it was publicly released and put to the Board of Inquiry (BoI) in 1992. At the time of its gazettal in 1994, the NZCPS was ground breaking policy. Not only was the NZCPS the first national policy statement to be prepared under the RMA, it was and still is the only national policy statement to be translated into the Maori language – '*Te Kupu Kaupapahere Takutai Mō Aotearoa*' (DoC 1994). After two years of extensive public consultation, the present day NZCPS was gazetted in May 1994. In total, the BoI received 701 written submissions and heard 137 oral submissions in meetings conducted throughout the country. The BoI played an important role in determining content of the NZCPS, the prescriptiveness of policies, and the interpretation of key terms associated with the NZCPS, such as '*kaitiakitanga*' and '*significant*'.

The BoI noted that the NZCPS is given effect through the approval of regional coastal plans and via the approval of RCAs (1994, p8). However, this review focuses on some of the following range of methods that give effect to the NZCPS:

- (i) The Department of Conservation's submissions in the preparation of regional policy statements, regional coastal plans and district plans.
- (ii) The Minister's approval of the regional coastal plans.
- (iii) The role of the Minister's appointee on hearing committees for consideration of RCAs.
- (iv) The Minister's role as a consent authority for RCAs.
- (v) Plans and policy statements prepared under the provisions of the RMA, which prior to 2003 could not be inconsistent with the NZCPS.
- (vi) The weight that local authorities give to the NZCPS in considering resource consents (the NZCPS is one of the matters to which a consent authority shall have regard, under the provisions of Section 104 (1)(c) prior to the 2003 amendments of the RMA).
- (vii) State of Environment monitoring by local authorities.

- (viii) Other non-statutory methods used to achieve an integrated approach to sustainable management of the coastal environment.

The BoI was particularly concerned about the Minister's dual role as a submitter to resource consents in the CMA and as a consent authority for RCAs. The BoI concluded '*because the regime is novel, we recommend that you should keep your role under it and the necessity for it under review*' (BoI 1994, p11). The dual role of the Minister of Conservation will be examined as part of this review process.

2.6 DEPARTMENT OF CONSERVATION IMPLEMENTATION ACTIONS

The Department of Conservation (DoC) has carried out a range of actions since 1994 to implement the NZCPS, including preparation of guidelines on best practice for implementing the NZCPS, implementation of international agreements, monitoring the effectiveness of the NZCPS policies, and reports on public access. The Department has also provided guidance to ministerial appointees on RCA hearing committees.

The commentary by Nugent and Solomon (1994) contained material from the BoI report and provided information on case law to assist local authorities, resource consent applicants and others to implement the NZCPS in practice. The commentary was a useful guide for planners preparing resource management plans and policy statements, and also for DoC planners making submissions in relation to resource consent applications, plans and policy statements.

DoC published a guideline on New Zealand's international obligations affecting the coastal environment (Hewison 1994). This guideline contained information about the treaties and conventions that bind the government, most of which are implemented through statutes and regulations. Some of the obligations, such as charters and international declarations are not legally binding, but have important political and moral weight. The Ministry for the Environment (MfE) now provides up-to-date information about relevant international obligations for environmental management online at <http://www.mfe.govt.nz/laws/meas/>.

Two reports by Ward (1993) and Ward and Hedley (1994) were commissioned by DoC to guide the development of monitoring indicators to assess the effectiveness of the NZCPS in terms of fulfilling international obligations and its role in regional coastal planning. Both reports envisaged that the NZCPS would not be directly monitored due to its conceptual and general nature. DoC was to provide a framework in which regional councils and territorial authorities would monitor the coastal environment to determine the effectiveness of policy statements and plans under the provisions of S35 of the RMA.

DoC's role in developing monitoring indicators and systems became limited after the initiation of the *National Indicators Framework and Programme* by MfE in 1996 (Cabinet papers CIE (96) M22/3). The Minister for the Environment assumed responsibility for this framework and the marine environment indicators were not confirmed until 2001 (MfE 2001). There is considerable confusion about the roles of the various ministries and departments that work with local government to monitor the effectiveness of sub-national statutory documents.

The report by Bell & Gibb (1996) discussed the current status of public access to and along the coast and discussed how coastal processes and physical features may physically limit public access. The report also identified legal limitations resulting from the nature of land tenure.

The Draft National Heritage Strategy (DoC 2000) was prepared to guide Department actions in protecting indigenous habitats and species, implementing NZCPS policies, and other sustainable management priorities. Marine conservation was one component of the strategy, and although supporting and upholding NZCPS principles is listed as a priority, NZCPS policies are only generally acknowledged. For example, the strategy does not specifically outline how Policies 1.1.3 (c) and 4.2.3 are to be achieved, but simply says action is necessary and is a high priority. Later in the report, the implementation table indicates that action to implement the NZCPS policies is ongoing. No detail is provided about actions.

DoC (2003) has carried out an analysis of case law to determine the helpfulness of the NZCPS on development of precedence, by policy number and then by theme of the various NZCPS chapters. Overall, the report concludes that the NZCPS is acknowledged in court cases as a necessary statutory consideration in determining sustainable outcomes in the coastal environment. The NZCPS is not referred to in decisions as the sole determinant of the final judgement, with Part II of the RMA and other policy statements and plans also referred to in the outcome of particular cases (as would be expected).

There have been two reviews of RCA policies. The Woodward-Clyde (1998) report reviewed current provisions for RCAs in regional coastal plans and draft regional coastal plans to ascertain the extent to which they are consistent with the NZCPS. Yeboah (1999) completed a preliminary review of RCAs with the purpose of providing advice to the Minister of Conservation concerning proposed amendments to the RMA.

A survey of the views of ministerial appointees undertaken as part of the Yeboah (1999) study concluded that Minister of Conservation appointees believe their knowledge of an individual region, and council's procedure, enabled them to perform the role of appointee. They believe their contribution includes a more thorough consideration of conservation and iwi issues, and better environmental outcomes. The Department believes that the Minister's appointees have contributed technical and statutory expertise and understanding to the decision-making process (Yeboah 1999).

DoC has commissioned a report documenting the progress in improving standards for the discharge of human sewage to the CMA. This report is not yet available. A table has been developed by the DoC head office to assist conservancies in assessing new sewage discharge applications. This provides information on current and proposed discharges, volumes, treatment levels, standards, mixing zones, explanatory terms, and examples of good practice. However, the table is of little use without further interpretation to facilitate comparative analysis across councils (as councils have inconsistent data requirements).

Information about sewage treatment is retained on the DoC's Heritage and Advocacy Planning System (HAPS), an internal online data system linked to various other government department databases (Appendix 1 – Summary of HAPS Contents). The system is an efficient way of keeping a diverse group of individuals up to date with coastal management matters. HAPS is gradually replacing the Standard Operating Procedures system that has been in place since 1994. The purpose of the Standard Operating Procedures series was to provide guidance to regional officers carrying out duties in relation to the NZCPS (Appendix 2). There have also been a number of reports and guidelines prepared by individual DoC conservancies that have become national guidelines if the topics are nationally applicable. For example, the Nelson/Marlborough Conservancy Guidelines (1995) outline the appropriate type of sub-tidal ecological investigations to assess the ecological effects on sub-tidal areas of the CMA, when assessing marine farm applications. Planners dealing with similar issues in other regions consider the Nelson/Marlborough guidelines useful.

2.7 THE PLANNING CONTEXT

Since 1994 there have been significant shifts in the planning context in which NZCPS policies are implemented, such as:

- ongoing demand for subdivision, development and use that has significant adverse effects on natural character and other values in the coastal environment;
- increased knowledge and documentation on coastal hazards (e.g. coastal erosion and tsunamis), and the effect of climate change, including its effect on coastal margins;
- rapid expansion in aquaculture/marine farming, which can have adverse effects on water quality, benthic communities and other users of the coastal environment;
- community concern about the effect of sewage discharge and other pollutants on CMA water quality;
- increased concern about the impact of sedimentation and pollution on biodiversity and marine related bio-security issues; and
- reverse sensitivity issues are increasing (e.g. residential subdivision encroaching on areas previously dominated by agricultural or other industry, with subsequent complaints about the adverse effects of industry on quality of life).

2.8 CENTRAL GOVERNMENT REVIEWS AND INITIATIVES

Change in central government policy means that some coastal issues may be dealt with in other national policy initiatives in addition to NZCPS policies. Important policy programmes include the completion of the New Zealand Biodiversity Strategy, the development of the National Environmental Performance Indicators, and the ongoing preparation of an Oceans Policy for New Zealand. Other reports that provide information and ideas about how New Zealand may improve the management of the coastal and marine environment include: *Coastal Management: Preserving the Natural Character of the Coastal Environment* (April 1996) and *Setting Course for a Sustainable Future; The Management of New Zealand's Marine Environment* (1999) both of which are prepared by the Office of the Parliamentary Commissioner for the Environment.

The Indigenous Biodiversity National Policy Statement is about to be publicly notified with implications for any NZCPS policies about natural character and amenity. The Aquaculture review is almost complete, ensuring that further progress will be made in relation to policy about coastal occupation charges. Changes to other related legislation, including the Marine Pollution Regulations means that some parts of the current NZCPS are redundant.

The Foreshore and Seabed Bill, which was tabled in the House on 8 April 2004, will affect the future content of the NZCPS. As currently written, the Bill vests the foreshore and seabed in the Crown, and provides mechanisms for recognition and protection of Maori customary activities. The Bill provides rights of public access and navigation over the foreshore and seabed, though these may be restricted in some circumstances. In a related exercise, the government is following up practical initiatives to help local and regional authorities improve their relationships with Maori when managing the coastal marine area. The focus of this work is to improve the effectiveness of existing legislative provisions under the RMA and other Acts.

The Oceans Policy initiative has been delayed by the foreshore and seabed debate. The NZCPS is critiqued as part of the Oceans Policy review (Oceans Policy Secretariat 2003 various papers) for:

- ineffective guidance to assist councils in forward planning (e.g. aquaculture boom);
- lack of guidance on issues of national priority such as integrated catchment management or natural hazards; and
- a general lack of council support for national level standards or policy statements.

Enfocus (2003) examines the effectiveness of the NZCPS as part of the Oceans Policy review process. The NZCPS is seen as being '*partially effective*' with survey respondents commenting that the NZCPS contribution to regional coastal plans was effective. However, it was superseded by more specific and locally relevant regional coastal plans. The NZCPS is seen as being of little relevance in the resource consent process because of the generality of its policies. Several territorial authorities reported that the effectiveness of the NZCPS was hindered by inadequate promotion and support by DoC.

The draft Oceans Policy option (Oceans Policy Secretariat 25/6/03) includes a preliminary proposal for an Oceans Plan to supersede and improve on the NZCPS. The Oceans Plan would set out national priorities and guidance for oceans management developed through a consultative public process.

It is not clear whether the Oceans Plan would be a statutory document. Given that most of the conflict between people's activities occurs within the limits of the territorial sea, it is difficult to see how a non-statutory Oceans Plan could deliver more effective national guidance than a statutory RMA national policy statement in a local political environment particularly where there is so little support for national input to planning. Many of the policy conflicts between the regional and national levels of planning dealt with in the Oceans Policy review are also present in the RMA regime. However, the NZCPS does not guide policy beyond the territorial sea where other marine management problems exist. The lack of protection for important marine environments beyond the territorial sea is one of the constraints of existing policy systems.

The major strength of the Oceans Policy review is its inter-departmental character. Rather than replacing the national methods and tools in each regime affected by the Oceans Policy, an alternative may be to focus on major benefits associated with people communicating across sectors. For example an Oceans Strategy could provide an overall vision for all management in New Zealand coastal waters; information and data management principles or standards to ensure compatibility between databases about marine resources; environmental indicators, and monitoring requirements. Part of each participating department's budget could be allocated to the Oceans Office for distribution that satisfies the coordinating requirements and improved accountability in achieving the national oceans vision. In addition to obvious coordinating functions, RMA functions in the Oceans Strategy could include:

- providing the vision to guide all resource management thinking about the coastal environment;
- monitoring the effectiveness of the NZCPS, RCPs, and district plans and the integration of policies throughout catchments;

- SOE monitoring in the marine environment; and
- setting priorities for research funded by government in relation to resource management.

The Aquaculture review is ongoing – the moratorium will continue until December 2004. The aim of the review is to streamline regulatory processes to allow greater benefit from the use of coastal space through aquaculture. It is also expected that reforms would achieve greater integration between coastal planning, aquaculture and fisheries management.

Suggestions for improving the NZCPS include guidance for the establishment of Aquaculture Management Areas (AMAs). National guidance is also needed in the form of guidelines and methodology for undertaking environmental assessment and monitoring of marine farms. The role of the Minister of Conservation in coastal tendering is also explored. It is considered that the current RCA policies relating to occupation of space in the CMA are not appropriate and new policies are needed to guide aquaculture as a specific activity (Aquaculture Reform Steering Group 2003).

Public walking access along water margins was also reviewed in 2003 (Hayes 2003, Land Access Ministerial Reference Group 2003). Issues examined include access to foreshore of coast, lakes and rivers across private land; clarification of the legal issues associated with land access; and the considerable number of misconceptions about people's rights. The conclusions call for increased national leadership, improved certainty of public walking access, and changes to those legal provisions that hinder walking access. The group strongly supports negotiated solutions to deal with conflicts that may occur when access is needed across private property. The NZCPS could strengthen policies relating to public access (Section 7.6 of this report) so that councils are required to think strategically and use esplanade reserves and strips, and access strips to achieve better walking access to and along the CMA.

At a national level, it is also useful to note that a number of reports prepared by the MfE and other departments since 1994 have not referred to the NZCPS, except by general mention of its existence. For example, MfE's (2003) Draft Fiordland Integrated Management Strategy advances the HGMPA model as one means to implement the strategy, but does not refer to the NZCPS. Likewise the Parliamentary Commissioner for the Environment reports on preserving natural character of the coastal environment (PCfE 1996) and management of the marine environment (PCfE 1999) simply list the NZCPS as a tool. It is ignored altogether in the (PCfE 1997) report about the management of suburban amenity values. During one meeting, one officer remarked that the NZCPS was a Minister of Conservation document, not an RMA document, which indicates that some education is needed across government departments about the variety of statutory methods used at a national level to achieve environmental results. DoC has not established consistent, regularly updated systems to guide local advocacy efforts in conservancies, with existing Standard Operating Procedures on making submissions focused more on general DoC Conservation Act matters than on RMA matters.

2.9 THE EFFECT OF NON-STATUTORY METHODS ON COASTAL POLICIES

Non-statutory methods have also changed the implementation of NZCPS policies, just as various types of informal methods have transformed environmental management everywhere in the last ten years. Since 1994, regional councils and some territorial authorities have initiated coast-care groups and other community environmental programmes to engage communities, increase people's awareness of environmental problems and achieve landscape restoration outcomes.

Some methods incorporate survey and analysis, enabling property owners and community groups to improve environmental practices. Other initiatives provide information about the sensitivity of environmental values or the effects of people's activities. For example, the NIWA (Biggs et al 2002) stream monitoring kits for farmers is a catchment tool that indirectly results in improved environmental quality in the CMA.

The Otaraua Hapu (2003) guidelines for hapu and iwi prepared in partnership with Shell Petroleum Mining Ltd are an excellent example of the non-statutory initiatives to improve the capacity of Maori to manage kaimoana. Given the pressures these marine resources are under, common understanding of good management practice, monitoring and standards enable Maori communities to adapt tikanga moana and management techniques to meet changing needs and expectations.

Many regions have well resourced Coast Care Environmental Programmes that involve local communities in coastal management. Environment Bay of Plenty (EBOP) has also prepared a series of beach care information brochures that provide guidance about dune usage, fore-dune vegetation, planting guides, vehicle damage, back care buffers and the beach care code. EBOP also has a number of beach planting schemes as shown in Figure 1.



Photo reproduced with permission of Greg Jenks, Regional Coastal Care Coordinator, EBOP

FIGURE 1: Beach planting on Main Beach, Tauranga.

In other countries, coastal environment programmes have evolved with central government support. One example, which won the 1996 UNEP and WTO award for improving the coastal environment, is the international Blue Flag Programme (<http://www.blueflag.org>). Blueflag is partnered with the United Nations Environment Programme, World Tourism Organisation, the European Commission, the International Life Saving Federation and other international organisations. The aim is for coastal environment organisations to participate in a voluntary certification programme to ensure excellence in beach safety, water quality, environmental management and environmental education. Existing practice in New Zealand would need to be assessed along with volunteer group support for such a scheme, which could be a vehicle to co-ordinate efforts by non-government organisations to obtain national consistency.

This review does not offer proposals to change NZCPS policies to address volunteer programmes. It is suggested that any national efforts be coordinated through the MfE Sustainable Environmental Management programme to ensure consistency of good quality advice, and avoid the potential for duplication of efforts. The preparation of some local guidelines may need funding towards research and publication – already offered by MfE. One interesting outcome from discussions is that very few people involved in coast care programmes were aware of the NZCPS.

2.10 METHODOLOGY

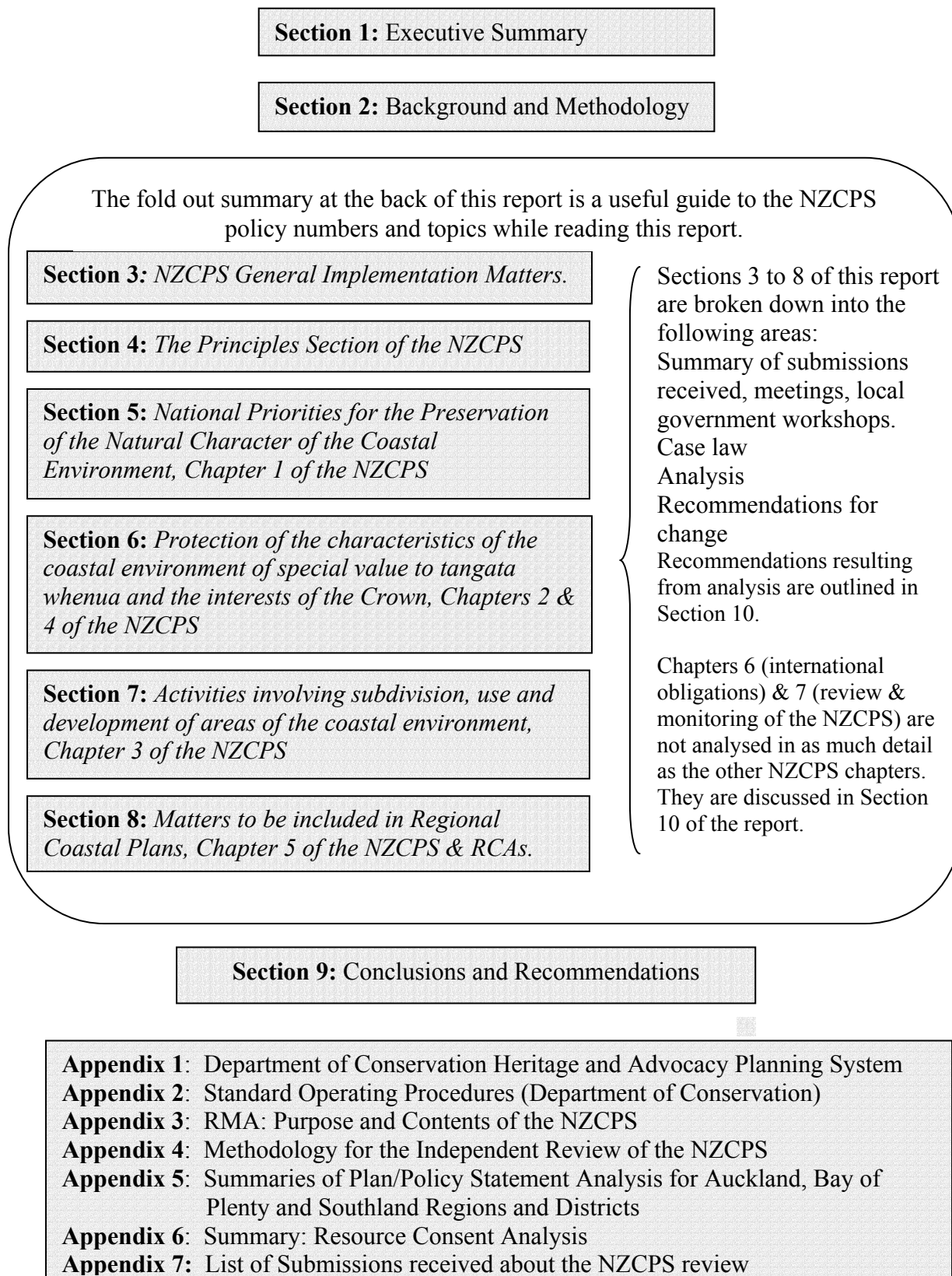
The methodology for a review of this nature is difficult because NZCPS policies are implemented indirectly. Box 1 contains a summary of the methods used to carry out this review. The full methodology is outlined in Appendix 4.

BOX ONE: METHODS USED IN REVIEW

1. review of government reports, reviews and strategies & interviews with key participants in government to identify gaps in the NZCPS and the possible future role of NZCPS.
2. separate analysis by Mike Jacobson (2004) about the effectiveness of NZCPS policies and principles regarding natural hazards.
3. analysis of policy statements, plans and decisions at local planning levels to assess the effectiveness of NZCPS guidance in preparing sub-national policies and rules about coastal matters of national priority (i.e. RMA Part II matters).
4. review of the monitoring provisions in plans and policy statements, and State of the Environment monitoring (where this information is available).
5. review of the effectiveness of RCAs utilising earlier research and feedback from local government and submitters.
6. review of the effectiveness of policies dealing with issues of importance to Maori through consultation with tangata whenua. Because the consultation process with Maori was curtailed, further consultation will be needed to address issues of concern to tangata whenua.
7. consultation with key stakeholders with an interest in the coastal environment.
8. consultation to facilitate community input (i.e advertisements about the review, invitations for feedback on the Quality Planning website and in key coastal and professional journals). A brochure prepared by DoC is also to be sent to people who submitted in relation to other reviews on coastal interests.

2.11 REPORT STRUCTURE

The following flow chart provides information about the review report structure and the major topics addressed in each section.



SECTION 3.0

GENERAL IMPLEMENTATION MATTERS

3.1 THE NZCPS CONSIDERED IN ITS ENTIRETY

This review of the NZCPS has generated considerable comment about the general role of the NZCPS in resource management. Comments are structured as points of support, the need for change and points in opposition to the NZCPS. None of the submitters referred to the Maori version of the NZCPS (DoC 1994). The comments inform recommendations about the contents and future role of the NZCPS, along with suggestions made in other reviews taking place at the national level of planning.

3.2 SUPPORT FOR THE NZCPS

- There is general support for the existence and retention of the NZCPS as a comprehensive tool in achieving the purpose of the RMA in relation to New Zealand's coastal environment, and in guiding the second generation policy statements and plans about the coastal environment.
- The national consultation process of the original NZCPS is given considerable credit for the NZCPS content and structure.
- The brevity of the NZCPS is praised, and many believe it is a 'straight forward' document that is easy to read – commendable attributes of any national policy statement.
- A cautious approach should be taken in any review so that a balance of public and private interests is preserved, and any required changes to sub-national plans and policy statements do not result in further costs, delays and confusion.

3.3 QUALIFIED SUPPORT WITH SUGGESTIONS FOR CHANGE

- Include a vision statement in the NZCPS. The lack of a 'vision' for the coastal environment at a national level means that the cluster of lower level plans and policy statements do not represent a clear desired outcome for the future state of New Zealand's coastal environment.
- The review of the NZCPS should focus on removing policies that are no longer relevant or that can be implemented using other means. It should also focus on outlining matters that need to be considered in preparing local plans and policy statements. The NZCPS should not determine local outcomes.
- Local government should control all decision-making and day-to-day management activities in the coastal environment, with national input limited to guidance in the NZCPS about plan preparation, submissions to resource consents, and approval of the regional coastal plans. All NZCPS policies not useful for these purposes should be removed.

- Changes to the structure of the NZCPS and the inclusion of material contained in Nugent and Solomon's (1994) commentary would provide the guidance expected by councils and other submitters.
- The cumulative effects of gradual landscape change in the coastal environment could be more explicitly provided for in the NZCPS, and more proactive policy could guide the balancing act between social, economic, cultural and environmental factors in coastal management.

3.4 OPPOSITION TO THE NZCPS

- The NZCPS is not necessary now that regional coastal plans are in place.
- The NZCPS is ineffective due to a lack of monitoring.
- The emphasis of the NZCPS is on the facilitation of development, rather than conservation, and as a result conservation of important coastal values is being reduced.
- DoC has not advocated for, or promoted, the NZCPS in a general sense and some people do not even know that the NZCPS exists. Some local politicians believe that only the Minister of Conservation is responsible for the implementation of the NZCPS.
- The NZCPS is ineffective as it is not being applied or referred to in some policy statements, particularly at the district level. In fact, several submitters referred to the reluctance of local authorities to implement anything coming from the Ministry of the Environment or DoC if there is no implementation funding support.
- The NZCPS does not add value to the legislation and should not duplicate provisions in Sections 6, 7 and 8 of the RMA. As a result, the NZCPS is becoming less relevant as regional policy statements are being completed and planners consult with peers about the preparation of regional and district plans.
- The NZCPS has not provided guidance about matters of national significance in relation to the sustainable management of the coastal environment (later sections of the report deal with this issue).
- There is concern about the lack of national environmental standards that should have been written before the review of the NZCPS.
- The effectiveness of the NZCPS is hampered due to the lack of an implementation strategy and the dis-establishment of the national coastal unit in the DoC's head office. Now action at regional levels depends on whether the conservator feels that coastal issues are important.

3.5 GENERAL OBSERVATIONS

While submissions and comments generally support the retention of a NZCPS, there is considerable confusion about a number of matters. For example, is an implementation strategy a compulsory requirement or is it simply produced only if the Minister of Conservation believes it is required? Section 2 of this report refers to the actions carried out by DoC in implementing the NZCPS. None of these actions were legal requirements or duties.

It is not clear how the Minister of Conservation decides when and how the preparation of a subsequent NZCPS would be triggered, and most people have a variety of expectations about the evolving role of the NZCPS as it changes. Change may be *subject* driven change (e.g. a NZCPS about establishment of aquaculture management areas), *process* driven (e.g. deletion of obsolete NZCPS), or *place* driven (e.g. Hauraki Gulf Marine Park Act provisions).

It could be argued that the Hauraki Gulf Marine Park Act (HGMPA) 2000 model is an appropriate place based model for integrated management of an entire coastal landscape and seascape, whether for protection of values, or management of the catchment behind aquaculture management areas (AMAs). Section 10 of the HGMPA 2000 states:

- ‘10. Creation of New Zealand coastal policy statement by this Act-**
- (1) *For the coastal environment of the Hauraki Gulf, sections 7 and 8 of this Act must be treated as a New Zealand coastal policy statement issued under the Resource Management Act 1991.*
 - (2) *For the coastal environment of the Hauraki Gulf, if there is a conflict between sections 7 and 8 of this Act and the provisions of any New Zealand coastal policy statement issued under the Resource Management Act 1991, the New Zealand coastal policy statement prevails.*
 - (3) *The provisions of section 55 of the Resource Management Act 1991 apply to the New Zealand coastal policy statement created by this section and a regional council or a territorial authority must take action in accordance with that section and notify a change to a regional policy statement, plan, or proposed plan within 5 years of the date of commencement of this Act.’*

(Hauraki Gulf Marine Park Act 2000)

The HGMPA planning model requires that local authorities, community interest groups, iwi and government departments responsible for the various aspects of marine and land management have a place on the HGMP Forum and officers participate in a technical group to deal with issues affecting the marine park and its land catchments. There is some confusion about the roles of various agencies and DoC in terms of implementation. For example, feedback from the officers’ technical group suggests that the group is not monitoring the effectiveness of planning under the HGMPA. This is believed to be a DoC function because Sections 7 and 8 of the HGMPA treat it as NZCPS. However, the technical group believes the model has resulted in better integration of plans across the areas affected and has resulted in a more integrated approach to data management and analysis of issues. There also appears to be some confusion about the role of the NZCPS in influencing policies and plans in the HGMP area. However, case law suggests that where NZCPS policies conflict with provisions under Sections 7 and 8 of the HGMPA 2000, the NZCPS prevails (*Tandem Marine Enhancement Ltd v Waikato Regional Council A58/2000*).

The possible types of NZCPS that could be prepared, the style and content of a NZCPS, and the influences triggering the preparation of a NZCPS will be addressed in Section 9 of this report. The following Sections 4 – 8 review individual chapters of the NZCPS. General recommendations about the review of the NZCPS as a whole are outlined in Section 9.2.

SECTION 4.0

NZCPS PRINCIPLES

4.1 INTRODUCTION

The NZCPS contains 14 principles. Even though Section 58 of the RMA does not require the inclusion of principles in the NZCPS, the Board of Inquiry concluded that:

'...we could see no reason why a New Zealand Coastal Policy Statement cannot contain material as a foundation for, or as an introduction to, the appropriate policies, provided that the material is consistent with Part II of the RMA and is relevant to the policies in the statement. Principles which are consistent with and designed to give effect to Part II of the RMA in the coastal environment, could be a foundation for the appropriate policies and could therefore be a part of a New Zealand Coastal Policy Statement.' (BoI 1994, p8).

The inclusion of principles in the final version of the NZCPS is interesting as the 'vision statement' and 'explanation of policies, in the draft NZCPS (1990), were not included in the final version of the NZCPS.

4.2 SUBMISSIONS AND COMMENTS ABOUT NZCPS PRINCIPLES

General submissions and comments in meetings about principles are:

- there is a shroud of confusion about the intent and the legal status of the principles;
- the principles could be incorporated into the NZCPS policies (e.g. principle concerning functional dependence of some activities on the coastal marine area); and
- it is debatable whether the principles of the NZCPS should be provided for in a wider Oceans Policy document, or be retained.

Specific submissions referring to individual principles are outlined in Box 2.

BOX TWO: SUBMISSIONS AND COMMENTS ABOUT INDIVIDUAL PRINCIPLES	
Principle 2	Principle 2 could be strengthened and updated to incorporate the concept of risk.
Principle 3	In Principle 3, use the words <i>statutory protection</i> to replace <i>formal protection</i> . Another suggestion is that only marine reserves should be referred to in Principle 3. A couple of submissions referred to the lack of coastal representation in formally protected areas managed by DoC.
Principle 5	In Auckland, it was felt that the presumption of Principle 5 <i>that the coast is open space</i> , should be strengthened due to the significant pressure on the coastal environment in Auckland from activities including aquaculture, sand mining and from the cumulative effects of coastal subdivision. Principle 5 needs to be amended so that the interpretation of <i>free public access</i> is clarified. Currently, it infers that public use of the CMA is unrestricted, which is an unrealistic expectation in some places.

Principle 8	Principle 8 needs to include conservation of protected marine areas (PMAs), affirmation of the public interest in the CMA, and commitment by all New Zealanders to act as guardians.
Principle 9	Principle 9 was questioned as it is a bold statement and is possibly inconsistent with Part II of the RMA. It was felt in both the hui, that the statutory authorities ignore tangata whenua's role as kaitiaki in the coastal environment. There is a lack of adequate resources for the management of coastal areas of special significance to Maori. See Section 6.0 of this report.
Principle 12	Principle 12 was strongly supported because it was useful in supporting the precautionary approach. However, the lack of research, particularly about the functioning of marine ecosystems, prevents the adequate monitoring of effects. Others believe Principle 12 is worded too strongly and that there are areas where the understanding of processes and effects is adequate (such as ports and marina areas). Issues relating to the precautionary principle are discussed in Section 7.4 of this report.
Principle 14	Responsibility for implementing Principle 14 was questioned because adverse effects may extend beyond regional boundaries. This may also be a matter for consideration in preparation of the Oceans Policy and the Bio-security Strategy (e.g. ballast water discharges).

4.3 CASE LAW

The NZCPS principles have been acknowledged in case law. For example, the judge noted that the principles are the basis for NZCPS policies in *First Wave Ltd v Marlborough District Council* (W46/97), a case in which the applicant lost an appeal against the Council's decision not to approve a coastal project because it would result in sporadic development. The broad reference to cultural and historic values was considered to be contrary to Principle 8 in *Minister for Defence v Wellington CC* (W66/99). Principle 8 provided the only general directive on cultural and historical values – little guidance was provided in the Wellington District Plan.

4.4 ANALYSIS

There is a considerable amount of confusion about the implementation of the principles, and very few of the plans and policy statements analysed as part of this review made reference to the principles. However, some councils are using the principles to provide background context for policies. Section 7.4 of this report provides further analysis about the application of the precautionary principle – NZCPS Principle 12.

4.5 RECOMMENDATIONS FOR CHANGE

Several suggestions for change are obviously needed to assist local authorities to interpret the NZCPS.

1. It may be appropriate for some consideration to be given to incorporating the principles section into policies. Any visionary material or explanation of terms such as *precautionary approach* may be better dealt with in an Oceans Policy so that the vision and technical terms are interpreted consistently across all government departments establishing policies for coastal and ocean environments. The role played by NZCPS principles in guiding sub-national plans and policy statements is not clear.

2. Correct omission by including a heading for the principles section of the NZCPS.
3. Provide an explanation of the role of NZCPS principles in preparing plans and policy statements. This explanation may simply be about the level of emphasis placed on individual principles.

SECTION 5.0

NZCPS CHAPTER 1

NATIONAL PRIORITIES FOR THE PRESERVATION OF THE NATURAL CHARACTER OF THE COASTAL ENVIRONMENT

5.1 INTRODUCTION

The highest priority identified in many of the submissions received as part of this review was the preservation of the natural character of the coastal environment. NZCPS Chapter 1 is also the subject of the greatest conflict in relation to preparation of plans and policy statements, and is therefore prominent in case law.

Most of the issues in Chapter 1 relate to land management. However, given the aquaculture boom, the growth of other marine industries, and the results of recent Environment Court cases, the NZCPS provisions about natural character of marine environments, or seascapes also need to be considered in the review of the NZCPS. Before summarising the submissions, it may be useful at this point to provide an example of good practice showing how NZCPS policies have guided the preparation of the natural character provisions in Marlborough District Council plans and policy statements (Box 3).

BOX THREE SOUNDS PLAN: NATURAL CHARACTER AREAS

The Marlborough Sounds Resource Management Plan ('Sounds Plan') is a combined plan and encompasses the council's district and regional responsibilities for land, freshwater and the CMA. It is now largely operative, and includes a spatial framework of Natural Character Areas (NCA). This framework:

- Describes the natural character of the Sounds overall.
- Divides the Marlborough Sounds area into 19 management areas (11 land; 8 marine).
- Describes the core ecological and biophysical components that typify each of the natural character areas.
- Assumes that sustainability of the characteristics within each of the individual areas is important in sustaining the character of the Sounds overall.

The core ecological and biophysical components described within each of the natural character areas are explicitly derived from the policies in Chapter One of the New Zealand Coastal Policy Statement. The Environment Court has also used the framework to guide decisions.

The Sounds Plan and Appendix 2 (Natural Character Areas) can be viewed online (<http://www.marlborough.govt.nz/regulatory.html>)

Source: **McRae, S M, Lucas D J, Barrier R F, Baxter A B, Lynn I H, and Courtney S P (1999)**, Natural character: a framework to guide sustainable management in the Marlborough Sounds, Nelson/Marlborough Conservancy Occasional Publication, Department of Conservation, New Zealand (in prep).

5.2 SUBMISSIONS, MEETINGS & LOCAL GOVERNMENT WORKSHOPS

Submissions and comments about natural character issues vary considerably. This first group of comments relates mainly to substantive issues about natural character:

- Some submitters believe that the preservation of natural character is one of the primary drivers behind the NZCPS.
- Chapter 1 policies focus too much on bio-physical components of natural character and significant area/values, which is easy to implement in places like Milford Sound, but not so easy in other regions (e.g. Auckland region).
- It is a mistaken idea that enhanced biodiversity can compensate for the loss of visual natural character or high landscape values. However, others argue that the protection of coastal and marine biodiversity adds to the preservation of the natural character of the coastal environment. These submitters favour more emphasis on NZCPS Policy 1.1.5, requiring restoration and rehabilitation of natural character.
- The landward extent of natural character should be defined – this would also assist in debates about definition of the coastal environment.
- Estuarine environments should be identified, as they may be fish spawning areas. There is also a need for councils to improve their understanding of the ecological role of estuaries and riverine ecosystems to ensure that the coastal environment is more effectively managed.
- In urban environments, the natural character of landscapes may already be substantially altered and compromised, and therefore preservation may not be appropriate. Instead it may be more useful to focus on maintaining openspace, amenity, and naturalness of the coastal landscape values. Restoration of natural character may also be important in this context and is generally ignored.
- The preservation of the natural character in the urban context may not be possible, and it may conflict with other outcomes, such as providing public access or recreational space.
- Areas should be identified where it is appropriate to restore and rehabilitate as required by Policy 1.1.5 of the NZCPS.
- Iconic coastal landscapes or landscapes of special character are threatened due to the gap between protected area management and incremental site-by-site protection of special places located on private property. This confusion means that the preservation of natural character is litigated in the Environment Court on a case-by-case or site-by-site basis that minimises the consideration of the whole landscape. The result is an increasingly bland landscape with loss of identity and sense of place.
- There is a lack of agreement about what is meant by the term '*coastal environment*'. Although the term '*coastal environment*' is used in resource management it may be more useful to use the terms '*coastal scenic landscapes*' or '*coastal corridors landward of mean high water springs (MHWS)*'.

Other submissions and comments are concerned with process issues and interpretation difficulties:

- Local government officers and coastal planners from the Department of Conservation consistently report that NZCPS Chapter 1 is useful in the preparation of plans, policy statements and for the assessment of resource consents.

- Major criticisms relate to the difficulties in preparing effective plans and policy statements to implement the NZCPS natural character policies – especially in relation to control of subdivision - turning New Zealand into ‘*suburbia by the sea*’!
- Submitters request more national guidance about the definition of ‘*appropriate subdivision, use and development*’ (Policy 1.1.1(a)), ‘*cumulative effects*’ (Policy 1.1.1(c)), and for assistance in managing possible conflicts in implementing Policies 1.1.1(a) and 1.1.1(b). The fear is that concentrating development in existing settlements may result in adverse effects on infrastructure systems and on the character of existing urban environments.
- There is no nationally consistent system or database to identify areas of significant natural character, outstanding natural landscapes, seascapes or underwater landscapes (e.g. caves, reefs, boulder areas). There is also a need for consistency in identifying nationally vulnerable species. Therefore, it is difficult to assess the degree to which previously undeveloped areas of coastline have been opened up for development.
- Clarity is needed about NZCPS terms such as the ‘*coastal environment*’, ‘*natural character*’, ‘*outstanding landscape*’, and ‘*inappropriate subdivision and development*’.
- The lack of an effective spatial policy framework about the management of outstanding landscapes, means that more explicit spatial planning and the articulation of agreed-upon community goals through community visioning, is needed.
- More guidance is needed in preparing district plan provisions.
- Indigenous biodiversity is not provided for in the list of matters of national priority.
- Some policies need to be combined – for example, Policies 1.1.2 to 1.1.4.
- Plans use policy and other methods, including incentives, to encourage private property owners in outstanding natural landscapes to protect important values. These are incomplete. More guidance is needed to inform people about other options (e.g. Nature Heritage Fund).
- It was noted at local government workshops that there are potential inconsistencies in requiring councils to prevent inappropriate subdivision, use and development (NZCPS Policy 1.1.1 (b) and (c)), while facilitating the subdivision and management of traditional Maori land along the coast (NZCPS Policy 3.2.6).
- Guidance is needed to ensure that partitioning of Maori owned land does not result in ‘ribbon’ and sporadic development along remote coastlines, increased non-point pollution from remote settlements, and increased demand for infrastructure in remote places.

5.3 CASE LAW

The Environment Court has generated a substantial amount of case law regarding the ‘*preservation of natural character*’ in the coastal environment. The following is a summary of some of the key points:

1. The Environment Court has acknowledged that sporadic development, (*Kuku Mara Partnership v MDC W25/200*; *Reynolds v KDC A231/96*), and sprawling subdivision, (*Russell Protection Society v FNDC A125/98*), is to be avoided for preservation of the natural character (NZCPS Policy 1.1.1(a)). In considering the effect of ‘subdivision, use and development’ on natural character the Court assessed the permanence of effects. For example, in Pigeon Bay, the effects of a marine farm were judged to be

minor and temporary, and accordingly appropriate (*Pigeon Bay Aquaculture & Ors v CRC C32/99*).

2. The Environment Court determined that sites for development or use located next to areas of 'significant conservation value' or 'outstanding landscape value' are more successful in protecting natural character, than those sites that are not located next to such areas (*Chance Bay Marine Farmers v MDC New Zealand W129/97*). In the *Stillwater Residents v RDC (C48/97)* case, the Court held that it was conspicuous that adverse effects had to be **avoided** (i.e. not remedied or mitigated), near habitats of importance to nationally rare species.
3. The Environment Court highlighted in several cases the need for councils to ensure that district plans contain more **precise** rules and standards about subdivision, particularly in regards to the protection of natural character. The Court has generally ruled in favour of developers who have included revegetation and landscape restoration in their proposals for coastal development (*Arigato v RDC A115/99*; *Di Andre Estates v RDC W187/96*), and noted in each of the above cases that the restoration of natural character was a national priority (NZCPS Policy 1.1.5), and that built structures and planted vegetation may be considered part of natural character.
4. The Environment Court has considered the definition of '*coastal environment*'. Prior to enactment of RMA in 1991, the landward extent of the '*coastal environment*' was judged to be the dominant ridge behind the coast, although the Planning Tribunal accepted that it would vary from place to place. It was later accepted that the assessment of '*natural character*' was subjective, and could extend inland to encompass fragile complex lakes and dune systems (*W94/93*). In the *Pigeon Bay Aquaculture Ltd v CRC (C179/2003)* case, the Court noted that the consideration of a resource consent application for a mussel farm should include consideration of the natural elements, patterns and processes. It was noted that plans should identify the elements of the coastal environment and that rules should be used to limit development where elements need to be protected from inappropriate development.
5. The Environment Court has ruled that that '*landscape*' includes both physical and perceptual qualities as well as social and cultural factors. The criteria for assessing landscape include but are not limited to:
 - natural factors (geological, topographical, ecological, and dynamic factors);
 - aesthetic values (memorability and naturalness);
 - legibility (expressiveness);
 - transient values, such as occasional presence of wildlife or values at certain times of the day or year;
 - whether values are shared and recognised;
 - value to tangata whenua; and
 - historical associations.

In the *Director General of Conservation v MDC and Marlborough Mussel Company (A086/2001)*, the Court ruled that the combination of landscape/seascape and 'its wild and scenic character' were of sufficiently high quality to require protection due to their **collective characteristics** - especially given there was an absence of built structures in the area.

5.4 ANALYSIS

Implementation of Chapter 1 policies in the NZCPS reveals the greatest variability around New Zealand in terms of the substance of policy in plans and the mechanisms or processes for achieving the NZCPS outcomes.

For example, the interpretation of specific provisions such as Policy 1.1.2 (c), '*protecting ecosystems that are unique to the coastal environment*', varies considerably around New Zealand. There has been considerable pressure in the Northland, Auckland, Waikato and Bay of Plenty regions to clear or actively manage mangroves or seagrass beds that are '*protected*' under NZCPS Policy 1.1.2 (c). Communities that are seeking to contain mangrove expansion in urbanised coastal areas, where other values such as recreation, boating or amenity are also important, face restrictions under the provisions of regional coastal plans that are not inconsistent with the NZCPS, but interpret '*protection*' as having the meaning provided in the Conservation Act. The definition of protection under the provisions of the Conservation Act 1987 is:

'Protection', in relation to a resource, means its maintenance, so far as is practicable, in its current state; but includes—

- (a) Its restoration to some former state; and
- (b) Its augmentation, enhancement, or expansion.'

Given human changes to hinterland landscapes, NIWA (Green et al 2003) reports that some management techniques would not be inappropriate within the context of estuary/harbour management plans that outline the overall community objectives for the waterways and concurrent strategies to reduce sediment inflow to the CMA from the hinterland. However, other submitters at the NZCPS review mangroves meeting are concerned that by clearing mangroves, the ecological role of mangrove areas in coastal ecosystems is underestimated and not considered. They also refer to the intrinsic worth of mangrove and seagrass beds and their role in fisheries management.

Councils have difficulty protecting areas of natural character once they are identified. Analysis of plans and regional policy statements in this review demonstrate that the regional policy statements and regional coastal plans adequately provide for the preservation of natural character. However, none of the district plans analysed have rules and performance standards that placed an emphasis on the *preservation* of natural character of the coastal environment *where that is appropriate*. Plans use policy and other informal methods, including incentives, to encourage private property owners to protect the values in outstanding natural landscapes. However, application of informal methods appears to be ad hoc and the triggers for applying informal methods is unclear. Rodney District Council in particular has changed the wording of NZCPS policies to such an extent, that direct reference to NZCPS policy is very difficult to identify throughout the document. This may lead to problems in interpreting the NZCPS through resource consents.

NZCPS Policy 1.1.5 is not specifically implemented in most of the district plans analysed. In the Proposed Rodney District Plan, the policy is referred to in relation to protection of biodiversity, not natural character. In some cases, councils refer to informal methods to implement Policy 1.1.5 inferring that community groups and other types of replanting

strategies will be facilitated. However, this method would not prevent inappropriate development from occurring in areas of high natural character, given the problems discussed in the previous section.

In some plans and policy statements, the wording of policies and rules are general, and little distinction is made between situations in which adverse effects are to be *avoided* as opposed to *remedied* or *mitigated* (NZCPS Policy 1.1.2 (a) and (b)).

5.5 RECOMMENDATIONS FOR CHANGE

4. Collaborate with tangata whenua and local authorities to develop guidelines or criteria enabling councils to define the *coastal environment* in each region. There is considerable variation between territorial authorities in this matter and many are not resourced to carry out comprehensive landscape analysis to define the coastal environment.
5. Investigate the application of the HGMPA model as a possible method for improving integrated sustainable management of nationally significant coastal landscapes and seascapes – *living* protected landscapes.
6. Carry out more detailed analysis of case law and international practice to provide guidance to local government for identifying natural character on land and sea in the coastal environment. Guidance is also needed about the strengths and weaknesses of planning tools that can be used to avoid, remedy or mitigate adverse effects of subdivision, use and development.
7. Maintain the hierarchy of adverse effects to be avoided, remedied or mitigated (NZCPS Policy 1.1.2 (a) and (b)). If there are national priorities for preservation of landscapes, this analysis should be carried out at the national level of planning.
8. Amend NZCPS Policy 1.1.2(c) so that important marine ecosystems are protected and managed. This may require an amendment to the RMA so that the term *protect* facilitates appropriate management to sustainably manage important marine ecosystems outside conservation areas.

SECTION 6.0

NZCPS CHAPTERS 2 & 4 PROTECTION OF THE CHARACTERISTICS OF THE COASTAL ENVIRONMENT OF SPECIAL INTEREST TO TANGATA WHENUA, AND THE INTERESTS OF THE CROWN

6.1 INTRODUCTION

Chapter 2 of the NZCPS seeks to achieve the protection of coastal environment characteristics of special interest to tangata whenua including wahi tapu, tauranga waka, mahinga mataitai and taonga raranga. Chapter 4 is concerned with maintenance of the Crown's interests in the coastal marine environment (CMA). In this report, both NZCPS chapters are dealt with together because of the close inter-relationship between the interests of tangata whenua and the Crown, particularly in the CMA.

Section 6.0 is structured so that submissions about Maori and Crown interests are summarised first. The discussion then includes a review of existing government reports and other material on issues of concern to Maori and the Crown in regards to the CMA, including action taken by government since 1994. The recommendations should provide a basis for further in-depth consultation between Maori and the Government concerning any proposed changes to NZCPS policies, and future roles of Maori and the Crown in relation to the CMA.

Thirteen hui were proposed as part of the NZCPS review process. However, only two hui (Gisborne and Christchurch) were completed (with the assistance of Moetatua Turoa) before the foreshore and seabed debate began, after which remaining hui were cancelled.

6.2 SUBMISSIONS, MEETINGS & LOCAL GOVERNMENT WORKSHOPS

Governance and NZCPS implementation matters raised in the two hui include that:

- There has been a lack of acknowledgement by the Crown and local government of the full implications of Maori customary ownership of the foreshore and seabed.
- The NZCPS has been a useful way to have issues of concern to Maori provided for in plans and policy statements. Previously, some matters were ignored by local authorities despite strong advocacy by local tangata whenua.
- There is strong support for the NZCPS principles and Chapter 2 policies that relate to Maori, but it was requested that the policies be more prescriptive.
- The (2003) RMA amendments to Section 33 are supported, as they may contribute to increased collaboration in management of places and resources important to local tangata whenua. It was suggested that an additional NZCPS policy might be useful.
- The NZCPS is considered to be 'invisible'. Reasons for this view may include the lack of implementation strategies, lack of resources, and confusion about the role of national policy statements in the resource management regime.

- Councils need to give iwi plans stronger emphasis.
- The preparation and implementation of Iwi Management Plans is often difficult at the hapu level due to a lack of resources and the time needed for consultation with a wide range of government agencies.
- There is concern that some resource management surveys are being used inappropriately in plans and policy statements without the appropriate consultation with Maori incorporations and farm managers.

Key points raised in other submissions and meetings about Maori issues include:

- Confusion in councils and the community about the implementation of NZCPS policies about matters of interest to tangata whenua
- Councils have difficulty identifying tangata whenua, particularly where there are multiple iwi with overlapping interests. Plan users believe it is a considerable burden to consult with multiple iwi about resource consent applications. They believe that consultation should be managed at local planning levels – without national policy guidance.
- It may be more appropriate to identify manawhenua rather than tangata whenua.
- There are concerns about developing appropriate policies and standards in situations where iwi choose not to advise councils of characteristics of the coastal environment that are important to Maori.
- Tangata whenua are not adequately resourced to fulfil their role as kaitiaki of the coastal environment, and often not consulted appropriately.

Key points raised in submissions and meetings about the Crown's interest in the CMA include:

- There is opposition to the NZCPS containing policies relating to the Crown's interest, on the basis that it is contrary to the effects-based approach of the RMA. An explanation of the Crown's interest should be provided for in other policy documents – not in the NZCPS.
- More emphasis should be placed on the principle that development and use in the CMA is a privilege, not a right.
- Concern is expressed about the potential loss of rights for future New Zealanders to access the CMA.
- The Government needs to recognise and provide for Maori customary interests. Local authorities will need further guidance in NZCPS policies about how customary interests should be defined and appropriately limited.
- The foreshore and seabed should no longer be sold or converted to private ownership. It should remain publicly owned, and where possible, set aside as a public reserve.
- The mechanisms for providing public access need to be evaluated for their effectiveness in protecting the interests of both the Crown and tangata whenua.
- There is a concern that the duration of resource consents in the CMA is too long, and little recognition is given to the precautionary principle. NZCPS should provide guidance on occupational charges and how funds are used, so that inconsistency between regions is minimised. Some understanding is needed for the meaning of the term '*exclusive occupation*'.
- More guidance is needed about the tendering process, which should be introduced as a management tool.

- Certainty is needed for effective port management, so that more parties are protected from occupation rights for port areas in the CMA, which could inhibit current and future operations.

6.3 DISCUSSION AND ANALYSIS ABOUT MAORI INTERESTS

The NZCPS is the first national policy statement to be translated into Maori, an official language in New Zealand – Te Kupu Kaupapahere Takutai Mō Aotearoa (DoC 1994).

The wording of NZCPS policies clearly indicates that it is government policy to change from a site based management system, to a process that identifies and protects characteristics of the coastal environment of importance to Maori, in accordance with the intent of the RMA. The BoI (1994) recommended that working guidelines on Treaty of Waitangi issues be prepared for local authorities exercising functions and powers under the RMA. Nugent and Solomon (1994) expand on BoI's comments about concepts related to kaitiakitanga and emphasise the importance of tikanga Maori in working with tangata whenua to identify characteristics of the coastal environment that are of special value to Maori, and to give effect to the kaitiaki role.

Since 1994, other observations have been made about the concept of kaitiakitanga. The Parliamentary Commissioner for the Environment (PCfE 2002 p9) notes that:

'The obligations of kaitiaki to the ancestors and future generations, and the identity and well-being of iwi, hapu and whanau, are inextricably intertwined with the environment, places and landforms, natural and physical resources and taonga species within their rohe or takiwa.'

The Maori Discussion Document for the Aquaculture Reform Steering Group (2003) reinforces the idea that the practice of kaitiakitanga contains elements that are defined in individual rohe by kaitiaki. Kaitiakitanga is practised independently of ownership or other rights that may be conferred by the Crown (e.g. concessions, licenses, leases). The Aquaculture Group suggests that although Principle 9 of the NZCPS states that tangata whenua are kaitiaki of the coastal environment, the performance of persons exercising powers, functions and duties under the provisions of the RMA has been '*variable*.'

Concerns were expressed at the Gisborne hui about the definition of Maori in regulations at a national level of government, and that Maori should be able to define what terms mean in each rohe. For example, the Maori practice of kaitiakitanga is often limited by government regulations, such as the case for customary fishing, where regulations impose limits on when and how harvesting can occur. This takes away the decision-making power of any local hapu. Individual hapu have not been able to exercise their roles as kaitiaki of the fishery and other coastal resources, or protect the local decision-making processes related to the practice of kaitiakitanga. Recent guidelines (Otararua Hapu 2003) developed with hapu and iwi seek to achieve a sustainable supply of kaimoana and the appropriate management of important coastal resources.

Boast (1996) points out that Maori, even as the owners of the foreshore and seabed, are still subject to current law (e.g. relating to the management of the coast). Legislative provisions apply to all land without exception whether general land, Crown land, Maori freehold or Maori customary land. Boast argues that the impact of coastal management provisions on

rights of ownership can be severe, especially given the increased complexity and confusion surrounding land use planning and law about Treaty of Waitangi issues. While Boast believes that the RMA and the NZCPS contain provisions giving pre-eminence to what may be regarded as Maori values, they are only one part of a general management framework that has not resulted in protection of Maori values.

Maori coastal interests or issues are also considered by the Waitangi Tribunal, in the context of the aquaculture claim, in the ruling that:

'Maori have a broad relationship with the coastal marine area and as an incident of that relationship, Maori have an interest in aquaculture, or in particular marine farming. We also find that the Maori interest in marine farming forms part of the bundle of Maori rights in the coastal marine area that represent a taonga protected by the Treaty of Waitangi.'

Waitangi Tribunal (Wai 953, p76).

Based on current evidence, the Waitangi Tribunal recommended that the Crown and Maori should jointly consider problems related to the managed expansion of aquaculture. Firstly, the aquaculture management areas (AMAs) would alienate Maori from large parts of the CMA. Secondly, it involves further delegation of responsibility for allocation of space to local government where there seem to be no direct responsibilities to honour the Treaty of Waitangi. The reforms would not necessarily increase Maori participation in the industry (Gibbs 2004).

The PCfE (1998) recommends the establishment of a charter to guide the determination of issues and areas of interest to tangata whenua, and the process for developing a further relationship (which may include Section 33 transfers of power). The barriers to tangata whenua involvement in decision-making and to the possible transfer of power, often result from a lack of political acceptance (Rennie, et al 2000).

In a further paper, the PCfE (2002b) suggests that an audit framework based on the Treaty of Waitangi could be useful in evaluating the work of central and local government agencies and iwi with environmental responsibilities. The paper explores the issues and possible matters to be considered, and is a useful starting point for consultation with Maori about improvements to the next generation of NZCPS policies concerning Maori interests.

There are no universal requirements about consultation with Maori, a point highlighted by the MfE (2003) report which updated the case law related to consultation. James et al (2002) make a number of observations about local government approaches to building relationships with tangata whenua. The points raised are useful in leading debate about the content of NZCPS policies if tangata whenua are to have a pro-active role in coastal management.

- Council responses based on the use of only one mechanism (collaboration / consultation) do not work. Instead, responses need to be varied and relate to both governance and operational levels of council activities.
- There needs to be links and feedback about the different mechanisms being applied, between the institutional processes of councils and decision-making structures of tangata whenua.

- Responses and mechanisms cannot be sustained without adequate resources, including funding and sufficient staffing at senior level of councils.
- Responses that rely on specific individuals are unlikely to endure. Responses need to be institutionalised and established within the council structure.
- The growth of the partnership will be limited if there is a lack of review and evaluation, undertaken by both tangata whenua and councils.
- Flexibility and ability to cope with change is required. What worked in the past may need adapting to reflect changing circumstances and priorities.

The policy statement and plan analysis indicates that councils include statements about environmental values of importance to tangata whenua, and objectives and policies indicating that those values need to be protected. However, there is very little mention of tangata whenua values or standards in the rules sections of plans. There is reference to the need for consultation with tangata whenua in considering the adverse effects of subdivision, use and development in the resource consent process. The Auckland Regional Coastal Plan notes that Section 33 (transfers of power) may be considered in the two areas classified as tangata whenua management areas in the RCP. However, the conditions under which transfers of power may be considered are generally not provided in plans.

6.4 DISCUSSION AND ANALYSIS ABOUT THE CROWN'S INTEREST

In the past, the interests of the Crown in the coastal marine area (CMA) were not simply based on the assumption that land was government owned. The Crown has other responsibilities and interests in the context of planning under the provisions of the RMA and the NZCPS, as detailed in Section 2.4 of this report. The more general interests of the Crown in the management of the CMA, including oceans, are summarised below (Oceans Policy 2003 Working Papers series - various papers).

- Sustainable use of natural resources in the marine environment, and protection of the natural capital, underpins the wealth generation capacity of the oceans.
- Appropriate management of those resources, including managing competition between users for increasingly scarce marine resources, as well as regulation to protect environmental bottom lines.
- Implementation of international obligations, which involves supporting broader regional or global initiatives, developing and implementing multi-lateral oceans treaties and agreements, and satisfying various international obligations on land and sea, as outlined by Hewison (1994) and by MfE at (<http://www.mfe.govt.nz/laws/meas/>).
- The need to take into account the Treaty of Waitangi in developing policy and regulation at a national level to guide sub-national policy-making in both substance and governance matters. Co-ordination of the different approaches to the Treaty of Waitangi principles by various government ministries and departments is important given the partnership between Maori and the Crown.
- Effective data management about the coastal environment and New Zealand oceans is required. A number of agencies carry out research on the coastal environment (often funded by government) but the quality of the data is variable, and not always accessible to those who need it. Due to the small pool of relevant expertise on coastal environment management in New Zealand, it is important that central government co-ordinates research and provides research and monitoring targets.

Subject to the outcome of the foreshore and seabed debate, the Crown also has an interest in the allocation and management of the exploitation of resources in the CMA, such as the use of sand, shingle, and shell for commercial purposes. The use of natural and physical resources is managed under the provisions of the RMA, NZCPS, and policy statements and plans prepared by local authorities.

The plan and policy statement analysis shows that the regional council plans and policy statements simply refer to the need to efficiently allocate space and resources in the CMA. Since 1991, for a variety of reasons, there has been little progress in the implementation of coastal occupation charges. The Kimber report (1994) recommended the replacement of the proposed rental regime with a user or occupation charge. Since the Kimber report, an explosion of aquaculture proposals and the increased focus on the CMA as an area available for *production* means that the national interests need to be considered even if a charging system is regionally based.

Councils are currently exploring the options for occupancy charges. The role of tangata whenua is not recorded in the minutes of the coastal charges meeting at Auckland Regional Council (4 October 2003), and regional councils appear reluctant to implement the charges. Therefore, more government leadership is needed to implement both RMA Section 64A requirements, and the following matters:

- establish an equitable national system for setting the amount of the occupation charge and the method of collection;
- set national criteria for the distribution and use of funds collected which may be additional to those considered at a regional level; and
- ensure that tangata whenua receive an appropriate proportion of the charges to carry out kaitiakitanga obligations.

It is difficult to see how alternative options, including using a rating system or financial contributions, could be successful. The analysis of plans and policy statements indicates that councils generally do not have clear performance criteria in rules about the assessment and levels of financial contributions. There is a fair degree of discretion about when financial contributions are required and how much is warranted. Therefore, the application of the financial contribution system for offsetting environmental damage (NZCPS Policy 3.2.3) through the resource consent process, would not ensure national consistency in managing adverse effects of permanent occupation in the CMA (e.g. alienation of common property). Financial contributions do not reinforce the principle that central government has an interest in the seabed and foreshore (currently being redefined through the foreshore and seabed debate). CMA occupation or use by an individual for private or commercial gain will be affected by the outcome of that debate. Compensation to the Crown and tangata whenua reflects the opinion of James (2001) who also emphasises that the privilege should not be conferred lightly, as it effectively restricts the public's ability to enjoy the CMA.

Currently, the duration of most permits to occupy the CMA is 35 years, even though the average duration of permits issues by regional councils is 15 years (MfE 2000). Generally, councils do not provide an explicit framework to guide the decision-making process for either limiting the period of the consent or reviewing it. The policy statement and analysis demonstrates that the regional coastal plans usually state that a review of the duration of any consent may only be undertaken if the review is included as a condition of the consent. MfE

(2000) recommends that Section 128 reviews of resource consents should take place more frequently. The analysis results show that regional coastal plans have some guidance in policy about setting the duration of coastal permits. However, it is not clear how these policies are applied in the consideration of resource consents.

6.5 RECOMMENDATIONS FOR CHANGE

9. Combine Chapters 2 and 4 of the NZCPS to demonstrate the Crown's partnership with Maori and a commitment to develop coastal and marine policy that reflects the partnership represented by the Treaty of Waitangi.
10. Undertake further consultation with Maori to confirm matters of importance to tangata whenua in the review of NZCPS policies. This consultation is crucial because the hui concerning this review were curtailed. The following matters need to be resolved for the review of the NZCPS, in addition to any further matters identified by Maori through additional consultation:
 - a. Discuss means by which the NZCPS can strengthen the implementation of NZCPS policies about matters of importance to tangata whenua so that decision-makers *give effect* to the policies – further strengthening the degree to which the NZCPS takes into account Treaty of Waitangi principles. The definition of kaitiakitanga may be changed to clearly reflect the rights and duties of kaitiaki. One useful policy change would be the development of criteria to enable the safe, effective and sustainable transfer of power to local iwi when appropriate. Another method may be increased representation of local tangata whenua on RCA hearing committees.
 - b. Prepare Crown policy and funding initiatives to support preparation of Iwi Marine Management Plans to set objectives and priorities for resource management decision-making in the CMA, including customary and non-customary fisheries management, wahi tapu and marine farming.
 - c. Develop relationships between MFish, DoC, MfE and local authorities, as well as joint initiatives with local iwi, to identify problems and solutions using a more holistic process.
 - d. Provide guidance about implementation of the new provisions in the Local Government Act to improve Maori participation in the full range of activities undertaken by local authorities (LGA Section 4) in relation to coastal management.
 - e. Identify the nature of policies and implementation guidelines needed as part of the NZCPS to enhance the Crown's capacity to meet its Treaty of Waitangi obligations and protect Maori interests in marine farming and developing aquaculture management areas (AMAs).
11. Clearly state in the NZCPS the interests of the Crown in the CMA for the purpose of preparing plans and policy statements under the RMA, and for deciding resource consents in and adjoining the CMA. The NZCPS should require councils to include a statement in plans and policy statements so regional communities understand the ongoing interests of central government in implementation of sub-national policy statements and plans. Policy areas which relate directly to national concerns in the CMA include the:

- preservation of marine protected areas;
 - removal of abandoned structures in the CMA;
 - provision for use of the CMA for defence purposes;
 - permit system for reclamations, removal of sand, shingle, shell or other natural materials for commercial purposes (efficiency of allocation);
 - permit and charging systems for '*rights to occupy*' the foreshore and seabed;
 - guidance about the tendering process – which should be introduced as a management tool; and
 - certainty for tangata whenua and any occupier of space in the CMA, ensuring that other parties cannot inhibit current and future operations.
12. Provide clarification on the following part of Policy 4.2.2(c): '*relevant planning document recognized by the appropriate iwi authority*' (i.e. is '*relevance*' decided by iwi or by council?). Provide further guidance for councils about developing more proactive relationships with tangata whenua.
 13. Provide further guidance about processes to determine the protection of archaeological sites and other sites of cultural importance to Maori. It appears that many local authorities are relying on the Historic Places Trust rather than tangata whenua as sources of information about culturally important sites.
 14. Ensure that amended policies reflect the new requirements of the Local Government Act in regard to Treaty of Waitangi obligations, and relevant case law.
 15. Clarify responsibilities for monitoring the effectiveness of NZCPS policies and the effectiveness of relevant parts of the HGMPA in its role as a NZCPS.
 16. Provide guidance about criteria to be considered in determining the duration of resource consents in the coastal environment – particularly on land above MHWS.
 17. Clarify which government department is to manage matters related to occupation of space in the CMA, and provide national guidance about assessing the duration of consents to occupy space in the CMA (e.g. considering the nature of the activity and reversibility of effects).

SECTION 7.0

NZCPS CHAPTER 3 ACTIVITIES INVOLVING SUBDIVISION, USE & DEVELOPMENT OF AREAS OF THE COASTAL ENVIRONMENT

7.1 INTRODUCTION

Chapter 3 of the NZCPS addresses a variety of policy outcomes including maintenance of amenity values, providing for appropriate subdivision and development, adopting a precautionary approach, recognition of natural hazards, and maintenance of public access to and along the coastal marine area (CMA). These outcomes attracted the most controversy in CMA workshops and submissions, and generated conflicting views about changes needed to the NZCPS. The effectiveness of plans and policy statements in managing the relevant issues at regional and district level is also variable.

Each of the NZCPS policy sub-sections in chapter 3 are dealt with separately in this section of the report.

7.2 MAINTENANCE OF AMENITY VALUES

There is considerable crossover between amenity concerns and protection of natural character (Section 5.0). In many cases, it is not clear whether submitters are supporting the protection of natural character simply to maintain present amenity values and the lifestyle of present land users. Judgement about amenity is also very subjective.

7.2.1 SUBMISSIONS, MEETINGS & LOCAL GOVERNMENT WORKSHOPS

- Submitters had a number of concerns regarding Policy 3.1.1, including that it offers no extra guidance than Section 7(c) of the RMA that there is no definition of ‘*use by the public*’; it is not clear whether water quality is a component of amenity values; and there is no national definition of ‘*significant effects to amenity*’. Further confusion is created as the policy refers to the ‘*coast*’ and not the ‘*coastal environment*’.
- Councils in Wellington and Auckland would like more guidance on the degree to which private property could be used to enhance public amenity, and the level of compensation or other financial tools that could be applied to off-set the loss of private benefits.
- Other concerns include that amenity has a higher priority than other RMA Section 6 matters, with the landscape being traded off for biodiversity gains (*Arigato v RDC A115/99*).
- There are trade-offs between protecting amenity values and retaining free public access rights, for example modern technology enables people to take vehicles almost anywhere, with no consideration of the effects of vehicle use on amenity and natural systems.
- Policies 3.1.1 and 3.1.2 of the NZCPS have been useful in the marine context to ensure that sewage outfalls are located appropriately.

7.2.2 CASE LAW

The case law generated from matters in Policy 3.1.1 indicates that, when considering subdivision use and development in the coastal environment, the Environment Court considers matters such as: coherence, pleasantness, remoteness and tranquillity (*Weatherwell-Johnson v TDC W181/96*), the safety of the public, and the enjoyment of the coast by the public (*Pigeon Bay Aquaculture Ltd and Ors v CRC C32/99*).

7.2.3 ANALYSIS

Amenity values are defined in the RMA as *'those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes'*. The original objective for NZCPS Policy 3.1.1 was to ensure that people's activities would not have a negative effect on amenity values in the coastal environment through over-use or incompatibility between activities – ensuring that amenity values are maintained and enhanced (Nugent and Solomon 1994).

Regional coastal plans are fairly vague about protection of amenity values in the CMA. However, district plans have generally provided adequately for amenity values – although the vagueness of rules and standards means that cumulative effects of small changes to amenity values over time are not well addressed (discussed further in Section 7.3.2).

7.3 APPROPRIATE SUBDIVISION, USE AND DEVELOPMENT

As in the discussion about amenity, the assessment of appropriateness is relatively subjective and policy should be derived locally to reflect local culture. At a national level, the main concern is to stop the cumulative effects of coastal development. There is also a role for national policy in analysing the effects of development on estuarine environments, often considered ideal locations for development in New Zealand and Australia.

7.3.1 SUBMISSIONS, MEETINGS & LOCAL GOVERNMENT WORKSHOPS

- Submissions about policies in Chapter 3.2 of the NZCPS focus on the problem of defining what is considered *'inappropriate'*. There is a concern that once a small amount of development occurs, it will be impossible to stop, resulting in development of almost all accessible beaches and harbours, and increasing pressure on estuaries. This cycle of incremental decisions about development ultimately leads to increased demand for services and infrastructure, ending up with more intensive development.
- There is no guidance at the regional level of planning about protection of significant places or areas of historic or cultural significance in the range of landscape types from developed through to undeveloped, and in the coastal marine area.
- Consistency is needed between regional coastal plans and district plans about the circumstances in which esplanade reserve requirements should **not** be relaxed in subdivision (e.g. access, riparian management). The NZCPS also needs to provide more guidance about allocation of space in the CMA and how to manage conflict between extractive / non-extractive and active / passive activities.

- There is a need to identify key nodes in the landscape where development and use is not appropriate.
- Guidance is needed on locating marine activities so they avoid ports, shipping channels, key passages, or safe harbours used by recreational boats. At present, no priority is given to infrastructure and activities such as ports, ferries, marinas, navigational aids and activities associated with port operations.
- Some submitters are concerned about the adequacy of controls to protect coastal and lowland ecosystems, given the poor representation of lowlands in conservation areas. Too much emphasis has been placed in district plans on protecting private property rights and as a result there is little protection for wetlands, coastal vegetation and conservation areas.
- Councils are failing to protect important natural values of land in the coastal environment because they are reluctant to use '*prohibited activity*' and the '*non-complying activity*' categories in their plans.
- Clearer guidance is needed in the NZCPS about what constitutes '*minor effects*' in terms of Section 94 RMA tests regarding notification of resource consent applications.

7.3.2 CASE LAW

Case law emphasises the need for appropriateness of subdivision, use and development to be assessed on a case-by-case basis. Matters of national concern considered as inappropriate activities have included disturbance of dune landforms by introducing buildings into a modified area (*Long v ARC A21/94*, *Minister of Conservation v KCDC (1993) 1B ELRNZ 234*). Development may be inappropriate if it significantly affects an outstanding landscape (*Richard Henry Estate v Southland DC C22/2003*, *Director General of Conservation and Ors v Hurinui District Council 067/2003*). The design and location of development is also considered, as discussed in Section 5.3 of this report in relation to issues of natural character.

7.3.3 ANALYSIS

The plans and policy statement analysis highlights the lack of rules to provide for protection of '*environmental bottom lines*' on land in the coastal environment. In the CMA, the RMA provides the bottom line and regional coastal plans (RCPs) are facilitative plans – enabling development to occur.

There is also a lack of specificity in the NZCPS policies about *appropriate* use and development especially in the CMA. Standards for assessing the appropriate location and effects of developments in the CMA, such as wind/sea energy platforms, cables, and onshore infrastructure (e.g. roads and loading docks) are not explicitly provided for in current NZCPS policies. Conflicts between activities in the CMA are also not provided for. It could be argued that the generic NZCPS should be applicable in assessing any activity, as it is an effects-based approach to managing resource consents. However, strategic thinking about the alternatives for locating this type of development is not always carried out in the assessment process for individual resource consents.

Currently, the provisions of the Submarine Cables and Pipelines Protection Act 1996 guide the management of cables in the seabed. Cable protection areas (CPAs) may also serve a purpose as marine protected areas due to the added ecological protection in these areas, as activities with the potential to damage the cable (eg. with fishing equipment and anchors) are prohibited. Cable owners should ensure that existing CPAs should be used where possible to lay new cables, and that disused cables within New Zealand's territorial waters are removed. Additional policies should not be needed in the NZCPS to ensure the protection of cables because of provisions elsewhere.

Currently, Policy 3.2.3 of the NZCPS simply requires that policy statements and plans recognise the powers conferred by Section 108 of the RMA to impose conditions on resource consents. The plan and policy statement analysis demonstrates that this policy has been poorly implemented to '*offset environmental damage...where there will be unavoidable adverse effects from subdivision, use and development*' (NZCPS Policy 3.2.3). Rules and standards do not specify what type of mitigation is appropriate in various circumstances. There is little guidance about how financial contributions are transparently calculated. Little information is provided about how the funds are to be used in achieving the purpose of the Act and off-setting environmental damage.

NZCPS Policy 3.2.7 has been implemented in a limited way through the district plans analysed as part of this review. Some councils and submitters expressed concern that Papakainga housing may encourage the use of septic tanks in remote places, resulting in effluent leachate to streams and the marine environment.

Policy 3.2.9 may be revoked. The Maritime Safety Authority and Land Information New Zealand (LINZ) are now responsible for preparing maps and charts of the CMA. All people erecting a structure or altering the nature of the CMA are now required to notify LINZ about the construction.

Plans and policy statements generally refer to 3.2.10 and require indigenous species to be used in restoration planting, or planting carried out with the aim of mitigating adverse effects of resource consents. This is mainly implemented through local authority encouragement of community care programmes, and through mitigation conditions on resource consents.

7.3.4 RECOMMENDATIONS FOR CHANGE

18. Revise Policy 3.2.3 to include the circumstances in which plans and policy statements shall require a financial contribution (e.g. alienation of foreshore or seabed through reclamation), and the timing for including provisions in regional coastal policy statements. Rules and standards should also specify what type of mitigation is appropriate, how financial contributions are transparently calculated and how the funds are to be used in achieving the purpose of the RMA and off-setting environmental damage.
19. Revoke Policy 3.2.9.
20. Consider the degree to which NZCPS policies should specify criteria for assessing appropriate or inappropriate subdivision, use and development, and what constitutes a '*minor effect*' for the purposes of non-notification of resource consents.

7.4 THE PRECAUTIONARY APPROACH – POLICY 3.3.1 & 3.3.2

7.4.1 SUBMISSIONS, MEETINGS & LOCAL GOVERNMENT WORKSHOPS

- There is a lack of protection for representative areas such as estuaries, sandy shores and rocky coasts.
- The existing plan allocation mechanisms are failing, as can be seen by councils gradually allowing more use and development on land in the coastal environment and in the CMA.
- The importance of concepts such as *nested hierarchies of landscape* and *ecological scale* at which natural and social processes operate is not recognised. Strategic and spatial planning is needed to ensure that some representative CMAs are set aside to be free from development such as marine farms, jetties and marinas.
- Local authorities act on information about the adverse effects of activities, once those effects are observed. In some sensitive marine environments, the damage may be irreversible by that point.

7.4.2 CASE LAW

The Environment Court has suggested that in the consideration of resource consents a number of questions could be asked including: is there enough base-line data to determine the adverse effects of the proposed activity? If adverse effects occur are they likely to be serious? Could adverse effects be reversed over time? Examination of the ‘precautionary approach’ principle has focused on the interpretation of Sections 104 and 105 of the RMA. The Court ruled that when decisions are being made about resource consents, the weight given to the precautionary approach principle depends on individual circumstances, including the extent of scientific uncertainty, the ignorance about the nature and scope of effects, the impact on permitted activities and the gravity of the effects. It also ruled that the appropriate standard of proof is based on a sliding scale between *‘the balance of probabilities’* and *‘beyond reasonable doubt’*, depending on the impact of adverse effects. Consideration of the principles may be applied through plan changes and the application of review conditions in resource consents under Section 128 (*McIntyre v Christchurch CC, A 15/96 [Plan Trib]*; *Aqua Marine Ltd v SRC, C126/97*; *Ngati Kahu Ki Whangaroa Cooperative Society v Northland RC A95/00*; *Golden Bay Marine Farmers v Tasman District Council W42/2001*).

7.4.3 ANALYSIS

The plan and policy statement analysis shows that councils refer to the need to adopt a precautionary approach, in their introductory statements and policies. Councils also provide for the sharing of information as required in Policy 3.3.2. However, few of the plans contain rules and standards about the situations in which reviews of resource consent conditions will be required because of the lack of understanding about coastal processes and the effects of activities.

NZCPS policy could build on case law by adopting an adaptive management approach ensuring that monitored adverse effects of activities in the CMA result in changes to consent or, if necessary, revoking of the consent. NZCPS Policy 3.3.1 should be retained. When used in the context of sub-national plans, the precautionary principle may be built in to the provisions of the plan or promoted through more detailed use of review conditions in

resource consents. One important factor to consider is that successful application of adaptive management approaches rely on good strategic planning and monitoring systems.

7.4.4 RECOMMENDATIONS FOR CHANGE

21. Retain Policies 3.3.1 and 3.3.2 with guidance about implementation of the precautionary approach and adaptive management principles in regional and district plans, in a strategic planning framework.
22. Research the degree of national guidance needed to integrate resource consent monitoring and State of Environment reporting, to ensure that cumulative adverse effects of many activities on the coastal environment may be assessed, and changes made to the duration of resource consents and conditions.

7.5 RECOGNITION OF NATURAL HAZARDS – POLICIES 3.4.1–3.4.6

Jacobson (2004) carried out the research and analysis for this part of the review dealing with the effectiveness of NZCPS policies on natural hazards. A summary is provided in this section. The submissions made in relation to natural hazards are included here, along with general comments about case law and recommendations for change.

7.5.1 SUBMISSIONS, MEETINGS & LOCAL GOVERNMENT WORKSHOPS

- Submitters support policies related to the management of sea level rise, especially in relation to managed retreats to protect natural habitats and communities. However, there is criticism about the absence of a national framework for assessing known and potential hazards.
- The effects of sea level rise are uncertain. Allocation of space for public access in addition to the space needed for wall construction is important when planning seawalls. More consideration needs to be given to the adverse effects of walls on public usage of the CMA, such as beach degradation. Submitters also refer to research and information needs and a set of policy tools at all levels to manage the effects of sea level rise. Several submitters believe there is an overstatement of risk concerning the effects of sea level rise.
- Plans need to have enforceable standards about structures and their removal from the coastal environment. Development should be prohibited in coastal hazard zones, or private landowners should pay for long-term beach renourishment.
- In Taranaki, no applications for seawalls have been declined, in considering NZCPS Policy 3.4.6, since the NZCPS became operative. One suggestion is that Policy 3.4.1 be amended to say where hazards are ‘*likely*’ rather than ‘*exist*’, as this would reduce the amount of analysis councils have to do.
- Policy 3.4.6 is considered a useful policy by both local government and DoC staff.
- Councils need stronger direction from the Minister of Conservation about how to integrate hazard planning into plan preparation.

7.5.2 ANALYSIS

Jacobson summarises the results of his 2004 analysis as follows:

'In relation to a number of expected outcomes from a national policy statement, the effectiveness of the coastal hazard policies up to the present time ranged from effective to ineffective, with performance against many outcomes gauged as only modestly effective or worse.

Effectiveness was greatest in relation to influence on regional plans, on coastal hazard planning specialists, and on larger greenfield development consents, and poorest in relation to influence on the district plans of less-resourced councils, on the perceptions of property owners and development professionals, and on the management of coastal hazard areas with existing development.

It was notable that, nine years after the gazettal of the NZCPS, district plans in particular were far from settled, and councils were still in the process of undertaking work that will likely see greater consistency with the NZCPS coastal hazard policies in the near future. The NZCPS coastal hazard policies have yet to achieve their full effect.

Despite the evolution of district plans towards greater consistency with the NZCPS coastal hazard policies, a large number of coastal hazard management issues were identified by the review, many of which represent substantial barriers to effective implementation of sustainable coastal hazard management in New Zealand both now and into the future.

The review found that many of the issues and barriers are beyond the scope of the NZCPS to remedy by itself. Improving NZCPS effectiveness, particularly in relation to implementation on the ground, will be difficult unless some of the barriers are addressed by means other than changes to NZCPS policies.

However, the review also identified a number of ways in which the coastal hazard policies could be changed and supplemented to increase the effectiveness of the NZCPS in contributing, over time, towards more sustainable coastal hazard management in New Zealand.

Many council staff, many submitters, and the reviewer (Jacobson 2004) consider that the NZCPS does have a valuable role to play in promoting sustainable coastal hazard management.'

7.5.3 RECOMMENDATIONS FOR CHANGE

23. Retain NZCPS policies about natural hazards. However, policies need to be strengthened to encourage more effective research, monitoring of coastal processes, and sustainable management of coastal hazards.

24. Implement Jacobson's (2004) recommendation that changes to the NZCPS are needed to:
- a. *'Articulate a vision of reduced risk to property assets, and of greater protection from the adverse effects of protection works such as seawalls for coastal habitats, ecosystems and natural features (with their associated values including public access, amenity values and recreation); and*
 - b. *Include more specific policies that address the particular challenges of sustainable coastal hazard management (including the relationship between coastal hazards and the natural dynamic coastal processes that create and maintain coastline assets such as beaches; the difficulties of managing property development in coastal hazard zones over the longer term; the effects of property protection works on public coastline assets; and the effects of climate change)'.*

7.6 MAINTENANCE AND ENHANCEMENT OF PUBLIC ACCESS: POLICIES 3.5.1 –3.5.4

Issues about public access to and along the CMA were considered in the Land Access Ministerial Reference Group report (2003). Many of the points raised in the report by landowners and people seeking access were also raised in this review. Any changes to NZCPS policies would also need to consider changes to provisions about managing seabed and foreshore areas (Section 2.8 of this report).

7.6.1 SUBMISSIONS, MEETINGS & LOCAL GOVERNMENT WORKSHOPS

- Councils are often under pressure to reduce or waive esplanade reserves as permitted by a rule in the district plan or conditions in resource consents.
- There is little transparency as to the circumstances in which councils can exercise discretion and decide whether esplanade strips or access strips will do.
- Further guidance is needed in the NZCPS about the coastal environment locations where the vesting of an esplanade reserve is important to provide long-term certainty of public access to and along the CMA.
- It may be useful to highlight in the NZCPS the importance of regional initiatives to maintain or enhance public access to the coastal environment.
- Submitters seeking changes to the NZCPS policies about public access, acknowledge the importance of protecting the 'Queen's Chain', providing free access to the CMA, and protecting existing access ways from coastal erosion.
- Some submissions focus on the issue of conflict between users (e.g. quiet enjoyment versus off-road vehicle use) and the potential adverse effects of public access (e.g. destruction of beach landforms, biodiversity and natural character; (increased litter).
- Submitters are also concerned about cars on beaches being a threat to nesting birds and shellfish, and leading to the destruction of plants that stabilise grit and gravel (e.g. at Onoke Spit).
- A NZCPS policy is needed to manage the different types of access such as the launching of boats and the use of vehicles. Often recreational vehicle users are not

- even residents of the district, so do not contribute to beach management through rates and other district charges.
- Other issues raised include: over-use of the CMA and resulting environmental degradation; dogs, weed infestation in dunes; over-fishing and the effects of marine recreation on marine mammals and other marine conservation values.
- A few submissions recommended that there should be no need to amend the NZCPS to increase public access rights; that NZCPS policies should ensure private property rights are respected; and that in port areas, public access should be prevented for safety and security reasons.
- NZCPS Policy 3.5.1 may need to be amended to include provisions for bio-security and theft.

7.6.2 CASE LAW

The implications of the *Hume v ARC (CA 262/01)* case need to be considered. The Court held that the public has access to all structures in the CMA built after October 1991, including jetties and wharves, unless the resource consents relating to those structures explicitly preclude public access. Case law has reinforced the importance of public access to and along the CMA as a matter of national importance under Section 6(d) of the RMA. Access is not limited to riverside or shoreline, but extends to include the surface of the water, including boat travel (*Marlborough Seafoods v Marlborough DC W12/98*; *Cargill Castle Charitable Trust v Dunedin CC C131/99*; *Dart River Safaris v Kemp AP600/2000 [High Court]*).

7.6.3 ANALYSIS

NZCPS Policy 3.5.1 has been implemented satisfactorily in policy statements and plans analysed in this review. However, there is little acknowledgement that public access is a matter of national importance except by reference to RMA Section 6(d). There is little transparency as to the circumstances in which councils exercise discretion and decide whether esplanade strips or access strips will suffice instead of esplanade reserves. This lack of transparency and the debate as to how much national policy is needed are still important matters, because the legislative provisions regarding esplanade reserves and strips have been varied since the gazettal of the NZCPS. RMA Section 234 provides for the variation or cancellation of an esplanade strip. A local authority may cancel esplanade strips without public notification.

The district plans analysed contain rules to provide for relaxation of public access requirements, but there is little strategic planning to provide for areas where public access is a high priority. Several councils have developed access strategies (e.g. Taranaki Regional Council and Porirua City Council), which should result in better public access outcomes and deal with many of the problems related to inappropriate access.

The concerns about beach access and vehicles on beaches were the second most reported issue raised by submitters and councils. The plans and policy statement analysis shows that access seaward of mean high water springs (MHWS) is not well provided for, especially in regional coastal plans. The assumption seems to be that the effects of vehicles on the foreshore and on other beach users can be managed through public education and local bylaws. There seems to be confusion about who has control of vehicles on the beach, with

the land transport authority, regional councils, territorial authorities and the police all playing a role. The *mode* of access has become an issue. While some drivers are members of clubs with codes of practice about protection of ecologically sensitive environments, many beach drivers may not be aware of the adverse effects. The Bay of Plenty Regional Council has published brochures about the appropriate use of vehicles on beaches.

7.6.4 RECOMMENDATIONS FOR CHANGE

25. Provide guidance in the NZCPS about locations in the coastal environment where the vesting of an esplanade reserve is important to provide long-term certainty of public access to and along the CMA. Some differentiation is needed between *walking access* and other forms of access, including boat access in the marine environment.
26. Carry out research at a national level in partnership with tangata whenua, industry and local authorities to identify the strengths and weaknesses of various methods of managing vehicle access to and along the CMA, for a range of purposes. This should be reinforced by a national education campaign about good driving practice in ecologically sensitive environments.
27. Co-ordinate changes to public access policies with foreshore and seabed provisions. Further consultation may also be needed with tangata whenua in relation to public access and management of areas for customary harvesting of kaimoana. For example, the NZCPS may need to provide guidance for identifying '*reasonable and appropriate*' public access (see Section 2.8 of this report regarding review of walking access along water margins).

SECTION 8.0

NZCPS CHAPTER 5 THE MATTERS TO BE INCLUDED IN REGIONAL COASTAL PLANS

8.1 INTRODUCTION

The NZCPS has been effective in influencing the content of policy statements and regional coastal plans in relation to the management of the coastal marine area (CMA). The Minister of Conservation has approved nine regional coastal plans. Regional councils have acknowledged NZCPS policies in their introduction to the policy statement and plans and in the explanation for various objectives, policies and rules as demonstrated in the analysis in this review. In this section, case law is omitted. There are few cases and most of the matters are dealt with elsewhere. Recommendations for change are compiled at the end of Section 8.5. The Restricted Coastal Activity Schedule is discussed in Section 8.6.

8.2 MAINTENANCE AND ENHANCEMENT OF WATER QUALITY

8.2.1 SUBMISSIONS, MEETINGS & LOCAL GOVERNMENT WORKSHOPS

- Local government submissions and participants in workshops conclude that the NZCPS has not been effective in providing guidance about promoting integrated catchment management. This is a key component of policy dealing with the adverse effects on water quality in the coastal environment of sedimentation, stormwater discharges, and leachate from industrial sites and other non-point discharges (e.g. septic tank overflows).
- Local government has called for more national policy guidance about water quality issues including suggestions for national water quality standards, although there were warnings that one set of standards would not suit all regions. In some regions, the requirement to dispose of human sewage effluent to land has caused difficulties because of the physical nature of the land and the lack of monetary resources.
- Another criticism is that the NZCPS water quality policies are out of date. It is important to focus on reduction of waste at source and integrated catchment management approaches including greater control of non-point discharges. For example, water quality policies could be linked to national recreational bathing standards.
- Other submitters generally agree that the policies about sewage discharges need to be reviewed. However, there is disagreement between submitters as to the level of treatment before sewage waste is discharged.
- Several submitters believe that NZCPS policies should be more aligned with the RMA, supporting a *'best practical option'* approach in making decisions about discharges to the CMA.
- Other submitters acknowledge that while there have been improvements in some regions, there are still too many sewage discharges and some polluted stormwater discharges into the CMA. Difficulties include insufficient national standards to prevent water pollution, the problems of sewage overflows in stormy periods, lack of clarity about determining the effectiveness of *'mixing zones'* to disperse pollutants in the marine environment and

- lack of preciseness in policies (giving too much latitude to councils seeking to minimise sewage treatment in particular).
- The lack of monitoring of cumulative effects of discharges is a concern. It is suggested that more stringent policies are needed at the national level to support communities seeking better water quality in their coastal waters. Particular concern is expressed about pollution in estuaries.
- Non-point pollution sources are still seen as a problem resulting from a lack of integrated approaches to catchment management.

8.2.2 ANALYSIS

The NZCPS has been effective in limiting the discharge of human sewage directly into water (Policy 5.1.2) – a nationwide issue. This has been achieved through Ministerial approval of regional coastal plans and through approval of RCA applications under NZCPS Section 1.10 (a) and (b), where councils rely on Section 107 (2) (a) of the RMA:

(a) A consent authority may grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A that may allow any of the effects described in subsection (1) if it is satisfied—

(b) That exceptional circumstances justify the granting of the permit;'

This outcome was originally opposed strongly by local authorities because of the added financial burden for small communities. However, government subsidies for small community sewage treatment schemes have alleviated this problem. The policy reflects the concerns of Maori under the provisions of RMA Section 6(e) that the adverse effects of the discharge of human sewage have compromised their relationship with culture, traditions and with water – a Treaty of Waitangi concern.

Nugent and Solomon (1994) note that NZCPS Policies 5.1.1–5.1.4 need to be read collectively as a sequence of actions that should be used to maintain and enhance the quality of water in the coastal environment.

There are a variety of implementation problems inherent in the debate about changes to Chapter 5 Policies on water quality:

- Regional councils believe that reference to human sewage is emotive language and should therefore be removed.
- Ratepayers do not want to pay higher costs than necessary for sewage treatment - if the national level of government wants better treatment systems, then government should pay.
- If the preference for land disposal of sewage effluent is based on cultural reasons, then the NZCPS Policy should state this. Some treatment plants produce a higher quality of treatment than land disposal.
- Councils need guidance about the interpretation of what constitutes '*reasonable mixing*' and what it involves.
- It is unreasonable to require review conditions in all permits to discharge contaminants. This is already provided for in the provisions of the RMA – making the policy

- inconsistent, and imposing extra costs on resource consents. Environment Waikato has not implemented this policy.
- Matters in Policy 5.1.7 should be dealt with under the provisions of the Public Health Act and therefore this policy may be revoked.

Pollution sources include fertiliser, soil sediment, and pesticides. The cumulative effects of pollution from non-point sources have the potential to adversely affect coastal water quality for many years after contamination at source. For example, climate change and increased nutrients in coastal waters are partially accountable for the proliferation of mangrove and seagrass communities in some northern regions. Most of the policy statements and plans analysed as part of this review contain issue statements and policy about indirect discharges. However, implementation is focused on informal methods such as encouragement of riparian planting and public education. The effectiveness of these methods is still very difficult to assess, because the benefits are achieved over the long term.

8.3 LIMITING ADVERSE ENVIRONMENTAL EFFECTS OF VESSEL WASTE DISPOSAL

8.3.1 SUBMISSIONS, MEETINGS & LOCAL GOVERNMENT WORKSHOPS

No submitters made substantial comments about this section, reflecting the fact that some policies are now out of date because of subsequent changes to marine pollution regulations. Local government suggestions are included in the analysis.

8.3.2 ANALYSIS

The Southland Regional Council (Environment Southland) has implemented an alternative method to mitigate adverse effects of vessels by developing a deed of agreement between Environment Southland and cruise ship owners and operators who use those waters adjacent to Stewart Island and Fiordland National Park (summary in Box 4). Although the environmental effectiveness of non-statutory methods is yet to be assessed, they also serve to raise the environmental awareness of industry about the actual and potential adverse effects of their activities. Other non-statutory methods are discussed in Section 2.9 concerning the expansion of community initiatives since the gazettal of the NZCPS.

8.4 CIRCUMSTANCES IN WHICH THE MINISTER OF CONSERVATION DECIDES RESOURCE CONSENT APPLICATIONS – POLICY 5.3.1

8.4.1 SUBMISSIONS, MEETINGS & LOCAL GOVERNMENT WORKSHOPS

- There is support for the Minister of Conservation's involvement, as provided for in Policy 5.3.1. Others (especially regional councils) question the involvement of the Minister in deciding resource consents, once regional coastal plans are operative.
- Changes are needed to the criteria for determining RCAs so the circumstances for Ministerial involvement in decision-making about resource consents are reduced. It is argued that land-based activities are not subjected to the extra unnecessary layer of decision-making, increased cost and uncertainty for the applicant. In one meeting it was

suggested that RCAs be removed and replaced by policies. Participants in ten of the 12 local government workshops requested that RCAs be deleted (Young 2003). Many reasons were given from which a number of implementation issues arise for the Department of Conservation:

- There is no national consistency in the standards set by each region in providing for RCAs (also raised in a number of meetings with industry).
- The Minister of Conservation appointee to hearing committees does not always add value to the process (a point raised especially in the Bay of Plenty region).
- The 'triggers' or RCA thresholds in Schedule 1 are not appropriate and encourage non-compliance (e.g. seawalls that are 299 metres long, just below the 300 metre cut-off mark), whilst other triggers are set too low, resulting in unnecessary analysis and notification for activities with relatively minor adverse effects.

BOX FOUR
DEED OF AGREEMENT BETWEEN
THE NEW ZEALAND CRUISE SHIP INDUSTRY AND
ENVIRONMENT SOUTHLAND

The deed of agreement between the New Zealand cruise ship industry and Environment Southland is a non-statutory agreement to manage cruise ship access to sensitive parts of the Southland region's coastal marine area. The agreement sets out obligations and limitations for the owners and operators of cruise ships in Southland internal waters, including numbers and timing of visits, and discharges to air and water. Environment Southland in return removes the need to apply for resource consent. Both Environment Southland and the cruise ship industry benefit from this agreement.

The deed of agreement between the New Zealand cruise ship industry and Environment Southland is a good example of a non-statutory, non-regulatory agreement between industry and resource managers.

Source: Environment Southland

- Another suggestion was to limit the Minister of Conservation's role to that of appointing an independent commissioner to hearing committees; or the regional council could appoint a technical advisor.
- Concerns were raised about the quality and performance of the Minister of Conservation's appointee on hearing committees. At present there is potential for bias because councils and DoC conservancies choose the appointees.
- Some workshops highlighted the benefits of RCAs, including the possibility of gaining an independent commissioner or someone with special expertise on the hearing committee. RCAs have also been useful in dealing with activities not anticipated in some plans.
- A number of suggestions were made in the local government workshops about alternatives to the current regime (Young 2003, p45):
 - the Minister of Conservation could have been given call-in powers similar to those under section 140 of the RMA;
 - that difficult consents go straight to the Environment Court;

- policies could be added which contain triggers similar to those in Schedule 1, which are not processed as RCAs; and
- regional councils could write rules about allocating coastal space under Section 68 of the RMA; the need for national consistency could be addressed through the development of guidelines for processing RCAs.

8.4.2 ANALYSIS

NZCPS Policy 5.3.1 and Schedule 1 require the Minister of Conservation to specify activities as RCAs if they have significant or irreversible effects on the CMA.

The three regional coastal plans analysed as part of this review have met the Minister's requirements in relation to providing for RCAs as required.

Nugent and Solomon (1994) indicate that the Minister has three options for control of activities:

1. Regional councils may decide activities with minimal adverse effects, with no input from the Minister of Conservation.
2. Activities may be classified as having significant or irreversible adverse effects, but are managed by regional councils as discretionary activities, without input from the Minister of Conservation.
3. There are activities classified as RCAs for which the Minister seeks to retain decision-making power (e.g. discharges of human sewage to the CMA).

As discussed in Section 2.6, two reports have been written analysing the effectiveness of the RCA regime. The Woodward-Clyde (1998) report summarised the provisions for RCAs in regional coastal plans and analysed the compatibility of those provisions with NZCPS policies. The key findings of the report are that some regional councils prescribe RCAs, using the thresholds in the NZCPS Schedule 1. Other regional councils define as discretionary activities a large number of activities that others would define as RCAs. The report concludes that there are no serious inconsistencies between regional council approaches and the policies of the NZCPS. The report did not take account of regional council officer philosophy in approaching plan preparation.

The Yeboah (1999) report considers four options for changing the Minister of Conservation's role in relation to RCAs due to proposals by MfE to amend the RMA. At that time, 213 of 753 submissions to MfE proposals commented on proposals to amend the RCA regime. Most regional councils supported the proposals to either delete RCAs from the RMA, or remove the Minister of Conservation as the consent authority. Te Puni Kokiri and various Maori groups oppose the proposed changes because of the impact on iwi or hapu interests in the CMA and their ability to exercise tino rangatiratanga and kaitiakitanga. Yeboah concluded that the proposed RMA changes did not address matters such as the Crown's role, national Maori and iwi interests, national consistency, or possibility of damage to the coastal environment. It was also considered inappropriate to change the regime before all regional coastal plans are operative.

8.5 RECOMMENDATIONS FOR CHANGE

28. Retain NZCPS Policies 5.1.1–5.1.4. It would be unfortunate if New Zealand reduced national policy standards about sewage effluent treatment. Communities have many years in which to plan changes to treatment systems.
29. Review NZCPS Policies 5.2.1–5.2.5, so that policies that conflict with marine pollution regulations are revoked. However, policies regarding the provision of rubbish collection and sewage collection points (5.2.1 and 5.2.2) should be retained.
30. Review the system for appointing Ministers' representatives on the hearing committees. Consider the following changes:
 - a. Maintain a central pool of potential appointees with a variety of expertise and regional knowledge.
 - b. Ensure that Ministerial appointees have training and information about the role of the NZCPS in the RMA planning regime; national priorities for the Minister of Conservation as an agent managing the Crown's interests in the CMA; implementing the NZCPS; and honouring Treaty of Waitangi obligations at a national level. If appointments were made centrally, many of the criticisms could be overcome.
31. Consider additional RCA criteria to ensure effective Ministerial input to decisions about the location of infrastructure, aquaculture, transportation and storage of hazardous chemicals, and reclamations. This should be guided by recent case law.

8.6 SCHEDULE 1: RESTRICTED COASTAL ACTIVITIES

The focus of this section is on the trigger points for RCAs and the debate about whether new criteria need to be added to the list. Case law is addressed in the other DoC-commissioned reports.

8.6.1 SUBMISSIONS, MEETINGS & LOCAL GOVERNMENT WORKSHOPS

- The major concerns concerning the RCA Schedule centre on the trigger points or thresholds for RCAs.
- Need to add definitions of *exclusive occupation* in the NZCPS and define consideration needed about cumulative effects of RCAs.

8.6.2 ANALYSIS

The NZCPS contains a Schedule of RCAs and is referred to in Policy 5.3.1. The BoI considered that the Schedule of RCAs should simply contain criteria, so that the Minister of Conservation could later define those activities (BoI, p12).

The DoC regional coastal planner workshops focused on the individual trigger points and difficulties in interpreting the criteria. There is disagreement about the changes that are needed to ensure that activities with significant irreversible effects are avoided and to guarantee the consideration of cumulative effects in assessment of resource consent applications. For example, a 300-metre seawall built incrementally, 100 metres at a time, can have the same adverse effects as a 300-metre seawall built as one project. The debates about

the various ‘trigger points’ cannot be resolved. Given that most plan users are now aware of the criteria, there seems to be little benefit gained from changing them. DoC has not added new criteria to the list of RCAs since the NZCPS was prepared. There is no regular review system in place to analyse whether change or additions to the list of RCAs are required.

8.6.3 RECOMMENDATIONS FOR CHANGE

32. Retain the same ‘trigger points’ for RCAs. Changes to the RCA Schedule and thresholds or ‘trigger points,’ simply move the debate along the spectrum of possible thresholds. The trigger points should remain the same until there is ecological or other evidence from regional council monitoring that another threshold is more appropriate.

SECTION 9.0

CONCLUSIONS AND RECOMMENDATIONS

9.1 INTRODUCTION

Consideration of NZCPS effectiveness is difficult because the purpose of the Resource Management Act is achieved through a series of plans and policy statements at national, regional and district levels of planning. Each level is required to achieve integrated sustainable management of natural and physical resources and to avoid, remedy or mitigate adverse effects of people's activities. Therefore, the assessment of the effectiveness of NZCPS policies in achieving environmental outcomes in the coastal environment is dependent not only on the actions of the Department of Conservation, but also on the philosophy and actions of local government planners and the effectiveness of their policy statements and plans.

Coastal planning capacity in local authorities has developed since 1994, particularly in regional councils. However, the local government workshops and the analysis indicate that there is considerable variation between councils, a concern that may be addressed if Local Government New Zealand co-ordinated discussion and analysis of coastal planning topics in its forums. Further analysis is needed to determine whether plans with content considerably different to the RMA and other policy documents, are less effective if challenged in the Environment Court.

In addition, there have been policy and administrative changes at national planning level which have resulted in confusion about responsibility for monitoring and implementing international obligations. It was very difficult to identify clear areas of responsibility for implementation of various national planning issues.

9.2 EFFECTIVENESS OF THE NZCPS

The first NZCPS has been effective in generating debate about New Zealand's priorities for coastal management. Along with the RMA provisions, implementation of the NZCPS has also required local government to change the way in which coastal issues are considered in local planning frameworks. Despite advocacy by DoC officers, some local authorities have deliberately minimised reference to the NZCPS in the preparation of statutory planning documents. In other cases, the intent of the NZCPS is changed through different wording of policies; thus the desired outcome is not always achieved.

Therefore, it is difficult to envisage how effectively other central government non-statutory strategies, policies and guidelines would be implemented at local levels of planning if local politicians and council officers oppose the national planning objectives. The BoI inquiry observed that implementation of the NZCPS may impose additional costs on local authorities in preparing policy statements and plans; but noted that it was part of their statutory responsibilities to manage, control, gather information, monitor and enforce (BoI 1994, p13). However, a number of the NZCPS policies ignored in implementation are minor matters that

would not impose significant additional costs in plan preparation (e.g. NZCPS Policy 3.1.3 about protection of open space). Instead of removing policy tools like the NZCPS (as proposed in the Oceans Policy review) it may be more useful and cost-effective to retain it, deal with its defects, and focus on methods of improving integration across policy areas in central government, as well as improving database management and research about coastal and marine issues.

The NZCPS has not been changed, nor has a new NZCPS been prepared, since 1994. One of the most significant issues to emerge since then is the occupation of space in the CMA for aquaculture purposes. The analysis of case law demonstrates that although the NZCPS policies about natural character and the precautionary approach were effectively applied in the decisions, there appears to be little analysis about whether new NZCPS policies are required to guide the designation of aquaculture management areas (AMAs). There has been no assessment of the need to protect areas in the CMA using NZCPS policies.

NZCPS policies have generally been effectively implemented through regional policy statements and regional coastal plans analysed in this review. Most regional coastal plans are operative – only seven still need to be approved by the Minister. The NZCPS has been effective in changing the practice of directly discharging sewage effluent into the coastal marine area. Restricted coastal activities (RCAs) have been implemented where appropriate in regional coastal plans. As a result of Environment Court decisions, areas that have been set aside as conservation areas protecting significant marine resources are not all designated as areas of significant conservation value as provided for in Section 68 (4)(b) of the RMA.

The NZCPS has been only partially effective in influencing district plans. The analysis of plans and policy statements in this review highlights the fact that, although the NZCPS is only briefly acknowledged in most of the six district plans analysed (Appendix 5), the wording of NZCPS policies is generally reflected in many district plan phrases, especially in the policy sections of the plans. The Department of Conservation has not provided the same level of input to district plans as was provided for regional coastal plans (Bradly 2000). DoC could advocate and make submissions that argue for implementation of NZCPS policies, but it would be impractical to fight all district plan changes through to the Environment Court.

The NZCPS is only generally referred to in resource consent applications and in officer reports about resource consent applications (Appendix 6). In relation to appeals of individual applications, judges make more detailed reference to NZCPS policies. Given the difficulties in obtaining information about resource consent applications, inspections of the sites could not be carried out for this review as intended. Therefore it is not possible to comment on the effectiveness of environmental outcomes.

The poorest area of implementation has been in monitoring environmental outcomes and assessing the degree to which plans and policy statements have influenced environmental results. Only the Taranaki Regional Council (TRC 2002) has assessed the efficiency and effectiveness of the Taranaki Regional Coastal Plan (with a brief mention of the NZCPS), concluding that the RCP has been effective in summarising key achievements including health of coastal waters, and community attitudes about council service. It is still difficult to link environmental outcomes to specific objectives, policies and rules in the plan, except in management of discharges. One TRC assumption seems to be that the Taranaki RCP is effective because there has never been a successful appeal against plan provisions

Environment Southland and other regional councils are preparing their approaches to carry out plan monitoring (e.g. Environment Southland 2001). Indicators generally refer to the contribution of RMA plans and policy statements in achieving environmental results by analysing consistency of interpretation, tracking difficulties in implementation, and identifying the degree to which activities comply with provisions or resource consent conditions. However, it may be useful to provide national guidance to ensure increased consistency between local authority approaches to implementation so that review of national policy statements is more effective. District councils have also been developing monitoring strategies (e.g. Western Bay of Plenty District Council 2002).

There is often a reluctance to implement national requirements because of funding implications. This is one area where responsibilities are blurred at all levels. The national level of policy-making needs to clarify responsibilities at all levels for environmental and plan monitoring as discussed in the Oceans Policy review (Section 2.8 of this report). A similar situation exists in relation to management of natural hazards. More clarity is needed at national planning level, especially in regard to the influence of climate change data on the location and design of public infrastructure in the CMA.

9.3 REVIEW OF THE NZCPS – GENERAL RECOMMENDATIONS

It is recommended that the NZCPS be reviewed to revoke some obsolete policies, and to provide additional policy guidance required by sub-national levels of planning. The review should be delayed until Government policy concerning the foreshore and seabed debate, and the role of the NZCPS in relation to the Oceans Policy, are determined. Any NZCPS policies that duplicate the Biodiversity National Policy Statement should not be revoked until that NPS is operative.

The NZCPS is an important national method in the RMA regulatory regime for coastal management, and it is necessary even if an Oceans Policy is implemented. Given the 2003 amendments to the RMA, councils are required to give effect to the NZCPS and other NPS in the preparation of their plans and policy statements – ensuring that some implementation difficulties experienced in the previous nine years since 1994 may be overcome. More specific provisions are needed regarding the requirements for coastal occupation charges.

The amended NZCPS policies may be more prescriptive. However, a balance is needed between increasing policy prescriptiveness and improving guidance about implementation of more general policies, an option that provides more flexibility for local government. Most local authority planners believe that NZCPS policies relating to natural character of the coastal environment need to be strengthened. Other matters should be addressed in the review process including:

1. In what circumstances should a NZCPS be prepared? In other words, what criteria need to be met to trigger the process to review an existing NZCPS or prepare a new NZCPS? Many submitters believe that a NZCPS was required to guide analysis to define AMAs, which have evolved with Environment Court guidance, in a national policy vacuum.
2. Could the HGMPA model guide the development of a *place based* NZCPS? The model could assist in dealing with problems associated with achieving integrated coastal management in nationally significant coastal marine/land seascapes/landscapes – with community and industry involvement. For example,

the Fiordland Integrated Management Strategy could be formalised using this model. This could be a process driven by regional communities to meet national objectives. The process may also be important to manage catchments behind AMAs, reducing potential adverse effects of land-based pollution.

Although DoC's implementation strategy for the NZCPS has not been provided explicitly, the Department has carried out important activities to implement the NCZPS. This action is ad hoc, and while the reasons for various activities and guidelines have been implicitly understood within head office, they are difficult to trace through DoC outputs programmes (Bradly 2000). Also, it is not always clear how this implementation relates back to implementation of the NZCPS.

Once an amended NZCPS is approved the DoC needs a transparent implementation strategy, and it should be more accountable for implementation actions and analysis. The strategy should include regularly updating information for planners concerned with coastal matters in local authorities. The information should include timely interpretation of recent case law regarding the coastal environment, examples of good practice, and regional updates. The HAPS system should be available to all local government and local authority planners. The Department also needs to have a specific monitoring programme prepared in consultation with the Hauraki Gulf Forum to enable more transparent monitoring of the effectiveness of the HGMPA in its role as a NZCPS.

The RCA regime needs to be revised to:

- maintain ministerial approval authority for regional coastal plans;
- develop a system to select Ministerial appointees for RCA Hearing Committees from a centrally named panel to meet criticisms about the expertise of appointees;
- provide more guidance to Ministerial appointees about their role in relation to matters to be addressed in RCA conditions; and

The commentary prepared by Nugent and Solomon (1994) on the NZCPS policies, explains and reinforces national objectives, and assists local government and resource consent applicants with interpretation of NZCPS policies. However, due to the separate publication of the commentary, it was rarely used. It is therefore recommended that any revised commentary be included in the NZCPS publication, even if located separately from the relevant policies.

At the completion of the foreshore and seabed negotiations, it is recommended that comprehensive consultation be initiated with Maori on the matters outlined in Section 6.4 of this report. These issues were raised at both hui before consultation was curtailed.

Given the number of areas listed by local government for which national guidance is needed (Young 2003), it is imperative that national guidance in coastal management is retained. However, national ministries and departments need to identify which areas local government should manage, and then outline programmes for developing policy and guidelines at the national level. It is not sufficient to provide advice on an ad hoc basis. Central government policy could improve the quality of sub-national plans and policies by focusing on cost-effective research about issues of national interest.

This could be co-ordinated through the Oceans Policy initiative and should reflect the outcomes of the foreshore and seabed and other national debates. Other recommendations drawn from other sections of the report are summarised in the following Section:

9.4 RECOMMENDATIONS FROM SECTIONS 4–8

NZCPS Policy Recommendations for Change to NZCPS Policy Areas Chapters

- | | |
|---|---|
| NZCPS Principles | <ol style="list-style-type: none"> 1. Consider incorporating the principles section into policies. Any visionary material or explanation of terms such as <i>precautionary approach</i> may be better dealt with in an Oceans Policy so that the vision and technical terms are interpreted consistently across all government departments establishing policies for coastal and ocean environments. 2. Correct omission and include a heading for the principles section of the NZCPS. 3. Provide an explanation of the role of NZCPS principles in preparing plans and policy statements. This explanation may simply be about the level of emphasis placed on individual principles. |
| Chapter 1
Natural
Character | <ol style="list-style-type: none"> 4. Collaborate with tangata whenua and local authorities to develop guidelines or criteria enabling councils to define the <i>coastal environment</i>. There is considerable variation between territorial authorities in this matter and many are not resourced to carry out comprehensive landscape analysis to define the coastal environment. 5. Investigate the application of the HGMPA model as a possible method for improving integrated sustainable management of nationally significant coastal landscapes and seascapes – <i>living protected landscapes</i>. 6. Carry out more detailed analysis of case law and international practice to provide guidance to local government for identifying natural character on land and sea in the coastal environment. Guidance is also needed about the strengths and weaknesses of planning tools that can be used to avoid, remedy or mitigate adverse effects of subdivision, use and development. 7. Maintain the hierarchy of adverse effects to be avoided, remedied or mitigated (NZCPS Policy 1.1.2(a) and (b)). If there are national priorities for preservation of landscapes, this analysis should be carried out at the national level of planning. 8. Amend NZCPS Policy 1.1.2(c) so that important marine ecosystems are protected and managed. This may require an amendment to the RMA so that the term <i>protect</i> facilitates appropriate management to sustainably manage important marine ecosystems outside conservation areas. |
| Chapter 2 & 4
Maori and Crown
Interests | <ol style="list-style-type: none"> 9. Combine Chapters 2 and 4 of the NZCPS to demonstrate the Crown's partnership with Maori and a commitment to develop coastal and marine policy that reflects the partnership represented by the Treaty of Waitangi. |

10. Undertake further consultation with Maori to confirm matters of importance to tangata whenua in the review of NZCPS policies. This consultation is crucial because the hui concerning this review were curtailed. The following matters need to be resolved for the review of the NZCPS, in addition to any further matters identified by Maori through additional consultation:
 - a. Discuss means by which the NZCPS can strengthen the implementation of NZCPS policies about matters of importance to tangata whenua so that decision-makers *give effect* to the policies – further strengthening the degree to which the NZCPS takes into account Treaty of Waitangi principles. The definition of Kaitiakitanga may be changed to clearly reflect the rights and duties of kaitiaki. One useful policy change would be the development of criteria to enable the safe, effective and sustainable transfer of power to local iwi when appropriate. Another method may be increased representation of local tangata whenua on hearing committees.
 - b. Prepare Crown policy and funding initiatives to support iwi preparation of Iwi Marine Management Plans to set objectives and priorities about resource management decision-making in the CMA, including customary and non-customary fisheries management, wahi tapu and marine farming.
 - c. Develop relationships between MFish, DoC, MfE and local authorities, joint initiatives with local iwi to identify problems and solutions using a more holistic process.
 - d. Provide guidance about implementation of the new provisions in the Local Government Act to improve Maori participation in the full range of activities undertaken by local authorities (LGA Section 4) in relation to coastal management.
 - e. Identify the nature of policies and implementation guidelines needed as part of the NZCPS to enhance the Crown's capacity to meet its Treaty of Waitangi obligations and protect Maori interests in marine farming and developing AMAs.
11. Clearly state in the NZCPS the interests of the Crown in the CMA for the purpose of preparing plans and policy statements under the RMA, and for deciding resource consents in and adjoining the CMA. The NZCPS should require councils to include a statement in plans and policy statements so regional communities understand the ongoing interests of central government in implementation of sub-national policy statements and plans. Policy areas which relate directly to national concerns in the CMA include the:
 - preservation of marine protected areas;
 - removal of abandoned structures in CMA;
 - provision for use of CMA for defence purposes;
 - permit system for reclamations, removal of sand, shingle, shell or other natural materials for commercial purposes (efficiency of allocation);

- permit and charging systems for rights to occupy the foreshore and seabed;
 - guidance about tendering process – which should be introduced as a management tool;
 - certainty for tangata whenua and any occupier of space in the CMA, ensuring that other parties cannot inhibit current and future operations.
12. Provide clarification on the following part of Policy 4.2.2(c): *'relevant planning document recognized by the appropriate iwi authority'* (i.e. is *'relevance'* decided by iwi or council?). Provide further guidance for councils about developing more proactive relationships with tangata whenua.
 13. Provide further guidance about processes to determine the protection of archaeological sites and other sites of cultural importance to Maori. It appears that many local authorities are relying on the Historic Places Trust rather than tangata whenua as sources of information about culturally important sites.
 14. Ensure that amended policies reflect the new requirements of the Local Government Act in regard to Treaty of Waitangi obligations, and relevant case law.
 15. Clarify responsibilities for monitoring the effectiveness of NZCPS matters and the effectiveness of relevant parts of the HGMPA in its role as a NZCPS.
 16. Provide guidance about criteria to be considered in determining the duration of resource consents in the coastal environment – particularly on land above MHWS.
 17. Clarify which government department is to manage matters related to occupation of space in the CMA, and provide national guidance about assessing the duration of consents to occupy space in the CMA (e.g. considering the nature of the activity and reversibility of effects).
- Chapter 3
Appropriate use
18. Revise Policy 3.2.3 to include the circumstances in which plans and policy statements shall require a financial contribution (e.g. alienation of foreshore or seabed through reclamation) and the timing for including provisions in regional coastal policy statements.
 19. Revoke Policy 3.2.9.
 20. Consider the degree to which NZCPS policies should specify criteria for assessing appropriate or inappropriate subdivision, use and development, and what constitutes a *'minor effect'* for the purposes of non-notification of resource consents.
- Chapter 3
Precautionary
21. Retain the Policies 3.3.1 and 3.3.2 with guidance about implementation of the precautionary approach and adaptive

- approach management principles in regional and district plans, in a strategic planning framework.
22. Research the degree of national guidance needed to integrate in integration of resource consent monitoring and State of Environment reporting to ensure that cumulative adverse effects of many activities on the coastal environment may be assessed, and changes made to the duration of resource consents and conditions.
- Chapter 3
Natural Hazards
23. Retain NZCPS policies about natural hazards. However, policies need to be strengthened to encourage more effective research, monitoring of coastal processes, and sustainable management of coastal hazards.
24. Implement Jacobson's (2004) recommendation that changes to the NZCPS are needed to:
- a. *'Articulate a vision of reduced risk to property assets, and of greater protection from the adverse effects of protection works such as seawalls for coastal habitats, ecosystems and natural features (with their associated values including public access, amenity values and recreation); and*
 - b. *Include more specific policies that address the particular challenges of sustainable coastal hazard management (including the relationship between coastal hazards and the natural dynamic coastal processes that create and maintain coastline assets such as beaches; the difficulties of managing property development in coastal hazard zones over the longer term; the effects of property protection works on public coastline assets; and the effects of climate change).'*
- Chapter 3
Public Access
25. Provide guidance in the NZCPS about locations in the coastal environment where the vesting of an esplanade reserve is important to provide long-term certainty of public access to and along the CMA. Some differentiation is needed between *walking access* and other forms of access, including boat access in the marine environment.
26. Carry out research at a national level in partnership with tangata whenua, industry and local authorities to identify the strengths and weaknesses of various methods of managing vehicle access to and along the CMA for a range of purposes. This should be reinforced by a national education campaign about good driving practice in ecologically sensitive environments.
27. Co-ordinate changes to public access policies with foreshore and seabed provisions. Further consultation may also be needed with tangata whenua in relation to public access and management of

areas for customary harvesting of kaimoana. For example, the NZCPS may need to provide guidance for identifying 'reasonable and appropriate' public access.

Chapter 5
Matters in
RCPs and
RCAs
(Schedule 1)

28. Retain NZCPS Policies 5.1.1–5.1.4. It would be unfortunate if New Zealand reduced national policy standards about sewage effluent treatment. Communities have many years in which to plan changes to treatment systems.
29. Review NZCPS Policies 5.2.1–5.2.5 so that policies that conflict with marine pollution regulations are revoked. However, policies regarding the provision of rubbish collection and sewage collection points (5.2.1 and 5.2.2) should be retained.
30. Review the system for appointing Ministers' representatives on RCA hearing committees. Consider the following changes:
 - a. Maintain a central pool of potential appointees with a variety of expertise and regional knowledge.
 - b. Ensure that appointees have training and information about the role of the NZCPS in the RMA planning regime; national priorities for the Minister of Conservation as agent managing Crown interests in the CMA; implementing the NZCPS; and honouring Treaty of Waitangi obligations at a national level. If appointments were made centrally, many of the criticisms could be overcome.
31. Consider additional RCA criteria to ensure effective Ministerial input to decisions about the location of infrastructure, aquaculture, transportation and storage of hazardous chemicals and reclamations. This should be guided by recent case law.
32. Retain the same 'trigger points' for RCAs. Changes to the RCA Schedule and thresholds or trigger points simply move the debate along the spectrum of possible thresholds. The trigger points should remain the same until there is ecological or other evidence from regional council monitoring that another threshold is more appropriate.

This report, including the meetings with local government, industry and coastal interest groups, and the submission process, took the best part of a year to complete. However, there are still matters that need to be analysed further once the foreshore and seabed and Oceans Policy debates are finalised. It is envisaged that this report will contribute to the preparation of the second-generation New Zealand Coastal Policy Statement.

It is also important to recognise that national regulation or policy cannot be imposed to achieve community objectives for the management of significant coastal landscapes. Local communities need to participate in regional strategic planning processes that enable articulation of community visions for important coastal places – now a possibility under the amendments to the Local Government Act. Once this is achieved, a variety of planning tools

is needed across all planning levels to achieve objectives for sustainable development of coastal and marine environments.

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Plans and Policy Statements listed in Appendix 5.

SECTION 11

GLOSSARY

AMAs	Aquaculture Management Areas
ARC	Auckland Regional Council
BoI	Board of Inquiry for the NZCPS
CMA	Coastal marine Area
DoC	Department of Conservation
DP	District Plan
EBOP	Environment Bay of Plenty (Regional Council)
ES	Environment Southland (Regional Council)
HAPS	Heritage Advocacy Planning System (HAPS)
HGMPA	Hauraki Gulf Marine Park Act
IDC	Invercargill District Council
KCDC	Kapiti Coast District Council
LG	Local Government
LGNZ	Local Government New Zealand
LINZ	Land Information New Zealand
MfE	Ministry for the Environment
Mfish	Ministry of Fisheries
MHWS	Mean High Water Springs
MoC	Minister of Conservation
NIWA	National Institute for Water and Atmosphere
NZCPS	New Zealand Coastal Policy Statement
PMA	Protected Marine Areas
RCAs	Restricted Coastal Activities
RCP	Regional Coastal Plan
RDC	Rodney District Council
RMA	Resource Management Act
RPS	Regional Policy Statement
SDC	Southland District Council
SOP	Standard Operating Procedure
TDC	Tauranga District Council
TRC	Taranaki Regional Council
WBOPDC	Western Bay of Plenty District Council
WCC	Waitakere City Council

APPENDIX ONE

DEPARTMENT OF CONSERVATION HERITAGE AND ADVOCACY PLANNING SYSTEM – ‘FRONT PAGE’

HERITAGE ADVOCACY PLANNING SYSTEM (HAPS) SHARING BEST PRACTICE

Sharing best practice in RMA work in the Department of Conservation
Project Co-ordinator; Paul Hardy, Northern Regional Office. DME HAMRO-34787

ID	WORK TYPE	Key Documents
	Overview	Explanation RMA Plan Progress Nationally
	Strategy and Policy work	Strategic Plan Biodiversity Heritage strategy Bio what NZ Coastal Policy statement NPS Biodiversity on Private Land Aquaculture Review Recreational Fishing Oceans Policy RMA RMA RMA Delegations Carl Binning Managing Indigenous Biodiversity Protocol with Local Government
	SOPs	RMA Consents Plans Appeals Section 94s RCP Approval Appeals/References S 94 Training Package HAMRO- 68107 Section 96 Forests Act Mining Access Applications Draft SOP.
	Guidelines	Double Dipping Iwi Consultation RMA Workshop MfE Guides (web page link, go search/guidelines) AEE Guide Plan Submission Guide DOC as Applicant Guide Resource Consent Submission Guide Mitigation/ compensatory works Plan Appeal Documents example

	Training	
	Freshwater	<p>News</p> <p>Wetlands</p> <p>Fisheries and Fish Passage</p> <p>Takes/abstraction</p> <p>Discharges</p> <p>Minimum Flows</p> <p>River or Lake Bed</p> <p>Drains</p> <p>Plan provisions freshwater general</p> <p>Water Conservation Order</p>
	Terrestrial	<p>News</p> <p>Vegetation</p> <p>Wildlife</p> <p>Plant/Animal Pests</p> <p>Riparian</p>
	Historic	<p>News</p> <p>RMA Practice</p> <p>Maori</p> <p>European</p> <p>Precincts</p>
	Coastal/Marine	<p>News</p> <ul style="list-style-type: none"> - see Tasman RM Plan Aquaculture interim Env Court decision in RCP page below - Oceans Policy Meeting dates - Fairplay and Lloyds list (news on shipping lines, ports, marine pollution maritime matters etc) - Marlborough Sounds foreshore and seabed High Court decision - see Regional Coastal Plans below for example of a RCP reference consent order that has been approved by the Principal Environment Court Judge <p>NZ Coastal Society Web Page http://www.cae.canterbury.ac.nz/nzcs/nzcs.htm</p> <p>Coastal RMA Contacts</p> <p>New Zealand Coastal Policy Statement (NZCPS)</p> <p>Oceans Policy Development NZ</p> <p>Regional Coastal Plans (RCPs)</p> <p>Restricted Coastal Activity applications (RCAs)</p> <p>Minister as RMA Consent Authority</p> <p>Consents</p> <p>Natural Character</p> <p>Information on activities</p> <p>Reclamation Vesting</p> <p>Coastal Occupation Charges</p> <p>Foreshore and Seabed Responsibilities</p> <p>Jetties-use rights</p> <p>Determining MHWS</p> <p>Marine Farming</p> <p>Coastal zones in plans</p>

		MINISTER OF CONSERVATION Directions until RCPs Operative: Legal Advice Aquaculture Reform MFE. www.mfe.govt.nz/management/aquaculture.htm
Business Planning		SOP MAP Annual Conservation Directions (ACDs) 00/01 , 01/02 Annual Report 2000/2001 KO 3
Ministry for Environment		Quality Planning web site

APPENDIX TWO

STANDARD OPERATING PROCEDURES (PREPARED BY THE DEPARTMENT OF CONSERVATION SINCE 1994)

Standard Operating Procedures	Description of the Standard Operating Procedures
NH/1243 (19/7 /99) Regional coastal plan approval procedures	<p>Outlines process and accountabilities. Most of the responsibility for this process lies with regional general managers. The Department of Conservation undertook this to give councils an opportunity to comment if the Minister's advisors were to recommend that a plan should not be approved.</p>
NH/1283 (3/8/99) A guide to lodging and joining references, appeals and enquiries under the RMA 1991.	<p>All decisions to take or join action at the Environment Court are endorsed by the Conservancy solicitor, and the Regional Office and approved by the Community Relations Manager and the Conservator.</p> <p>The SOP describes the steps, standards and accountabilities for lodging and joining appeals. It contains tips and reminders about managing a good case.</p>
Restricted coastal activity appointee guidelines (3.15)	<p>Guidelines addressed to appointees to assist them in their role as the Minister of Conservation's appointee on council hearing committees considering restricted coastal activity permit applications.</p> <p>Types of activity are explained along with the process to be followed. The skills of an appointee are described and it is pointed out that the appointee is not the Minister's advocate. They need to listen with open and impartial mind.</p> <p>DoC officers are advised that the Minister of Conservation's interest in the coast is that of landowner and representative of the national community of interest.</p>
NH/1014 Procedures and guidelines for DoC staff processing applications not requiring public notice (amended 1.8.2002).	<p>Accountability lies with regional manager. Decisions are delegated to the area office. Guidance to staff about how to respond to requests under section 94 (DoC as an <i>'affected party'</i>).</p> <p>The implementation of the NZCPS is listed as one of the Department's interests (g) along with coastal land by virtue of the Foreshore and Seabed Revesting Act and RCA provisions of the NZCPS.</p> <p>Section 4.4 provides guidance about S94 applications in the CMA.</p>

APPENDIX THREE THE PURPOSE and contents OF THE NZCPS (RMA)

The purpose of the NZCPS, and its requirements and contents, are prescribed in Sections 56 – 57 of the RMA:

‘56 The purpose of a New Zealand Policy Statement is to state policies in order to achieve the purpose of this Act in relation to the coastal environment of New Zealand.

57 1) There shall at all times be at least one New Zealand Coastal Policy Statement prepared and recommended by the Minister of Conservation in the manner set out in sections 46 to 52 as if references in those sections to the Minister were references to the Minister of Conservation and references to a national policy statement were references to a New Zealand coastal policy statement.

Sections 53, 54, and 55, with all necessary modifications, apply to a New Zealand Coastal Policy Statement as if it were a national policy statement and as if references in those sections to the Minister were references to the Minister of Conservation.’

The contents list in Section 58 of the RMA provides the current structure of the NZCPS as recommended by the Board of Inquiry:

‘58 A New Zealand Coastal Policy Statement may state policies about any one or more of the following matters:

- (a) National priorities for the preservation of the natural character of the coastal environment of New Zealand, including protection from inappropriate subdivision, use, and development:*
- (b) The protection of the characteristics of the coastal environment of special value to the tangata whenua including wahi tapu, tauranga waka, mahinga maataitai, and taonga raranga:*
- (c) Activities involving the subdivision, use, or development of areas of the coastal environment:*
- (d) The Crown's interests in land in the coastal marine area:*
- (e) The matters to be included in any or all regional coastal plans in regard to the preservation of the natural character of the coastal environment, including the specific circumstances in which the Minister of Conservation will decide resource consent applications relating to—*
 - (i) Types of activities which have or are likely to have a significant or irreversible adverse effect on the coastal marine area; or*
 - (ii) Areas in the coastal marine area that have significant conservation value:*
- (f) The implementation of New Zealand's international obligations affecting the coastal environment:*
- (g) The procedures and methods to be used to review the policies and to monitor their effectiveness:*
- (h) Any other matter relating to the purpose of a New Zealand Coastal Policy Statement.’*

APPENDIX FOUR

METHODOLOGY FOR THE INDEPENDENT REVIEW OF THE NEW ZEALAND COASTAL POLICY STATEMENT

A4.1 INTRODUCTION

A number of methods will be used to carry out the review, including:

1. A review of government reports, reviews and strategies, and interviews with key participants in government to identify gaps in the NZCPS and the possible future role of the NZCPS.
2. A separately analysed report by Mike Jacobson (2004) on the effectiveness of natural hazards NZCPS policies and principles. The process of assessment will be similar and the results will be incorporated into this report.
3. An analysis of policy statements, plans and decisions at regional council and territorial authority levels, to judge the effectiveness of NZCPS guidance in preparing sub-national policies and rules about coastal matters of national priority (e.g. RMA Part II matters).
4. A review of the monitoring provisions in plans and policy statements, and of State of the Environment monitoring (where this information is available), to assess the effectiveness of NZCPS monitoring policies.
5. A review of the effectiveness of restricted coastal activities utilising earlier research and feedback from local government and submitters.
6. A review of research and various assessments regarding consultation with tangata whenua to determine the extent to which the NZCPS has been effective in dealing with issues of importance to Maori.
7. Consultation with key stakeholders with an interest in the coastal environment.
8. Consultation to facilitate community input (i.e. newspaper advertisements about the review, invitations for feedback on the Quality Planning website and in key journals of interest to coastal and professional local government practitioners). A brochure prepared by DoC is also to be sent to people who submitted in relation to other reviews on coastal interest (i.e. submitters to the Oceans Policy and the review of Marine Reserves Act).

A4.2 METHODOLOGY FOR PLAN/POLICY STATEMENT ANALYSIS

The first aim of the analysis is to indicate the degree to which:

- a. The NZCPS has guided the preparation of plans and policy statements at the regional and territory authority levels of planning, and how much it has influenced the resource consent process in the *coastal environment*.
- b. Plans and policy statements are *not inconsistent* with the NZCPS.

The second aim of the analysis is to indicate whether the involvement of the Minister of Conservation in preparing Regional Coastal Plans and in approving Restricted Coastal Activities has achieved the purpose of the RMA in relation to the coastal environment.

The PUCM Process, including a pilot application of the PUCM process influences the choice of process for this review. However a qualitative not a quantitative process will be used. Other techniques (e.g. Content Analysis, Kemp 2001) were considered, but were not selected as they usually rely on keyword searches. These searches are difficult if plans and policy statements use different terms, words and phrases to those used in the NZCPS.

The following cascade of policy statements and plans will be analysed for three regions in New Zealand:

- Regional Policy Statements
- Regional Coastal Plans
- Other relevant Regional Plans in the coastal environment
- District Plans
- Non-statutory plans and strategies dealing with aspects of the coastal environment (e.g. Auckland Regional Growth Strategy, Coastal Management Strategies), and
- State of the Environment Monitoring Strategies

The regions selected for this review are:

1. **Auckland Region:** *A highly developed coastal environment*
 - Auckland Regional Council, Rodney District Council, Waitakere City Council
2. **Bay of Plenty Region:** *Experiencing a high level of development pressure*
 - Environment Bay of Plenty, Tauranga District Council, Western Bay of Plenty
3. **Southland Region:** *Sparingly developed and adjoins a world heritage site.*
 - Invercargill District Council, Southland District Council

TABLE A4.1

Process and topics for review of plans and policy statements: extent to which they have regard to NZCPS policies

Process	Reason
Search entire document for references to NZCPS	The number of times the NZCPS is referred to in the document is an indication of the importance placed on it.
Search Documents - Policies, Rules/Standards, Anticipated Environmental Outcomes, Assessment Criteria sections for specific references to 'coast'	Searching for 'coast' also picks up coastal environment, coastal marine area, coastal zone and coastline. The policies in the NZCPS have been drafted because protecting and preserving the coastal environment in NZ has been determined to be a national priority. As such it is placed above general RMA matters. <i>List briefly the reference and what it covers in Italics</i>

Search Documents - Policies, Rules/Standards, Anticipated Environmental Outcomes, Assessment Criteria sections for words / terms that are used in the NZCPS to set out policy	Many of the requirements to protect the coastal environment are treated in an integrated way with land, water and air as per Part II of the RMA. As such the coastal environment is provided for but is not placed as a higher priority in decision-making as required by the NZCPS List briefly the reference and what it covers
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Themes for Coastal Environment

Natural Character	Keywords
Policy 1.1.1 Protection from inappropriate subdivision	Natural character / Sustainable management Effects of subdivision / Headlands / actual locations specified
Policy 1.1.2 Preserve natural character of coastal environment	Indigenous species / Community types / Ecological (includes corridors) / Ecosystems Endangered / Rare / Migratory / Wetlands / Estuaries / Mangroves / Dunes / actual locations specified
Policy 1.1.3 Preserve features of coast	Landscapes / Seascapes / Landforms / Wild and scenic / Historic / Cultural / actual locations specified
Policy 1.1.4 Preserve natural processes	Landscapes / Seascapes / Landforms / Wild and scenic / Historic / Cultural / actual locations specified
Policy 1.1.5 Restore and rehabilitate natural character	Rehabilitate / Restore/ actual locations specified
Maori	
Policy 2.1.1 / 2.1.2 Characteristics special to Maori	Tikanga / Tangata whenua /Maori
Policy 2.1.3 Transfer of power	Transfer / Iwi authorities / Delegation
Maintenance & Enhancement of Amenity Values	
Policy 3.1.1 - Public use	Adverse effects / Amenity value / Safety / Enjoyment
Policy 3.1.2 –Identify special significance in coastal environment	Scenic / Historic / Recreational / Spiritual / Cultural / Scientific / Special significance
Policy 3.1.3 Protection and recognition of importance open space in coastal environment	Open space
Policy 3.2.1 Appropriate subdivision, use and development defined in plans	Subdivision / Appropriate
Policy 3.2.2 Where unavoidable adverse effects	Mitigate / remedy
Policy 3.2.3 Where unavoidable adverse effects compensate	Section 108 / Financial contributions
Policy 3.2.4 Cumulative effects not adverse	Cumulative
Policy 3.2.5 Adequate services	Waste disposal
Policy 3.2.6 Appropriate development but adverse effects a consideration	Papakāinga / marae
Policy 3.2.7 Improve water quality	Land management
Policy 3.2.8 Protection for commercial, recreational, traditional, cultural species	habitats
Policy 3.2.9 New structures	Marine Safety Authority / Navy
Policy 3.2.10 Restoration	Indigenous species / Local genetic stock
Policy 3.3.1 Unknown effects	Precautionary
Policy 3.3.2 Share information	Knowledge / Information

Policy 3.4.1 Plans identify coastal hazards	Hazard
Policy 3.4.2 Sea level rise	Sea level / Global warming / Natural defence Erosion / Inundation
Policy 3.4.3 Protect subdivision, use, dvmt	Beaches / Sand dunes / Mangroves /Wetlands Barrier islands
Policy 3.4.4 Natural features migrate inland	Dynamic coastal processes / Migrate
Policy 3.4.5 New subdivisions avoid hazard protection works	Hazard protection
Policy 3.4.6 Existing use - coastal protection work only where best option	Coastal protection works limited
Maintenance & Enhancement of Public Access to and Along the Coastal Marine Area	
Policy 3.5.1 Public Access Restrictions only imposed	Significant indigenous vegetation / Cultural Health / Security (consistent with Resource C)
Policy 3.5.2 Enhance public access	Disability
Policy 3.5.3 Enhance public access with	Esplanade reserves / Esplanade strips / Access strips
Policy 3.5.4 Access to cultural sites	Tikanga /Maori
Maintenance & Enhancement of Water Quality	
Policy 5.1.1 Rules required to enhance water quality	Public interest / Tangata whenua /Human sewage
Policy 5.1.2 Discharge of human waste	Land disposal / Tangata whenua /Consultation
Policy 5.1.3 No discharge cause significant adverse effects	Significant adverse effects / Habitats/ Feeding grounds /ecosystems
Policy 5.1.4 Review permits to make sure rules being met	Review / Monitor /Permits
Policy 5.1.5 Contamination	Trade wastes
Policy 5.1.6 Contamination	Non-point sources
Policy 5.1.7 Warnings be given	Unsafe swimming /Unsafe shell fish gathering
Limiting Adverse Effects from Vessel Waste Disposal or Maintenance	
Policy 5.2.1 Facilities in ports, marinas, busy areas	Rubbish disposal / Residues (from vessel maintenance)
Policy 5.1.2 New ports & marinas	Sewage disposal
Policy 5.1.3 Encourage use of sewage & rubbish facilities	Education
Policy 5.3 Restricted Coastal Activities	Schedule 1 criteria

MATTERS CONSIDERED IN RELATION TO PLANS/POLICY STATEMENTS AND RESOURCE CONSENTS.

Policies and methods- Identification of Section 6, 7 and 8 matters

- Detail of policies – have they gone beyond the wording of the RMA or NZCPS – is the background explained? Clear articulation of techniques/actions by the council to deal with an issue and implement the NZCPS policies.
- Rules to protect environmental bottom line.
- Reference to the NZCPS in officer reports and hearing committees in plan/policy statement preparation process.
- Background explained where issues of national importance are provided for in the rules.

Plan monitoring - Regional councils will be asked to provide information about the review of regional coastal plans and environmental monitoring strategies.

Resource consents

- Four applications above MHWS and four applications below MHWS in each district will be analysed. Where possible, this will include a mix of RCAs, coastal permits, joint coastal permits, non-notified and notified consents.
- Resource consents will be chosen by agreement between reviewer, DoC Conservancy and council officers.
- One application would need to cross the land-sea interface.
- Applications would need to be for significant developments – or implementation of the NZCPS may not be an issue
- Applications below MHWS will each deal with a different aspect of management – discharge to water, occupation, erection of a structure, reclamation. At least one will be a restricted coastal activity.
 - Reference to the NZCPS in officer reports and hearing committee decisions for the resource consents.

A4.4 PERMITTED ACTIVITIES

One problem given the scale of evaluation is how to deal with permitted activities. Given the general nature of the NZCPS, it is impractical to do a detailed survey regarding this matter in the regions. There seem to be two main issues for further study. Have permitted activities been monitored for compliance once structures / activities are in place or carried out? Are permitted activities meeting the permitted activity test in the relevant district or regional plan? If so, they have minor effects and do not need resource consent.

INTERVIEWS

Individual interviews will be restricted, given the breadth of data from regional councils and territorial authorities, as well as workshops with regional coastal planners and DoC coastal planners. The aim is to focus on matters that arise out of the plan or resource consent analysis:

- enforcement of plan provisions concerning coastal environment
- degree to which consultants are needed (internal capacity)
- DoC's influence on final wording of plan/policy statement.

A4.5 RESTRICTED COASTAL ACTIVITIES

The effectiveness of the Minister of Conservation's involvement will be measured by the number of times the DoC case has been successful, or provided guidance about matters of importance in the coastal environment. The case law has been analysed in a separate report by DoC (December 2003).

A4.6 CONSULTATION WITH TANGATA WHENUA

A process for consultation with key organisations and individuals was developed in consultation with Kaupapa Atawhai managers in DoC and Te Puni Kōkiri. A list of contact names for organisations involved in environmental management including iwi and hapu authorities is needed. DoC will assist in organising mailouts and face to face meetings.

Other government department experiences in relation to large hui have not delivered focused discussions about particular policy documents. It may be more useful to talk to key people in iwi organisations who deal directly with resource management issues. Moetatua Turoa has agreed to assist in the hui. His experience from the Oceans Policy consultation process will be very important.

KEY QUESTIONS FOR MAORI

In determining the effectiveness of the NZCPS policies, the independent reviewer needs to examine how policies important to Maori have been implemented through plans and resource consents, and how the NZCPS has impacted on the relationship of Maori and their culture and traditions with their ancestral lands in the coastal environment, and their ability to practice kaitiakitanga. Questions at the moment may not refer to issues considered a priority by Maori, therefore many more issues may be raised in meetings:

1. Does the NZCPS provide clear and sufficient guidance to aid decision-makers in relation to issues of importance to Maori?
2. What changes have occurred in coastal management over the last decade, and what new pressures have emerged that affect Maori relationships with ancestral lands in the coastal environment, and their ability to practise kaitiakitanga?
3. How well do policies in the current NZCPS deal with these emerging coastal issues of importance to Maori?
4. In local government meetings, it was suggested that the NZCPS no longer needed Chapter 2 (matters of special value to tangata whenua) as it had been superseded by iwi management plans. Do Maori share that view?
5. How have Section 33 Transfers been managed? (Use Hamish Rennie report).

Note: Only two of 13 hui were concluded because of other consultation about foreshore and seabed issues. Therefore it was suggested that there be more detailed consultation with tangata whenua in the next stages of the Department's preparation of an amended NZCPS.

CONSULTATION WITH STAKEHOLDERS

The key stakeholders that will be approached throughout this review include:

- government departments concerned with matters in the coastal and marine environment and the oceans policy group,
- industry (ports, utilities and infrastructure, developers, fishers, aquaculture),
- university coastal researchers, research organisations (NIWA, GNS)
- regional coastal planners group, DoC regional coastal planners group
- surf life savers
- conservation groups including ECO, EDS, Royal and Forest & Bird,
- Hauraki Gulf Forum (officers technical group)
- national boating clubs/organisations
- professional organisations (RMLA, surveyors, landscape architects, planners, Coastal Society)

KEY QUESTIONS FOR STAKEHOLDERS

1. Has the Minister of Conservation's role in approving RCAs resulted in broader national issues (e.g. Section 6 matters) being addressed in decision-making about coastal development?
2. What changes have occurred in coastal management over the last decade and what are the new and emerging pressures that affect coastal communities?
3. How effective are NZCPS policies in providing guidance for the preparation of plans and policy statements; decision-making about resource consents; and dealing with emerging issues in the coastal environment?

APPENDIX FIVE

SUMMARIES OF PLAN/POLICY STATEMENT ANALYSIS FOR AUCKLAND, BAY OF PLENTY AND SOUTHLAND REGIONS

A5.1 LIST OF PLANS AND POLICY STATEMENTS

Auckland Regional Policy Statement
Auckland Regional Coastal Plan
Waitakere District Plan
Proposed Rodney District Plan

Bay of Plenty Regional Policy Statement
Bay of Plenty Regional Coastal Environment Plan
Tauranga District Plan
Western Bay of Plenty District Plan

Southland Regional Policy Statement
Southland Regional Coastal Plan
Invercargill District Plan
Southland District Plan

AUCKLAND REGIONAL POLICY STATEMENT

Analysis of consistency with New Zealand Coastal Policy Statement

(Summary)

The Auckland Regional Policy Statement (ARPS) was made operative on 31 August 1999. Overall, the ARPS is satisfactory in being consistent with the New Zealand Coastal Policy Statement (NZCPS), however there is minimal reference to the NZCPS policies and principles. The coastal environment in the Auckland region contains extensive harbours, estuaries and embayments and a myriad of islands (ARPS p.71). The coastal environment of Auckland is also under some of the most intense development pressure in New Zealand.

The ARPS satisfies Chapter 1 of the NZCPS that requires the preservation of the natural character of the coastal environment. ARPS Policy 7.4.4 states that *'the natural character of the coastal environment shall be preserved and protected from inappropriate subdivision, use and development by avoiding adverse effects'* on areas of high natural character. For the areas which are not classified as having high natural character, the provisions of the plan step down a bit to read: *'avoid where practicable, or remedy or mitigate the adverse effects of subdivision, use and development'*.

The NZCPS Policy (1.1.5) requiring restoration and rehabilitation of the natural environment where appropriate is achieved to a high standard by the ARPS provisions (p6 –14) which state that the natural character of the coastal environment shall be restored and rehabilitated, where appropriate. The Auckland Regional Council (ARC) states its preference for the use of local indigenous stock in landscape restoration, satisfying NZCPS Policy 3.2.10. The ARPS also contains clear criteria for identifying the *'significance of natural heritage resources'* and for assessing their contribution to the viability of the region's ecosystems, which is a necessary step in the protection of natural character.

Chapter 2 is partially satisfied by the provisions of the ARPS. The ARC recognises the right of tangata whenua to identify all or any areas of special value, including the right not to identify any areas of special value, which is consistent with NZCPS. The characteristics of the coastal environment of special value to tangata whenua will be managed in accordance with the objectives and policies of Chapter 3 of the ARPS, which is satisfactory - ensuring Maori are consulted and involved in the resource management process.

However, the reference to implementation of Section 33 (transfer of power) and Section 34 (delegations) is minimal, stating that tangata whenua will be consulted if the ARC proposes to transfer functions, duties and powers. No discussion is provided about NZCPS Policy 4.1. However, the ARPS is consistent with requirements of NZCPS Policy 4.2 by recognising the Treaty of Waitangi in various ways. The ARPS provides a brief introduction to traditional Maori interests and values (p.31) and recognises the need for direct and effective involvement of tangata whenua in the sustainable management of their ancestral taonga (3.2.2). The Regional Council also acknowledges that the Treaty of Waitangi needs to be recognised in the sustainable management of ancestral taonga. Perhaps, one of the most relevant provisions of the ARPS for its consistency with Policy 4.2 is Objective 3.3 which reads: *'To involve tangata whenua in resource management processes in ways which: (i) take into account the principles of the Treaty of Waitangi, including rangatiratanga; (ii) have particular regard to the practical expression of kaitiakitanga.'*

The ARPS is for the most part consistent with the policies of Chapter 3 of the NZCPS. The ARPS ensures that access to the coast by the public is restricted only when absolutely necessary – as required by the NZCPS. However, the ARPS contains minimal provisions to ensure access to the coast is available for people with disabilities. The ARPS performs well in regards to provisions about papakainga housing (7.4.10.10), notification of the Maritime Safety Authority and the Hydrographic Office of the Royal New Zealand Navy regarding new structures and works in the CMA (Method 7.4.11.4), use of indigenous species (7.4.5.1) and the adoption of a precautionary approach (Policy 7.4.10.3), satisfying the NZCPS policies. Policy 3.3.2 of the NZCPS (the sharing of knowledge) is partially satisfied by the sharing of inventories managed across the various local authorities and agencies in the Auckland region (i.e. sites of natural significance). This is an important initiative by the relevant authorities in the Auckland region to ensure information is shared.

The ARPS contains minimal discussion on cumulative effects on the coastal environment and minimal discussion on waste disposal. Subdivision is provided for in ARPS Policy 7.4.10 that lists a number of matters to consider when assessing the appropriateness of subdivision, use and development in the coastal environment, as does ARPS Policy 3. The combination of these two policies is considered to be consistent with NZCPS requirements for the protection of significant landscapes from inappropriate subdivision, use and development.

The ARPS contains discussion on how the phrase ‘*avoid, remedy, or mitigate*’ and combinations thereof are used in various places throughout the policy statement. (Overall though, the ARC has adopted an approach to the use of these words as encapsulated by Policy 3.2.2 of the NZCPS which states that: ‘*Adverse effects of subdivision, use or development in the coastal environment should as far as practicable be avoided. Where complete avoidance is not practicable, the adverse effects should be mitigated and provision made for remedying those effects, to the extent practicable.*’ The objectives and policies of the ARPS are consistent with the esplanade reserves requirements and the financial contributions requirements of the NZCPS.

The ARPS contains excellent provisions which satisfy the requirements of the NZCPS in relation to the reduction of trade wastes (NZCPS 5.1.5). It also satisfies NZCPS Policy 5.1.4 in that the ARPS states that there shall be a review of all discharge permits which are relevant to the issues/activities to which the plan applies. A variety of non-statutory methods are used to reduce non-point discharges (NZCPS Policy 5.1.6). No discussion was included on vessel waste disposal or maintenance.

The ARC has acknowledged the need to implement New Zealand’s international obligations and has initiated monitoring programmes in co-operation with other agencies. The region has initiated a variety of community environmental care programmes that are discussed separately in the report.

A5.3 AUCKLAND REGIONAL COASTAL PLAN

Analysis of consistency with New Zealand Coastal Policy Statement (Summary)

The Auckland Regional Coastal Plan (ARCP) is only partially operative, and is in the final stages of gaining approval from the Minister of Conservation. The results of many of the challenges to the plan were not surveyed as part of this analysis. There are potential plan changes being considered, including provisions for coastal occupation charges.

The Auckland coastal environment comprises high-energy, black sand beaches on the west coast, golden sandy beaches on the east coast, three major harbours, and a variety of inlets and estuaries. The east coast of the region's coastal marine area, and parts of off shore islands, are included in the Hauraki Gulf Marine Park and are subject to the provisions of the Hauraki Gulf Marine Park Act 2000 (HGMPA). For the purposes of planning in the park, Sections 7 and 8 of the HGMPA must be treated as a New Zealand Coastal Policy Statement (NZCPS) issued under the Resource Management Act 1991. The Hauraki Gulf Forum is the statutory authority charged with achieving integrated management of the marine park area. The HGMPA is not subject to review as part of this analysis.

Overall, preparation of the ARCP has explicitly considered the NZCPS acknowledging the individual policies of the NZCPS and the Schedule of Restricted Coastal Activities (RCAs).

The ARCP has used Conservation Protection Areas 1 (CPA1 – areas requiring preservation) and Conservation Protection Areas 2 (CPA2 – areas requiring protection) to protect the natural character elements provided for in Chapter 1 of the NZCPS. CPA1 areas have higher protection and the imperative to avoid adverse effects, because of their significant value and higher vulnerability to adverse effects. CPA 2 areas still require special protection and generally refer to those matters provided for in NZCPS Policies 1.1.3–1.1.5.

Two tangata whenua management areas have been established and are generally managed as if they are categorised as CPA2 areas. Policies 2.1.3 and 4.2.2 (kaitiakitanga, Section 33 transfers, participation in decision-making) have been satisfactorily provided for in policies about tangata whenua management areas. Although these matters have also been referred to in general discussions about the potential adverse effects of activities, provisions relating to the transfer of power or delegations have not been comprehensively included in policies, rules and standards related to management of activities. The Crown's interest in the CMA is provided for generally. There are no charges for coastal occupation and the Crown's ongoing interest on behalf of all New Zealanders is not acknowledged. The plan does acknowledge the debate between the Crown and Maori about ownership of the foreshore and seabed.

Consistency with NZCPS Chapter 3 policies is variable. For example, policies 3.1.2 and 3.1.3 are explicitly acknowledged in policies in the ARCP concerning protection of important historic, cultural, recreational and scientific values, and in the recognition of open space as important in enhancing amenity values. The ARCP also explicitly defines what is appropriate use and development in the CMA and where adverse effects of activities should be avoided, mitigated or remedied in the various management areas, as required in NZCPS policies 3.2.1 and 3.2.2. However, no provisions are made for the explicit use of rules or standards requiring financial contributions to offset environmental damage as provided for in

Policy 3.2.3. Several sections of the ARCP contain policies and methods to implement the precautionary approach and deal with uncertainty (NZCPS 3.3.1,3.3.2). Restrictions to potential public access to and along the CMA are included in the ARPS and provisions for public access are included in the standards for use and development in the CMA (NZCPS Policy 3.5.3).

Discharges of sewage and other pollutants, and the maintenance and enhancement of water quality (NZCPS Policy 5.1.1) are comprehensively provided for, with the discharge of human sewage a RCA as required by the NZCPS. Other implementation methods are used to provide for the adverse effects of vessel waste. NZCPS Policy 5.2.2 regarding rubbish collection and sewage connections is not addressed in the rules about marina development.

The ARCP includes explicit rules and standards about RCAs as required in Schedule 1 of the NZCPS. The ARCP does not refer to monitoring requirements of NZCPS Policy 7.1.3, but the ARC has stated it will work with DoC and other relevant agencies to monitor the coastal environment.

A5.4 WAITAKERE DISTRICT PLAN

Analysis of consistency with New Zealand Coastal Policy Statement (Summary)

The Waitakere District Plan (WDP) was made operative on 27 March 2003. While there are some issues yet to be resolved through appeals, these do not substantially affect the provisions about the coastal environment.

The Waitakere district contains a variety of natural and built environments that have been acknowledged in the WDP through a variety of subdivision, use and development standards. Natural environments range from the wild coastal landscapes on the west coast to the highly modified shores of Waitemata Harbour, which also has many bays and inlets with mangrove and wetland habitats.

Overall, the WDP provisions about the protection of all natural landscapes, including the coastal landscapes, are good. The WDP is also well supported by a variety of non-statutory methods to guide residents in living with the natural environment.

The NZCPS Chapter 1 policies are explicitly provided by several policies in the Plan. The Waitakere District Council defines the natural character of the coastal environment, acknowledges the need to protect the natural character of the coast, manages adverse effects of activities, and also defines the criteria for appropriate development of settlements. However, NZCPS Policies 1.1.4 and 1.1.5 are not reflected in policies or rules of the WDP.

Characteristics of special value to tangata whenua are identified in policies and rules, satisfying NZCPS Policies 2.1.1 and 2.1.2. However, Policy 2.1.3 has not been implemented. Therefore it is not clear in what circumstances Section 33 transfers of power would be considered, or the circumstances in which Section 34 delegations to committees, comprising representatives of relevant tangata whenua, would be carried out. There is no explicit consideration of NZCPS Chapter 4 matters.

The WDP contains rules and standards relating to NZCPS Chapter 3 matters, including the consideration of the effect of land-based activities on the natural character of the coast and on freshwater. The emphasis is placed on minimising effects at the source of pollution, targeting bush and other land clearance, stormwater discharges and adverse effects on spiritual values, riparian values and amenity. The major concern with the WDP is that there is so much flexibility in the rules, that only monitoring over time can provide information about the plan's ability to protect '*bottom-line*' values in the coastal environment. There is differentiation between '*coastal environments*' and '*bush living*' environments. Papakainga housing is not explicitly provided for (NZCPS Policy 3.2.6).

Although no explicit provision is made to implement NZCPS Policy 3.2.4 (cumulative effects) and 3.3.1 (precautionary approach), the nature of the rules and performance standards indicate that these policies are implicitly implemented. Restoration of indigenous habitat (3.2.10) is carried out in other voluntary initiatives discussed in this report. Policies about recognition of natural hazards, protecting natural defences and providing for sea-level rise are implemented through rules and standards about new development. The natural hazard threats and existing development (NZCPS Policy 3.4.6) is not explicitly managed.

Access to and along the CMA by people with disabilities is ignored, but the need to provide for public access is recognised through a variety of district plan provisions.

The WDP is generally excellent in its provision for ecological matters, and as a result many of the NZCPS policies are implemented due to the overall catchment management in urban areas being better (e.g. management of storm-water and the minimisation of impervious surfaces). The city also has a number of other initiatives that reinforce the ‘*eco-city*’ image and contribute to implementation of NZCPS policies, including the Green Network Pamphlet series about living in various parts of the city. One example – ‘*Living by the Waitemata Harbour*’ provides advice to residents about managing pests, pollution, protecting important environmental areas, joining environmental groups in the area, and good plants for residential gardens.

However, the NZCPS is explicitly referred to in only the general introduction to the WDP along with other statutory plans and policy statements that ‘*set the general framework and parameters for managing activities within the region and, in particular, around the coast*’ (WDP, p9). Some of the NZCPS policies are reflected in policies without **explicit** rules and standards (e.g. cumulative effects and precautionary approach) being included. It could be argued that the impact of this on the quality of decisions about development can only be measured over time.

A5.5 PROPOSED RODNEY DISTRICT PLAN

Analysis of consistency with New Zealand Coastal Policy Statement (Summary)

The Proposed Rodney District Plan (RDP), advertised in November 2000 (and updated in 2002) has been analysed as part of the NZCPS Review. The operative transitional district plan has not been analysed.

Rodney District is a large district – 45 per cent of the Auckland Region. The Hibiscus Coast urban areas – Waiwera, Orewa, Whangaparaoa and Silverdale – are the largest communities. The Whangaparaoa Peninsula dominates the 40 km coastal strip and the district boasts several broad, sandy beaches that are important recreational resources for Aucklanders.

The Rodney District Council (RDC) adopted a different philosophy when preparing the district plan. The coast is not considered separately except in terms of hazard management. Instead, the Council has been guided by Section 6 of the RMA, believing it has *'a clear duty to protect and maintain natural resources and landscapes'* and focuses on *'highly valued natural resources'*.

'These have been defined in the Rodney context by statutory considerations, such as the RMA itself, Auckland Regional Council documents, Department of Conservation, Conservation Management Strategy and by the local community'. In keeping with the RMA, *'specific highly valued natural resources have been identified following an extensive research process undertaken by the Council. They are identified as: (a) Significant Natural Areas; (b) Landscapes; (c) Geologically Significant Sites'* (Section 6.1.1)

The RDC has not referred explicitly to the NZCPS in establishing highly valued landscapes, nor has it used the NZCPS to explain or justify policies, rules and standards about use and development of natural resources in the coastal environment.

Therefore, although NZCPS Chapter 1 policies have generally been implemented, it is difficult to assess whether the intent of the individual NZCPS policies has been retained. For example, the RDP does not provide for adverse effects to be avoided in habitats important to endangered species, or in areas containing nationally valuable species or outstanding examples of indigenous community type. Policy 7.4.4 requires the avoidance of adverse and cumulative effects of development (NZCPS Policy 1.1.1(c)) by protecting wetlands and riparian vegetation, but protection is not clear. District Plan Policy 7.8.2.2.4 requires that the intensity of subdivision should be such that *'a non-urban, open coastal character is retained and cumulative effects on special character do not result'*, which are not the words used in the RMA or the NZCPS. NZCPS Policy 1.1.3(b) recognises the Maori relationship with the land, but does not refer specifically to coastal environment. RDC aims to implement the restoration Policy 1.1.5 through Policy 7.4.9/10 - protect native biodiversity. Where avoidance is not possible, restoration and enhancement is required.

District Plan Policy 7.4.18 provides the most comprehensive coverage in protecting coastal features of importance to tangata whenua, but it does not mention tikanga Maori. The concept of kaitiaki is also discussed generally, but no firm statement is included about the Council's intentions. Sites of importance to tangata whenua to be protected from inappropriate subdivision use and development, are those identified by the Historic Places

Trust (Section 18.7) – not tangata whenua. Matters in NZCPS Policies 2.1.2 and 2.1.3 (transfers of power and delegations) are not provided for in the RDP.

The RDP does provide for places of significance as discussed in NZCPS Policies 3.1.1 and 3.1.2, by establishing protection zones with rules and standards about subdivision use and development. Subdivision on ‘*greenfield*’ sites needs to include appropriate infrastructure to avoid adverse effects on the coastal environment. Financial contributions are provided for – but it is not clear that contribution will offset unavoidable environmental damage (Policy 7.4.10). Papakainga housing is provided for, and other matters in Chapter 3 are recognised in the RDP policies.

The RDC provides for access to the coast by establishing an ‘Open Space 3 (Water Access) Zone’. The objective of this zone is ‘*to maintain and enhance public access, for the recreational needs of the District, to and along the coast, lakes, rivers and streams, without compromising amenity values on surrounding areas*’. The rules generally provide protection for public access from inappropriate buildings and structures (Rule 10.9.2). However, there is minimal (to nil) reference about Maori access to the coast, or access for the disabled.

The Council has also used bylaws to deal with matters in the Gulf Harbour marina (navigation, fires, protection of structures and personal conduct) and urban streams (stormwater). In 1999, the Council completed an environmental monitoring report that provides a starting point for observing change in environmental conditions.

BAY OF PLENTY REGIONAL POLICY STATEMENT

Analysis of consistency with the New Zealand Coastal Policy Statement

(Summary)

The Bay of Plenty Regional Policy Statement (BOPRPS) became operative on 1 December 1999. Environment Bay of Plenty (EBOP) exercises control over 9509 km² of New Zealand's coastal marine area (CMA). It includes sandy beaches, rocky shores, estuaries, coastal wetlands, bays, cliffs, harbours, and islands. The Crown owns the majority of the CMA, however some small areas adjacent to the coastline are in private ownership and some areas are subject to Maori claim. The region is growing rapidly and there is increasing pressure on the coast, particularly by increasing production of resources, the assimilation of waste, and land development.

Overall, the BOPRPS is not inconsistent with the New Zealand Coastal Policy Statement (NZCPS). Apart from mentioning the NZCPS in the introductory paragraphs of the Coastal Environment chapter, there is little mention of the NZCPS throughout the rest of the regional policy statement. However, the intent of NZCPS policies is reflected in some BOPRPS policies.

The BOPRPS contains provisions which preserve the natural character of the coastal environment, as required by NZCPS Policy 1.1.2. For example, the provisions contained in Section 16.3.1 recognise and protect *significant* indigenous habitats and ecosystems in the region. No provision, however, is made for the avoidance of adverse effects of subdivision, use and development on the *specific* types of habitats outlined in NZCPS Policy 1.1.2(a) & (b). However, Policy 16.3.1(b)(v) does provide general protection to habitats and ecosystems. The BOPRPS also contains '*Management Guidelines for Natural Features and Landscapes*'. NZCPS Policy 1.1.5 is implemented through BOPRPS Policies in 16.3.2, which aim to restore and rehabilitate the coastal environment mainly through the use of non-regulatory methods and co-operation with other agencies.

The BOPRPS contains objectives and policies regarding the Treaty of Waitangi, Maori culture and traditions, consultation, partnership, and plan making. These general provisions do not directly satisfy Policies 2.1.1 and 2.1.2 of the NZCPS, with exception to the second part of NZCPS Policy 2.1.1 that provides for the right of tangata whenua to choose not to identify all or any characteristics of the coastal environment of special value. Policy 5.3.2(b)(ii)¹ of the BOPRPS recognises the role of tangata whenua as kaitiaki, and the BOPRPS partially satisfies Policy 4.2.2 of the NZCPS, including excellent provisions on effective consultation with iwi. The BOPRPS discusses the principles of the Treaty of Waitangi including the principle of active protection – which '*implies that the Crown has a duty to ensure that tangata whenua participation in resource management is adequately resourced*'².

The provisions of the BOPRPS partly provide for the maintenance and enhancement of amenity values (NZCPS Section 3.1) and for appropriate subdivision, use and development of the coast (NZCPS Section 3.2). Public access to and along the coast is explicitly provided for in Policy 9.3.3(b) as required by NZCPS 3.5.1. However, there is minimal consideration

¹ pg 78

² pg 66

of creating esplanade reserves, esplanade strips or access strips where they do not already exist (NZCPS Policy 3.5.3), except perhaps very generally by Policy 9.3.3(b)(i) which aims to *'enhance public usage and enjoyment of the CMA'*.

The hazard provisions in the BOPRPS are reasonably consistent, but somewhat weaker than what is required by Section 3.4 of the NZCPS. Policy 3.4.1 of the NZCPS is provided for generally by a number of policies in Chapter 11 that refer to the importance of the identification of hazards, however in the BOPRPS no hazard locations have yet been identified. The BOPRPS recognises the possibility of sea-level rise and the ability of natural systems to act as a barrier to natural hazards (NZCPS 3.4.2), however there are no provisions to enhance the ability of such natural features as required by NZCPS Policy 3.4.3. The intent of Policy 3.4.4, which states that *'natural features may migrate inland'* is incorporated extremely well into Policy 11.3.1(b)(xv) of the BOPRPS. The BOPRPS achieves only partial consistency with NZCPS Policy 3.4.5 as after wording similar to that of the NZCPS it adds: *'unless there is a particular functional need to locate in an area subject to significant risk'*, and these words weaken the consistency of Policy 11.3.1(b)(xv) with NZCPS Policy 3.4.5 considerably. The BOPRPS advocates the use of a precautionary approach as part of its guiding principles, but there are no specific policies relating to use of a precautionary approach in the CMA. The BOPRPS contains policies on information sharing and co-operation between local authorities.

The BOPRPS contains policies that aim to enhance the water quality of the coastal environment, satisfying NZCPS Policy 5.1.1. It explicitly considers NZCPS Policy 5.1.3 and partially considers NZCPS Policy 5.1.6. Many of the policies relating to improving water quality focus on improving land management practices, which may result in improved water quality of the coastal marine environment.

Many of the communities in the Bay of Plenty region are in need of an upgraded sewage treatment plant in order to meet the requirements of NZCPS policies regarding the disposal of human sewage. Unfortunately, the only mention of sewage reticulation in the BOPRPS is in relation to sources of odours in the chapter on air. Taking into account the pressure of urban growth in the region, this is not particularly consistent with the intent of the NZCPS. The appropriate management of vessel waste is not specifically discussed but is provided for in the general policies on waste management in BOPRPS Section 12.3.3.

It is acknowledged in the introduction to the coastal chapter of the BOPRPS that the Minister of Conservation has a number of roles, including that of determining a schedule of RCAs and being the consent authority for these activities.

A5.7 BAY OF PLENTY REGIONAL COASTAL ENVIRONMENT PLAN Analysis of consistency with the New Zealand Coastal Policy Statement (Summary)

The Regional Council approved the part of the Bay of Plenty Regional Coastal Environment Plan (BOPRCEP) that does not refer to the Coastal Marine Area (CMA), on 12 December 2002. The part of the BOPRCEP referring to the CMA is currently awaiting approval from the Minister of Conservation.

Environment Bay of Plenty (EBOP) exercises control over 9509km² of New Zealand's CMA, most of which is owned by the Crown. Some parts are in private ownership and some areas are subject to Maori claim. The Port of Tauranga is the largest export port in New Zealand. The coastal environment is diverse and it includes sandy beaches, rocky shores, estuaries, coastal wetlands, bays, cliffs, harbours, and islands.

Overall, the BOPRCEP is not inconsistent with the New Zealand Coastal Policy Statement (NZCPS). The BOPRCEP policies, objectives and methods are rarely quoted or use NZCPS words, however the intent is kept relatively clear (18.2.5(b))³. In other instances, NZCPS policies are altered to suit different issues and activities. This means that the provisions of the BOPRCEP may rarely quote the NZCPS, or use its words, which gives the impression that the BOPRCEP may have in some instances changed the intent of the NZCPS. There are very few policies of the NZCPS that are ignored and it even includes a summary of the issues covered in the NZCPS.

The BOPRCEP manages natural character issues in the 'Coastal Habitat Preservation' and 'Coastal Management' zones. There is reference to NZCPS Policies 1.1.1 and 1.1.4 in the explanation/principle reasons in the natural character section of the BOPRCEP. The schedules identify areas of significant conservation value, natural features and landscapes, significant marsh bird habitat areas, significant indigenous vegetation areas, and areas of significant cultural value. The consideration of NZCPS Policies 1.1.1–1.1.4 is generally partially satisfactory to satisfactory. This consideration is usually implicit although some explicit consideration is shown, for example: BOPRCEP Policy 4.2.3(f)⁴, and 8.2.2(a)⁵. NZCPS Policy 1.1.5 is considered explicitly, by BOPRCEP Policy 4.2.3(g), although the intent is changed by omitting the word 'rehabilitate'.

The consideration of NZCPS Policies 2.1.1 and 2.1.2 is generally satisfactory. Policy 2.1.3(a) is considered explicitly by BOPRCEP method 8.2.4(g)⁶, but lacks guidance about

³ Method 18.2.5(b) p.115 *'In consultation with tangata whenua and other heritage agencies, Environment Bay of Plenty will investigate the most appropriate means of protecting sites of cultural heritage value without the need for their explicit identification.'*

⁴ Policy 4.2.3(f), pg.25 *'New subdivision, use and development should be located in areas already modified by development. It should also be compact, not add to sprawl or sporadic development, and minimise further loss of the remaining natural character of the areas. In particular, further urban development of the coastal environment in western areas of Tauranga Harbour, Ohiwa Harbour, and Waiotahi Estuary, should be avoided unless it can be demonstrated that there will not be cumulative effects on the natural character and life supporting capacity of these areas.'*

⁵ Policy 8.2.2(a) p.40: *'The involvement of tangata whenua in management of the coastal environment.'*

⁶ Method 8.2.4(g) p.41: *'Consider the transfer of resource management functions, duties and/or powers to iwi authorities where such is appropriate to the circumstances and to both parties, having regard to the requirements of Section 33 of the RMA.'*

when 'transfer of powers' should occur. Delegations are not discussed at all. Chapter 8 of the BOPRCEP deals with tangata whenua matters, and contains policies and rules that partially achieve NZCPS 4.2.1 and 4.2.2. The Plan contains general policies regarding the involvement of tangata whenua in the management of the coast and for tangata whenua's role as kaitiaki in the coastal environment. The NZCPS Policy 3.2.6, to provide for papakainga housing is well implemented by policy 8.2.3(d) and Schedule 14 of the Plan identifies areas of significant cultural value. The NZCPS policies relating to the interests of the Crown in the CMA are inconsistently provided for in the Plan.

NZCPS Policy 4.1.4 is implemented well by Policy 15.2.3(g) that ensures appropriate materials are used to create and form reclamations. NZCPS Policy 4.1.6 relates to management of the disturbance of foreshore and seabed and this is partially achieved by BOPRCEP Policies 14.2.2(b) and 15.2.3(d). Provision has been made in the BOPRCEP for use of the CMA for defence purposes, by a variety of rules, particularly by Rules 20.2.4(a), 14.2.4(f), (h), and (i).

The use of the coast by the public (NZCPS Policy 3.1.1) is considered partially by the BOPRCEP policies, including Policies 7.2.3(a), 19.2.3(b) and (e). There is evidence that NZCPS Policy 3.1.2 has been taken into consideration due to the inclusion of Schedules 3, 4, 6, 7, 14, Objective 18.2.2 and Policy 18.2.3(b). Schedule 5, '*Landscape Guidelines for Natural Features and Landscapes*' identifies the retention of public open space as a priority, but as this is only a guideline, NZCPS Policy 3.1.3 is only partially achieved. Policy 3.2.4 of the NZCPS is achieved satisfactorily by the inclusion of rules, and schedules of permitted, discretionary, and restricted activities in the CMA. Similarly, NZCPS Policy 3.2.2 is achieved satisfactorily by the inclusion of objectives, policies and rules regarding the adverse effects of subdivision, use and development for each identified activity. NZCPS Policy 3.2.3 is achieved by the inclusion of schedule 10 '*Financial Contributions*', however, the amount of contribution and the purposes to which contributions will be used are only generally specified. NZCPS Policy 3.2.7 is achieved by policies, methods and rules, particularly in Section 9 '*Discharges*' of the BOPRCEP.

Section 22 of the BOPRCEP provides for marine protected areas, which partially achieves NZCPS Policy 3.2.8. The BOPRCEP contains requirements to notify the Maritime Safety Authority (Methods 13.2.5(c), 15.2.5(d)) and this partially satisfies the intent of NZCPS Policy 3.2.9. NZCPS Policy 3.2.10 is achieved satisfactorily by BOPRCEP method 4.2.5(b), and the Schedule 5 guidelines (5.9 (f)). A precautionary approach is used throughout the BOPRCEP in planning for various activities and issues, satisfying NZCPS Policy 3.3.1 (i.e. 15.2.3(b), 14.2.3(i), 16.2.3(g) and 17.2.3(d) all use the precautionary approach to some degree). BOPRCEP Schedule 11 includes provisions to deal with cross boundary issues and this partially satisfies NZCPS Policy 3.3.2.

An analysis completed by Jacobson (2004) shows that the BOPRCEP is generally comprehensive in dealing with coastal hazard issues, with the exception of NZCPS Policy 3.4.4 (potential migration of natural features inland with sea level rise). Reference is made to NZCPS Policy 3.5.1 in the explanation/principle reasons of Section 12, '*Occupation of Space*'. Policy 3.5.1 of the NZCPS is achieved excellently by BOPRCEP Policy 7.2.3(a). NZCPS Policy 3.5.3 is well implemented due to BOPRCEP Policies 4.2.3(j), 7.2.3(b) and (c).

Section 9 of the BOPRCEP contains policies and rules which have the objective of enhancing the quality of water, and this with Schedule 13, '*Water Quality Standards*' is consistent with NZCPS Policy 5.1.1. Policy 9.2.3(g) of the BOPRCEP is partially consistent with NZCPS Policy 5.1.2, although it does differ from the NZCPS wording and intent. NZCPS Policy 5.1.3 is achieved satisfactorily by Policy 9.2.3(b), whilst NZCPS Policy 5.1.4 is only partially achieved by Policies 9.2.4(g) and (h). The NZCPS Policy 5.1.7, which requires the public to be warned adequately when water is not safe for swimming or other activities, is achieved satisfactorily by 9.2.3(m) and 9.2.5(a). The policies of the NZCPS relating to the disposal of rubbish by vessels are satisfied in part – for example 13.2.3(q) of the BOPRCEP is limited to marinas only. NZCPS Policy 5.2.3 is partially achieved by BOPRCEP methods 9.2.9, 9.2.8(c) and (d). NZCPS Policy 5.2.4 is achieved satisfactorily by Rule 9.2.4(e), while NZCPS Policy 5.2.5 is partly achieved by Rule 10.2.4.

The NZCPS Restricted Coastal Activities (RCA) schedule is repeated in the BOPRCEP and this forms the benchmark for determining RCAs in the Bay of Plenty region. The BOPRCEP acknowledges the NZCPS imperative to implement New Zealand's international obligations in the coastal environment. As a final note, EBOP has an outstanding community environmental programme especially in regard to the coastal environment. This is discussed in another section of the report.

A5.8 TAURANGA DISTRICT PLAN

Analysis of consistency with the New Zealand Coastal Policy Statement (Summary)

The Tauranga District Plan (TDP) was notified as operative on 1 July 2003, with the exception of provisions that relate to the coastal area of Papamoa East. The Tauranga District is one of the fastest-growing provincial areas in New Zealand and as such there is increasing pressure on the coastal environment due to subdivision, use and development. The Port of Tauranga is located here and the majority of the district is located on low-lying coastal plains. Overall, the TDP is moderately to poorly consistent with the New Zealand Coastal Policy Statement (NZCPS), even though the Plan states that the NZCPS is one of the guiding documents which must be taken into account.

The TDP contains general policies and methods which relate to the protection of the natural character of the Coastal Marine Area (CMA), partially satisfying Chapter 1 of the NZCPS. The TDP contains a '*Special Ecological Site Register*' that provides protection for significant ecological habitats and sites as required by Policy 1.1.2 of the NZCPS. The TDP also contains policies that protect outstanding landscapes, some of which refer to the NZCPS. However, apart from the rules relating to the conservation zones, there are not many other rules that ensure adverse effects on '*outstanding values*' are avoided, remedied or mitigated, which is not adequate, particularly due to the fact that the district is undergoing dramatic urban expansion.

The TDP contains policies and methods that protect the characteristics of areas of special value to the tangata whenua that partially satisfy the requirements of NZCPS Policies 2.1.1 and 2.1.2. The transfer of powers and/or delegation of functions to Maori are not addressed adequately in the TDP, which is not consistent with the NZCPS.

The TDP contains '*Special Subdivision Rules*' for the '*Coastal Landscape Policy Area at Matapihi*' (Rule 21.3.1.9) with relation to avoiding, remedying or mitigating adverse effects that partially satisfy the requirements of NZCPS Policy 3.2.2. However, some of the rules include clauses that may be relaxed due to interpretation, which may therefore not result in the rule's intended outcome.

The TDP identifies financial contributions under RMA Section 108 as a tool to offset general adverse effects and this may partially satisfy NZCPS Policy 3.2.3. However, although financial contributions may be used in the coastal environment, there is no imperative to offset environmental effects. The TDP identifies areas in the CMA where coastal hazards exist called the '*Coastal Hazard Erosion Policy Area*' partially satisfying NZCPS Policy 3.4.1. NZCPS Policy 3.4.4 is implemented through TDP policy 4.2.2.4.

TDP Policy 3.6.1.5 provides for the creation of esplanade reserves or strips, and it explains why such mechanisms should be used. However, the policy is implemented through non-regulatory methods such as identifying of reserves and walkways, restricting development in the conservation zone, and relying on Section 230 of the RMA for taking reserves through subdivision. Overall, the TDP contains few rules regarding public access except in recreational areas and conservation zones.

A5.9 WESTERN BAY OF PLENTY DISTRICT PLAN

Analysis of consistency with the New Zealand Coastal Policy Statement (Summary)

The Western Bay of Plenty District Plan (WBOPDP) was notified as operative on 4 July 2002 and is currently subject to several proposed plan changes. Within the district of Western Bay of Plenty are extensive coastal plains, Matakana Island, the Maketu and Little Waihi estuaries, and part of the Tauranga Harbour. WBOP is a rapidly growing area and there is considerable pressure on the coast, particularly for production of resources, assimilation of waste and land for development. Overall, the WBOPDP considers the New Zealand Coastal Policy Statement (NZCPS) provisions poorly, and furthermore there are very few references to the NZCPS.

The WBOPDP contains objectives, policies and methods which relate to the protection of the natural character of the Coastal Marine Area (CMA) and this partially satisfies NZCPS Policies 1.1.1(b) and 1.1.1(c). The WBOPDP schedules for *'Identified Significant Ecological Features'*, *'Identified Significant Landscape Features'* and *'Identified Significant Heritage Features'*, along with relevant rules and performance standards, partially satisfy NZCPS Policies 1.1.2 and 1.1.3.

The WBOPDP contains policies and objectives that provide some general protection for Maori culture and traditions; however they do not directly satisfy Policies 2.1.1 and 2.1.2 of the NZCPS. Furthermore, the WBOPDP contains no provisions regarding the transfer of powers or delegation of functions as required by the NZCPS.

The schedule of *'Identified Heritage Features'* implicitly satisfies NZCPS Policy 3.1.2. Policy 3.2.1 of the NZCPS is partially satisfied by the Plan's provisions in regards to ensuring appropriate subdivision in the rural and future urban zones. The Plan also partially fulfils NZCPS Policy 3.2.2 that requires the avoidance of adverse effects of subdivision, use and development. The WBOPDP contains appropriate provisions for papakainga housing satisfying NZCPS Policy 3.2.6.

Jacobson's (2004) analysis concludes that the coastal hazard provisions of the WBOPDP *'largely repeat the coastal hazard related NZCPS policies, with few embellishments or extensions and little explanation'*. The policies, objectives and methods of the WBOPDP that relate to public access partially satisfy NZCPS Policy 3.5.1 and also those policies relating to esplanade reserves. The WBOPDP is the only district plan examined that identifies land required for esplanade reserves or strips regardless of the lot size. The Western Bay of Plenty Council has also identified alternative provisions (under Sections 338 or 440 of the Maori Land Act 1993 (Te Ture Whenua Maori)) to ensure when traditional Maori land is subdivided, reserves are not alienated from Maori ownership. This fulfils the requirements of NZCPS Policies 3.5.1 and 3.5.4.

A5.10 SOUTHLAND REGIONAL POLICY STATEMENT Analysis of consistency with New Zealand Coastal Policy Statement (Summary)

The Southland Regional Policy Statement (SRPS) was made operative on 15 November 1997. The Southland Regional Council (SRC) is responsible for over 3000 km of coastline. Much of the coastline is isolated, substantially unmodified and contains areas of high amenity and conservation value, particularly in the adjoining World Heritage Area of Fiordland National Park. The coastal waters of Stewart Island represent one of the largest areas of unmodified marine habitats in New Zealand. Important industries related to the coast include the Port of Bluff, fishing industries, and marine farms particularly at Big Glory Bay. The Southland coast also serves as an important recreational resource, particularly in Fiordland and on Stewart Island.

The SRPS contains objectives and policies that are relevant to the management of the coast throughout the plan; in particular in Chapter 5.13 '*Coastal Environment*' and in Chapter 5.1 takata Whenua. Most of the relevant policies of the SRPS are satisfactory in terms of their consistency with the New Zealand Coastal Policy Statement (NZCPS), with several policies of the SRPS policies representing excellent implementation of NZCPS principles and policies. There are also, however, a few areas which there is nil or minimal compliance with the NZCPS. The SRPS is thorough in that most principles and policies of the NZCPS are referred to, particularly in its introductory sections and in some of the explanations for policies and objectives. In places where the NZCPS has not been directly acknowledged, the wording of the policies is often consistent with the intent of the NZCPS.

Overall, the SRPS is not inconsistent with Chapter 1 of the NZCPS. This is achieved through two SRPS policies in particular -13.18 and 13.26. The first being the management of subdivision, use and development of land; and the second policy requiring justification for necessity of activities, uses and developments and structures to be located within the Coastal Marine Area (CMA). There are a few areas that could be improved, such as emphasis on the 'avoidance of cumulative effects' (NZCPS Policy 1.1.1(c)).

NZCPS policies concerning matters of interest to tangata whenua are contained in Chapter 5.1 which is dedicated to Maori resource management. Reference is also made throughout the SRPS to the identification and joint-management of resources important to Maori (Policies 13.1 p.180 and 10.6 p.145). The transfer / delegation of power under Sections 33 and 34 of the RMA is discussed on p.55: '*the transfer of functions from councils to iwi authorities.... offers one of the best opportunities for applying the powers conferred by kawanatanga to support and enhance the practical expression of rangatiratanga. Although not addressed in this Policy Statement, ongoing consultation with the takata whenua will address this matter*'. This approach is furthered embodied in the plan as methods (13.13 & 5.1.5 (1.8)), but has not yet been implemented. No direct mention is made that the Southland Regional Council will notify the Department of Conservation (DOC) if a resource consent application is for an area proposed for protection. However, the SRPS does state that: '*consultation will be undertaken with the Minister of Conservation and DOC, recognising that Department's expertise in respect of the coastal environment, and the fact that the Regional Coastal Plan is to be undertaken in partnership with the Minister, in so far as that Plan pertains to the CMA.*' Therefore, NZCPS Policy 4.1.2 is considered to be partially implemented.

NZCPS Policy 4.1.4 is partially implemented as the Plan proposes to impose a '*management regime*' for any activity that results in the physical disturbance of the seabed and/or foreshore '*to avoid wherever practicable, or mitigate any adverse effects.*'

SRPS Policy 1.2 states that an accord between the local authorities and the takata whenua o Murihiku will be prepared and implemented, providing for consultation protocols. This is considered to be consistent with the intent of Policy 4.2.2(b) of the NZCPS. The Council also recognises Te Whakatau Kaupapa O Murihiku as a kai tahui resource management planning vision for the region, consistent with NZCPS Policy 4.2.2(c). The SRPS states that it intends to consult with and involve Maori in resource management decisions (4.2.2(d); Method 1.5; Method 1.6).

There is minimal reference to the foreshore and seabed being of interest to all New Zealanders, however the statement does contain policies, which ensure that public access to the coast is protected. The relationship between the Crown and Maori in resource management issues is discussed in depth in Chapter 5.1, and it states that the key question '*in relation to kawanatanga is whether local authorities should be regarded as agents of the Crown?*' This, along with the rest of the discussion in the statement is considered to satisfy Policy 4.2.1 as it recognises and asks important questions regarding the relationship between the Crown and tangata whenua as established by the Treaty of Waitangi.

Consistency with NZCPS Chapter 3 is variable. For example, public access to the coast is provided for in Policy 13.2 (p.181), but there is minimal reference to the type of access that Maori can have to sites of cultural significance. Provision has been made for papakainga housing in Objective 10.4, satisfying NZCPS Policy 3.2.6.

The effect that coastal processes can have on the environment is recognised by the precautionary approach adopted in the SRPS (Policy 13.27) and by planning for a sea level rise of 35cm by the year 2050, as recommended by the Intergovernmental Panel on Climate Change (Policy 13.14). The SRPS recognises the ability of natural features to protect development from erosion as required by Policy 3.4.3. The SRPS satisfies NZCPS Policy 3.4.5, but further consideration of other options, such as the abandonment or relocation of buildings before coastal protection works are undertaken, should be included in the Plan as required by Policy 3.4.6. Financial contributions are considered a method to offset the cost of restricting public use (Policy 13.9 and further discussed in Method 10.7) which satisfies Policy 3.2.3 of the NZCPS.

Water quality standards are managed by several policies in the SRPS including Policy 5.5.1 which states that water quality will be maintained and enhanced wherever practicable, partially satisfying NZCPS Chapter 5. Water quality is also maintained or enhanced by Policy 5.5.1(5.2) as it requires non-point source discharges to comply with water quality standards.

The Council encourages those in charge of vessels to use the appropriate disposal units for their sewage – consistent with the NZCPS (5.2.3). Policy 10.3 states provision will be made for the continuance, maintenance and enhancement of existing facilities and infrastructure associated with the operation of ports, while avoiding, remedying or mitigating any adverse effects. To satisfy Section 5.2 of the NZCPS, this policy should be extended to include '*and other busy areas*'.

The SRPS contains excellent provisions to satisfy NZCPS monitoring requirements. The NZCPS requires those managing the coast to identify the procedures and methods that will be used to monitor the coastal environment. Those identified in the SRPS include monitoring the number and type of coastal permits issued; coastal protection works and their effects; background water quality levels; the background condition of areas of the coast; and the impacts of marine farming.

SOUTHLAND REGIONAL COASTAL PLAN

Analysis of consistency with New Zealand Coastal Policy Statement (Summary)

The Southland Regional Coastal Plan (SRCP) was notified as a proposed plan in November 2000. The status of the SRCP as at time of writing can be summarised as follows: the coastal occupation charging regime is fully operative; large parts of the SRPS are beyond appeal; there are outstanding references to marine farming in Paterson Inlet and Port William (waiting for an Environment Court starting date) and for aircraft landing provisions in Fiordland (where the hearing has started and a Section 293 RMA process is underway). A number of other provisions are awaiting the signing-off of Consent memos which are in circulation.

The Coastal Marine Area (CMA) of the Southland Region covers over 3000 km of coastline, which is approximately one seventh of New Zealand's coastline. Much of the coastline is unmodified and it is under less development pressure comparatively than other New Zealand coastlines. The Southland coastal environment is also very significant for the habitat it provides to many species, many of which are endangered. Marine farming, fishing, and recreation and tourism are the major coastal related industries in the Southland region, all of which create additional management pressures in the coastal environment of the far south.

Overall, the SRCP is excellent for its consistency with the principles and the policies of the New Zealand Coastal Policy Statement (NZCPS). The NZCPS is referred to throughout the SRCP and many of the objectives and policies have wording sourced directly from the NZCPS. In several sections of the SRCP an entire chapter of the NZCPS is quoted word for word, followed by discussion on how this is relevant to the Southland coastal marine environment. Furthermore, the explanation/reasons for the adoption of the various policies and objectives often refers directly to the specific NZCPS policy/principle that it is aiming to satisfy and be consistent with. There are also specific instances in the SRCP where it can be said that the Southland Regional Council (SRC) has not only satisfied the intent of the NZCPS principles and policies but has in fact gone beyond it.

The SRC has entered into a 'Coastal Marine Area Agreement' with the Minister of Conservation, Environment Southland, Invercargill City Council and the Southland District Council. Throughout the SRCP reference is also made to the Southland Regional Policy Statement.

The consistency with Chapter 1 of the NZCPS is excellent, not only in the intent of the objectives, policies and rules but also via the Plan's frequency of reference to NZCPS principles and policies. A definition of 'natural character' is provided, mentioning most of the aspects referred to in the NZCPS. A study has been completed by the SRC entitled: '*Natural Character & Landscape Study of the Coastal Environment*' which breaks the coastal environment into 31 distinct units, and although it focuses mainly on the senses for defining natural character, the Council recognises that many other factors as outlined in the NZCPS can contribute what is referred to as 'natural character'. The intent of the NZCPS is achieved and the wording of policy is consistent with the NZCPS which is excellent given the report was completed before the release of the NZCPS.

The SRCP provides a very comprehensive description of the values (e.g. ecological, cultural, recreational) associated with each of the 13 sub-areas of the coastal environment in Southland. This provides the reader with an understanding of why such objectives and policies have been put into place, the importance of the coast to all New Zealanders, and the major issues it is facing today.

Perhaps the policy that best demonstrates the Council's intent to be consistent with the NZCPS, is Policy 5.1.1 about adoption of the NZCPS. The SRCP also identifies and affords protection to over 30 'Geological Sites and Landforms' of national or regional importance satisfying Policy 1.1.3 of the NZCPS. The characteristics of special spiritual, historical or cultural significance to Maori are identified as required by Policy 1.1.3(b) and the SRCP provides a degree of protection via its rules, for example it is a prohibited activity for aircraft to take off or land at Sandy Hill Point which is wahi tapu (Rule 5.2.3). References are made throughout the plan to restore and rehabilitate the natural coast where appropriate (e.g. Policy 5.3.7).

The Plan is satisfactorily consistent with the NZCPS requirement to protect characteristics of special value to tangata whenua. A reasonable amount of background to the values and beliefs of local Maori is provided in the Plan, including the mythology that is central to the perspective of Kai Tahu, and an abridged version of the Treaty of Waitangi (provided in Maori and English). Issues identified by Kai Tahu as having particular importance are listed in the Plan.

The following paragraph quoted from the SRCP is considered to be accurate in its assessment of its consistency with policies of Chapter 2, and is therefore quoted as follows: *'Policies 2.1.1 and 2.1.2 of the New Zealand Coastal Policy Statement require that characteristics of special value to Kai Tahu be identified. That has been partially achieved by the Council facilitating the preparation of 'Te Whakatau Kaupapa o Murihiku', but it is still necessary for consultation between the Council and the four Runaka ki Murihiku to be on-going. It is also necessary for applicants to consult with Te Ao Marama Inc and the New Zealand Archaeological Association Southland File-keeper to identify whether silent files apply to the area of the proposed activity.'* This is considered to be an accurate reflection of the SRCP's consistency with Policies 2.1.1 and 2.1.2 as it has acknowledged that there is still some way to go in fully satisfying NZCPS policies relating to the Treaty of Waitangi.

The intent of Policy 2.1.3 of the NZCPS (delegation and transfer of powers) is discussed in the SRCP, however the conclusion states that *'alternatively, current processes can be used to recognise and provide for takata whenua concerns. These processes could be enhanced through Council facilitated consultation with appropriate members of the runaka. At this time there would seem to be no advantage in transferring any functions to an iwi authority.'* This action only partially satisfies NZCPS Policy 2.1.3 as the approach is still only being discussed/considered.

Compliance with NZCPS Policies 4.1.3, 4.1.4, and 4.1.5 is excellent. Policy 4.2 of the NZCPS is provided for through an outline of Council's intentions to consult with iwi (Obj 5.6.2, Policy 5.6.2). A brochure has been prepared to inform the public regarding the *'Consultation Processes with Iwi pursuant to the Resource Consent Process'*. The Council

not only recognises that the coast is important to the people of the Southland region, but *'that the coast and access to the coast is rated very highly by all New Zealanders'*.

Excellent provision is made in the SRCP for the protection of public access to and along the CMA. Where access is restricted by private use and development, financial contributions will be considered as a way to offset the cost of loss of public access, partially implementing NZCPS Policy 3.2.3. The SRCP also states that the Council will, where practical, obtain land where an esplanade or reserve does not currently exist (NZCPS 3.5.3). Rules contained in the Recreational Section of the SRCP (14.2.1 to 4.2.18) help to ensure that use of the coast by the public does not result in any significant adverse effects as required by Policy 3.1.1. The SRCP contains policies to ensure that access to the coast for the disabled is provided, and that access to the coast for Maori (to reach places of significance) is also provided.

The Plan is consistent with Policy 3.1.3 of the NZCPS (provision of open space), using the words, keeping the intent of the policy and referring to Policy 3.1.3 in the explanation (SRCP Obj. 5.3.3). Appropriate subdivision is defined and many policies/objectives require that any adverse effects of subdivision, use and development be avoided as far as practical, and where not practical, for the effects to be remedied or mitigated (NZCPS Policy 3.2.1 & 3.2.2).

The NZCPS requires land management techniques to be identified which will result in improved water quality (3.2.7). One such method identified by the Council is in Rule 5.3.3 where it prohibits the grazing of any cattle or sheep on Crown land in the CMA. The SRCP further satisfies Policy 3.2.7, as it discusses the need for an *'integrated strategy that addresses non-point source contamination directly into the coastal marine area and via the freshwater system'* and how this could be achieved (e.g. by way of Codes of Practice).

The SRC has preference for indigenous species, and further preference for local indigenous species. It prohibits the introduction of exotic species onto Stewart Island, which is consistent with and enhances the intent of NZCPS Policy 3.2.10. Policy 4.9.2 of the Plan discusses consultation and information sharing with relevant organisations/authorities satisfying NZCPS Policy 3.3.2. Most of the NZCPS policies regarding the management of natural hazards are satisfactorily provided for – many of the relevant provisions of the SRCP use the NZCPS wording and provide an explanation for how it satisfies a particular NZCPS.

Chapter 5 of the NZCPS is extremely well provided for by a number of relevant objectives, policies and rules. Policy 5.1.2 is directly provided for as the SRCP proposes to adopt Policy 5.12 (p.221); whilst various other policies and rules ensure that discharge from ships is appropriately managed (7.3.2.12, 7.3.2.7, 7.3.2.13). Chapter 10.5 provides rules and descriptions of some of the activities that become restricted coastal activities – with resource consents decided by the Minister of Conservation.

The SRC acknowledges the major international agreements of relevance to the coastal environment (p 94), satisfying Chapter 6 of the NZCPS.

Monitoring is provided for in Policy 2.6.1 (within two years a strategy will be in place to monitor the plan) and also by Policy 2.7, which discusses the procedures to review and change the plan.

A5.12 INVERCARGILL DISTRICT PLAN

Analysis of consistency with New Zealand Coastal Policy Statement (Summary)

The Invercargill District Plan (IDP) was notified on 11 May 2002. The coastline under the jurisdiction of the Invercargill District Council (IDC) incorporates harbours, bays, headlands and estuaries. The coastal environment contains areas of significant indigenous vegetation, substantial wetlands of international significance, nationally significant habitats of indigenous fauna and outstanding natural features and landscapes. Significant industries include the processing of fish, oysters and rock lobster caught in the seas surrounding Bluff and Invercargill. Overall the Plan partially satisfies the policies of the New Zealand Coastal Policy Statement (NZCPS).

The IDP is partially consistent with the policies in Chapter 1 of the NZCPS. The IDP provides a degree of protection to significant indigenous vegetation and significant habitats of indigenous fauna within the Otatara Sub-Area (p 103). The Plan outlines permitted activities (e.g. maintenance, restoration or amenity planting) and outlines discretionary activities for the area such as the removal of any live indigenous vegetation. This is generally consistent with the intent of NZCPS Policy 1.1.1.

The IDP also identifies a number of outstanding features and landscapes within the Invercargill District, (including Bluff Hill, New River Estuary, Bluff Harbour, and Sandy Point Reserve) as required by NZCPS Policy 1.1.3. The IDP acknowledges the ecological integrity of significant indigenous vegetation and fauna habitats that are at risk from inappropriate subdivision, use and development, which is not dissimilar to the intent of Policy 1.1.4 of the NZCPS.

The IDP acknowledges the intent of Policy 2.1.1 of the NZCPS by stating that it is an expected environmental result that wahi tapu, wahi taoka, tauraka waka, mahika kai and urupa sites are identified and protected. There is minimal consideration of the use of Section 33 and 34 of the RMA as required by Policy 2.1.3 of the NZCPS. Appendix 6 of the IDP provides information for plan users and resource consent applicants in regards to statutory acknowledgments (Ngai Tahu Claims Settlement RMA 1980). The IDP also outlines when consultation may be particularly appropriate with iwi such as for the '*preservation of the natural character of the coastal environment*'. The IDP provides nil to minimal reference to many of the other policies required by Chapter 2 of the NZCPS.

The IDP states that the identification, maintenance and enhancement of amenity values in the district is a significant resource management issue. The IDP satisfies Policy 3.2.1 of the NZCPS by having subdivision as a controlled activity and in particular by stating that the Council will assess '*any adverse effects on natural, ecological, cultural or heritage values*'. Furthermore, any land use activity other than agriculture in areas identified on the planning maps as '*Outstanding Natural Features and Landscapes*' will be required to meet a number of performance standards and this partially fulfils Policy 3.2.1 of the NZCPS. Policy 3.2.2 of the NZCPS requires adverse effects of subdivision, use and development to be avoided as much as possible and where this is not practical for the effects to be remedied or mitigated

and this is partially met by Rule 6 on p. 111. Esplanade reserves are provided for in Rule 10 p.112 satisfying Policy 3.5.3 of the NZCPS.

There are no provisions requiring the consideration of financial contributions to offset environment damage as required by Policy 3.2.3; nor are there any provisions for papakainga housing as required by Policy 3.2.6.

The NZCPS requires plans to identify the location of natural hazards to provide for the avoidance or mitigation of their effects. The Plan partially satisfies Chapter 4 of the NZCPS as it classifies any activity on land identified on Hazard Information maps as having a high degree of risk from sea-level rise or storm surge as a discretionary activity. There is minimal discussion on how natural features can act as a barrier, as required by Policy 3.4.3 and minimal discussion regarding the effect of sea-level rise as required by Policy 3.4.4. There is also no discussion on the consideration of relocating buildings to avoid natural hazards as required by Policy 3.4.6. A precautionary approach as required by Policy 3.3.1 is satisfied by the provisions of the IDP and the effect of sea-level rise is recognised (p.17) which is partially consistent with Policy 3.4.2. The IDP contains a number of monitoring provisions that are consistent with Policy 5.3 of the NZCPS.

SOUTHLAND DISTRICT PLAN

Analysis of consistency with New Zealand Coastal Policy Statement (Summary)

The Southland District Plan (SDP) was made fully operative on 27 June 2001. The Southland District Council (SDC) recently approved Change No 1 for the Edendale Dairy Processing site, and the Plan has been amended to reflect this change. Proposed Plan 2 - Stewart Island/Rakiura provisions of the SDP is now open for public submission.

The Council identifies the district by way of *'Landscape Character Areas'* and the 'coast' is defined as *'the area in which coastal factors are dominant'*. The coastal area is further broken down into the following sub-groups: (a) Catlins; (b) Estuaries; (c) Sandy Point – Riverton; (d) Riverton to Orepuki; (e) Te Wae Wae; and (f) Fiordland. The SDC recognises that it is important that the SDP is well integrated with the Regional Policy Statement, the New Zealand Coastal Policy Statement (NZCPS) and the Regional Coastal Plan. Overall the Plan is partially consistent with policies of the NZCPS.

The SDC discusses how the expectation of the implementation of the NZCPS is *'that the provisions in District Plans and Regional Coastal Plans, will discourage new subdivision, use or development in those areas with a predominance of natural character and to concentrate future subdivision, use and development within areas where natural character has been significantly modified or reduced'*. The Southland District Plan is generally consistent with this *'expectation'* of the NZCPS; for example it classifies any subdivision in the 'Coastal Resource Area' as a discretionary activity (Rule COA.3). The reason provided for this rule is that the discretionary status allows the Council to refuse a subdivision consent which has the potential for cumulative adverse effects which are incompatible with the natural character of the coast. This is consistent with Policy 1.1.1(c) of the NZCPS which requires councils to avoid cumulative effects of subdivision, use and development.

Policy COA3 of the SDP states that any adverse effects on remaining significant indigenous vegetation and wildlife habitats of the coastal environment should be avoided or remedied which partially satisfies Policy 1.1.2 of the NZCPS. This is satisfied by Rule HER.3 as it classifies the clearance or removal of indigenous flora and fauna as a discretionary activity. Protection of geological sites and landforms is provided for by Rule HER.2, and it is partially consistent with Policy 1.1.3 as it identifies and provides some protection to such sites (by classifying any activity with likely adverse effects as a discretionary activity). Amenity values are provided for in Rule SUB.3.

The SDC partially implements Chapter 2 of the NZCPS. Schedule 6.8 identifies archaeological sites and sites of significance to manawhenua, and satisfies the requirement of Policy 2.1.1 of the NZCPS. The procedures and rules of the Plan apply to these identified sites, but also for those held on silent files held by the file-keeper in the Southland Museum – again consistent with Policy 2.1.1. Minimal discussion is provided on the transfer or delegation of powers to tangata whenua as required under Policy 2.1.3, however the SDC does intend to involve manawhenua in the identification of resource management issues of Stewart Island (Policy SI.7). Also, it will consult with iwi prior to making a resource consent application, and when considering a resource consent application will consult with the Runaka that has kaitiaki in that subject area.

The Southland District Plan has minimal to satisfactory compliance with Chapter 3 of the NZCPS. Partial consistency with Policy 3.2.1 is achieved as the Plan defines where subdivision in the coastal area is not appropriate – e.g. *'discretionary or not permitted in the case of Fiordland'*. Policy 3.1.2 of the NZCPS is recognised in the Plan by its Anticipated Environmental Effects where it states that cultural heritage sites will be protected from inappropriate subdivision, use and development.

Financial contributions are considered as a method to offset environmental damage, and in the Coastal Resource Areas where land is required alongside rivers, streams and lakes, the Council may give preference to the acquisition of land over financial contributions. This partially satisfies NZCPS Policy 3.2.3.

Papakainga housing is provided for, satisfying NZCPS Policy 3.2.6. Policy 3.5.4 is satisfied as the SDC will maintain and enhance access to mahika kai where possible, through the esplanade reserve provisions (Policy MAO.15). Land management practices are promoted in the SDP (Policy NHZ.4; Method PRA.4; Policy MAO.12; Policy WAT.11; Rule PRAf 5) and these are considered to satisfy Policy 3.2.7. The Council has stated in its plans that it will share knowledge with other authorities about the environment, satisfying Policy 3.2.2.

The planning maps identify those areas of the district that are at risk from actual or potential hazards – including *'coastal sites susceptible to erosion and the effects of sea level rise'* as required by Policy 3.4.1. NZCPS Policy 3.1.3 requires that plans recognise that natural features may migrate inland as a result of dynamic coastal processes (including sea-level rise) and this was referred to in general discussion, and also in Policy NHZ.3 which specifically requires the vulnerability of land to natural hazards be taken into account when determining the range of activities allowed. However, Rule NHZ.3 appears to be inconsistent with NZCPS as it *'permits the construction of fencing capable of holding sand on sand dunes in order to avoid and mitigate natural hazards in the coastal environment about MHWS'*, whereas NZCPS Policy 3.4.6 states that coastal protection works should only be permitted where they are the best practical option for the future. Furthermore, the NZCPS encourages the consideration of the relocation of existing buildings; but Policy NHZ.11 of the Plan states *'coastal erosion can be rapid'* and that *'the perceived option of relocatable buildings is inappropriate'*.

NZCPS 3.5.3 (esplanade reserves) is satisfied by Policy SUB.13 which states that consideration will be made regarding the provision of access to and along the coast when considering subdivision consent applications in the coastal environment. This policy is further satisfied by Rule FIN.6.

APPENDIX SIX: SUMMARY OF RESOURCE CONSENT APPLICATIONS ANALYSIS

SOUTHLAND REGION			
Applicant Name / Location of the Application	Date of Decision	Brief Description of Application	Comments
<p><i>Steve Rout Contracting Limited</i></p> <p>Jacobs River Estuary, Riverton</p>	<p>12 June 2003 (Consents Committee)</p>	<p>Retrospective coastal consent [S286-001] to undertake coastal protection works and to occupy the coastal marine area with a reclamation. The reclamation was formed in error as part of the works related to the removal of the Riverton rail bridge and part of the causeway and, because of the manner in which the works were done, there was no consultation with affected parties. The construction is described as the placement of fill with a protective layer of rock 1-3 metres thick along the estuary edge. Plants were removed from existing bank and the reclaimed area will be replanted with native plants and grasses.</p> <p>The SDC will take over the reclaimed land should consent be granted and will be responsible for maintenance.</p>	<ul style="list-style-type: none"> ▪ Retrospective RCA consent to undertake coastal protection works and to occupy the coastal marine area with a reclamation. ▪ Internal report ▪ Monitoring of remedial & replanting work. ▪ Recommendation: Consent be granted with conditions.
<p><i>Meridian Energy Limited</i></p> <p>Deep Cove, Doubtful Sound</p>	<p>Granted in 2000 and variation granted in 2002.</p>	<p>Discharge permit [M289-023]: The application is to discharge freshwater containing contaminants, (which will occur during excavations for a second tailrace channel connecting the second Manapouri tailrace tunnel with the existing tailrace channel) into Deep Cove, Doubtful Sound. When the material is excavated underwater, very fine material will be carried into the head of Deep Cove resulting in discolouration of Deep Cove every day for the proposed 66 days of excavations.</p>	<ul style="list-style-type: none"> ▪ Discharge permit ▪ Internal report ▪ NZCPS Policy 1.1.4 & 4.2.2, Sch 1.10 ▪ s107(2) RMA – ‘...allows a consent authority to grant a discharge permit with conspicuous change in the colour or visual clarity if exceptional circumstances allow the granting of consent....’ ▪ The Consents Officer recommended that the application be approved with conditions – one of the key reasons for approval is its temporary nature [s107(2)].

Applicant Name / Location of the Application	Date of Decision	Brief Description of Application	Comments
			<ul style="list-style-type: none"> ▪ Consent period: 2 years.
<p><i>Milford Sound Development Authority</i></p> <p>Freshwater Basin, Milford Sound</p>	<p>Hearing: 5 August 2003</p>	<p>The application is for a coastal permit to carry out maintenance dredging to remove 5,000 – 6,000 tonnes of dredge material from Freshwater Basin, Milford Sound and deposit the dredge material in the waters of Milford Sound between Freshwater Basin and the end of the airfield at Milford Sound. The applicant proposed to repeat dredging operation at 6-10 year intervals, as required.</p>	<ul style="list-style-type: none"> ▪ Coastal permit, non-complying activity (dredging) - granted ▪ Internal report ▪ No formal recommendation can be made in advance of the hearing, but the officer recommended the conditions if the council so chose to grant the application. ▪ Policies 1.1.1 and 1.1.3 are stated as being relevant to this application, in particular Chapter 1 & recognition of <i>‘Te Whakatau Kaupapa O Murihiku’</i> ▪ Council granted consent with conditions ▪ S.128 – Review on annual basis.
<p><i>Helipark Limited</i></p> <p>Preservation Inlet, Chalky Inlet, Dusky Sound</p>	<p>Hearing of application: 26 March 2002</p>	<p>Coastal Permit [H187-001] to moor the 23 metre barge <i>Georgina</i> in a number of locations in Fiordland. The barge will be used to provide accommodation to hunters, fishermen and the general public, and to provide a base for paua diving etc, accommodating up to 20 clients.</p>	<ul style="list-style-type: none"> ▪ Coastal Permit - declined ▪ Internal report ▪ One brief general statement in staff report for consent committee on the NZCPS – has a number of policies designed to protect the coastal environment from inappropriate use and development. ▪ The hearings committee concluded that the proposal was contrary to a number of the key policies of NZCPS Ch 1 and Ch 3. As a result, it believes the precautionary approach recommended in Policy 3.3.1 is appropriate, and given effect by declining the application. ▪ Appeal – Filed 8 May 2002 (withdrawn).
<p><i>Sanford (South Island) Limited</i></p> <p>Bluff Harbour</p>	<p>Hearing of application: 21 Aug 2001</p>	<p>Coastal Permit [S005-002] to farm green-lipped mussels on three sites in Bluff Harbour. The applicant acknowledges that the sites are very shallow for mussel cultivation (averaging 4m at low tide). As the area</p>	<ul style="list-style-type: none"> ▪ Permit for restricted coastal activity ▪ Internal report <p>The staff report contains a general statement on the NZCPS: <i>‘The NZCPS has a number of</i></p>

Applicant Name / Location of the Application	Date of Decision	Brief Description of Application	Comments
		applied for in each case is greater than 10 ha, the application is for consents for a restricted coastal activity.	<p><i>policies designed to protect the coastal environment from inappropriate use and development</i>. 'The NZCPS is given effect to via the RPS and the proposed RCP.'</p> <p>The Committee report refers to NZCPS Policies 1.1.1(c), 3.3.1, 3.3.2, and Chapter 1 in general, & Sch 1.9. It was the Committee's decision to recommend to the Minister of Conservation that the application be declined. The decision was appealed and subsequently granted for a period of ten years; review every two years under S.128 RMA.</p>
<p>Southland Water Company 2000 Limited</p> <p>Deep Cove, Doubtful Sound, Thompson Sound</p>	<p>Hearing Committee (declined): 5 April 2002.</p>	<p>Three coastal permits were applied for in order to take fresh water from the Manapouri Hydro-electric Power Station tailrace, using an intake structure to pump up to 40,000 cubic metres of water, over a 20 hour period, 12 times a year, into a water carrier of up to 40,000 tonnes dead weight. The vessel would be supported by two tugs and would be moored using a passive earth anchor, a SALM mooring and an anchor point on the foreshore.</p>	<ul style="list-style-type: none"> ▪ Coastal permit (non-complying activity). ▪ Internal report ▪ References to NZCPS in the staff report (policies 1.1.1 & 1.1.3); and in the minutes of the hearing committee ('committee gave some reference to this document', Policies 1.1.1, 1.1.3). ▪ Usually a recommendation is not made in advance of the hearings, but in this instance, the planning staff recommended the hearings committee decline the application. The hearings committee declined the application; it was then appealed, but subsequently withdrawn.
<p>TC Richardson</p> <p>265 Dunns Road, Otatara</p>	<p>Date of letter: 20 Dec 1996</p>	<p>This application proposed to erect a dwelling on land zoned Rural A in the transitional district plan. Proposal is close to the Waihopai arm of the estuary.</p> <p>Officer's report not provided. Information derived from letter.</p>	<ul style="list-style-type: none"> ▪ Consent granted for the non-notified non-complying activity. ▪ Application was granted as there were considered to be no adverse effects.
<p>Shell New Zealand Ltd</p>	<p>Date of letter:</p>	<p>Resource consent to erect and use a LPG storage tank in</p>	<ul style="list-style-type: none"> ▪ The consent was granted because adverse

Applicant Name / Location of the Application	Date of Decision	Brief Description of Application	Comments
502 Dunns Rd, Invercargill	19 Feb 2002	conjunction with existing business activities. The proposal is a change to an existing discretionary activity and the quantity of LPG exceeds the limit in the Invercargill City Council District Plan. Officer's report not provided. Information derived from letter.	effects are considered to be minor.
<i>Southland Sand & Gravel (1972) Ltd</i> 502 Dunns Rd, Invercargill	Date of letter: 22 June 2001	The application for gravel and sand extraction, processing and storage, is an application for renewal of the consent that has lapsed. Officer's report not provided. Information derived from letter.	<ul style="list-style-type: none"> ▪ Land use resource consent was granted subject to conditions. ▪ Review condition S128 RMA
<i>J. Crooks and Sons Ltd</i> 215 Omaui Road, Greenhills	Date of Environment Court decision: 8 Aug 1994	Land use consent to establish and operate a hard rock quarry was granted subject to conditions. Officer's report not provided. Information derived from decision of the Environment Court: J.Crooks & Sons Ltd v Invercargill City Council and Southland Regional Council.	<ul style="list-style-type: none"> ▪ Land use consent, two water permits, an air discharge permit. ▪ The Environment Court concluded by stating that <i>'it is our conclusion with appropriate conditions all three permits should be granted because they will enable an efficient and environmentally acceptable quarry to be maintained and none is in conflict with any of the relevant objectives and policies in any of the relevant statutory instruments.'</i>
WESTERN BAY OF PLENTY REGION			
Applicant Name / Location of the Application	Date of Decision	Brief Description of Application	Comments
<i>Stack & Shelf Co Ltd:</i> 329 Plummers Point Road	No date on hearing report.	Land use consent: This application is to subdivide a Rural H zoned property of 2.5508 hectares, creating 13 lots (13 additional lots including one lot containing a pool complex and incorporating access). Twelve lots are proposed for residential purposes and are sized between 1380m ² and 2120m ² . The site currently	<ul style="list-style-type: none"> ▪ Non-complying subdivision consent application. ▪ External report (J. Hextall) recommended declining the application. ▪ The report referred to NZCPS policies 1.1.1 & 3.2.1 and concluded that the

Applicant Name / Location of the Application	Date of Decision	Brief Description of Application	Comments
		contains a campground and swimming complex. The proposal is a non-complying activity under the provisions for the operative district plan.	<p>proposal appears to be contrary to these policies.</p> <ul style="list-style-type: none"> ▪ The hearing committee stated that <i>'the proposal had taken account of the requirements of the NZCPS'</i>, and that it was satisfied that after taking into account the existing land use and proposed mitigation measures, that the application is consistent with the NZCPS. ▪ On the basis of the unique circumstances relating to the use of the site, consent was granted subject to conditions.
<p><i>Martin, Dennis William & Martin, Mangel Taipakipaki</i></p> <p>475 Pukehina Parade, Pukehina Beach</p>	30 Sept 2003	<p>Construction and siting of a dwelling unit.</p> <p>No officer's report provided– information derived from letter with conditions.</p>	<ul style="list-style-type: none"> ▪ Non-notified land use consent for a discretionary activity, granted. ▪ Section 128 RMA – after six months from commencement & every two years. ▪ Allowed to be situated in a hazard zone, as it was concluded that any effects on the environment were minor, and are adequately mitigated, remedied or avoided by conditions of consent (ie re-locatable).
<p><i>Durham Property Investments Ltd</i></p> <p>Omokoroa Road in Omokoroa, Tauranga</p>	<p>Decision of Hearing Commissioners: 25 Jan 2002</p>	<p>The proposal involves the development of a 48.7 ha pastoral property at Omokoroa into a residential subdivision creating 179 lots with associated roading and reserves as well as a wastewater treatment and disposal facility. The subject land is all within the Future Urban Zone at Omokoroa and the status of the proposal under the Proposed District Plan is that of a non-complying activity.</p>	<ul style="list-style-type: none"> ▪ Non-complying activity: subdivision consent, land use consent to establish and operate a wastewater treatment and disposal facility, consents for earthworks, discharge of sediment contaminated stormwater, dam and divert water, and discharge stormwater

Applicant Name / Location of the Application	Date of Decision	Brief Description of Application	Comments
			<p>from a residential subdivision.</p> <ul style="list-style-type: none"> ▪ External report ▪ Refers to the NZCPS in general, in particular Policies 1.1.1, 3.2.1, 3.2.5. ▪ It was recommended that the Council's appointed Commissioners grant the subdivision consent (subject to conditions), and grant the land use consent subject to condition. ▪ Consent was granted subject to conditions.

AUCKLAND REGION

Applicant Name / Location of the Application	Date of Decision	Brief Description of Application	Comments
<i>Biomarine Limited</i> Kaipara Harbour, Kaipara	10 Dec 2001	The application (24596 & 24597) sought a resource consent for a coastal permit to establish a marine farm of 30 hectares to farm green shell mussels in the CMA off Te Kawau Point, Kaipara Harbour, Kaipara.	<ul style="list-style-type: none"> ▪ Coastal permit ▪ The ARC report (internal) recommended that the Hearing Commissioner decline the application, however, after considering the officer's report, written submissions etc, the Commissioner's decision was that the resource consent application be granted for a period of ten years, subject to conditions. ▪ The internal report (declined application) referred to NZCPS Policies 1.1.1(a),(b) & (c), 1.1.2, 1.1.3, 1.1.4, Ch 2 policies, Ch 3 policies (in particular 3.2.2 & 3.3) in its analysis. ▪ Section 128 Condition - review six months prior to the commencement of construction of Stage 2 of the marine farm. ▪ Appeal made by several parties opposing the application being granted. It is currently 'on hold' pending the outcome of the AMAs variation to the Proposed ARCP.
<i>Orakei Marina Development Limited & Orakei Marina Management Trust Inc</i>	Granted on 24 Sept 2003	Applications for consents to construct a 172 berth marina adjacent to the Okahu Landing, Tamaki Drive, to occupy part of the Crown-owned CMA by the marina, to use the marina for the berthing and storage of vessels, and to	<ul style="list-style-type: none"> ▪ Consent for Discretionary activity (a number of components are RCAs) ▪ Internal officer's report (granted) ▪ The officer's report stated that 'in

Applicant Name / Location of the Application	Date of Decision	Brief Description of Application	Comments
Coastal marine area adjacent to Okahu Hardstand, Waitemata Harbour		<p>discharge stormwater from the site into the CMA. It was recommended that the consents be granted.</p> <p>Application numbers 27762 (Dredging – section 12(1) and 15), 27763 (Construction of structures –section 12(1), 28171 (Construction of rock breakwater), 27764 (Occupation and activity/use – section 12(2) and 12(3)) and 27765 (Discharge of stormwater – section 15)</p>	<p>summary it is considered that the application is not contrary to any of the statements' (NZCPS, RPS, PRPS). In the hearings paper Policies 1.1.1 to 1.1.5, 3.4.1, 3.4.2, 1.1.3, Ch 2, 3.5 were referred too.</p> <ul style="list-style-type: none"> ▪ Review condition under S.128 – During time of construction or any time within 2 years after commencement of the operation. ▪ Granted by commissioners.

Applicant Name / Location of the Application	Date of Decision	Brief Description of Application	Comments
<p><i>Franklin District Council</i></p> <p>Firth of Thames</p>	<p>Granted on 6 Dec 2002</p> <p>(Note: Report is not signed or dated).</p>	<p>Coastal permit application to construct three rip rap seawalls, and to occupy and use part of the coastal marine area between Kaiaua and Whakatiwai Point, Firth of Thames with these structures</p>	<ul style="list-style-type: none"> ▪ Coastal permit application for seawalls: non-notified, non RCA. ▪ Internal report ▪ The report refers to the HGMPA, and generally to the NZCPS, and the NZCPS via referring to relevant plan policies. ▪ It was recommended that the application be granted subject to special conditions. ▪ Review under S.128 – annual basis.
<p><i>Transit New Zealand Limited</i></p> <p>Across part of the Upper Waitemata Harbour, immediately adjacent to the north to the existing Upper harbour Bridge, linking Hobsonville and Greenhithe.</p>	<p>Hearing held between the 21 & 23 Aug 2001</p>	<p>To construct a new (duplicate) bridge across the Upper Waitemata Harbour. The project includes the construction, operation, and maintenance of a duplicate three-lane bridge immediately adjacent to and north of the existing bridge. It also includes extending, by reclamation, the existing causeway/approach road to the bridge; and the construction of a stormwater quality treatment pond on the Hobsonville side of the bridge. It was recommended that consents be granted.</p> <p>(Application numbers 25253 – 25255; 25257-25259)</p>	<ul style="list-style-type: none"> ▪ Four coastal consents, one land use, one discharge. Notified, RCA components. ▪ Internal report - granted ▪ Refers to the NZCPS in general; and summarises three key points provided by the NZCPS which are relevant to this application (3.5.3, 3.2.2, 1.1.1(b) – not word for word). ▪ Commissioners, determination – granted. As a result of a request by the applicant, the Commissioners also determined that the consent conditions in the officer’s report, be amended in various ways.

APPENDIX SEVEN

LIST OF SUBMISSIONS RECEIVED ABOUT THE REVIEW OF THE NZCPS

No.	Organisation
1	Whangamata Harbour Care Inc.
2	David Renouf
3	Environmental Defence Society
4	Valerie and Ross Bailey
5	Auckland Regional Council
6	Mrs E P Cook
7	Taranaki Regional Council
8	NZ Archaeological Association Inc.
9	Christina Paton
10	Warren Kohlis
11	Otago Conservation Board
12	Forest & Bird Protection Society - Wanganui Branch
13	Cherry Ladd
14	Beca Planning RFBPS Nelson/Tasman Branch & Nelson Environment
15	Centre
16	Neil Donnelly
17	Alex Drysdale and Murray Sim
18	Leithfield Ashworths Beach Coastcare
19	Bay of Plenty Conservation Board
20	Environment Bay of Plenty
21	Alan Vaughan
22	North Shore City Council
23	Jason Ward - Bay of Plenty Conservancy (DoC)
24	Forest & Bird Protection Society - Golden Bay Branch
25	Kerry Bray
26	Forest & Bird Protection Society - Northern Branch
27	Canterbury/Aoraki Conservation Board
28	Tom Bayliss
29	Waimarino Adventure Park
30	Selwyn Christensen
31	Lillie Sadler
32	Forest & Bird Protection Society - Eastern Bay of Plenty
33	Carolyn Collins
34	Ken Murray
35	Di Hooper
36	Forest & Bird Protection Society - Regional Office
37	Chris Henderson
38	Ports of Auckland Ltd
39	Otago Regional Council
40	Waikaraka Estuary Managers

- 41 Terry Healy (University of Waikato)
- 42 Wellington Conservation Board
- 43 Colin Scadden
- 44 NZ Institute of Landscape Architects
- 45 Bob Askew
- 46 National Council of Women
- 47 New Zealand Conservation Authority
- 48 Forest & Bird Protection Society - Waitakere Branch
- 49 Dr Sylvia Boys
- 50 Auckland City Council
- 51 Jason Koia (Ngati Ruawaipu)
- 52 Vicky Froude
- 53 Mr G. McSweeney, President of Royal Forest and Bird

