

Proposed New Zealand Coastal Policy Statement 2008

Evaluation under section 32 of the
Resource Management Act 1991

Department of Conservation

Published by
Policy Group
Department of Conservation
PO Box 10420, The Terrace
Wellington 6143, New Zealand

Individual copies are printed, and are also available from the departmental website in pdf form.
Refer www.doc.govt.nz.

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ISBN 978-0-478-14328-7 (hardcopy)

ISBN 978-0-478-14329-4 (web PDF)

This report was prepared for publication by Sue Hallas (layout).

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CONTENTS

Executive summary	5
<hr/>	
1. Introduction	6
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1.1 Purpose of this report	6
1.2 Purpose and contents of an NZCPS	6
1.3 Reasons for review	7
1.4 Review process and consultation	8
1.5 Section 32 methodology	8
2. Objectives	11
<hr/>	
2.1 Social, economic and cultural wellbeing	11
2.2 Subdivision, use, and development	12
2.3 Natural character	13
2.4 Tangata whenua	15
2.5 Public open space	16
2.6 Public access	18
2.7 Water quality	20
2.8 Coastal hazards	22
2.9 Historic heritage	23
2.10 The Crown's interests in the land of the Crown in the coastal marine area	25
3. Policies	29
<hr/>	
3.1 General	29
3.2 Subdivision, use, and development	40
3.3 Natural character	64
3.4 Public access	90
3.5 Water quality	98
3.6 Coastal hazards	105
3.7 Historic heritage	112
4.0 Bibliography	116
<hr/>	

Executive summary

The New Zealand Coastal Policy Statement (NZCPS) is the only mandatory National Policy Statement required by the Resource Management Act 1991 (RMA). An independent review of the effectiveness of the 1994 NZCPS was undertaken in 2004. The independent review recommended that the NZCPS be formally reviewed to revoke policies now obsolete and to provide additional policy guidance for local government.

The Minister of Conservation (the Minister) adopted the recommendation to formally review the NZCPS in August 2004. The review of the NZCPS has included seeking comments from, and consultation with: iwi, local government, industry, environmental groups and recreational groups.

Section 32 of the RMA requires that before notifying an NZCPS the Minister must undertake an evaluation to determine:

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

The objectives of the proposed NZCPS address sustainable management of the coastal environment having regard to:

- The benefits that arise for people and communities from the use, development and protection of natural and physical resources;
- The pressures of subdivision, use, and development on natural character, public open space, public access, historic heritage and water quality;
- Tangata whenua interests;
- Coastal hazards; and
- The Crown's interests in the coastal marine area.

The objectives of the proposed NZCPS are considered the most appropriate way to achieve the purpose of the RMA having regard to the above matters and the extent to which those matters would be addressed by the existing NZCPS provisions and the 'do nothing' option.

The policies of the proposed NZCPS are considered the most appropriate way to achieve the objectives having regard to their:

- Efficiency and effectiveness;
- Benefits and costs; and
- The risks of acting or not acting due to uncertainty or insufficient information.

It is considered that the evaluation summarised in this report satisfies the requirements of section 32 of the RMA.

1. Introduction

1.1 PURPOSE OF THIS REPORT

The purpose of this report is to provide a summary of the evaluation undertaken, in accordance with section 32 of the Resource Management Act (the RMA), for the review of the New Zealand Coastal Policy Statement 1994 (1994 NZCPS) and the notification of the Proposed New Zealand Coastal Policy Statement 2008 (Proposed NZCPS).

This report states the purpose and contents of an NZCPS, summarises the review and consultation process to date and outlines the section 32 methodology used. This report then summarises the section 32 evaluation undertaken for each objective and for individual policies or groups of policies.

1.2 PURPOSE AND CONTENTS OF AN NZCPS

The NZCPS is the only mandatory National Policy Statement under the RMA. The purpose of the NZCPS is to achieve the purpose of the RMA in relation to the coastal environment. The purpose of the RMA is to promote the sustainable management of natural and physical resources. Section 5 (2) of the RMA states that:

In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while—

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
- (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.

The coastal environment includes the coastal marine area and extends seaward to the outer limits of the territorial sea. The landward boundary of the coastal environment is not defined in the RMA and must be determined on a case by case basis. Policy 1 of the Proposed NZCPS builds on case law and current practice to provided guidance on the definition of the coastal environment.

Section 58 of the RMA provides that:

A New Zealand coastal policy statement may state objectives and 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 waahi 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 of the Crown 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:
 - (ga) national priorities for maintaining and enhancing public access to and along the coastal marine area:
 - (gb) the protection of recognised customary activities:
- (h) Any other matter relating to the purpose of a New Zealand coastal policy statement.

Because this is not an exclusive list of matters the NZCPS may contain other matters which are necessary to achieve the purpose of the RMA in the coastal environment.

1.3 REASONS FOR REVIEW

The Minister of Conservation (the Minister) is responsible for the preparation and review of the NZCPS. Policy 7.1.1 of the 1994 NZCPS states that the policy statement will be reviewed by a person or persons independent of the Minister no later than 9 years after its gazettal. In preparation for the review Department of Conservation staff undertook 12 workshops with local authority staff in 2002. The objectives of the workshops were to:

- To seek the feedback of local government staff involved in coastal management on the effectiveness of the NZCPS; and
- To make the NZCPS review process more effective by asking local government staff to identify the major issues which should be addressed by the independent review of the NZCPS and make suggestions for any technical or drafting amendments to the NZCPS. (Young 2003).

The Minister then commissioned an independent review of the 1994 NZCPS by Dr Johanna Rosier, Senior Planning Lecturer at Massey University. This independent review included consultation with government departments, industry, environmental groups, recreational groups, and professional bodies. Dr Rosier recom-

mended that the 1994 NZCPS be formally reviewed to revoke policies now obsolete and to provide additional policy guidance for local government. The independent review also made 32 specific recommendations relating to the 1994 NZCPS and the administration of the coastal environment (Rosier 2004).

The Minister determined in August 2004 that the review recommended by Dr Rosier would commence once the RMA reform process, then underway, was completed.

1.4 REVIEW PROCESS AND CONSULTATION

In accordance with section 46 of the RMA the Minister sought and considered comments from iwi authorities and other relevant stakeholder groups in preparing to formally review the NZCPS. To facilitate comments the Department of Conservation published an Issues and Options paper in 2006. This paper identified a range of coastal issues, possible shortcomings in the 1994 NZCPS and options for amendment to the NZCPS (Department of Conservation 2006a).

85 Submissions were received in response to the paper, with submissions being received from local government, industry, environmental, iwi and recreational groups (Enfocus 2006). These submissions were summarised and the summary made available to all submitters and to other government agencies.

Consultation with other central government agencies, Local Government New Zealand and iwi has continued throughout the drafting of the proposed NZCPS. This has included the convening of a specialist iwi reference group to provide tangata whenua input into the review.

1.5 SECTION 32 METHODOLOGY

This report summarises the evaluation carried out in accordance with section 32 of the RMA. Section 32 requires that:

- (1) In achieving the purpose of this Act, before a proposed plan, proposed policy statement, change, or variation is publicly notified, a national policy statement or New Zealand coastal policy statement is notified under section 48, or a regulation is made, an evaluation must be carried out by—

.....

- (b) the Minister of Conservation, for the New Zealand coastal policy statement;

.....

- (3) An evaluation must examine—
 - (a) the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and
 - (b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.

.....

- (4) For the purposes of the examinations referred to in subsections (3) and (3A), an evaluation must take into account—
 - (a) the benefits and costs of policies, rules, or other methods; and
 - (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.
- (5) The person required to carry out an evaluation under subsection (1) must prepare a report summarising the evaluation and giving reasons for that evaluation.
- (6) The report must be available for public inspection at the same time as the document to which the report relates is publicly notified or the regulation is made.

For the purpose of this report the evaluation of each objective is summarised as follows:

- The relevant issues are stated. This may include issues identified in the background reports and comments on the coastal environment that have been received in the consultation process;
- The relevant 1994 NZCPS provisions are summarised. This may include a concise analysis of the relevant comments on those provisions from the consultation process;
- Any relevant amendments to the RMA that have occurred since the 1994 NZCPS was gazetted are identified;
- The matters that should be included in an objective to address the issues and achieve the purpose of the RMA are summarised;
- The proposed objective is stated;
- The proposed objective, the existing NZCPS provisions and the option of no objective are evaluated against the purpose of the RMA. For the purposes of this evaluation the principles and policies of the 1994 NZCPS are broadly considered together as ‘provisions’;
- The extent to which the objective is the most appropriate means to achieve the purpose of the RMA is evaluated. For the purposes of this evaluation the extent to which each objective is considered the most appropriate means to achieve the purpose of the RMA relates to the extent of the alternatives and matters considered in each evaluation.

For the purpose of this report the evaluation of the policies is summarised as follows:

- The matters that should be included in a policy or policies to achieve the relevant objective(s) are identified;
- The benefits and costs of a policy or policies containing those matters are identified and evaluated. Benefits and costs are described either in text or table format. Environmental, social and economic benefits and costs are included. A degree of uncertainty regarding the benefits and costs of most policies is unavoidable, as in most cases these benefits and costs will depend on the how local authorities give effect to the proposed NZCPS. Only marginal benefits and costs are assessed as all local authorities will be required to have some

policy or plan provisions addressing these matters in order to give effect to the RMA (i.e. it is the additional cost that these particular NZCPS provisions will generate that is assessed);

- Any risks of acting or not acting arising from any uncertainty or insufficient information relating to the subject matter of the policy or policies are identified;
- The proposed policy or policies are stated;
- The appropriateness of the policy or policies in achieving the relevant objective(s) is evaluated with regard to efficiency and effectiveness.

Policies are evaluated either individually or in groups. Policies are evaluated in groups where they contain common processes, which can be subject to a common evaluation, or where the evaluation of their appropriateness in achieving the relevant objective(s) is assisted by grouping them.

For some policies additional comments on environmental issues, legislation and information arising from the consultation process are included when this assists the evaluation process.

Multiple alternative drafts of objectives and policies were considered in the evaluation and determination of the proposed NZCPS provisions. However, these are not referenced in this report and it is considered that the above evaluation methodology satisfies the requirements of section 32 of the RMA.

2. Objectives

2.1 SOCIAL, ECONOMIC AND CULTURAL WELLBEING

Issues

The purpose of the RMA is to promote sustainable management. Broadly sustainable management is defined as enabling people and communities to provide for their social, economic and cultural wellbeing through the use, development, and protection of natural and physical resources while: the potential of resources is sustained; life supporting capacity is safeguarded; and adverse effects on the environment avoided, remedied or mitigated.

The coastal environment encompasses significant natural and physical resources and the sustainable management of these resources can provide considerable benefits. While many of the objectives in the Proposed NZCPS relate to the management of adverse effects it is appropriate, in achieving the purpose of the RMA, to include an overall objective specific to the social, economic and cultural benefits that arise from the use, development and protection of the coastal environment.

1994 NZCPS provisions and RMA amendments

Principles 1 and 6 of the 1994 NZCPS specifically refer to the social, economic and cultural benefits that arise from the use, development and protection of resources. The 1994 NZCPS principles have no legal weight and principles are not being retained in the Proposed NZCPS as, pursuant to the RMA Amendment Act 2005, objectives are now specifically provided for in the NZCPS. It is considered appropriate to retain elements of those principles in a new single objective on these matters.

Proposed objective

Objective 1 is therefore proposed as follows:

People and communities are able to provide for their social, economic, and cultural wellbeing through the use, development, and protection of natural and physical resources in the coastal environment.

It is considered that this objective assists in ensuring that sustainable management is promoted by the Proposed NZCPS. It is considered that these matters would not be sufficiently addressed by retention of the 1994 NZCPS principles or by the deletion of social, economic and cultural wellbeing from the Proposed NZCPS. Therefore, in comparison to these alternatives, and having regard to the above matters, Objective 1 is considered the most appropriate way to achieve the purpose of the RMA.

2.2 SUBDIVISION, USE, AND DEVELOPMENT

Issues

Subdivision, use, and development pressures on the coastal environment are increasing. This applies to both land in the coastal environment and the CMA. Population and economic growth contributes to an increasing demand for coastal subdivision. While a significant range of economic and social activities are focused on the sea and the relative importance to the economy of marine-based activities is increasing. The 2001 report of the Ministerial Advisory Committee on Oceans Policy commented that New Zealand is 'one of the few nations in the world where the potential value of oceanic resources exceeds that of land-based resources'. Renewable energy developments (including wind, waves and tidal currents) are increasingly being proposed in the coastal environment. Infrastructure on the coast is substantial and includes; ports, airports, state highways, railways and local roads.

These subdivision, use, and development pressures have the potential for significant adverse effects on the coastal environment.

1994 NZCPS provisions

There are a range of provisions in the 1994 NZCPS that relate to the management of subdivision, use, and development. Policy 1.1.1 seeks to encourage appropriate subdivision, use, and development. Policies in Chapter 3 further seek to provide for appropriate subdivision, use, and development. Those provisions include: the need for policy statements and plans to define what is appropriate in the coastal environment; the avoidance, mitigation and remedying of adverse effects; the precautionary approach; and the need for the provision of services.

Local government staff in commenting on the effectiveness of the 1994 NZCPS (Young 2003) raised as a common theme the need for more guidance on the terminology and intent of these provisions. Some policies were considered to be more useful than others, (in particular 3.2.2 and 3.2.5), while others were suggested for deletion (in particular Policies 3.2.3 and 3.2.9).

Dr Rosier also identified that these provisions 'attracted the most controversy in the CMA workshops and submissions, and generated conflicting views about changes needed to the NZCPS.' The lack of specificity of what 'appropriate' meant was commonly raised (Rosier 2004).

The NZCPS Review Issues and Options paper (Department of Conservation 2006a) sought comment on the management of subdivision, use, and development. A wide range of submissions were received in relation to this topic area and coastal development was identified as a key concern for many submitters. 'Issues associated with the rapid expansion of coastal development and subdivision around the country' were identified as common 'emerging themes'. (Enfocus 2006).

Proposed objective

In order to address the effects of subdivision, use, and development on the coastal environment it is considered that the proposed NZCPS should contain an overall objective on those matters. To achieve the purpose of the RMA the objective needs

to specify that subdivision, use, and development should occur in places, forms and limits consistent with sustainable management. The objective will enable the proposed NZCPS to contain policies which provide additional guidance on the nature of appropriate subdivision, use, and development and address concerns regarding the lack of specificity in the 1994 NZCPS provisions.

Therefore Objective 2 is proposed as follows:

Subdivision, use, and development in the coastal environment are managed to ensure they occur in places, in forms and within limits consistent with sustainable management.

It is considered that this objective is necessary to ensure that sustainable management is promoted by the proposed NZCPS. The impact of subdivision, use, and development on the coastal environment is the issue that has generated the most concern and comment in the NZCPS review consultation process. It is considered that the proposed NZCPS should provide objectives and policies that provide greater guidance on what constitutes appropriate subdivision, use, and development in the coastal environment. It is not considered that these matters would be sufficiently addressed by retention of the 1994 NZCPS provisions or by the deletion of objectives and policies on subdivision, use, and development from the proposed NZCPS. Therefore, in comparison to these alternatives, and having regard to the above matters, Objective 2 is considered the most appropriate way to achieve the purpose of the RMA.

2.3 NATURAL CHARACTER

Issues

The management of natural character, landscape, natural features and indigenous biological diversity are integrally linked. These matters are under increasing pressures from subdivision, use, and development. There is ongoing debate on what these matters cover and how they should be managed (i.e. separately or jointly). There is a continuing decline in natural character, landscape values, natural features and indigenous biological diversity in the coastal environment from subdivision and use pressures, vegetation clearance, loss of intertidal areas, plant and animal pests, and sedimentation in estuaries and marine areas.

1994 NZCPS provisions

Chapter 1 of the 1994 NZCPS (supported by a number of the principles) contains a range of provisions relating to natural character, landscapes, natural features, processes and indigenous biological diversity. These provisions establish a series of national priority policies which focus on protection of certain matters and provide some guidance on inappropriate subdivision, use, and development. The 1994 NZCPS addresses landscape, natural features, processes and biological diversity jointly as subsets of natural character. The biological diversity Policy 1.1.2, provides for the protection of 'significant indigenous vegetation and significant habitats of indigenous fauna' and incorporates a hierarchy of management options.

Local Government staff in commenting on the effectiveness of the 1994 NZCPS considered that more guidance was needed to implement the policies of chapter 1 of the NZCPS. In particular Policy 1.1.3 regarding landscapes was considered to be too inclusive and Policy 1.1.2, while generally supported was considered to be difficult to implement due to a lack of information (Young 2003).

In the independent review of the NZCPS it was generally considered that natural character was a fundamental policy base for the NZCPS. However there was some concern that the concept of natural character was mixed in with biological diversity, natural features and landscape matters and that there was a lack of guidance on identification and classification of natural character (Rosier 2004). The difficulty of managing urban landscape as a component of natural character and the difficulty of controlling development in coastal hinterlands were also noted. Concerns were also raised that biological diversity was not identified as a matter of national priority and that marine biological diversity and biosecurity were inadequately addressed (Rosier 2004).

RMA amendments

Since the 1994 NZCPS, there have been no amendments to the RMA relating in particular to natural character, landscapes, natural features and processes. However, an amendment to the RMA in 2003 introduced a definition for biological diversity and inserted new sections 30 (1) (ga) and 31 (1) b) which gave regional and district councils functions in respect of maintaining indigenous biological diversity. Section 62(1)(i) was also inserted requiring a regional policy statement to specify which local authority was responsible for the control of the use of land to maintain indigenous biological diversity.

The NZCPS Review Issues and Options paper (Department of Conservation 2006a) sought comment on the level of detail and direction that should be included in policies on natural character, landscapes, natural features, processes and biological diversity. It particularly sought comment on whether the management of landscape, natural features and biological diversity should be separated from natural character.

Almost all submitters who commented on this Issues and Options paper sought clarity in the definitions of, and strengthening of management guidance across, all these topic areas. Strong support was evident for separating natural character away from biological diversity and landscape issues (Enfocus 2006). Almost all submitters who commented on the management of landscapes and natural features supported a more robust direction to guide identification and management of landscapes and outstanding natural features (Enfocus 2006).

Proposed objective

In order to strengthen the management framework for responding to natural character, landscapes, natural features, processes and indigenous biological diversity, it is considered that the proposed NZCPS should contain a separate objective encapsulating these topic areas. The reason for this is to provide a strong and comprehensive statement reflecting that these topic areas are intertwined and need to be combined to achieve a common outcome. While it may be appropriate to separate the topic areas (as per the submitters comments

above) at a policy level, it is considered that the objective should recognise the integration of these matters as contributors to natural character.

To promote sustainable management of natural character, landscapes, natural features, processes and indigenous biological diversity the objective should:

- Ensure that, in accordance with s6(a) of the RMA, natural character is preserved;
- Emphasise that the focus of management approaches should be on protection and restoration;
- Recognise that landscapes, natural features, processes and indigenous biological diversity are all elements that contribute to achieving preservation of natural character.

Objective 3 is therefore proposed as follows:

The natural character of the coastal environment is preserved, through the protection or restoration of natural landscapes, features, processes and indigenous biological diversity.

It is considered that this objective is necessary to promote the purpose and principles of the RMA. It is considered that these matters would not be sufficiently addressed by retention of the 1994 NZCPS provisions or by the deletion of natural character, landscapes, natural features, processes and indigenous biological diversity provisions from the proposed NZCPS. Therefore in comparison to these alternatives, and having regard to the above matters, Objective 3 is considered to be the most appropriate way to achieve the purpose of the RMA.

2.4 TANGATA WHENUA

Issues

Māori have interests in all the issues addressed in this summary report. Natural character, landscape, biodiversity, historic heritage, coastal hazards, the Crown's interests, public access, and water quality are all relevant to Māori. This section of the report relates specifically to the proposed NZCPS objective that directly refers to Māori interests in the coastal environment.

Increasing coastal development is affecting coastal and marine features of particular value to Māori, in some cases causing the loss of culturally important sites and resources. This can include damage or loss of access to wahi tapu, urupa or kaimoana. Water quality is often degraded near human settlement and there is a need to ensure that Māori values are recognised in relation to discharges.

Māori also wish to see their development aspirations acknowledged in planning provisions and processes. Papakainga housing zones in district plans are not widespread and it is unclear whether plan provisions for papakainga reflect the needs and aspirations of Māori.

Māori involvement in RMA processes could be improved. In particular, matauranga Māori (customary knowledge) does not appear to be well recognised and the potential for transfer of local authority powers to iwi authorities does not appear to have been realised (Department of Conservation 2006a).

1994 NZCPS provisions

The 1994 NZCPS as a whole is relevant to Māori interests in the coastal environment and contains a wide range of provisions that refer directly or indirectly to Māori. However for the purpose of this evaluation it is particularly relevant to consider Principle 9 and the policies in section 4.2. Principle 9 acknowledges tangata whenua as kaitiaki of the coastal environment. Policy 4.2.1 requires all persons exercising power and functions under the RMA to recognise and facilitate the special relationship between the Crown and tangata whenua as established by the Treaty of Waitangi. Following the 2005 amendment to the RMA which provides for the inclusion of objectives in the proposed NZCPS it is considered that these two matters should be addressed as objectives rather than as principles or policies.

Proposed objective

The RMA requires all those exercising functions and powers under the RMA to: recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga; recognise and provide for the protection of recognised customary activities (s6(e)); have particular regard to kaitiakitanga (s7(a)) and take into account the principles of the Treaty of Waitangi (s8).

In order to address the issues raised above and give effect to these sections of the RMA it is considered that the principles of the Treaty of Waitangi and the role of tangata whenua as kaitiaki should be taken into account and provided for as a separate objective in the proposed NZCPS. Objective 4 is proposed as follows.

Management of natural and physical resources in the coastal environment takes account of the principles of the Treaty of Waitangi and recognises the role of tangata whenua as kaitiaki.

It is considered that this objective is necessary to promote the purpose and principles of the RMA. It is considered that these matters would not be sufficiently addressed by retention of the 1994 NZCPS provisions or by the deletion of objectives and policies on tangata whenua from the Proposed NZCPS. Therefore, in comparison to these alternatives, and having regard to the above matters, Objective 4 is considered the most appropriate way to achieve the purpose of the RMA.

2.5 PUBLIC OPEN SPACE

Issues

Increasing use and development pressures threaten the value of the coastal marine area as public open space. This public open space value is closely tied to the way people perceive, use and enjoy the coast. Unoccupied public land in the coastal marine area can be incorrectly regarded as unused space. Consequently the value of the coastal marine area as public open space has been an area of significant debate and confusion.

1994 NZCPS provisions

Within the 1994 NZCPS, two principles highlighted the public open space concept of the coastal marine area. In particular, Principle 5 recognised that the coastal marine area 'shall generally be available for free public use and enjoyment' while Principle 1 recognised that 'functionally certain activities can only be located in the coastal marine area'. Thus while the coastal marine area was deemed to have a public use and enjoyment focus, it was recognised that use and development could also appropriately locate there.

In the initial review of the effectiveness of the NZCPS, it was noted that 'with the demand for use of the coast increasing, there has also been a significant increase in incidents involving conflicting issues. Policies need to be strengthened to enforce the right of public access to the coast.' This reflected an underlying concern that some activities were unnecessarily excluding others from use of the coastal marine area (Young 2003).

The independent review of the NZCPS identified that the Minister of Conservation's role 'reflected a public expectation that beaches and the sea should be common property resources available to all New Zealanders' (Rosier 2004).

RMA amendments

There have been no amendments to the RMA since the 1994 NZCPS that have impacted specifically on this public space presumption. However, two related legislative changes can be seen to inform the principle of public open space. Firstly, the enactment of the Foreshore and Seabed Act 2004 confirmed that the public foreshore and seabed is the common heritage of all New Zealanders. Secondly, the introduction of provisions for coastal occupation charges (s 64A RMA), reflected the concept that any private occupation of public space should be required to pay a return to the public in compensation for the rights transferred.

The NZCPS Review Issues and Options paper (Department of Conservation 2006a) states that 'the Minister of Conservation's role in this coastal management regime reflects the facts that: most of the coast is public resource vested in the Crown...'. This is a premise that is considered to underlie the management regime for the coastal marine area.

Proposed objective

The value of the coastal marine area as public open space is considered to be fundamental to the sustainable management of the coastal marine area. The amenity provided by this value is one of the key means by which people and communities provided for their social and cultural well being through the use and experience of the coastal environment. In order to clarify the public open space value of the coastal marine area it is considered that the proposed NZCPS should contain a separate objective specifically stating this value. This will reinforce that any private use or development of public land in the coastal marine area should recompense the public for the loss of common space. It will also provide for policies to state that private structures or uses in the coastal marine area should make provision for public use and that where no longer required private structures should be removed from the coastal marine area.

To promote sustainable management of the coastal marine area the objective should state:

- That the principle of public open space should be recognised; and
- That the cultural and amenity values arising from that public open space should be protected.

Objective 5 is therefore proposed as follows:

The public utility of the coastal marine area as public open space is recognised, and its cultural and amenity values as open space are protected.

Objective 5 provides clarification of the value of the coastal marine area as public open space. This matter will not be achieved by the existing provisions of the 1994 NZCPS, nor by the deletion of this concept from the proposed NZCPS. Objective 5 is therefore considered to be the most appropriate way to achieve the purpose of the RMA.

2.6 PUBLIC ACCESS

Issues

Since the current NZCPS was gazetted in 1994, there has been major growth in the use, development and value of land adjacent to the coast and within the coastal marine area. These changes have raised concerns about the quantity and quality of continuing public access to and along the coast, with particular concerns expressed over the availability of walking access. Implementation of the RMA access provisions by local authorities has been variable. For many regions and districts public access issues have been a lower priority than other matters such as biodiversity (Land Access Ministerial Reference Group 2003).

Access within the CMA has the potential to impact on other values and conflict with other users. Management agencies and the public are alike in raising concerns about the effects of vehicles on the foreshore and seabed.

Information for the public on how to access the coast is also often very limited. Where legal access does exist (e.g. esplanade reserves), often it is not identified. There is an increasing awareness of the need to sustain public access through time and in response to threats such as dynamic coastal processes and sea level rise.

The Foreshore and Seabed Act 2004 provides a general right of public access in, on, over or across the public foreshore and seabed. The Foreshore and Seabed Act 2004 does not provide a general right of access to the coastal marine area. Therefore the Foreshore and Seabed provisions do not replace the local authority responsibilities under the RMA for public access to and along the coast.

Well directed and integrated management is required to sustain public use and enjoyment of the coast.

1994 NZCPS provisions

The 1994 NZCPS contains five provisions relating to public access (Principle 5 and Policies 3.5.1–3.5.4). These provisions signal the following:

- Lands of the Crown in the coastal marine area should generally be available for free public use and enjoyment (Principle 5);
- Occasions where a restriction on public access is potentially justified (Policy 3.5.1);
- The value of identifying existing access as well as future access priorities (including access able to be used by people with disabilities) (Policy 3.5.2);
- As a matter of national importance policy statements and plans should make provisions for esplanade reserve creation except in exceptional circumstances (Policy 3.5.3);
- Policy statements and plans should identify access to sites of cultural importance to Māori in accordance with tikanga Māori (Policy 3.5.4).

Existing Policy 3.5.2 is often not implemented by councils, especially at the district plan level (Young 2003). Dr Rosier observed that that the reference in Principle 5 to 'free public access' unrealistically implies that public use in the CMA should be unrestricted in all parts of the coast (Rosier 2004). Dr Rosier's recommendation that walking access be differentiated from and other forms of public access (Rosier 2004) builds on similar views expressed by local government staff (Young 2003).

Dr Rosier also observed that policy statements and plans provided little acknowledgement that public access is a matter of national importance (Rosier 2004). In response to the NZCPS Review Issues and Options paper (Department of Conservation 2006a) some local authorities sought greater clarity on public access policies; however others supported the existing approach to the issue (Enfocus 2006). Māori submitters noted that access policies need to include the protection and maintenance of access necessary to sustain their relationship with the coastal environment (Enfocus 2006).

RMA amendments

The RMA provisions relating to esplanade reserves, including their waiver, were amended by the Resource Management Amendment Act 1993 immediately prior to the gazettal of the NZCPS. These amendments changed the RMA esplanade framework, and gave more discretion to councils to waive or vary subdivision requirements for esplanade reserves.

RMA section 58 sets out the policy areas that may be addressed in the NZCPS. The Resource Management (Foreshore and Seabed) Amendment Act 2004 included the following matter for policy consideration: '58(ga) National priorities for maintaining and enhancing public access to and along the coastal marine area:...'

Prior to the 2004 amendment, there had been no specific mention of public access in this part of the Act. The amendment clarifies and reflects the increasing importance placed on maintaining and enhancing public access to and along the CMA.

It is considered that the existing NZCPS provisions should be improved to reflect the national importance placed on public access to and along the coastal marine area.

Proposed objective

The NZCPS should contain an objective specific to public access to reflect its importance in the RMA and the relatively new section 58(ga) brought in by the 2004 amendment to the Act. In recognition of the matters especially necessary to promote sustainable management of public access in the coastal environment, the new objective should:

- Confirm the importance of public access to and along the coastal marine area;
- Provide for that access to be maintained and enhanced;
- Enable the proposed NZCPS policies to give greater guidance on the sustainable management of public access to and along the coastal environment.

Together such changes would assist as a major contributor to achieving sustainable management within the coastal environment.

Objective 6 is therefore proposed as follows:

Public access to and along the coastal marine area is maintained and enhanced.

Objective 6 provides for all of the above matters. These matters will not be achieved by the existing provisions of the 1994 NZCPS or by the deletion of public access provisions from the proposed NZCPS. Therefore, in comparison to these alternatives, and having regard to the above matters, Objective 6 is considered the most appropriate way to achieve the purpose of the RMA.

2.7 WATER QUALITY

Issues

Coastal water quality in New Zealand is generally high although there are localised areas where water quality is degraded. Contamination of coastal water quality is derived from both point and non-point source discharges from land-based activities. This is evident both from the types of contaminants observed (predominantly sediments, micro-organisms and heavy metals) and the locations of contaminated areas (near settlements and port areas, adjacent to river and stream mouths and adjacent to outfall pipes). The coastal environment also receives contaminants from sea-based activities, such as aquaculture, and from discharges and spillages from vessels.

Contaminants in coastal water have flow on effects to marine ecosystems and human health. For example:

- Suspended sediments can reduce water clarity, can smother the sea floor and can carry contaminants such as heavy metals which are toxic to marine life and can bioaccumulate in fish and shellfish tissue;
- Increased nutrients can result in nuisance seaweed growths and algal blooms which can smother the sea floor, reduce water clarity and oxygen levels, and/or produce toxins which affect marine ecosystems and/or human use of coastal waters; and

- Microbiological contaminants can render shellfish unsuitable for human consumption and waters unsuitable for contact recreation.

The relationship of tangata whenua with the coastal environment must also be considered when determining the significance of both existing degraded water quality and future discharges. Māori place great spiritual significance on the sea and it is valued for mahinga kai. The mauri or life force of the sea can be compromised by the discharge of pollutants, especially the discharge of human sewage. Tangata whenua generally prefer such discharges to be undertaken to land, or to sea only after passing through land.

1994 NZCPS provisions

Most of the current NZCPS policies addressing water quality issues are to be found in Chapter 5 of the NZCPS. Policies 1.1.4 (c) and (d) and Policy 3.2.7 are also directly relevant. There are also a number of other policies in Chapters 1 and 3 of the NZCPS that are more indirectly related to water quality.

The policies in Chapter 5 of the NZCPS primarily provide guidance for policy statements in plans or plan rules and are not therefore applicable to consideration of resource consents. The policy focus is on human sewage discharges, and there are no direct references to discharges from other sources such as stormwater, or issues such as sedimentation or seabed contamination.

Under Schedule 1.10 of the NZCPS, discharges to the CMA of human sewage which have not passed through soil or wetlands, and discharges where the applicant relies on section 107(2)(a), are Restricted Coastal Activities which require the approval of the Minister of Conservation.

Dr Rosier (Rosier 2004) noted that, in respect to feedback from submissions and meetings:

- There is a view that the NZCPS water quality provisions are out of date;
- The policies about sewage discharges need to be reviewed;
- There is a lack of clarity about determining the effectiveness of 'mixing zones';
- There is a lack of precision in policies.

In response to the NZCPS Review Issues and Options paper (Department of Conservation 2006a) there was wide spread support across all sector groups to strengthen water quality provisions and most submitters sought objectives in relation to water quality (Enfocus 2006).

Proposed objective

To achieve the sustainable management purpose of the RMA and address the key issues identified for water quality in the coastal environment, the water quality objective in the NZCPS needs to address two main outcomes:

- Maintenance of existing high water quality (including water in its natural state);
- Enhancement of degraded water quality.

Objective 7 is therefore proposed as follows:

Water quality in the coastal environment is maintained, or improved over time where it has deteriorated from its natural state.

Objective 7 provides for the above matters and addresses concerns with the existing provisions of the 1994 NZCPS. It provides for the proposed NZCPS to contain further policies addressing these matters. These matters would not be addressed by retaining the existing provisions of the 1994 NZCPS or by the deletion of water quality provisions from the proposed NZCPS. Therefore in comparison to these alternatives, and having regard to the above matters, Objective 7 is considered to be the most appropriate way to achieve the purpose of the RMA.

2.8 COASTAL HAZARDS

Issues

Coastal processes are natural processes that give rise to hazards when they impact on buildings and infrastructure. While the effects of climate change will vary in different areas, it is anticipated that the current erosion trends and the potential for flooding and storm damage will become more severe. At the same time there is an increasing demand to locate subdivision, use, and development as near as possible to the coastal marine area. Conflicts arise between allowing natural processes to occur (thereby protecting natural character, amenity values, beach profiles, access etc) and protecting private property, public property or infrastructure (e.g. by coastal hazard protection works).

1994 NZCPS provisions

There are a range of provisions in the 1994 NZCPS that relate to coastal hazards, in particular, Principle 7 and Policies 3.4.1 to 3.4.6. These provisions generally provide for identifying and managing hazards, emphasise the importance of natural features and focus on best practicable options for protection works.

Local Government staff in commenting on the effectiveness of the 1994 NZCPS considered the existing coastal hazard policies to be largely ineffective and in need of strengthening. They suggested including reference to 'risk'; a clear statement on sea level rise figures; and prohibition of development in high risk areas. There was also concern over poor plan integration between regions and districts (Young 2003). These comments were supported in the independent review of the NZCPS (Rosier 2004 and Jacobsen 2004).

RMA amendments

Since the 1994 NZCPS, there have been two amendments to the RMA that impact particularly on the management of the effects of natural hazards:

- The inclusion of climate change in section 7, and
- The requirement for regional policy statements to specify responsibilities for avoiding or mitigating natural hazards (s62(1)(i)).

It is considered that the existing references to climate change in the NZCPS should be strengthened to better reflect the inclusion of climate change into Part II of the RMA.

The NZCPS Review Issues and Options paper (Department of Conservation 2006a) sought comment on how best to strengthen coastal hazard management provisions. Those submitters who commented on coastal hazard management supported the possible new policies and the intent to strengthen the existing provisions, including in particular, a risk-based policy approach and clear national directions on the management of coastal hazards (Enfocus 2006).

Proposed objective

In order to strengthen the policy framework for managing coastal hazards it is considered that the proposed NZCPS should contain a separate objective specific to this topic area. To promote sustainable management of coastal hazards the objective should:

- Emphasise the need to manage the risk from coastal hazards;
- Recognise that the coastal environment is particularly susceptible to coastal hazard risks in areas where buildings, roads and other infrastructure are located close to the coastal marine area;
- Recognise that over time development should be located away from areas at risk from coastal hazards
- Recognise the important role that natural features can play in protecting landward areas from the effects of coastal processes;
- Recognise that while there is a significant amount of settlement located near the coast, the use of hard protection structures should not be regarded as the only solution. Other values such as amenity, natural character and public access should also be addressed;
- Enable the proposed NZCPS to contain policies providing greater guidance on the management of coastal hazard areas in the coastal environment.

Objective 8 is therefore proposed as follows:

Coastal hazard risks are managed increasingly by locating or relocating development away from risk areas, protecting or restoring natural defences and discouraging recourse to hard protection structures.

Objective 8 provides for all of the above matters. These matters will not be achieved by the existing provisions of the 1994 NZCPS nor by the deletion of coastal hazards from the proposed NZCPS. Therefore in comparison to these alternatives, and having regard to the above matters, Objective 8 is considered to be the most appropriate way to achieve the purpose of the RMA.

2.9 HISTORIC HERITAGE

Issues

Historic heritage in the coastal environment is subject to pressures from both development and from coastal erosion. Once lost, historic heritage is irreplaceable.

Protection of historic resources first requires their identification but there is often a lack of information concerning historic resources, particularly in the coastal marine area.

1994 NZCPS provisions

The 1994 NZCPS contains four provisions which relate to historic heritage [Principle 8, Policies 1.1.3 b) and c) and Policy 3.1.2]. These provisions generally include historic heritage amongst a list of other matters, including cultural, spiritual, amenity and recreational values, which are to be provided for in the coastal environment. Policy 1.1.3 specifically includes historic places and areas as elements of natural character.

Local government staff in commenting on the effectiveness of the 1994 NZCPS provisions expressed the concern that, due to the inclusive nature of the policies, Councils experienced difficulty in knowing which matters should be protected under Policies 1.1.3 and 3.1.2 (Young 2003).

RMA amendments

Subsequent to the approval of the 1994 NZCPS the Resource Management Amendment Act 2003 has:

- Identified the protection of historic heritage from inappropriate subdivision, use, and development as a matter of national importance under s6(f) of the RMA;
- Added a definition of historic heritage to s2 of the RMA;
- Amended s12(1) (g) of the RMA to restrict the destruction, damage or disturbance of the foreshore or seabed in a manner that has or is likely to have an adverse effect on historic heritage unless this is expressly allowed by a regional coastal plan or a resource consent.

It is considered that the existing NZCPS provisions do not reflect the national importance now placed on the protection of historic heritage.

The NZCPS Review Issues and Options paper (Department of Conservation 2006a) sought comment on the option of identifying the protection of historic heritage as a separate national priority and providing greater guidance on its identification and protection. This option was supported by almost all the submitters who commented on this issue (Enfocus 2006).

Proposed objective

In order to reflect the national importance of historic heritage it is considered that the proposed NZCPS should contain a separate objective specific to historic heritage. To promote sustainable management of historic heritage in the coastal environment the objective should:

- Specify that identification of historic heritage is part of the protection process;
- Provide for the protection of historic natural and physical resources in the coastal environment;
- Provide for appropriate subdivision, use, and development;

- Enable the proposed NZCPS to contain policies providing greater guidance on the identification, protection and integrated management of historic heritage in the coastal environment.

Objective 9 is therefore proposed as follows:

Historic heritage in the coastal environment is protected from inappropriate subdivision, use, and development.

Objective 9 provides for all of the above matters. These matters will not be achieved by the existing provisions of the 1994 NZCPS nor by the deletion of historic heritage from the proposed NZCPS. Therefore, in comparison to these alternatives, and having regard to the above matters Objective 9 is considered the most appropriate way to achieve the purpose of the RMA.

2.10 THE CROWN'S INTERESTS IN THE LAND OF THE CROWN IN THE COASTAL MARINE AREA

Issues

The lands of the Crown in the coastal marine area comprise those parts of the foreshore and seabed that are not in private ownership. This is the majority of foreshore and seabed. Section 58 (d) of the RMA provides for an NZCPS to state objectives and policies about the Crown's interests in the land of the Crown in the coastal marine area.

The Crown has an interest in ensuring that people and communities can provide for their social, economic and cultural wellbeing, including through the use, development and protection of Crown land in the coastal marine area. The NZCPS as a whole addresses this larger interest of the Crown as sovereign and includes policy on particular activities on Crown land on the coastal marine area. In addition, the Crown has interests more specific to its position as a land owner. Two of these issues are addressed here and flow through to policies:

- Coastal occupation charges; and
- Reclamation vesting.

Charging for the occupation of public land generates a return to the public in compensation for the rights transferred. Charging also acts as an economic instrument to complement regulation in avoiding unnecessary occupation of public land.

There has been a failure to implement charges both under the initial regime for coastal charges (where rentals were to be set by the Minister for the Environment in Orders in Council and an obligation to pay was a deemed condition of any occupation consent) and in the current regime (where the setting of rentals was devolved to regional councils for inclusion in regional coastal plans).¹ One way to assist regional councils to implement charging regimes is to provide detailed guidance in the NZCPS to address the barriers to implementation.

Another specific, but related, issue is that of charging when the Minister of Conservation vests rights in foreshore and seabed reclamations. This function

¹ Only Southland Regional Council has included a coastal occupation charging regime in its regional coastal plan, and this was derived directly from the old Harbours Act 1950 rentals.

is now more closely related to coastal occupation charges because reclamations constructed after 2004 generally retain their status as public foreshore and seabed. In addition, rental-like charges have to be determined because fee simple title can no longer be vested for these post-2004 reclamations (i.e. these reclamations cannot be sold). Therefore the Minister will increasingly be vesting leasehold rights and having to determine leasehold rentals. As part of the integrated management of the coastal environment the NZCPS should state a reclamation vesting charge policy that is consistent with the policy for coastal occupation charging.

1994 NZCPS provisions

There is no coastal occupation charges policy in the 1994 NZCPS. This is because the 1994 NZCPS pre-dated the 17 December 1997 amendment that replaced Governor-General made regulations (and a presumption that an occupation rental would be paid unless waived in each case) with a requirement for each regional council to include (or decide not to include) a coastal occupation charging regime in its regional coastal plan.

There is also no reclamation vesting charges policy in the 1994 NZCPS. Vesting of coastal marine area reclamations, and determination of the price to be paid for the right, title or interest vested, is a Minister of Conservation function that was little changed by the RMA when it first came into force.

The NZCPS Review Issues and Options paper (Department of Conservation 2006a) sought comment on providing policy on coastal occupation charges. Submissions from regional councils called for the NZCPS to clearly address the Crown's interests in lands of the Crown in the coastal marine area and provide guidance on coastal charging (Enfocus 2006).

RMA amendments

Coastal occupation charges

The RMA, from 1991 to 1997, set out an obligation to pay rent as a deemed condition of consent for any occupation of Crown land in the coastal marine area(s112). The amount of rent, and the circumstances when it was to be paid, were to be set out in regulations prepared by the Minister for the Environment and made by the Governor-General (s360). The rent was to be collected by the regional council and paid into the Crown Bank Account (s359). Consequently there was no need for an NZCPS policy on coastal occupation rentals. However, the rentals were not collected by regional councils and in recognition of issues with the system a review of the rental regime was undertaken. This led to an amendment to the RMA in December 1997.

The 1997 RMA amendment introduced section 64A, which devolved the decision over when charges should be levied, and what the charges should be, to regional councils. Councils were required to include a coastal occupation charging regime (or a decision not to have a charging regime) in a regional coastal plan. Section 64A also provides for the money received from charges to be used by the regional council for the purpose of promoting sustainable management of the coastal marine area. If a regional plan did not address the subject of charging regimes, Councils were required to address it in the first plan change after 30 June 1999.

This date was later amended to 30 June 2007. However ongoing implementation difficulties persist.

A NZCPS policy to give guidance on the implementation of section 64A has been asked for by some regional councils (either alongside RMA amendments or alone) as a way to assist regional councils to make progress on including a charging regime in their coastal plans (Enfocus 2006).

A final note on legislative amendment impacts is that the Foreshore and Seabed Act 2004 has removed uncertainty over ownership, which was one of the barriers to coastal occupation charging.

Reclamation vesting

The foreshore and seabed legislation has amended the vesting functions of the Minister of Conservation in two main ways.

The first amendment is contained in section 19 of the Foreshore and Seabed Act, which states that any land reclaimed from the public foreshore and seabed after 24 November 2004 'continues to be vested in the Crown as part of the public foreshore and seabed'.²

The second amendment is section 355AA of the RMA as inserted by Resource Management (Foreshore and Seabed) Amendment Act 2004. This sets out that, for any land reclaimed from the public foreshore and seabed under a coastal permit granted after 24 November 2004 (unless there is a written vesting agreement or special vesting Act), the Minister:

- must not vest an estate in fee simple [i.e. must not sell the reclamation]; and
- may vest a lesser right, title or interest...so long as the interest [normally a leasehold interest], together with any rights of renewal, does not exceed 50 years. [Note: there can be an exception for port companies provided the reclamation continues to be used for port facilities.]

It is appropriate for the NZCPS to contain policy which reflects the current practice and legislation for processing applications to vest reclaimed land.

When the Minister, under RMA s355(3), is determining an 'appropriate price (if any) to be paid' for a leasehold vesting of reclaimed foreshore and seabed, that appropriate price is based on the value of the underlying foreshore and seabed, not on the value of the dry land as 'improved' by the reclamation works. The result is that the Minister is determining a fair price to be charged for the occupation of the (underlying) Crown foreshore and seabed for up to 50 years, which is analogous to a regional council determining a fair charge for an occupation of the Crown foreshore and seabed for up to 35 years.

For consistency of RMA administration and a 'level playing field', reclamation vesting and coastal occupation charges should be subject to charging policies that are the same in principle but take account of the differences in administration and circumstances. In the case of reclamations, it is now established practice for

² Almost all 'land of the Crown in the coastal marine area' is 'public foreshore and seabed'. For the purposes of policy, the terms can be considered synonymous and can be used interchangeably.

the Minister to seek a market value for the sale or leasehold rental, and there is the opportunity for this to be formalised by the NZCPS.

As with coastal occupation charges above, the Foreshore and Seabed Act 2004 has removed the uncertainty over ownership, which has been a barrier when the Minister was reaching agreement with vestees over a fair price.

International obligations

Section 58 (f) of the RMA provides for the NZCPS to contain objectives and policies for the implementation of New Zealand's international obligations where they affect the coastal environment. In order for those obligations to be implemented it is appropriate to include in the objective concerning the crown interests that such obligations be recognised. This provides for the NZCPS to contain a policy to further assist in the implementation of those obligations.

Proposed objective

To reflect the interests of the Crown, as an owner of land in the coastal marine area on behalf of the people of New Zealand, it is considered that the proposed NZCPS should contain a separate objective specific to management of that land. To promote sustainable management of this public land in the coastal environment, the objective should:

- Specify that the management of the coastal environment recognises the interests of the Crown as the owner of land in the coastal marine area ;
- Provide for the NZCPS to contain further policies addressing coastal occupation changes and reclamation vesting charges;
- Provide for the recognition of New Zealand's international obligations.

Objective 10 is therefore proposed as follows:

Management of the coastal environment recognises the Crown's interests as an owner of land in the coastal marine area, and New Zealand's international obligations.

Objective 10 provides for all of the above matters. These matters will not be achieved by the existing provisions of the 1994 NZCPS or by the deletion of Crown ownership interests from the proposed NZCPS. Therefore, in comparison to these alternatives, and having regard to the above matters, Objective 10 is considered the most appropriate way to achieve the purpose of the RMA.

3. Policies

3.1 GENERAL

Policy 1: The coastal environment

To effectively implement the objectives of the NZCPS and promote sustainable management policy guidance on the extent of the coastal environment is required. Submitters to the Review of the NZCPS: Issues and Options paper (DOC 2006a) expressed widespread support for such guidance (Enfocus 2006). It is recognised that the coastal environment cannot be defined by one set of criteria that would be able to be applied nationally. Rather it is more logical for local authorities to define the extent of the coastal environment at the regional and district level in a manner that takes into account the local settings. In considering local settings there are however a range of nationally consistent matters that should be considered and on which guidance can be provided.

Without recognition of the extent of the coastal environment the appropriate use, development, and protection of the natural and physical resources in the area encompassed by the NZCPS cannot be achieved.

Table 3.1.1 sets out an assessment of the marginal costs and benefits of a policy requiring recognition of the coastal environment.

TABLE 3.1.1

	BENEFITS	COSTS
Party		
Central government	High Provides national consistency on the determination of the coastal environment and where the NZCPS objectives and policies apply. Assists in ensuring the purpose of the RMA is met.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review.
Local authorities	High Provides direction and guidance on defining the extent of the coastal environment. Provides more certainty at regional and local levels of the area covered by the NZCPS. Provides for land use decision-making to be integrated with marine management.	Low There will be some additional costs imposed on councils to meet the implementation costs of this policy as not all councils have identified the extent of their coastal environment.
Resource users	Medium Provides more certainty to land owners of areas covered by the NZCPS. Reduces arguments on where NZCPS applies.	Nil
Environment		
Coastal environment	High Promotes the sustainable management of the coastal environment.	Nil

Overall it is considered that the policy generates medium to high benefits and only low costs.

There is currently a lack of certainty on the extent of the coastal environment around some parts of New Zealand. By not clarifying this matter, there is a risk of the NZCPS objectives and policies not being applied effectively.

To address the above matters and provide for the recognition of the extent of the coastal environment Policy 1 is proposed as follows:

Policy 1 The coastal environment

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

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

It is considered that Policy 1 (in conjunction with the other policies of the proposed NZCPS) is the most appropriate means of achieving the objectives of the proposed NZCPS because the policy is:

- Effective as it enables the coastal environment provisions of the RMA and the NZCPS to be applied to a consistent area within a region or district;
- Efficient in building on and implementing case law;
- Efficient in providing nationally consistent guidance on those matters that should be considered when determining the extent of the coastal environment;
- Efficient in aligning the actions and decisions of differing Local Authorities with RMA functions in the coastal environment, including alignment across MHWS;
- Efficient as it generates greater benefits than costs.

Policies 2 to 4: The Treaty of Waitangi, characteristics of special value to tangata whenua and transfer, and delegation or sharing of local authority functions

In order to achieve Objective 4 the need for those exercising functions and powers under the RMA to take into account the principles of the Treaty of Waitangi should also be reflected in policy. Policy is also required to give general guidance on how these principles are to be taken into account and on the approaches to policy and decision-making that are necessary to enable tangata whenua to function as kaitiaki.

This guidance should refer to:

- The need to undertake meaningful consultation in accordance with tikanga Māori;
- The consideration of ways in which the capacity of iwi to respond to consultation can be enhanced and how processes can be established and maintained to promote consultation;
- The account to be taken of any relevant iwi planning documents;
- The involvement of tangata whenua in decision-making;
- The involvement of tangata whenua in the preparation of policy statements and plans including the identification of issues, characteristics and resources that are of special value to tangata whenua;
- The subsequent need to provide for access to and the use, development and protection of these characteristics and resources;
- The appropriate transfer or delegation of powers, functions and duties to tangata whenua.

The following policies are therefore proposed:

Policy 2 The Treaty of Waitangi and tangata whenua

All persons exercising functions and powers under the Resource Management Act 1991 in relation to the coastal environment shall:

- (a) take into account the principles of the Treaty of Waitangi;*
- (b) undertake consultation with tangata whenua in accordance with the Act that is early, meaningful and ongoing and is appropriate with regard to tikanga Maori;*
- (c) involve iwi authorities on behalf of tangata whenua in the preparation of policy statements and plans, by consulting with iwi authorities in accordance with Schedule 1 to the Act. This consultation could reasonably include:*
 - (i) considering ways in which to foster the development of iwi authorities' capacity to respond to invitations to consult;*
 - (ii) establishing and maintaining processes to provide opportunities for those iwi authorities to be consulted;*
 - (iii) enabling those iwi authorities to identify resource management issues of concern to them; and*
 - (iv) indicating how the resource management issues of concern to iwi have been or are to be addressed.*
- (d) take into account any relevant iwi resource management plan and any other relevant planning document recognised by the appropriate iwi authority;*
- (e) recognise and provide for any relevant management plan for a foreshore and seabed reserve;*
- (f) where practicable, with the consent of tangata whenua and in accordance with tikanga Maori, incorporate matauranga Maori in policy statements and plans and in the consideration of applications for resource consents; and*

(g) provide appropriate opportunities for tangata whenua involvement in decision-making on resource consents.

Policy 3 Characteristics of special value to tangata whenua

Local authorities shall work with tangata whenua, in accordance with tikanga Maori, to identify characteristics of the coastal environment that are of special value to tangata whenua, including waahi tapu, tauranga waka, mabinga mataitai and taonga raranga. In doing so, local authorities shall recognise that tangata whenua have the right to choose not to identify these characteristics. Provision shall be made, in accordance with tikanga Maori, for:

- (a) the maintenance or enhancement of access for tangata whenua, as far as practicable, to these characteristics; and*
- (b) the appropriate use, development, and protection of these characteristics.*

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

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

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

These policies provide the benefit of general guidance on the achievement of Objective 4. It is considered that these policies constitute good practice and do not generate any additional costs as they should be carried out under the existing provisions of the RMA. Having regard to their effectiveness and efficiency these policies are therefore considered the most appropriate way to achieve Objective 4.

Policy 5: Precautionary approach

The sustainable management of activities in the coastal environment is at times hindered by limited knowledge of the potential effects of activities. An approach that is precautionary but responsive to increased knowledge is considered to be appropriate, particularly where the adverse effects may be significant. Strong

support for retaining the precautionary approach was expressed by submitters to the review of the NZCPS Issues and Options paper (Enfocus 2006).

It is therefore considered that the promotion of sustainable management and the effective implementation of the proposed NZCPS objectives requires that a precautionary approach is adopted towards proposed activities whose effects are uncertain, unknown or little understood but potentially significantly adverse. Without this being clearly provided for on the NZCPS sustainable management of subdivision, use, and development may not be achieved.

Table 3.1.2 sets out an assessment of the marginal costs and benefits of a policy requiring the adoption of a precautionary approach.

TABLE 3.1.2

	BENEFITS	COSTS
Party		
Central government	Medium Assists in ensuring the purpose of the RMA is met. Balances protection with use and development.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Local authorities	Medium Provides direction and guidance on managing activities where there is limited knowledge and potentially significant adverse effects.	Low The precautionary approach is not currently consistently applied and can generate additional monitoring costs, some of which may fall on local authorities.
Resource users	Medium Enables applicants to proceed with activities in a way which gains further relevant knowledge.	Medium Application of conditions reflecting the precautionary approach can lead to additional monitoring costs.
Environment		
Coastal environment	High Prevents some activities with significant adverse effects.	Medium Some activities may proceed with subsequent significant adverse effects that cannot be managed appropriately.

Overall it is considered that the benefits of the policy exceed the costs.

This policy directly addresses the risk of acting or not acting when there is uncertain or insufficient information.

To address the above matters and provide for the adoption of a precautionary approach Policy 5 is proposed as follows:

Policy 5 Precautionary approach

A precautionary approach shall be adopted towards proposed activities whose effects on the coastal environment are uncertain, unknown or little understood, but whose effects are potentially significantly adverse to that environment.

It is considered that Policy 5 (in conjunction with the other policies of this NZCPS) is the most appropriate means of achieving the objectives of the NZCPS because the policy is:

- Effective in recognising that there are knowledge gaps in relation to coastal information;
- Effective in enabling activities to proceed in a carefully managed manner
- Efficient in providing guidance on when a precautionary approach should be adopted;
- Efficient as it generates medium to high benefits and low to medium costs.

Policy 6: Integration

Achieving integrated management of resources in the coastal environment is fundamental to implementing the objectives of the NZCPS and promoting sustainable management. This was strongly supported by submitters to the Review of the NZCPS: Issues and Options paper (Enfocus 2006). Land use activities can give rise to adverse effects on the coastal environment, and in some instances, activities in the coastal marine area can have impacts on adjacent land. Some activities on the coastal margin span administrative boundaries. Co-ordinated management or control of activities within the coastal environment, including those activities that cross administrative boundaries, is therefore required for effective and efficient management of resources. Unless this is clearly identified and addressed, sustainable management of subdivision, use, and development of the coastal environment cannot be achieved.

Table 3.1.3 sets out an assessment of the marginal costs and benefits of a policy requiring integrated management of the coastal environment.

TABLE 3.1.3

	BENEFITS	COSTS
Party		
Central government	Medium Provides for effective management across the line of MHWS and between local authorities. Assists in ensuring the purpose of the RMA is met.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Local authorities	Medium Provides direction and guidance on circumstances when integration is particularly important and may need to be addressed proactively.	Medium Not all councils have effectively integrated the sustainable management of activities in the coastal environment. There will be some additional costs imposed on councils in the implementation of this policy.
Resource users	Medium Provides more certainty to consent applicants on how activities requiring integrated management should be addressed.	
Environment		
Coastal environment	High Provides for land use decision-making to be integrated with marine management. Provides for the recognition of public space above and below MHWS.	

Overall it is considered that the benefits of the policy exceed the costs.

Integrated management is undertaken to varying degrees, depending on the local authorities involved and the activities or resources being managed. By not improving on the way integrated management is undertaken, there are risks of activities being managed without taking into account their cross boundary effects, or of conflicting decisions between local authorities.

To address the above matters and provide for integrated management Policy 6 is proposed as follows:

Policy 6 Integration

Policy statements and plans shall provide for the integrated management of natural and physical resources in the coastal environment, and activities that affect the coastal environment. This includes coordinated management or control of activities within the coastal environment, and which could cross administrative boundaries, particularly:

- (a) where use or development in the coastal marine area will require, or is likely to result in, associated use or development above mean high water springs;*
- (b) where use or development above mean high water springs will require, or is likely to result in, associated use or development in the coastal marine area;*
- (c) where public use and enjoyment of public space is affected, or is likely to be affected;*
- (d) where land management practices affect, or are likely to affect water quality in the coastal environment; and*
- (e) where significant adverse cumulative effects are occurring, or can be anticipated.*

It is considered that Policy 6 (in conjunction with the other policies of the NZCPS) is the most appropriate means of achieving the objectives of the NZCPS because the policy is:

- Effective in promoting an integrated management approach;
- Effective in enabling the potential impacts of activities on either side of MHWS to be managed in a way that recognises the potential impact of their effects across the coastal environment;
- Efficient in providing guidance on when integrated management should be undertaken ;
- Efficient in aligning the actions and decisions of differing Local Authorities with RMA functions in the coastal environment, including alignment across MHWS;
- Efficient as it generates greater benefits than costs.

Policy 7: Conservation land and Policy 8: Areas proposed for statutory protection

People and communities derive part of their social economic and cultural well being from the protection of natural and physical resources in the coastal environment. In order to assist in achieving Objectives 1 , 5 and 6 it is appropriate

for areas in the coastal environment that are protected or proposed for protection under statute to be recognised. This recognition also assists in the achievement of Objectives 2, 3 and 10.

It is therefore considered appropriate to state that areas that are protected under statute should be recognised when determining the status of activities in plans and when determining resource consent applications. Furthermore, areas that are proposed for statutory protection should also be considered when determining resource consent applications. These policies provide the benefit of certainty that these matters will be recognised. It is not considered that these policies impose additional costs on any party as these matters should already be recognised by local authorities.

Policies 7 and 8 are proposed as follows.

Policy 7 Conservation land

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

Policy 8 Areas proposed for statutory protection

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

It is considered that Policies 7 and 8 (in conjunction with the other policies of the NZCPS) are the most appropriate means of achieving the objectives of the NZCPS because the policies are:

- Effective ensuring that protected or proposed for protection under statute to be recognised in plans and/or resource consent decisions;
- Efficient as they generate greater benefits than costs.

Policy 9: Biosecurity

Biosecurity risks have the potential for significant adverse effects on the coastal environment. In particular biosecurity risks could prevent the achievement of Objectives 1 to 4 and 7. It is therefore appropriate to include policy in relation to biosecurity risks, in order to complement the biosecurity functions agencies have under the Biosecurity Act 1993. It is considered that this policy provides certainty in ensuring that biosecurity matters are considered in regional coastal plans and coastal permits. It is considered that any costs imposed on parties are low and as these matters should already be considered by regional councils. Policy 9 is therefore proposed as follows:

Policy 9 Biosecurity

Regional coastal plans shall control activities in the coastal marine area that could, because of associated biosecurity risks, have adverse effects on the coastal environment. Relevant activities include, but are not limited to:

- (a) the movement of structures likely to be contaminated with harmful organisms;*
- (b) the disposal of organic material from vessel maintenance;*
- (c) the provision of moorings, marina berths, jetties and wharves; and*
- (d) the establishment and movement of equipment and stock required for or associated with aquaculture activities.*

Coastal permits, where relevant, shall include conditions requiring monitoring for biosecurity risks.

It is considered that this policy is the most appropriate way of achieving Objectives 1 to 4 and 7 because it is:

- Effective in providing guidance on biosecurity issues;
- Efficient as it generates greater benefits than costs.

Policies 10, 11, and 12: Monitoring and review

The Minister of Conservation has the function of monitoring the effect and implementation of the NZCPS. Section 58 (g) of the RMA provides for an NZCPS to contain the procedures and methods to be used monitor and review policies. In order to achieve the purpose of the RMA, and Objectives 1 to 9, it is appropriate for the NZCPS to contain policies stating how monitoring will be carried out and when a review will be undertaken.

Monitoring the effectiveness of the NZCPS will require assessment of its effect on regional policy statements, plans, and resource consent applications. In order to prepare for the next review of the NZCPS it is also necessary for coastal resource management trends and issues to be monitored at a national level.

Monitoring of these effects, trends and issues will be greatly assisted by nationally consistent monitoring methodologies. It is therefore appropriate to ensure that central government works with local authorities to incorporate local monitoring into a national consistent framework and that local authorities have regard to national consistency when identifying monitoring procedures.

The NZCPS should be subject to periodic review to ensure it is effective. One method which would provide consistency with the 10 year review period required for policy statements and plans by section 79 of the RMA is to specify that the next review of the NZCPS will also commence 10 years from the date the NZCPS is gazetted.

The monitoring of the NZCPS is a function of the Minister of Conservation and is therefore an existing cost. Similarly monitoring of the coastal environment is an existing cost for local authorities. Policy guidance on monitoring methodologies provides the benefit of a certain and nationally consistent methodology. Engagement between central government and local authorities in the monitoring

process may impose some additional costs on both parties but provides considerable benefit by promoting national consistency.

Undertaking a review of the NZCPS will impose costs on central government but provides the benefit on ensuring that the NZCPS remains relevant and effective.

It is considered that policy guidance on monitoring reduces uncertainty and provides for increased information.

Policies 10, 11, and 12 are therefore proposed as follows:

Policy 10 Review of the New Zealand Coastal Policy Statement

The Minister of Conservation shall begin a review of this New Zealand Coastal Policy Statement no later than 10 years after its gazettal.

Policy 11 Monitoring of the New Zealand Coastal Policy Statement

In monitoring the effectiveness of the New Zealand Coastal Policy Statement in achieving the purpose of the Act, the Minister of Conservation shall:

- (a) assess the effect of the New Zealand Coastal Policy Statement on regional policy statements, plans and resource consent decision-making;*
- (b) work with local authorities to incorporate district and regional monitoring information into a nationally consistent coastal environment monitoring and reporting programme; and*
- (c) undertake other information gathering or monitoring that assists in providing a national perspective on coastal resource management trends, emerging issues and outcomes.*

Policy 12 Local authority monitoring

When identifying the procedures and methods to be used to monitor the coastal environment of the region or district, local authorities shall recognise the need to collect data in a manner that facilitates comparison and collation to provide a national perspective on the state of the coastal environment.

It is considered that these policies are the most appropriate way of fulfilling the requirements of the RMA and achieving Objectives 1 to 9 because they are:

- Effective in fulfilling the Minister of Conservation's functions under section 28 of the RMA;
- Efficient in providing guidance on monitoring and review procedures;
- Efficient as they generate greater benefits than costs.

Policy 13: Amendment of policy statements and plans

Section 55 (2A) requires national policy statements to state whether a local authority is required to use the RMA Schedule 1 process to amend its policy statements and/or plans to give effect to that national policy statement. This section also provides for national policy statements to direct that specific provisions be included in policy statements and plans without the notification and hearing processes of Schedule 1.

The proposed NZCPS provides for restricted coastal activities and maps of Maui dolphin habitat to be included in regional coastal plans without notification or hearing. The remaining policies are to be given effect to in policy statements and plans through the Schedule 1 process. In accordance with section 55 the NZCPS should specifically state this. It is also appropriate for the NZCPS to require that it be given effect to within a specified timeframe. If possible the NZCPS should be given effect to at the next full review of a policy statement or plan. However where a full review is not due within the next 5 years it is appropriate for the NZCPS to state that local authorities shall amend their policy statements and plans to give effect to the NZCPS through a separate policy or plan change process. Given the 10 year timeframe of the NZCPS it is considered that 5 years is the latest date that can be provided for a separate policy or plan change and that any later timeframe would fail to see the NZCPS implemented in a timely manner.

Implementing the NZCPS will impose costs on local authorities. These costs will be reduced when implementation of the NZCPS can be carried out as part of a full review and approximately 55% of the policy statements and plans that may need to be amended to effect to the NZCPS are due for a full review within 5 years. This includes 14 of 16 regional policy statements. In addition, as the NZCPS provisions give effect to the RMA many of the actions required of local authorities by the NZCPS should already be undertaken. This includes the preparation of natural character, biodiversity and landscape studies. It also includes the preparation of growth strategies and structure plans. Many of these studies and strategies will be undertaken as part of the imminent regional policy statement reviews referred to above.

Consequently the additional costs to local authorities of implementing the NZCPS within 5 years are not considered to be excessive. However implementing the NZCPS within 5 years has the considerable benefit of ensuring that the NZCPS is given effect to in a timely manner and the sustainable management issues arising from growth pressures in the coastal environment addressed.

Policy 13 is therefore proposed as follows:

Policy 13 Amendment of policy statements and plans

Local authorities shall amend documents as necessary to give effect to this New Zealand Coastal Policy Statement as soon as practicable and no later than five years after the date of gazettal of this New Zealand Coastal Policy Statement, using the process set out in Schedule 1 to the Resource Management Act 1991, except where this New Zealand Coastal Policy Statement specifies otherwise.

It is considered that Policy 13 is the most appropriate means of achieving the objectives of the NZCPS because it is:

- Effective in requiring that the NZCPS be given effect to and sustainable management issues in the coastal environment addressed;
- Efficient in allowing some plans and policy statements to use the full review process to give effect to the NZCPS;
- Efficient in generating greater benefits than costs.

3.2 SUBDIVISION, USE, AND DEVELOPMENT

Policy 14: Settlement growth and urban development and Policy 15: Form of subdivision and development

Objective 2 requires that subdivision, use, and development in the coastal environment occur in places, in forms and within limits consistent with sustainable management. This is in part to give effect to s 6 (a) of the RMA and protect natural character from 'inappropriate' subdivision, use, and development. In addition giving effect to the other objectives of the NZCPS requires that all subdivision, use, and development in the coastal environment be consistent with sustainable management.

It has been identified that subdivision, use, and development pressures are the most significant issue for the sustainable management of the coastal environment. It has also been identified that the provisions of the 1994 NZCPS fail to provide sufficient guidance on the use of the term 'appropriate' It is therefore considered that, in achieving the objectives of the proposed NZCPS and the purpose of the RMA, the NZCPS should contain further policy guidance on the types of subdivision, use, and development that is 'appropriate' or consistent with sustainable management. Because this is key guidance which gives effect to a number of objectives and other policies it is appropriate for the policy to refer to the implementation of the NZCPS as a whole. Because the subdivision, use, and development pressures above MHWS and in the coastal marine area differ it is appropriate to state separate policies in relation to those areas.

In relation to the coastal environment outside the coastal marine area it is appropriate for policy to give guidance on subdivision and urban development. Such guidance should include the requirement to specify where development is, and is not appropriate, and the need to:

- Generally set back subdivision, use, and development from the coast and other water bodies;
- Avoid urban sprawl and ribbon development; and
- Buffer sites of significant indigenous biological diversity.

Many marae are located in coastal areas and it is appropriate to assist in achieving Objective 4 by providing for the sustainable management of papakainga and marae developments in the coastal environment.

In providing for areas where subdivision and development are appropriate the achievement of Objective 2 also requires that policy guidance be provided on the forms of development that are consistent with sustainable management. Such policy should identify that development include:

- A range of densities and development types;
- Provision for sustainable forms of transport; and
- Public open spaces.

Table 3.2.1 sets out an assessment of the marginal costs and benefits of policies containing these elements.

Overall it is considered that these policies provide medium to high benefits and low to medium costs. It is not considered that there is a risk arising from uncertainty or insufficient information concerning the subject matter of these policies.

TABLE 3.2.1

	BENEFITS	COSTS
Party		
Central government	High Assists in ensuring the purpose of the RMA is met and that the most significant issue for sustainable management of the coastal environment is addressed.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Local authorities	High Provides direction and guidance on defining 'appropriate subdivision, use and development' in the coastal environment. Provides more certainty at regional and local levels for directing growth.	Medium The majority of councils are involved in some level of growth-planning through a variety of statutory and non-statutory documents. There will be additional costs for councils to meet the specific implementation costs of this policy.
Resource users	Medium Provides more certainty to land owners of where future growth should be located.	Medium Will place limits on the use of land for some land owners.
Environment		
Coastal environment	High Provides for land use decision-making to recognise the importance of coastal areas and ensure growth is sustainable.	Low Provides for some growth areas in the coastal environment.

Policies 14 and 15 are therefore proposed as follows:

Policy 14 Location of subdivision and development

Policy statements and plans shall identify where, in the coastal environment (outside the coastal marine area):

- (a) subdivision, and the development of subdivided land, to provide dwellings or commercial premises will be appropriate; and*
- (b) subdivision and development, of specified types, will not be appropriate.*

In identifying these areas, while giving effect to this policy statement as a whole, local authorities shall:

- (c) encourage a mixture of land uses along the coast, particularly along and near the coastal marine area, and discourage continuous urban development of the coast where it has not already occurred;*
- (d) generally set back subdivision, use, or development from the coastal marine area and other water bodies, to protect the open space character of the coast, its natural character, and its amenity values, and to provide for public access and avoid or reduce natural hazard risks;*
- (e) avoid urban sprawl, by encouraging development within existing urban areas and discouraging the agglomeration of separate urban areas;*
- (f) avoid ribbon development along transport corridors;*

- (g) make provision for papakainga and marae developments; and*
- (b) buffer or otherwise protect sites of significant indigenous biological diversity value.*

Policy 15 Form of subdivision and development

Within areas identified under Policy 14(a) local authorities shall promote appropriate forms of subdivision and development, including by:

- (a) encouraging a mixture of densities of development;*
- (b) encouraging mixed commercial and residential development and a variety of housing types and densities;*
- (c) promoting forms of development that enable public transport, walking and cycling as transport choices;*
- (d) providing for and protecting public open space, particularly where new urban development occurs; and*
- (e) identifying where development that maintains the character of the existing built environment should be encouraged, and where development resulting in a change in character would be acceptable.*

It is considered that Policies 14 and 15 (in conjunction with the other policies of the NZCPS) are the most appropriate means of achieving the objectives because the policies are:

- Effective in providing guidance on the location of appropriate subdivision, use, and development;
- Effective in providing guidance on the forms and limits of subdivision, use, and development;
- Efficient as they generate greater benefits than costs.

Policy 16: Use and development of the coastal marine area

Objective 2 requires that subdivision, use, and development in the coastal environment occur in places, in forms and within limits consistent with sustainable management. This is in part to give effect to s 6(a) of the RMA and protect natural character from 'inappropriate' subdivision, use, and development. In addition giving effect to the other objectives of NZCPS requires that subdivision, use, and development in the coastal environment be consistent with sustainable management.

It is therefore appropriate in achieving these objectives and the purpose of the RMA to provide policy guidance on subdivision, use, and development that is 'appropriate' or consistent with sustainable management. Because this is key guidance which gives effect to a number of objectives and other policies it is appropriate for the policy to refer to the implementation of the NZCPS as a whole. Because the subdivision, use, and development pressures above MHWS and in the coastal marine area differ it is appropriate to state separate policies in relation to those areas.

In relation to the coastal marine area it is appropriate for policy to give guidance on use and development. Such guidance should include the requirement to specify where use and development is, and is not appropriate, and the need to:

- Recognise the value of the coastal marine area as public open space ;
- Recognise that some activities can only locate in the coastal marine area (in order to give these activities priority);
- Encourage efficient use of space and avoid sprawling development; and
- Buffer or protect sites of significant indigenous biological diversity.

Table 3.2.2 sets out an assessment of the marginal costs and benefits of a policy providing this guidance.

TABLE 3.2.2

	BENEFITS	COSTS
Party		
Central government	High Assists in ensuring the purpose of the RMA is met and that the most significant issue for sustainable management of the coastal environment is addressed.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Local authorities	High Provides direction and guidance on defining 'appropriate subdivision, use and development' in the coastal marine area. Provides more certainty for directing growth.	Medium The majority of councils are involved in some level of growth-planning through a variety of statutory and non-statutory documents. There will be additional costs for councils to meet the specific implementation costs of this policy.
Resource users	Medium Provides more certainty to land owners of where future growth should be located.	Medium Will place some limits on the use of the coastal marine area.
Environment		
Settlement growth	High Provides for decision-making to recognise the importance of the coastal marine area and ensure growth is sustainable.	Low Provides for some growth areas in the coastal marine area.

Overall it is considered that this policy provides medium to high benefits and low to medium costs. It is not considered that there is a risk arising from uncertainty or insufficient information concerning the subject matter of these policies.

Policy 16 is therefore proposed as follows:

Policy 16 Use and development of the coastal marine area

Policy statements and regional coastal plans shall identify where, in the coastal marine area, specified forms of use or development will and will not be appropriate. In identifying these areas, while giving effect to this policy statement as a whole, local authorities shall:

- (a) recognise the public utility of the coastal marine area as public open space and protect the cultural and amenity values of the coastal marine area as open space;*

- (b) recognise and make appropriate provision for activities important to the social, economic, and cultural wellbeing of people and communities that can, by nature, only be located in the coastal marine area;*
- (c) recognise that activities that do not, by nature, require location in the coastal marine area generally, should not be located there;*
- (d) avoid sprawling development, by encouraging efficient use of occupied space and discouraging the agglomeration of separate occupied areas; and*
- (e) buffer or otherwise protect sites of significant indigenous biological diversity value.*

It is considered that Policy 16 (in conjunction with the other policies of the NZCPS) is the most appropriate means of achieving the objectives because it is:

- Effective in providing guidance on the location of appropriate use and development;
- Effective in providing guidance on the forms and limits of use and development;
- Efficient as it generates greater benefits than costs.

Policies 17 and 18

In order to achieve Objective 1 and enable people and communities to provide for their well being it is appropriate to provide for use and development in the coastal marine area where is consistent the purpose of the RMA. Some infrastructure of national importance and some forms of renewable energy generation, such as tidal, can only locate in the coastal marine area. In addition aquaculture activities can only locate in the coastal marine area. It is appropriate to recognise the Crown's interest in the location of these activities in the land of the Crown in the coastal marine area when it is consistent with the purpose of the RMA.

It is not considered that these policies impose costs on any party. The policies have the benefit of providing additional guidance to those exercising functions, duties and powers under the RMA.

Policy 17 and 18 are therefore proposed as follows:

Policy 17 Crown interest in particular activities on land of the Crown in the coastal marine area

Policy statements and regional coastal plans shall recognise the Crown's interest in making land of the Crown in the coastal marine area available for:

- (a) infrastructure of national importance;*
- (b) renewable energy generation;*

where such use and development would meet the purpose of the Act.

Policy 18 Crown interest in aquaculture activities

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

It is considered that Policies 17 and 18 (in conjunction with the other policies of the NZCPS) are the most appropriate means of achieving the objectives because the policies are:

- Effective in providing guidance on the Crown's interest in particular activities on land of the Crown in the coastal marine area;
- Efficient as they generate greater benefits than costs.

Policy 19: Amenity values

In achieving the objectives of the NZCPS it is particularly important that the amenity values of the coastal environment are maintained and enhanced. The amenity of the coastal environment contributes specifically to the ability of communities to provide for their social, economic and cultural well being. Amenity can arise from appropriate subdivision, use, and development and also from the value of the coastal marine area as public open space. Natural character, public access and water quality also arise from and contribute to amenity values.

It is therefore appropriate for particular policy guidance to be provided on maintaining and enhancing amenity values. This includes maintaining and enhancing areas of particular outdoor recreation values, having regard to the contribution open space makes to amenity values and recognising that physical resources and activities can contribute to the amenity of some areas.

It is considered that this policy does not impose additional costs on any party as the maintenance and enhancement of amenity values is required by s7(c) of the RMA. It is considered that this policy provides the benefit of clarification and guidance on the management of amenity values in the coastal environment.

Policy 19 is therefore proposed as follows:

Policy 19 Amenity values

The amenity values of the coastal environment shall be maintained and enhanced, including by:

- (a) maintaining or enhancing natural sites or areas of particular value for outdoor recreation in the coastal environment;*
- (b) having particular regard to the contribution that open space makes to amenity values, and giving appropriate protection to areas of open space;*
- (c) recognising that some areas derive their particular character and amenity value from a predominance of structures, modifications or activities, and providing for their appropriate management.*

It is considered that Policy 19 (in conjunction with the other policies of the NZCPS) is the most appropriate means of achieving the objectives because the policy is:

- Effective in providing guidance on the maintenance and enhancement of amenity values;
- Efficient as it generates greater benefits than costs.

Policy 20: Surf breaks of national significance

In achieving Objectives 1 and 2 particular guidance should be provided on the protection of those surf breaks that are nationally significant, taking account of their national and international reputations, their use for international competition, and their particular contribution to the variety of surfing opportunities available in New Zealand. These natural features and processes generate significant benefits for people and communities. An estimated 200,900 adults a year surf or bodyboard.³ New Zealand's best surf breaks are internationally recognised and attract surfers worldwide, including for international competitions.⁴ Nearby communities benefit economically from visitors attracted to surf breaks and often contain businesses directly related to surfing.

Surf breaks are a finite resource, which can be adversely affected by inappropriate use and development in the coastal marine area. The quality of the wave can potentially be compromised by developments in the swell corridor (seaward of the break), such as large floating structures for marine farming, that dampen the incoming swell. Alterations to the seabed, for example by dredging or deposition, can also be detrimental.⁵ The enjoyment of surf breaks by surfers can be adversely affected by discharges of sewage or other waste to the coastal marine area. Access to surf breaks for surfing can be compromised by activities inshore of the break.

Protection of surf breaks has not generally been provided for in planning documents, despite general directions in the Act and the 1994 NZCPS to protect natural features, processes, and amenity values. It is desirable therefore to include policy in the NZCPS specifically addressing the protection of surf breaks, to ensure the matter is addressed as necessary in plans and decisions on relevant activities. The policy should ensure that consideration is given to the effects of activities on wave action, the general avoidance, remediation and mitigation of adverse effects on the use and enjoyment of these areas and the maintenance and enhancement of access to the surf breaks.

This policy will impose some costs on those regional councils within whose regions the listed surf breaks are found. It could also result in the modification of development proposals in those areas. The policy protects these particular natural features and the benefits that arise from them. It is considered that the policy provides greater benefits than costs. The effects of structures and activities on wave processes may be uncertain but can also result in the loss of these features.

Therefore the following policy is proposed.

Policy 20 Surf breaks of national significance

The surf breaks at Ahipara, Northland; Raglan, Waikato; Stent Road, Taranaki; White Rock, Wairarapa; Mangamaunu, Kaikoura; and Papatowai,

³ 'Participation in sport and active leisure by New Zealand adults'. Sport and Recreation New Zealand, 30 March 2006.

⁴ The breaks at Ahipara (Shipwreck Bay), Raglan, and Stent Road, for example, are listed in the top 80 breaks worldwide in *Surfing the World*, Chris Nelson and Demi Taylor, Footprint, July 2006.

⁵ An internationally renowned surf break at Mundaka, Northern Spain, disappeared in 2005 following dredging in the area, and has taken several years to recover.

Southland, which are of national significance for surfing, shall be protected from inappropriate use and development, including by:

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

It is considered that this policy (in conjunction with the other policies of the NZCPS) is the most appropriate means of achieving Objectives 1 and 2 because the policy is:

- Effective in providing guidance on the protection of surf breaks of national importance from inappropriate use and development;
- Efficient as it generates greater benefits than costs.

Policy 21: Cumulative effects

The cumulative effects of activities can give rise to significant adverse impacts on the coastal environment. Cumulative effects can arise as a result of the combined impacts of a range of dissimilar activities, or the collective impact of a number of similar activities. Examples include impacts on water quality and ecology from a combination of point and non-point discharges from land, the effects of sprawling and sporadic subdivision on the natural character of a coastline, and phytoplankton depletion from aquaculture development. These combined or incremental effects generally occur over time, and may be significantly adverse even where the impacts of individual activities are not. Because of this cumulative effects can be more pervasive and difficult to manage than the effects of individual activities.

The 1994 NZCPS policies about cumulative effects (Policy 1.1.1 and Policy 3.2.4) are very broad and provide little direction or assistance to councils. It is therefore appropriate to combine these policies into a single, comprehensive statement which provides greater direction about how cumulative effects are to be managed. This policy should specify that those coastal values which are at particular risk from adverse cumulative effects should be identified and that where practicable thresholds should be set to limit those adverse effects.

Cumulative effects should already be considered by those exercising functions, powers and duties and under the RMA. It is considered that this policy has the benefit of providing guidance to local authorities and assists in ensuring that the purpose of the RMA is met. The identification of the risks of cumulative effects and the setting of thresholds may limit or modify some development aspirations but also provides greater certainty to resource users. In providing for the management of cumulative effects the policy has high environmental benefits. Overall it is considered that the benefits of the policy are greater than the costs.

There is some uncertainty associated with cumulative effects, however by not addressing these there is the risk of significant adverse effects on the environment.

Policy 21 is therefore proposed as follows.

Policy 21 Cumulative effects

Coastal processes, resources or values that are under threat or at significant risk from adverse cumulative effects shall be identified, and plans shall include provisions to manage these effects. Where practicable, plans shall set thresholds (including zones, standards or targets), or specify acceptable limits to change, to assist in determining when activities causing adverse cumulative effects should be avoided.

It is considered that Policy 21 (in conjunction with the other policies of the NZCPS) is the most appropriate means of achieving the objectives because the policy is:

- Effective in providing guidance on the sustainable management of cumulative adverse effects;
- Efficient as it generates greater benefits than costs.

Policy 22: Precedent effects

To implement the objectives of the NZCPS and achieve sustainable management, decision-makers need to be careful to ensure that they have regard to the precedent effects decisions may have. Precedent effects can arise where an activity is allowed that in a decision-making context would result in similar activities being likely to be approved in the future. The cumulative effects of these approvals can result in unintended or unanticipated adverse effects.

The effective implementation of the objectives requires that the potential for precedent effects to arise is recognised in decision-making. Without this clearly established, sustainable management of subdivision, use, and development of the coastal environment can be undermined.

Table 3.2.3 sets out an assessment of the marginal costs and benefits of a policy providing guidance on the avoidance of poor precedent effects.

TABLE 3.2.3

	BENEFITS	COSTS
Party		
Central government	Medium Assists in ensuring the purpose of the RMA is met.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Local authorities	Medium Provides direction and guidance on considering the precedent effects of decisions. Provides more certainty for provisions in plans.	Nil This matter should already be included in decision-making.
Resource users	Medium Provides more certainty to resource users on the implications of setting precedents.	Low May impact on development expectations.
Environment		
Coastal environment	Medium Provides for decision-making to take into account precedent effects.	Nil

Overall it is considered that the benefits of the policy exceed the costs.

The relevance of precedent effects has evolved through case law and is considered to be an important criterion for considering appropriate subdivision, use, and development. By not considering precedent effects, there is a risk in decision-making have unintended or unanticipated impacts in the future.

To address the above matter and provide for consideration of precedent effects, Policy 22 is proposed as follows:

Policy 22 Precedent effects

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

It is considered that Policy 22 (in conjunction with the other policies of the NZCPS) is the most appropriate means of achieving the objectives because the policy is:

- Effective in requiring decision-makers to consider the future impacts of decisions;
- Effective in supporting the integrity of planning documents;
- Efficient in providing guidance on precedent effects;
- Efficient as it generates greater benefits than costs.

Policy 23: Defence

National defence is a fundamental interest of the Crown. Certain defence activities (e.g. naval exercises) can only be undertaken in the coastal marine area. It is therefore appropriate for regional coastal plans to make provision for the use of the lands of Crown in the coastal marine area for defence purposes in order to assist in achieving Objective 10.

It is considered that policy requiring this does not impose additional costs on any party while providing the benefit of certainty in regard to defence purposes. Policy 23 is therefore proposed as follows:

Policy 23 Defence

Regional coastal plans should make provision for use of land of the Crown in the coastal marine area for defence purposes.

It is considered that Policy 23, in conjunction with the other policies relating to the Crowns interests in the coastal marine area, is the most appropriate means of achieving Objective 10 because the policy is:

- Effective in providing certainty;
- Efficient as it generates greater benefits than costs.

Policy 24 and Schedule II: Coastal occupation charging

An important aspect of promoting sustainable management and implementing Objective 10 in relation to Crown ownership interests is to charge a fair price for private occupation of public land in the coastal marine area, unless there is a good reason not to charge. The Crown, as owner, has two main reasons for wanting a fair price to be charged:

- To obtain the benefits from the charges acting as an economic instrument to complement regulation and avoid unnecessary private occupation of the coastal marine area and promote sustainable management; and
- To generate a return to the owner (i.e. the public) for private benefits gained and public rights lost through the occupation of public land.

One effect of charges is to reinforce that occupation of public space in the coastal marine area is a privilege and not a right. This was a very common request in submissions both to the Independent Review of the NZCPS (Rosier 2004) and the Review of the NZCPS Issues and Options (Enfocus 2006). Another benefit (optimised if the charge is set at a fair market rental level) is that occupation charges are an economic instrument which assists in minimising the occupation of public open space in the coastal marine area by:

- Providing an incentive for developers to develop new and innovative approaches to delivering services on private land outside the coastal marine area;
- Delivering fair competition for those developers who have already undertaken innovative developments on private land that are competing with developments/services located within the coastal marine area;
- Providing an incentive for developers to be efficient in their use of space and share space with other occupiers.

Issues and barriers identified by regional councils and/or occupiers to coastal occupation regimes include:

- That a regional council should not be expected to include a regime in its regional coastal plan where occupation levels are so low, or the occupations are of a type that would attract waivers or reductions to the extent, that revenue levels would not warrant the costs of developing and running a regime.
- Uncertainty over the nature of coastal occupation charges and whether they are akin to a rental (with a fair charge being determined in much the same way as a market rental, which has regard to potential/best economic use) or whether the occupation has to be assessed having regard to the occupation in isolation of, or separate from, the potential activities allowed by the resource consents.
- Uncertainty over fair charges (if they are akin to a market rental) given the limited market value information for some coastal occupation activities.
- Whether a single rigorous methodology must be used given that it must be defensible in the Environment Court, and that many small occupations do not warrant individual valuations.
- The need for a methodology that takes account of widely varying values for coastal space.
- The circumstances when a waiver or reduction is warranted.

- The resistance to, and difficulties adjusting to, any occupation charge given that most occupiers have paid no occupation charges for over 15 years.

Unless there is some national guidance on overcoming these barriers coastal occupation charges are unlikely to be implemented. This allows for the situation to arise where market rentals on developed coastlines are at a very high level and immediately adjacent rentals on wharves over the coastal marine area at a zero level. It is already the case that there are some marinas in Auckland, authorised under special legislation, paying around \$500 per berth per year while neighbouring marinas authorised under the Harbours Act or RMA are paying nothing. There is also the potential for market charges to be implemented in some regions while there are zero charges in other regions with similar levels of occupation and demand for coastal space.

It is therefore considered appropriate for the NZCPS, within the framework of section 64A of the RMA, to articulate a nationally consistent regime for coastal occupation and provide guidance on addressing the above barriers.

It is worth noting that charging for coastal occupation is not a new issue, nor a new charge, nor a new use of charging as an economic instrument. Rather, it is a matter of the Crown restating its interest in there being fair charges (where appropriate) for coastal occupations

Table 3.2.4 sets out an assessment of the marginal costs and benefits of policy that:

TABLE 3.2.4

	BENEFITS	COSTS
Party		
Central government	High Assists in meeting Crown and public expectations as owner, promotes the purpose of the RMA (including promoting a level playing field for businesses) and protection of matters of national importance (natural character and public access) by way of an economic instrument complementing regulation.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring, plus ongoing assistance to regional councils in developing methodologies in accord with the policy criteria.
Regional councils	High Promotes the purpose of the RMA (as above). Provides the additional direction and guidance to enable implementation of devolved function and, for some councils, will generate substantial funds that will both enhance proactive management of the coastal marine area, and reduce the cross subsidisation of marine occupiers by regional council ratepayers. Will promote better relationships for councils by reducing inequities for those already paying occupation rents and for marine businesses operating on private land.	Medium There will be initial costs to councils from developing plan-provisions, consulting with occupiers who are resistant to charges after 15 years without charges, and council hearing and Environment Court costs to include a regime in the regional coastal plan (in comparison with a statement that there will be no charging regime).

Continued next page

Table 3.2.4—continued

	BENEFITS	COSTS
Regional councils	Will also reduce council costs in defending charging regimes in the Environment Court.	
Resource users	<p>Medium</p> <p>Will reduce inequities for those paying occupation rents and for marine businesses operating on private land.</p> <p>Will in future create greater consistency of charging between regions.</p> <p>Generally will create a more level playing field for businesses.</p> <p>Will create greater certainty after 15 years of uncertainty over charges.</p>	<p>Medium</p> <p>Occupiers in regions with substantial private occupations and demand for space will have to pay a fair price for occupation of public land if they do not meet waiver/reduction criteria. Transitional provisions will both provide for a phase in period to avoid any shock/hardship after 15 years of zero charges, and ensure a conservative assessment of fair price where there is uncertainty.</p> <p>Will reduce the value of occupation rights.</p>
Environment		
Coastal environment	<p>High</p> <p>Provides substantial funds for proactive projects that will promote sustainable management in the coastal marine area.</p> <p>Promotes the purpose of the RMA and protection of matters of national importance (natural character and public access) by way of an economic instrument complementing regulation to minimise the exclusive occupation of public open space (and associated structures/exclusive activities) in the coastal marine area.</p>	<p>Low</p> <p>There will not be charging regimes and consequent benefits in some regions that do have occupations (but not enough occupations to warrant a regime). However, in those circumstances the net financial benefit would be small or even negative, and the absence of economic instrument effects should not be significant because pressure on the coastal marine area will be small.</p>

- Requires regional councils to have regard to coastal occupation changes in promoting sustainable management;
- Set's out the Crown's interest in obtaining a fair return from private occupations of public land in the coastal marine area; and
- Provides criteria to give national guidance on: when it would be appropriate for a region to have a charging regime; principles for setting the level of charges; transitional provisions; and the circumstances when charges should be waived or reduced.

It is considered that the benefits of the policy outweigh the costs.

There is a shortage of market information about the value of coastal space in relation to many activities (but not for some activities such as marinas, boat sheds and jetties) and a range of methodologies are likely to have to be developed to deal with different locations and types of occupation (e.g. offshore sub-surface aquaculture in contrast to non-commercial shoreline structures). The associated risk can be addressed explicitly by the proposed policy including a criterion requiring regional councils to have regard to the uncertainty over fair charging levels where there is little market information, and to initially set charges at a

conservatively low level. The operation of charging regimes in the regions would itself deliver more information over time on fair charging levels, and councils would be able to amend charges as this happens.

To address the above matters, promote sustainable management and provide for the Crown's interest as owner in a fair price being charged for private occupation of public land in the coastal marine area unless there is a good reason not to charge, coastal occupation charging Policy 24 and Schedule II are proposed as follows:

Policy 24 Coastal occupation charging

To promote the sustainable management of the coastal marine area and have particular regard to the Crown's interest in obtaining public benefits from any occupation of public land, regional councils should, where appropriate, establish a coastal occupation charging regime. When considering a charging regime, regional councils shall take account of the criteria in Schedule II.

Regional councils shall amend regional coastal plans and proposed regional coastal plans, as necessary, to give effect to this policy no later than 12 months after the gazettal of this New Zealand Coastal Policy Statement, using the process set out in Schedule 1 to the Resource Management Act 1991.

Schedule II

1. In any region where:

- (a) as a result of occupations, the general public are excluded from areas that would otherwise be of value for public access, or other substantial public benefits are lost; and*
- (b) the private benefit gained from occupations is such that a fair and administratively efficient charging regime would deliver net revenue for projects that promote better management of the coastal marine area,*

the regional council should include a coastal occupation charging regime in its regional coastal plan.

2. After having regard to the public benefits lost or gained and the private benefits gained, regional councils should also, when setting the level of charges to be paid under any coastal occupation charging regime:

- (a) provide that private occupation of public land should deliver a fair return that will be available for investment in the sustainable management of the coastal marine area; and*
- (b) provide that no charges apply to occupation of land in the coastal marine area to which the High Court has found that a group would, but for the vesting of ownership under section 13(1) of the Foreshore and Seabed Act 1994, have held territorial customary rights at common law; and*
- (c) consider the proposed activity, and the activities enabled by the coastal permit, together with the occupation, rather than considering the occupation itself in isolation; and*

- (d) have regard to the role coastal occupation charges can play as an economic instrument that can contribute to sustainable management of the coastal environment; and*
 - (e) avoid creating a perverse economic incentive for activities to locate in the coastal marine area, rather than on land, and*
 - (f) have regard to the benefits of setting the level of charges at the same level as a market rental, including the benefits of:*
 - (i) providing an incentive for developers to develop new and innovative approaches to delivering services that will minimise the demand for exclusive occupation of the coastal marine area, and*
 - (ii) delivering fair competition for those developers who have already undertaken innovative developments on private land; and*
 - (g) have regard to the uncertainty over fair charging levels where there is little market information, and should initially set charges at a conservatively low level with a view to amending charges as more information on fair market rental levels becomes available; and*
 - (h) consider using a range of charging methodologies to achieve a fair return for different activities and different circumstances; and*
 - (i) consider the administrative advantages of setting standard charges for smaller occupations; and*
 - (j) consider the advantages of a charging methodology that is responsive to varying market values for coastal space, especially offshore space; and*
 - (k) consider a transitional period to phase in new charges.*
3. *When considering the circumstances warranting a reduction or waiver of charges under any coastal occupation charges regime, regional councils should:*
- (a) as part of having regard to the public benefits lost or gained and the private benefits gained, consider whether the consent holder would be:*
 - (i) contributing to the management of the coastal marine area or providing services in the coastal marine area that the regional council would otherwise provide; or*
 - (ii) enhancing general public access to and along the coastal marine area; or*
 - (iii) enhancing the use and enjoyment of the coastal environment by the general public; or*
 - (iv) enhancing protection of habitats, animals and plants that would otherwise be sensitive to damage by public access and activities; and*
 - (b) consider whether:*
 - (i) the costs of setting and collecting the charges would exceed the value of the charges collected; or*
 - (ii) Any other circumstances of the occupation warrant a reduction or waiver.*

It is considered that Policy 24 and Schedule II (in conjunction with Policy 28 for reclamation vesting charges) are the most appropriate means of achieving the Objective 10 because the policy is:

- Effective in giving national guidance to regional councils concerning a central government function recently devolved to local government;
- Effective in enabling implementation of the RMA section 64A coastal occupation charging provisions;
- Effective in enabling re-establishment, after a hiatus, of an economic instrument that can complement regulatory mechanisms in promoting the purpose of the RMA (including promoting a level playing field for businesses) and the protection of matters of national importance (natural character & public access);
- Effective in giving consistent policy guidance that contributes to integrated management across the MHWS line (alongside Policy 28 for reclamation vesting charges);
- Efficient in providing national guidance that will enable councils to overcome barriers to implementation;
- Efficient in generating greater benefits than costs.

Policy 25: Public or multiple use of structures in the coastal marine area and Policy 26: Abandoned or redundant structures in the coastal marine area

In order to promote sustainable management of the coastal marine area and in particular to achieve Objectives 1, 2, 3 and 5 it is important to avoid a proliferation of structures in the coastal marine area. Avoiding the proliferation of structures promotes the protection of the natural character of coastal marine area and helps maintain its values as public open space. Avoiding unnecessary structures provides for those structures that must locate in the coastal marine area to do so within the limits of sustainable management.

To avoid the proliferation of unnecessary structures in the coastal marine area it is appropriate to require public or multiple use of structures where practicable. This avoids a multiplicity of single use structures. It is also appropriate to require the removal of abandoned or redundant structures. This removal should be undertaken by those responsible for structure.

It is not considered that these policies impose any costs on local authorities. The value of structures in the coastal marine area may be reduced by the need for multiple or public use but these uses should be reflected in a reduction of coastal occupation charges. It is considered appropriate that the costs of removing redundant structures should fall on those responsible for them.

Policies 25 and 26 are therefore proposed as follows:

Policy 25 Public or multiple use of structures in the coastal marine area

Regional coastal plans shall discourage unnecessary proliferation of structures in the coastal marine area by requiring that structures be made available for public or multiple use wherever reasonable and practicable.

Policy 26 Abandoned or redundant structures in the coastal marine area

Where practicable, resource consent conditions shall require the removal of any abandoned or redundant structure in the coastal marine area that the consent holder has erected or is responsible for.

It is considered that these policies are:

- Effective in providing guidance on the avoidance of the proliferation of structures in the coastal marine area; and
- Efficient as they generate greater benefits than costs.

Policy 27: Reclamation

Reclamations can have a significant adverse effect on the environment and on public land in the coastal marine area. Therefore to implement the objectives of the NZCPS and achieve sustainable management, guidance on the location and design of reclamations is considered to be appropriate. Considering whether a reclamation is required and ensuring it is well located and designed is a component of assessing appropriate subdivision, use, and development in the coastal marine area.

The effective implementation of Objective 2 in particular requires that the ‘appropriateness’ of any reclamation is considered in any decision-making process. Without this being undertaken, sustainable management of subdivision, use, and development of the area encompassed by the NZCPS will not be achieved.

Table 3.2.5 sets out an assessment of the marginal costs and benefits of a policy providing guidance on the avoidance of or otherwise the location and design of reclamations.

Overall it is considered that the benefits of the policy exceed the costs.

There is a variable level of guidance provided in regional and/or district plans. By omitting to provide further guidance, there is a risk in ‘inappropriate’ reclamations occurring in the coastal marine area.

To address the above matters and provide guidance on the location and design of reclamations, Policy 27 is proposed as follows:

Policy 27 Reclamation

The adverse effects of reclamation of the coastal marine area shall be avoided unless land outside the coastal marine area is not available for the proposed activity and there are no practicable alternative methods of providing for the activity. In considering a resource consent application for a reclamation, particular regard shall be had to:

- (a) whether the proposed activity can only, by nature, be located adjacent to the coastal marine area; and*
- (b) the expected effects on the site of climate change and sea level rise, over no less than 100 years.*

Where a reclamation is considered to be a suitable use of the coastal marine area, their form and design shall:

TABLE 3.2.5

	BENEFITS	COSTS
Party		
Central government	High Assists in ensuring the purpose of the RMA is met and reduces reclamation of public land in the coastal marine area.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review.
Local authorities	Medium Provides direction and guidance on 'appropriateness' of reclamations in the coastal marine area. Provides for integrated management between land and marine decision-making.	Low May provide some constraints to development in the coastal marine area.
Resource users	Medium Provides more guidance to resource users seeking to reclaim land in the coastal marine area.	Medium May restrict some resource users or infrastructure projects from reclaiming areas in the coastal marine area. May impose additional costs on the form and design of those reclamations that do proceed.
Environment		
Coastal environment	High Provides for decision-making to be integrated to ensure any reclamation is an appropriate use of the coastal marine area.	Low Still provides for some reclamation in the coastal marine area.

- (c) ensure as far as possible that the shape of the reclamation, and the materials used, are visually and aesthetically compatible with the adjoining coast;
- (d) avoid the use of materials in the reclamation containing contaminants that could adversely affect water quality in the coastal marine area;
- (e) provide for public access, including walking access, to and along the coastal marine area at high tide, unless a restriction on public access is appropriate as provided for in Policy 40;
- (f) remedy or mitigate adverse effects on the coastal environment;
- (g) ensure that the reclamation is designed and located to anticipate climate change impacts; and
- (b) avoid consequential erosion and accretion.

It is considered that Policy 27 (in conjunction with the other policies of the NZCPS) is the most appropriate means of achieving the objectives because the policy is:

- Effective in implementing a strategic approach to decisions regarding reclamations
- Effective in enabling proactive planning for reclamations
- Efficient in providing guidance on information required for a reclamation
- Efficient as it generates medium to high benefits and low to medium costs.

Policy 28: Rights vested in reclaimed land

Pursuant to sections 355 and 355AA of the RMA the Minister of Conservation may vest in any person or local authority a right, title or interest in any Crown land in the coastal marine area which has been reclaimed or is proposed to be reclaimed. The effect of section 355AA is to prevent, subject to some exclusions, fee simple rights being vested for reclamations after the commencement of the Foreshore and Seabed Act 2004. Lesser rights, titles or interests may still be vested.

Vesting is usually applied for to give the occupier of a reclamation some security of tenure. It is often appropriate to vest some interest in a reclamation. For example, there may be a substantial investment in the activities on a reclamation or the occupation may be a long standing one. However to give effect to Objective 10 and recognise the public interests in the ownership of foreshore and seabed it is appropriate for any private rights to be minimised. This minimisation can be done by:

- Only vesting lesser than fee simple rights; and
- Only vesting the rights that are reasonably necessary to carry out a particular activity.

Vesting only lesser than fee simple rights is consistent with the direction given by section 355AA of the Act. That section contains some exceptions and it is also appropriate to provide for fee simple rights in exceptional circumstances in the proposed policy. The proposed policy can state that only the rights needed to reasonably carry out a activity will be vested. To protect this link to particular activities the policy should state that a new or amended set of rights will be sought for any new activity.

Vesting of rights in reclamations will still occur and for the same reasons given above in relation to coastal occupation charges, an important aspect of implementing Objective 10 in relation to Crown ownership interests is to charge a fair price when vesting rights in any land of the Crown in the coastal marine area that has been reclaimed, unless there is a good reason not to charge.

The RMA does not give any detailed guidance to the Minister of Conservation either on the price to be charged, or the circumstances when a vesting price will be reduced or waived. To address Crown ownership interests comprehensively and consistently, and to contribute to integrated management across the Mean High Water Springs line, policy for coastal occupation charges should be accompanied by policy for the closely related reclamation vesting charges.

The Minister of Conservation does currently operate a regime for charging when rights are vested in reclamations, and has operated a regime since 1987, initially under the Harbours Act and then under the RMA. This has been guided by Department of Conservation guidelines, and there is now an established practice of charging a market price for whatever rights are vested (usually a fee simple sale or a leasehold term). Reductions or waivers have been granted where the activities are substantially or wholly public good activities.

‘Market value’ is a meaningful descriptor that gives access to an enormous body of knowledge and experience for determining value for the wide range of different circumstances that arise when vesting rights and seeking an ‘appropriate’ or ‘fair’ price. Using ‘market value’ also ties in with achieving an effective and efficient economic instrument. There is no readily apparent established or

reputable alternative descriptor, and charging some nominal fixed charge or per-square-metre charge will not deliver equitable charges or a fair return, nor will it function as an effective and efficient economic instrument.

NZCPS policy explicitly stating that ‘the appropriate price (if any) to be paid’ is a market price but with specified criteria for reducing or waiving the price, would in the first instance make it clear to all developers that a market price will generally have to be paid to obtain rights such as leasehold in a coastal reclamation, and hence encourage consideration of alternative options that would use private coastal land. Secondly, such policy would assist the Minister to obtain the fair market price when vesting coastal reclamations. This would happen primarily through establishing unambiguous parameters for the competing valuations commissioned by the Department of Conservation and the vesting applicant, and for the subsequent negotiations to reach a final price.⁶

Table 3.2.6 sets out an assessment of the marginal costs and benefits of policy stating that for a reclamation of land of the Crown in the CMA:

TABLE 3.2.6

	BENEFITS	COSTS
Party		
Central government	<p>Medium</p> <p>Provides clear policy guidance on vesting that is consistent with current practice and legislation.</p> <p>Will increase knowledge of the existing practice of charging market price for vestings. This will assist in promoting the purpose of the Act by way of an economic instrument complementing regulation.</p>	<p>Low</p> <p>Largely monitoring of the policy undertaken as part of NZCPS monitoring.</p> <p>May also be some additional cost from accelerating the ongoing refinement of the existing valuation methodology being used by the Department of Conservation’s professional valuers.</p>
Local authorities	<p>Low</p> <p>May assist Councils through contributing to greater consistency of charging policy for public coastal lands.</p>	<p>Nil</p> <p>This is a Minister of Conservation function, and should not create any additional costs for related council functions.</p>
Resource users (vesting applicants)	<p>Medium</p> <p>Will create greater certainty for vesting applicants and those considering coastal reclamation.</p> <p>Will further reduce inequities for</p>	<p>Low</p> <p>No change to vesting policy or process costs, but may make a small difference to the price paid.</p>

Continued next page

⁶ In one way, establishing a market price is more straightforward for reclamations than for coastal occupation charges. A reclamation is usually an extension of coastal land, and the potential uses of, and rights vested in, a reclamation are similar to potential uses and rights traded on other nearby or equivalent coastal margin dry land. There are accepted and much used methodologies for valuation professionals to determine a market price for transferring such rights. However, the primary complication is that, while the Minister is vesting rights in a reclamation, the reclamation ‘improvements’ have not usually been made by the Minister of Conservation. Therefore, unless the Minister has inherited the ‘improvements’ from a previous occupier/vestee, the market price/charge relates to the underlying foreshore and seabed rather than the constructed dry land. There is a body of market information to assist professional valuers to determine the appropriate discount to reach a value for the underlying foreshore and seabed (from s355 vestings, special Act vesting rental determinations, and the leasing and licensing of areas of the coastal marine area by port companies).

Table 3.2.6—continued

	BENEFITS	COSTS
Party		
Resource users (vesting applicants)	marine businesses operating on private land. Will contribute to greater consistency of charging for public coastal land and space. Generally will contribute to a more level playing field for businesses.	
Environment		
Coastal environment	Medium Provides clarity on vesting policies and the minimisation of private rights in reclaimed land. May avoid the reclamation of some foreshore and seabed by providing clarity on vesting policy. May create a direct benefit to the coastal environment where a fairer market price is paid by providing land for reserves. Thereby enhances the protection of matters of national importance (natural character and public access) directly and by way of an economic instrument complementing regulation to minimise reclamation of the coastal marine area.	No additional costs to the existing established practice.

- Fee simple rights will not be vested unless there are exceptional circumstances;
- Any rights vested will only be those reasonably necessary for the activity sought;
- Any new activity will be subject to a new or amended set of rights; and
- A market price will be charged for rights vested by the Minister of Conservation unless a waiver or reduction is appropriate.

It is considered that the policy generates greater benefits than costs.

It is not considered that any uncertainty arises from those parts of the policy providing guidance on the type and extent of rights that may be vested. While there is ample market information to assess a market price for rights vested in a reclamation when assessed on a 'dry land' basis, there continues to be a shortage of market information that enables determination of the appropriate discount to derive the market price for the underlying foreshore and seabed. The associated risk of unfair charges is addressed by ongoing development of Department of Conservation guidelines based on professional valuation advice, and through the negotiations following competing valuations commissioned by the Department's and applicant's valuers. This risk can not be efficiently addressed at this stage by policy, and is adequately addressed by negotiation in each case.

To address the above matters Policy 28 and Schedule III are proposed as follows:

Policy 28 Rights vested in reclaimed land

The Minister of Conservation when considering whether to vest rights in a reclamation of land of the Crown in the coastal marine area should:

- (a) not vest an estate in fee simple in the relevant reclaimed land pursuant to s355(3) of the Act unless there are exceptional circumstances that warrant such a vesting;*
- (b) restrict the vesting of any leasehold or other right or interest sought (other than an estate in fee simple) to only those reasonably necessary for the activity sought;*
- (c) require that as a condition of any lease or other right or interest granted that a new or amended lease or other interest in the reclaimed land be sought for any new activity; and*
- (d) charge a market price for any estate in fee simple, or other interest or rights vested unless a waiver or reduction is appropriate considering the criteria in Schedule III.*

Schedule III

When considering whether to reduce or waive a vesting price, the Minister of Conservation should have regard to whether the holder of the rights vested would be:

- (a) contributing to the management of the coastal marine area or providing services in the coastal marine area that the Minister or regional council would otherwise provide; or*
 - (b) enhancing general public access to and along the coastal marine area; or*
 - (c) enhancing the use and enjoyment of the coastal environment by the general public; or*
 - (d) enhancing protection of habitats, animals and plants that would otherwise be sensitive to damage by public access and activities;*
- and consider whether any other circumstances of the occupation warrant a reduction or waiver.*

It is considered that Policy 28 and Schedule III (in conjunction with Policy 24 for coastal occupation charges) are the most appropriate means of achieving Objective 10 in relation to reclamations of the coastal marine area because the policy is:

- Effective in clarifying and signalling the Minister of Conservation's established practice when processing applications to vest reclamations;
- Effective in reinforcing an economic instrument that complements regulatory mechanisms in promoting the purpose of the RMA (including promoting a level playing field for businesses) and protection of matters of national importance (natural character & public access);
- Effective as an economic instrument that is complementary to Policy 27 (which seeks to avoid reclamation of the coastal marine area unless there is no available land and no alternative methods of providing for the activity);

- Effective in giving consistent policy guidance that contributes to integrated management across the MHWS line (alongside Policy 24 for coastal occupation charges);
- Efficient in generating greater benefits than costs.

Policy 29: Financial contributions

Section 108 of the RMA provides for financial contributions to be made as a condition of a resource consent. Financial contributions may consist of money or land or a combination of both. Financial contributions must be imposed in accordance with the purposes specified in a plan and be determined in a manner set out in a plan.

Territorial Authorities have generally used the development contribution process set out in the Local Government Act 2002 as an alternative to the financial contribution process of the RMA. Regional councils however cannot impose development contributions. Therefore financial contributions are a relevant method to consider in achieving the objectives of the proposed NZCPS. Financial contributions should be considered in two situations:

- Where development creates a demand for infrastructure or public services in the coastal environment; or
- To offset adverse effects that cannot be avoided, remedied or otherwise mitigated.

It is important that financial contributions are not used as a means to 'buy off' adverse effects. Financial contributions should only be considered in those circumstances where adverse effects arise that cannot be avoided, remedied or otherwise mitigated.

In achieving the objectives of the proposed NZCPS it is appropriate to provide some guidance on the particular circumstances in which financial contributions should be provided or and used. Because Territorial Authorities have alternative mechanisms to provide or contributions it is not appropriate to require financial contributions in all plans. The particular matters that should be considered in financial contribution provisions are:

- Infrastructure and public services. This provides an opportunity for developments to contribute to the provision of public services;
- Public access to the coastal marine area. This is a matter of national importance;
- The management of coastal hazards. Increased development often generates a greater demand for the management of coastal hazards; and
- Adverse effects on those matters that contribute to the natural character of the coastal environment.

Table 3.2.7 sets out an assessment of the marginal costs and benefits of a policy providing guidance on financial contribution provisions.

Overall it is considered that the benefits of the policy exceed the costs.

By providing guidance on financial contributions it is considered that this policy reduces uncertainty. Policy 29 is therefore proposed as follows:

TABLE 3.2.7

	BENEFITS	COSTS
Party		
Central government	Medium Assists in ensuring the purpose of the RMA is met and that financial contributions are used where appropriate.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring
Local authorities	Medium Provides direction and guidance relating to financial contributions.	Low Councils should already have considered financial contributions in plan development.
Resource users	Low Provides more certainty in the determination of financial contribution provisions. Provides for some development to proceed with adverse effects.	Medium May lead to greater use of financial contributions.
Environment		
Coastal environment	Medium Provides for adverse effects to be offset.	Low Provides for some development to proceed with adverse effects.

Policy 29 Financial contributions

Local authorities shall consider including in plans provisions for financial contributions:

- (a) where development creates a demand for infrastructure or public services in the coastal environment; or*
- (b) to offset adverse effects that cannot be avoided, remedied or otherwise mitigated.*

Financial contributions to offset adverse effects should be given particular consideration where:

- (c) there is a loss of public access to or along the coastal marine area; or*
- (d) development creates a coastal hazard risk requiring the maintenance, enhancement or restoration of natural defences or hard protection structures; or*
- (e) there is a direct loss or modification of a natural feature, landscape, area of indigenous vegetation, habitat, heritage site or recreational setting that is important to the region or district.*

Appropriate applications of financial contributions include:

- (f) provision of infrastructure or public reserves in the coastal environment;*
- (g) the maintenance or enhancement of public access to and along the coastal marine area ;*
- (h) acquisition of land that would provide a buffer against the adverse effects of climate change on the coastal environment; and*

(i) enhancement of amenity, natural character, heritage, landscape, recreation or biological diversity values in the coastal environment.

It is considered that Policy 29 (in conjunction with the other policies of the NZCPS) is the most appropriate means of achieving the objectives because the policy is:

- Effective in providing guidance on financial contribution provisions;
- Efficient as it generates greater benefits than costs.

3.3 NATURAL CHARACTER

Policy 30: Integrity and functioning

The implementation of Objective 3 requires the protection of the integrity and functioning of natural character by maintaining those values that contribute to natural character. To give effect to this approach these values need to be further identified and it is appropriate for policies to provide guidance on the components that collectively contribute to the integrity and functioning of natural character.

In recognition of the increasing subdivision, use, and development pressures that are affecting natural character, it is also appropriate to reinforce the national importance of the protection of the integrity and functioning of natural character as derived from s6(a) and s58(a) of the RMA. This management approach also protects the collective contribution that these components make to natural character.

Table 3.3.1 sets out an assessment of the marginal costs and benefits of a policy requiring the protection of the integrity and functioning of natural character by maintaining the components that contribute to that integrity and functioning.

TABLE 3.3.1

	BENEFITS	COSTS
Party		
Central government	High Assists in ensuring the purpose of the RMA is met and that matters of national importance are preserved.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Local authorities	Medium Provides direction and guidance relating to matters which contribute to natural character.	Low Not all councils have identified areas or components that are important for the protection of natural character.
Resource users	Low Provides more certainty in the determination of appropriate subdivision, use and development.	Low Development aspirations may be curtailed or may need to be modified through the identification and protection of the components of natural character.
Environment		
National priorities for natural character	High Provides for natural character to be preserved.	Low There will be some activities which may affect some components of natural character.

Overall it is considered that the benefits of the policy exceed the costs.

There are varying definitions and perceptions of the matters that contribute to defining the integrity and functioning of natural character. By not improving on this level of information, there is a risk in a continuing debate on natural character and a failure to provide for its preservation. In addition, the risk of not identifying this as a national priority, could result in ongoing degradation of natural character.

To address the above matters and provide guidance on national priorities for the protection of natural character, Policy 30 is proposed as follows:

Policy 30 Integrity and functioning

To preserve the natural character of the coastal environment, it is a national priority to protect its integrity and functioning by maintaining:

- (a) the resilience and productivity of indigenous ecosystems;*
- (b) natural landscape and landform;*
- (c) the dynamic processes and features that arise from the natural movement of sediments, water and air;*
- (d) natural biotic patterns and movements;*
- (e) water and air quality; and*
- (f) natural substrate composition.*

It is considered that Policy 30 (in conjunction with the other policies on natural character) is the most appropriate means of achieving Objective 3 because the policy is:

- Effective in identifying national priorities;
- Effective in providing a clear management directive for protection;
- Efficient in providing guidance on matters to be considered when assessing natural character;
- Efficient in its alignment with the matters of national importance and matters for national priorities under the RMA;
- Efficient as it generates greater benefits than costs.

Policy 31: Indigenous biological diversity

The protection of indigenous biological diversity in the coastal environment is an important part of implementing Objective 3 in the proposed NZCPS. Indigenous biological diversity is under pressure in the coastal environment from subdivision, use, and development (Department of Conservation 2006b). To effectively implement Objective 3, the proposed NZCPS needs to provide guidance to councils on the constituents of indigenous biological diversity and the appropriate management approaches to them. In formulating a biological diversity policy for the proposed NZCPS, consideration has been given to the following matters:

The complete protection of all indigenous biological diversity from subdivision, use, and development would restrict use and development in the coastal environment to an extent incompatible with the purpose of the Resource Management Act.

Indigenous biological diversity is under continued decline and the degree of threat to indigenous ecosystems, habitats and species varies considerably in the coastal environment.

In response to these matters, it is considered appropriate to define a two-tier approach to protecting indigenous biological diversity from the adverse effects of subdivision, use, and development in the coastal environment.

The first tier provides the highest level of protection for indigenous biological diversity. This is applied to indigenous biological diversity that is most at risk of irreversible loss. The appropriate management response is the avoidance of adverse effects. This approach aligns with the recently released Statement of National Priorities on Rare and Threatened Indigenous Biodiversity and the findings from the five year Review of the New Zealand Biodiversity Strategy. The review raised concern over the continued decline of rare and threatened indigenous biological diversity on private land particularly in lowland and coastal environments [Green and Clarkson 2005]. It suggested the future challenge is to focus on strengthening protection towards our most rare and threatened indigenous biological diversity [Green and Clarkson 2005]. This first tier captures the rare, threatened and significant elements of indigenous biological diversity found in the coastal environment.

The second tier provides a lower level of protection for indigenous biological diversity that is more common or less at risk from imminent loss in the coastal environment. This requires the avoidance of any significant adverse effects and otherwise the avoidance, remedy or mitigation of adverse effects on these components of indigenous biological diversity.

In recognition of the increasing subdivision, use, and development pressures that are affecting natural character, it is also appropriate to reinforce the national importance of the preservation of the indigenous biological diversity component of natural character, from inappropriate subdivision, use, or development. (Refer to s6(a) and s58(a) of the RMA).

Table 3.3.2 outlines an assessment of the marginal costs and benefits of applying this policy approach to the protection of indigenous biological diversity.

TABLE 3.3.2

	BENEFITS	COSTS
Party		
Central government	High Assists in ensuring that the purpose of the RMA is met and that indigenous biological diversity is protected from further loss.	Low There will be additional costs associated with the development, implementation and monitoring of the policy.
Regional and district councils	High Provides guidance and flexibility to Councils on the appropriate level of protection required for indigenous biological diversity in the coastal environment through having a two-tiered policy. This policy direction will assist Councils in meeting their biological diversity responsibilities under the RMA.	Medium The majority of councils are involved in some level of biological diversity protection through a variety of statutory and non-statutory work programmes. There will be some additional costs for councils to meet the implementation costs of this policy.

Continued next page

Table 3.3.2—continued

	BENEFITS	COSTS
Resource users	<p>Medium</p> <p>Provides resource users with greater clarity around the protection of indigenous biological diversity in relation to subdivision, use, and development</p>	<p>Medium</p> <p>Subdivision, use, and development-proposals, including infrastructure projects, may be restricted or modified by the identification and protection of indigenous biological diversity.</p> <p>Additional costs may be incurred to avoid, remedy, or mitigate adverse effects on indigenous biological diversity.</p>
Environment		
Indigenous biological diversity	<p>High</p> <p>Provides certainty in meeting the purposes of the RMA and providing for the protection of indigenous biological diversity.</p>	<p>Low</p> <p>Allows for some adverse effects on indigenous biological diversity.</p>

Overall it is considered that the benefits of this policy approach exceed the costs.

There is considerable variability in the amount of scientific information and tools available to assist in the identification and management of indigenous biological diversity in the coastal environment, particularly in relation to the CMA. This presents a risk to the persistence of indigenous biological diversity in the coastal environment unless there is a clear policy direction requiring the protection of these matters.

To address the above matters and provide for the protection of indigenous biological diversity Policy 31 is proposed as follows:

Policy 31 Indigenous biological diversity

To preserve the natural character of the coastal environment, it is a national priority to protect indigenous biological diversity in that environment, including by:

(a) Avoiding adverse effects of activities on:

- (i) areas containing indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;*
- (ii) areas containing taxa that are listed as threatened by the International Union for Conservation of Nature and Natural Resources;*
- (iii) indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;*
- (iv) habitats of populations of indigenous species that are at the limit of their natural range, or are naturally rare; and*
- (v) areas containing regionally or nationally significant examples of indigenous community types; and*

(b) avoiding significant adverse effects, and otherwise avoiding, remedying or mitigating adverse effects of activities on:

(vi) areas of predominantly indigenous vegetation in the coastal environment;

(vii) habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;

(viii) indigenous ecosystems and habitats that are unique to the coastal environment and particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, rocky reef systems, eelgrass and saltmarsh;

(ix) habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;

(x) habitats, including areas and routes, important to migratory species; and

(xi) ecological corridors and buffer zones that are important for linking or maintaining areas identified under this policy.

Sections of Policy 31 also relate to other objectives contained in the proposed NZCPS:

- Part (a)(ii) relates to Objective 9 regarding fulfilling international obligations.
- Part (b)(ix) relates to Objective 4 regarding tangata whenua.

It is considered that Policy 31 is the most appropriate means of achieving Objective 3 because the policy is:

- Efficient in providing councils with clear guidance on the protection of a wide range of indigenous biological diversity in the coastal environment;
- Effective in implementing the need to avoid adverse effects on rare, threatened and significant indigenous biological diversity while avoiding, remedying or mitigating the adverse effects on more common or less significant aspects of indigenous biological diversity;
- Effective in protecting indigenous biological diversity despite the variability in our understanding of these matters.
- Efficient in providing greater benefits (through reducing the ongoing loss of indigenous biological diversity in the coastal environment) than costs.

Policy 32: Outstanding natural features and landscapes

The effective implementation of Objective 3 requires the protection of outstanding natural features and landscapes. In recognition of the increasing subdivision, use, and development pressures that are affecting natural character, it is also appropriate to reinforce the national importance of the protection of outstanding natural features and landscapes, as key contributors to the protection of natural character from inappropriate subdivision, use, or development. (Refer to s6(b) and s58(a) of the RMA).

Identification is a fundamental step for the proactive management of these matters. Without good information on such areas, the preservation of natural character and its protection from inappropriate subdivision, use, and development, will

not be achieved. There are a range of matters that contribute to defining the outstanding nature of natural features or landscapes and it is appropriate for policy to provide guidance on these matters.

The effects of subdivision, use, or development on these outstanding natural features and landscapes, needs to be carefully managed. It is considered that appropriate subdivision, use, or development should be able to avoid any adverse effects that are more than minor.

Table 3.3.3 sets out an assessment of the marginal costs and benefits of policy requiring the identification and protection of outstanding natural features and landscapes.

TABLE 3.3.3

	BENEFITS	COSTS
Party		
Central government	High Raises national awareness of base line information and expectations on level of protection. Assists in ensuring the purpose of the RMA is met and that matters of national importance are preserved.	Medium Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Local authorities	High Provides guidance on matters to be considered when identifying outstanding natural features and landscapes. Enables proactive decision-making. Provides more certainty to public of landscapes or natural features that are outstanding in the region or district. Provides guidance in meeting the purpose of the RMA and providing for matters of national importance.	Medium Not all councils have identified areas of outstanding natural features and landscapes. There will be some additional costs for councils to meet the implementation costs of this policy.
Resource users	High Provides more certainty to land owners of areas that are outstanding and the appropriate level of protection required. Provides greater certainty in the determination of appropriate subdivision, use, and development.	Low Some land owners may be affected by the identification of outstanding features and landscapes and subsequent management controls.
Environment		
Outstanding natural features and landscapes	High Provides for outstanding natural features and landscapes to be identified and protected.	Medium Allows for some adverse effects on outstanding natural features and landscapes.

Overall it is considered that the benefits of the policy exceed the costs.

There is a variable level of information available on outstanding natural features and landscapes in the coastal environment. By not improving on this level of knowledge, and using it to guide decision-making on subdivision, use, and development, there is a risk of degrading outstanding landscapes and natural features. In addition, the risk of not identifying this as a national priority, could result in ongoing degradation of natural character.

To address the above matters and provide for the identification and protection of outstanding natural features and landscapes, Policy 32 is proposed as follows:

Policy 32 Outstanding natural features and landscapes

To preserve the natural character of the coastal environment, it is a national priority to protect outstanding natural features and landscapes, by ensuring that any adverse effects of subdivision, use, and development on them are no more than minor. Outstanding natural features and landscapes should be identified with regard to:

- (a) the natural science factors, including geological, topographical, ecological and dynamic features;*
- (b) aesthetic values including memorability and naturalness;*
- (c) expressiveness—how obviously the landscape demonstrates its formative processes;*
- (d) transient values, including occasional presence of wildlife or values at certain times of the day or year;*
- (e) whether the values are shared and recognised;*
- (f) cultural and spiritual values for tangata whenua, identified in accordance with tikanga Maori; and*
- (g) historical associations.*

It is considered that Policy 32 (in conjunction with the other natural character policies) is the most appropriate means of achieving Objective 3 because the policy is:

- Effective in requiring outstanding natural features and landscapes to be identified;
- Effective in providing guidance on matters that need to be considered when identifying outstanding natural features and landscapes;
- Effective in providing guidance on appropriate subdivision, use, and development;
- Efficient in clarifying components that contribute to outstanding natural features and landscapes;
- Efficient in clarifying the level of management that should be undertaken;
- Efficient as it generates greater benefits than costs.

Policy 33: Appropriate location, density and design of subdivision, use, and development

The effective implementation of Objective 3 and the national priority status accorded to the preservation of natural character by s6(a) and s58(a) of the RMA requires that subdivision, use and development be avoided in inappropriate locations.

In locations where subdivision, use and development are appropriate, the preservation of natural character requires that adverse effects be avoided, remedied or mitigated through appropriate scale, density and design

Table 3.3.4 sets out an assessment of the marginal costs and benefits of policy requiring subdivision, use and development to avoid, remedy or mitigate any adverse effects on natural character.

TABLE 3.3.4

	BENEFITS	COSTS
Party		
Central government	Medium Assists in ensuring the purpose of the RMA is met and that natural character is a matter of national importance and a national priority.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Local authorities	Medium Provides guidance on the importance of natural character when considering any activities.	Nil
Resource users	Medium Provides more certainty to land owners of importance of natural character.	Low Additional costs may be incurred to avoid, remedy, or mitigate adverse effects on natural character as a national priority.
Environment		
Natural character	Medium Provides for natural character to be protected from inappropriate subdivision, use, and development.	Low Allows for some adverse effects on natural character.

Overall it is considered that the benefits of the policy exceed the costs.

To address the above matters Policy 33 is proposed as follows:

Policy 33 Appropriate location, density and design of subdivision, use, and development

To preserve the natural character of the coastal environment, it is a national priority to:

(a) promote, in appropriate locations, forms of subdivision, use, and development that avoid, remedy, or mitigate adverse effects on natural character through appropriate scale, density and design; and

(b) avoid subdivision, use and development in appropriate locations.

It is considered that Policy 33 (in conjunction with the other natural character policies) is the most appropriate means of achieving Objective 3 because the policy is:

- Effective in recognising that subdivision, use and development are critical to the preservation of natural character;
- Effective in linking with other policies that provide guidance on appropriate subdivision, use and development, while being clear that natural character is a national priority;
- Efficient in clarifying the level of management that should be undertaken;

- Efficient as it generates greater benefits than costs.

Policy 34: Natural areas and features

The effective implementation of Objective 3 requires the protection not only of outstanding natural features and landscapes (as identified in the previous policy) but also other natural areas and features which may be of special value or importance. This recognises that there are some natural areas and features, while not being outstanding, nevertheless contribute to the preservation of natural character. From a national perspective these matters should be identified.

In recognition of the increasing subdivision, use and development pressures that are affecting natural character, it is also appropriate to reinforce the national importance of the protection of such natural areas and features, as being key contributors to the protection of natural character, from inappropriate subdivision, use, or development. (Refer to s6(a) and s58(a) of the RMA). The effects of subdivision, use, or development on these natural areas and features needs to be carefully managed.

Table 3.3.5 sets out an assessment of the marginal costs and benefits of policy requiring protection of natural areas and features.

Overall it is considered that the benefits of the policy exceed the costs.

TABLE 3.3.5

	BENEFITS	COSTS
Party		
Central government	<p>High</p> <p>Raises national awareness of the importance of other natural areas and features.</p> <p>Assists in ensuring the purpose of the RMA is met and that the contribution that these matters make to natural character as a matter of national importance is protected.</p>	<p>Low</p> <p>Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.</p>
Local authorities	<p>High</p> <p>Provides guidance on additional matters to be considered when identifying matters contributing to natural character.</p> <p>Enables proactive decision-making.</p> <p>Provides more certainty to public of landscapes or natural features that are special or important to the region or district.</p>	<p>Medium</p> <p>Not all councils have identified natural areas or features special or important to the region or district.</p> <p>There will be some additional costs for councils to meet the implementation costs of this policy.</p>
Resource users	<p>Medium</p> <p>Provides more certainty to land owners of natural areas and features that are special or important.</p> <p>Provides guidance in the determination of appropriate subdivision, use, and development.</p>	<p>Low</p> <p>Some land owners may be affected by the identification of natural areas or features.</p>
Environment		
Natural areas and features	<p>Medium</p> <p>Provides for areas and features to be identified and protected.</p>	<p>Medium</p> <p>Allows for some adverse effects on such areas and features.</p>

There is a variable level of information available on those natural areas and features that do not meet the test of outstanding but are nevertheless special or important to a region or district. By not improving on this level of knowledge, and using it to guide decision-making on subdivision, use and development, and by not identifying this as a national priority, there is a risk of further degrading natural character.

To address the above matters and provide for the identification and protection of natural areas and features, Policy 34 is proposed as follows:

Policy 34 Natural areas and features

In preserving the natural character of the coastal environment, it is a national priority to protect natural areas and features that are:

- (a) of historic importance;*
- (b) of special value to tangata whenua;*
- (c) of special scientific importance; and*
- (d) wild or scenic.*

It is considered that Policy 34 (in conjunction with the other natural character policies) is the most appropriate means of achieving Objective 3 because the policy is:

- Efficient in clarifying components that contribute to other natural areas and features that are special or important;
- Effective in requiring other natural areas and features to be identified;
- Efficient in clarifying the level of management that should be undertaken;
- Efficient as it generates greater benefits than costs.

Policy 35: Restoration of natural character

The effective implementation of Objective 3 requires that restoration of the coastal environment is undertaken. Restoration is appropriate to address impacts from existing (and past) activities and restoration will assist in managing the effects on natural character of proposed activities. However complete restoration of the natural character of the coastal environment is not practicable. It is therefore appropriate to provide policy guidance on the particular circumstances in which restoration efforts are a priority. This includes circumstances where:

- Indigenous habitats, dunes, natural features, or water quality have been significantly affected
- Habitat for threatened indigenous species and riparian margins could be created or restored;
- Regeneration can be promoted using local genetic stock
- Structures have become redundant; and
- Resource consent applications for existing activities provide an opportunity to consider restoration through consent conditions.
- The use of local genetic stock when undertaking restoration of indigenous vegetation is important for the protection and restoration of indigenous biological diversity.

Table 3.3.6 sets out an assessment of the marginal costs and benefits of a policy providing guidance on priorities for the restoration of natural character.

Overall it is considered that the benefits of the policy exceed the costs.

It is considered that the benefits of the restoration of natural character are certain and known.

TABLE 3.3.6

	BENEFITS	COSTS
Party		
Central government	Medium Assists in ensuring the purpose of the RMA is met and that matters of national importance are protected.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Local authorities	High Provides direction and guidance relating to restoration of natural character. Provides more certainty to the public of priorities for restoring natural character. Provides guidance on meeting the purpose of the RMA and providing for matters of national importance.	Low Not all councils have identified priorities for restoration or promote opportunities to achieve restoration.
Resource users	Medium Provides more certainty for consent holders and applicants of the priorities to be considered for restoring natural character.	Low The costs of restoration may initially fall on the developer.
Environment		
Restoration of natural character	High Provides priority areas for natural character to be restored.	Medium Not all areas of degraded natural character will be restored.

To address the above matters and provide for the restoration of natural character, Policy 35 is proposed as follows:

Policy 35 Restoration of natural character

It is a national priority to restore the natural character of the coastal environment, in appropriate circumstances, including by:

- (a) restoring indigenous habitats and ecosystems where these have been significantly adversely affected and life-supporting capacity is compromised;*
- (b) creating or enhancing habitat for threatened indigenous species;*
- (c) encouraging regeneration of indigenous species, and using local genetic stock, where practicable, when restoring habitat;*
- (d) reducing or eliminating discharges of contaminants that are causing significant adverse effects, particularly cumulative effects;*
- (e) requiring, where practicable, restoration conditions on resource consents for the continuation of activities that have compromised natural character;*

- (f) restoring dunes and other natural coastal features or processes;*
- (g) protecting and restoring riparian margins; and*
- (h) removing redundant structures and materials that lack heritage or amenity value.*

It is considered that Policy 35 (in conjunction with the other natural character policies) is the most appropriate means of achieving Objective 3 because the policy is:

- Effective in identifying the importance of restoration as a national priority;
- Effective in recognising that many methods could contribute to achieving this policy;
- Efficient in providing guidance on priorities for restoration;
- Efficient as it generates greater benefits than costs.

Policy 36: Assessment and protection of natural character

The effective implementation of Objective 3 requires that natural character should be identified and assessed. Without good information on the components of natural character in particular areas, appropriate management of activities cannot be undertaken. Therefore to implement Objective 3 the particular matters that contribute to a region's or a district's natural character need to be identified. Once identified, they need to be assessed as to their respective levels of importance, in a regional or district context. This policy approach reinforces a proactive approach to managing natural character within a region or district, in accordance with the other policies of this chapter which have set out the matters of national priority.

Table 3.3.7 sets out an assessment of the marginal costs and benefits of a policy requiring assessment and protection of natural character at a regional or district level.

Overall it is considered that the benefits of the policy exceed the costs.

Debate on what constitutes natural character and how best to protect it has been ongoing. By not improving on this level of knowledge and providing for its management, there is a risk of natural character being degraded further over time, from the cumulative effects of subdivision, use and development.

To address the above matters and provide for the identification and assessment of natural character Policy 36 is proposed as follows:

Policy 36 Assessment and protection of natural character

Local authorities shall assess the natural character of the coastal environment of the region or district and provide for its preservation, including by provisions in policy statements and plans that address the national priorities in Policies 30 to 35.

It is considered that Policy 36 (in conjunction with the other natural character policies of this chapter) is the most appropriate means of achieving Objective 3 because the policy is:

- Effective in requiring that natural character must be assessed;
- Effective in enabling proactive planning for the protection of natural character;

TABLE 3.3.7

	BENEFITS	COSTS
Party		
Central government	High Provides guidance on national priorities. Assists in ensuring the purpose of the RMA is met and that matters of national importance are protected.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Local authorities	High Provides direction and guidance on relating to natural character protection. Enables proactive decision-making. Provides more certainty to the public of important areas or matters that should be protected for all people.	Medium Not all councils have identified areas or matters of natural character.
Resource users	Medium Provides more certainty to land owners and communities on areas or matters that need to be protected.	Low The development aspirations of some land owners could be affected.
Environment		
Natural character	High Provides for natural character areas or matters to be considered in decision-making.	Low Complete protection will not be achieved in all instances.

- Effective in enabling a region or district to build on the national priorities;
- Efficient as it generates greater benefits than costs.

Policy 37 and Schedule 1: Restricted Coastal Activities

The RMA provides for the Minister of Conservation to be the final decision-maker on resource consent applications for types of activities that are specified in the NZCPS as Restricted Coastal Activities (RCAs). These are identified by s58 (e) as activities ‘which have, or are likely to have, a significant or irreversible adverse effect on the coastal marine area’.

RCAs are identified by environmental groups as an important mechanism for protection of the coastal environment and consistency of decision-making. Local government on the other hand argues that there is no reason for the NZCPS to retain restricted coastal activities now that regional coastal plans have become operative.

The RMA also provides for the Minister to decide resource consent applications relating to areas in the coastal marine area that have significant conservation value, although the 1994 NZCPS does not identify any such areas or activities within them.

The following paragraphs set out in detail the provisions in the legislation and the current NZCPS that provide for the Minister’s role in defining the circumstances in which he/she will decide resource consent applications (RCAs).

Section 2 of the RMA defines restricted coastal activities as follows:

restricted coastal activity means any discretionary or non-complying activity

(a) which, in accordance with section 68, is stated by a regional coastal plan to be a restricted coastal activity; and

(b) for which the Minister of Conservation is the consent authority

Section 58 'Contents of New Zealand Coastal Policy Statements' includes:

(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.

Section 67(2) states that a regional plan must give effect to any national policy statement or any New Zealand Coastal Policy Statement.

Section 68(4) of the RMA states that:

A rule may specify an activity as a restricted coastal activity only if the rule is in a regional coastal plan and the Minister of Conservation has required the activity to be so specified on the grounds that the activity—

- (a) has or is likely to have significant or irreversible adverse effects on a coastal marine area; or
- (b) occurs or is likely to occur in an area having significant conservation value.

Chapter 5 of the 1994 NZCPS relates to: '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 consents'.

Section 5.3 within Chapter 5 relates to 'Defining the specific circumstances in which the Minister of Conservation will decide on resource consent applications'. This section of the NZCPS has one policy, Policy 5.3.1, which states that:

The types of activities which have or are likely to have a significant or irreversible adverse effect on the coastal marine area and for which therefore the Minister of Conservation will decide resource consent applications are those defined in Schedule 1.

Schedule 1 of the 1994 NZCPS then lists 10 types of activities and defines the parameters which determine whether they are or are not a restricted coastal activity.

The 1994 NZCPS does not identify areas of significant conservation value (ASCVs). The draft of the 1994 NZCPS (August 1990) did include a policy on ASCV (Policy 5.4.2) and Schedule 2 which included criteria to be used to determine whether an area should be an ASCV. Draft Policy 5.4.2 essentially provided that the Minister of Conservation would specify areas to be ASCV (based on the criteria in Schedule

2) and the activities within them that should be RCAs, before a proposed regional coastal plan was notified. However, the Board of Inquiry considered that neither Policy 5.4.2 nor the criteria in Schedule 2 achieved anything in terms of section 58(e), and recommended that they be deleted.

Subsequent to the approval of the 1994 NZCPS, there have been legislative amendments to the RMA and other Acts, and the introduction of new Acts, which relate to or could affect RCAs, including:

- The Aquaculture Law Reform 2004;
- The Resource Management (Marine Pollution) Regulations 1998;
- Sections 15A and 15B of the RMA.

Aquaculture Law Reform 2004

The passing of the Aquaculture Law Reform 2004⁷ introduced a new management framework for aquaculture. A key aspect of the reform is that marine farms can only occur in zoned areas, known as aquaculture management areas (AMAs). The aquaculture legislation is relatively complex. It transfers new responsibilities to regional and unitary councils, and it contains some new RMA concepts, particularly the use of aquaculture management areas.

Resource Management (Marine Pollution) Regulations 1998 and sections 15A and 15B of the RMA

Sections 15A and 15B were first introduced in the Resource Management Amendment Act 1994 and subsequently amended in the Resource Management Amendment Act 1997. These sections address the dumping and/or discharge of waste or harmful substances, and have implications for the disposal of dredge material.

The effect of sections 15A and 15B on dredge dumping activities is that the disposal of dredge material appears to require two resource consents, regardless of scale or volume of the activity. One for the dumping component of the waste or other material (which includes a discharge component) under section 15A, and one for the discharge of the contaminant to water under section 15B.

The Resource Management (Marine Pollution) Regulations 1998 specifically control the dumping of dredge material by deeming it to be a discretionary activity in any regional coastal plan or proposed regional coastal plan (Regulation 4(2)(a)). In the case of the discharge of a contaminant the relevant regional coastal plan may permit or control the discharge.

The Issues and Options paper asked the following questions about RCAs:

- Should existing RCA criteria in Schedule 1 of the NZCPS be amended or deleted?
If so, what changes should be made?

⁷ The Aquaculture Law Reform was split into seven Acts:

- Resource Management Act (No 2) 2004
- Fisheries Amendment Act (No 3) 2004
- Conservation Amendment Act 2004
- Biosecurity Amendment Act 2004
- Māori Commercial Aquaculture Claims Settlement Act 2004
- Te Ture Whenua Māori Amendment Act (No 3) 2004
- Aquaculture Reform (Repeals and Transitional Provisions) Act 2004

- Are there new activities whose effects justify their being identified as Restricted Coastal Activities in the NZCPS?
If so, what are these activities and what thresholds for treatment as an RCA would be appropriate?

The summation of submissions on these points is taken from Enfocus 2006.

In response, environmental and recreational interests expressed strong support for retaining RCAs and the role of the Minister of Conservation as decision-maker on consents for RCAs. They also supported creation of RCAs for emerging issues but provided little comment on what should be covered. Two environmental groups suggested that a system should be developed to allow RCA hearings to be heard by a national board or ministerial appointees. They also suggested a review of trigger points for RCAs to see if they need to be strengthened.

The Hauraki Trust Board was the only Māori submitter to the Issues and Options paper to comment on RCAs. The Board supported the Minister of Conservation retaining the role as final decision-maker on RCAs and called for a review of what should be included as RCAs, suggesting that activities such as reclamations and artificial reefs should be included.

Local authorities questioned whether or not the NZCPS should persist with restricted coastal activities in workshops held in 2002 and 2005, and in submissions to the Issues and Options paper. Most local authorities considered that there was no reason for the Minister of Conservation to approve restricted coastal activities once regional coastal plans became operative. Council staff supported an investigation into alternative techniques for addressing issues of national interest (Young 2003).

Those local authorities that opposed retention of RCAs stated that if they are to remain there needs to be greater transparency in why the Minister declines or makes changes to recommendations, and that the trigger mechanisms must not be arbitrary but directly linked to the significance of the national concerns. In their view, the current thresholds do not promote good outcomes and if RCAs are to remain they need to be reviewed and updated.

Industry groups also questioned the need for RCAs to remain and their views generally align with those local authorities that oppose the retention of RCAs. Contact Energy, however, opposed the removal of trigger points and their replacement with some form of discretion that would reduce certainty and transparency. Contact Energy supported the current trigger points as striking an appropriate balance in the absence of council monitoring indicating contrary evidence.

The Seafood Industry Council stated that if RCAs are retained, than aquaculture should not be bought within their ambit given the onerous processes that already apply to the establishment of AMAs. TrustPower suggested that RCA criteria could provide for the explicit exclusion of activities that provide national benefit, such as electricity generation from renewable sources. The Port Companies stated that there should be no need to use the RCA process where, on renewal, monitoring has shown there were no unforeseen effects.

The RMLA suggested that stronger and more focused policies in the NZCPS would provide better direction than prescriptive RCAs for particular activities. It noted, however, that if there is a decision to maintain the prescriptive requirements than the triggers must be kept as they are, because they are, at least, known and comprehensible to applicants and regional council staff.

The Issues and Options paper also asked the question:

- Should the NZCPS identify consent applications in areas of significant conservation value as Restricted Coastal Activities?

The Issues and Options paper noted that this would allow for resource consent applications in areas of significant conservation value to be dealt with at a national level. This would give effect to a longstanding provision in section 58 of the RMA. The advantage would be to bring a national interest perspective to activities proposed in significant conservation areas. The disadvantage would be local authorities' decision-making role in such areas would be scaled back.

In the submissions in response, environmental interests generally supported the creation of new RCAs in ASCVs; local authorities did not support the creation of new RCAs in ASCVs; and the RMLA considered that strong and directed policies will generally be a better approach than creating new RCAs in ASCVs.

Almost all regional coastal plans are operative now, and all identify areas of significance to which a stricter regime of policies and rules generally applies (sometimes called ASCVs, but more often than not given a different name). The department has had input into the identification of those areas, both pre-statutory and if necessary as a submitter in the public submission process. A number of councils are now at the stage of reviewing their coastal plans and the department will input again in the same way. Therefore little additional benefit would be gained from making activities within ASCVs RCAs.

Noted above is feedback from local government that they no longer see the need for RCAs now that nearly all regions have operative regional coastal plan. However, the purpose of RCAs was not simply to provide a national overview and decision-making level on activities with the potential for significant or irreversible adverse effects while councils prepared regional coastal plans.

The existence of RCAs reflects the Crown's role in coastal management as the owner of most of the CMA, on behalf of the public of New Zealand, and provides for the recognition of those national interests in the coastal environment.

The benefit to central government of having such policy is to clearly communicate the Minister's interest in retaining the decision-making role for activities with the potential for significant and or irreversible adverse effects. Specifying the RCAs in Schedule 1 clearly communicates the types of activities that the Minister considers have the potential for significant and or irreversible adverse effects. The policy and Schedule 1 assist in the preservation of natural character of the coastal marine area. The cost to central government is the implementation of the policy and processing of any RCA applications, and monitoring of the effectiveness of both the policy and the RCA process.

The benefit to local authorities is certainty as to what types of activities the Minister considers have the potential to adversely affect the natural character of the coastal marine area, and clearly defined thresholds that can be incorporated into rules in regional coastal plans.

With respect to costs, there is a perception within councils and industry that the RCA regime adds time delays and costs. RCAs effectively add only five more days to the time necessary for a notified consent application, which includes the appeal time of 15 working days, which runs at the same time as the Minister's 20 working days. In some cases, the time frame for the Minister's decision may be

extended. This is not done without good reason, and is an indication that there are outstanding issues or concerns to be resolved.

There are additional costs associated with restricted coastal activity applications. These are the costs of the person appointed by the Minister, including their time, travel and other expenses. These are costs that are (or at least should be) passed on to the applicant. Given the potential for significant or irreversible adverse effects associated with the activities that are described as RCAs, it is not unreasonable that there will be additional costs to the applicant.

For resource users, the benefits of a policy and clearly defined RCAs are the same as councils—certainty as to what types of activities the Minister considers have the potential to adversely affect the natural character of the coastal marine area, and clearly defined thresholds incorporated into rules in regional coastal plans. The costs, however, are more tangible for an applicant. As noted above, it is the applicant who bears the costs of the Minister's appointee, including their fee, travel and other expenses.

The benefits for the environment are a nationally consistent approach for activities with the potential for significant or irreversible adverse effects on the environment. This will assist in the preservation of natural character. The costs are that there will inevitably be some degree of adverse effects on natural character, by allowing activities that are RCAs.

Overall it is considered that the benefits of the specification of RCAs in Schedule 1 in preserving natural character outweigh the costs.

To address the above matters and provide for the preservation of natural character Policy 37 is proposed as follows:

Policy 37 Restricted Coastal Activities

Resource consents for certain types of activities that have or are likely to have a significant or irreversible adverse effect on the coastal marine area shall be determined by the Minister of Conservation. The types of activities for which the Minister will decide resource consent applications are those defined in Schedule I. Regional coastal plans and proposed regional coastal plans shall identify these activities as Restricted Coastal Activities and shall include the necessary provisions, without notification or hearing, in accordance with section 55 of the Resource Management Act 1991 and as soon as practicable.

The inclusion in a regional coastal plan or proposed regional coastal plan of the Restricted Coastal Activities defined in Schedule I:

(a) shall not affect any application for a coastal permit for an activity which, at the time the application was made, was not a Restricted Coastal Activity, and for which the regional council has:

(a) notified its decision; or

(b) fixed a commencement date for a hearing;

and

(b) shall not affect any application for a coastal permit for an activity which, at the time the application was made, was a Restricted Coastal Activity and for which the regional council has made its recommendation to the Minister of Conservation.

It is considered that Policy 37 and Schedule 1, are the most appropriate means of achieving Objectives 3 and 10 because the policy and schedule are:

- Effective in clearly articulating the Minister's interest in preserving natural character;
- Effective in specifying the types of activities that have the potential for significant or irreversible adverse effects;
- Effective in providing thresholds that can be written into rules in regional coastal plans;
- Efficient in providing certainty;
- Efficient as they generate greater benefits than costs.

Schedule 1

Local authorities gave many reasons for their preference for the removal of RCAs, which Rosier, in her independent review of the NZCPS in 2004, summarised as falling into the following implementation issues:

- There is no national consistency in the standards set by each region in providing for RCAs;
- The Minister of Conservation appointee to hearing committees does not always add value to the process;
- Some of the 'triggers' or RCA thresholds in Schedule 1 are not appropriate and can encourage non-compliance whilst other thresholds are set too low, resulting in unnecessary analysis and notification for activities with relatively minor adverse effects.

Rosier noted that the poorest area of implementation of the NZCPS has been in monitoring environmental outcomes and assessing the degree to which plans and policy statements have influenced environmental results. She concluded that, in the absence of monitoring, it is difficult to assess whether RCAs and the Minister's role add value.

The Rosier report also noted that changes to the RCA Schedule and thresholds would simply move the debate along the spectrum of possible thresholds. Rosier concludes that the RCA thresholds should remain the same until there is ecological or other evidence from regional council monitoring that another threshold is more appropriate.

Changes are being proposed to the RCAs, however, largely to support the policy direction on natural character, particularly dynamic coastal processes and ecology.

The discretion in some of the RCAs to regulate the activities as discretionary activities and not RCAs at a higher threshold in the regional coastal plan, provided certain criteria are met, has been removed. There are three key reasons for that:

- To assist in ensuring national consistency of RCA standards in rules;
- Because feedback from local authorities has been that it is difficult to meet all the required criteria;
- To improve simplicity and certainty, and the ease in which the RCAs can be incorporated into regional rules.

The following sections outline any changes to the RCAs in Schedule 1 of the 1994 NZCPS and the reasons for those changes.

S1.1 Reclamations

Any activity reclaiming foreshore or seabed that:

- (a) equals or exceeds 1 hectare; or*
- (b) extends 100 or more metres in any direction; or*
- (c) is an incremental reclamation connected to, or part of, another reclamation that was commenced or received a resource consent after 5 May 1994, and the sum of the existing and proposed reclamations are equal to or exceed the dimensions in (a) or (b);*

is a restricted coastal activity.

The discretion to regulate reclamations as discretionary activities at a higher threshold has been removed, for the reason's noted above. Removal of that discretion also recognises that reclamations irreversibly destroy foreshore or seabed and result in dry land that is removed from the coastal marine area. Reclamations can have a number of effects on the natural functioning of coastal processes, including:

- Loss of intertidal habitat;
- Modification of the reclaimed area of foreshore affecting its ability to respond to storm events;
- Alteration of hydrologic regime by modifying the tidal currents, sediment transport and location of tidal channels.

Reclamations may also change the natural balance of organic substances entering the coastal environment, i.e. they may result in increased run-off and possibly additional contaminants from the landuse that subsequently takes place on the reclaimed land.

S1.2 Structures that contain or effectively contain the coastal marine area

(a) Any activity involving the erection or placement of a structure or structures, including floating or open pile structures, that will contain or effectively contain 4 hectares or more of the coastal marine area, so that water flows are impeded, is a restricted coastal activity.

(b) A floating or open piled structure that can be demonstrated not to impede water flows is not a restricted coastal activity.

The discretion to regulate structures that contain or effectively contain the coastal marine area as discretionary activities at a higher threshold has been removed, for the reason's noted above. Structures that impede the ebb and flow of tide or contain areas of the coastal marine area will have significant adverse effects on the natural functioning of the enclosed area. They will alter both the hydrology and the ecology of the enclosed area, and may cause siltation.

The word 'impound' has been replaced with 'contain' in response to feedback from local government that it was unclear what 'impound' meant. The words 'or placement' have been added to be consistent with section 12(1)(b) of the RMA

and to recognise that a structure may be constructed on land and then placed in the coastal marine area.

S1.3 Structures in the coastal marine area more or less parallel to mean high water springs, including coastal hazard protection structures, breakwaters, and artificial reefs

(a) Any activity involves the erection or placement of a structure or contiguous structures wholly or partly in the coastal marine area that:

(i) is solid (or presents a significant barrier to water or sediment movement);

(ii) would extend 100 metres or more in total length; and

(iii) is more or less parallel to the line of mean high water springs;

the part of the activity that is in the coastal marine area is a restricted coastal activity.

(b) Any activity involving the placement of a cable on or under the foreshore or seabed, or pipeline under the foreshore or seabed, is not a restricted coastal activity.

Contiguous here means connected to, or next to, and includes structures within 10 metres of each other in enclosed harbours or estuaries and within 20 metres of each other on the open coast.

In addition to removing the discretion to regulate structures more or less parallel to mean high water springs as discretionary activities at a higher threshold for the reason's noted above, the threshold has been reduced from 300m to 100m. This is to support the stronger policy approach to coastal hazards and assist in limiting recourse to hard protection structures.

This RCA now also includes structures more or less parallel to mean high water springs that are only partly located in the coastal marine area, if the total length in the coastal marine area is 100m or more. The effects of such structures will be the same whether the structures are wholly below mean high water springs or straddling it. This amendment may also reduce the difficulty of determining the position of mean high water springs, and allows for the fact that it can shift.

Structures more or less parallel to mean high water springs will reflect and amplify wave action, often leading to significant erosion of foreshore elsewhere. This is irreversible destruction of the foreshore. Other effects of hard erosion structures include: direct loss of tidal and intertidal habitat and the prevention of natural landward migration of intertidal habitats. Combined with sea level rise, the intertidal area will be reduced, hence a further loss of intertidal habitat.

A definition of 'contiguous' has been included to clarify what is meant by the term. A separation distance to define the extent of 'next to' has also been included. The distances of 10 metres within enclosed harbours or estuaries and 20 metres on the open coast are included on the basis that beyond those separation distances end effects would occur.

The exclusion of sub-aqueous cables has been changed to exclude cables under or on the foreshore and seabed, and pipelines under the foreshore and seabed.

The amendments to the title give more direction as to the types of activities that are of concern. The words 'or placement' have been added to be consistent with section 12(1)(b) of the RMA and to recognise that a structure may be constructed on land and then placed in the coastal marine area.

S1.4 Structures in the coastal marine area oblique or perpendicular to mean high water springs

- (a) Any activity involving the erection or placement of a structure (or structures) in the coastal marine area, that is (or are):*
- (i) solid, or a significant barrier to water or sediment movement;*
 - (ii) oblique or perpendicular to the line of mean high water springs; and*
 - (iii) 100 metres or more in length, whether singly, in combination with existing structures, or in total where the activity involves two or more structures;*
- is a restricted coastal activity.*
- (b) Any activity involving the placement of a cable on or under the foreshore or seabed, or pipeline under the foreshore or seabed, is not a restricted coastal activity.*

The discretion to regulate structures that are oblique or perpendicular to mean high water springs as discretionary activities at a higher threshold has been removed, for the reason's noted above. Structures oblique or perpendicular to mean high water springs significantly alter the currents and sediment movement, which can have significant or irreversible effects on the foreshore.

The words 'or placement' have been added to be consistent with section 12(1)(b) of the RMA and to recognise that a structure may be constructed on land and then placed in the coastal marine area.

S1.5 Structures in the coastal marine area used for storage or containment of petroleum, petroleum products or contaminants

Any activity involving the erection of a structure or structures, including a pipeline, that will be used for the storage or containment of any petroleum, petroleum products, or contaminants, in quantities greater than or equal to 50,000 litres is a restricted coastal activity.

The discretion to regulate structures that will be used for the storage or containment of any petroleum, petroleum products or other contaminants as discretionary activities at a higher threshold has been removed, for the reason's noted above. An accidental discharge of petroleum, petroleum products or other contaminants of 50,000 litres or more will contaminate the coastal marine area and have significant adverse effects on ecosystems.

The words 'or placement' have been added to be consistent with section 12(1)(b) of the RMA and to recognise that a structure may be constructed on land and then placed in the coastal marine area.

S1.6 Disturbance of foreshore and seabed (excavate, drill, move, tunnel etc) including any removal of sand, shell or shingle

(a) Any activity involving, in any 12 month period, disturbance of foreshore and seabed for specific purposes, including any removal of sand, shell or shingle or other natural material:

(i) in volumes greater than 50,000 cubic metres; or

(ii) extracted from areas equal to or greater than 4 hectares; or

(iii) extending over 1000 metres or more of foreshore and seabed;

is a restricted coastal activity.

(b) Disturbance of foreshore and seabed:

(i) for maintenance dredging, which means any dredging of the bed of the sea necessary to maintain water depths to previously approved levels, for the safe and convenient navigation of vessels, in navigation channels and at berthing and mooring facilities, including marina developments; or

(ii) by horizontal directional drilling or other sub-surface excavation methods;

is not a restricted coastal activity.

The discretion to regulate disturbance activities as discretionary activities at a higher threshold has been removed, for the reason's noted above. Disturbance of the foreshore and seabed has significant adverse effects on the bathymetry of the seabed, removes subtidal organisms, and re-mobilises contaminants if they are present.

S1.7 Depositing substances in the coastal marine area

(a) Any activity involving the depositing of any material on the foreshore and seabed in quantities greater than 50,000 cubic metres in any 12 month period at a site in the coastal marine area is a restricted coastal activity.

(b) Any activity involving the depositing of any material on the foreshore and seabed that is controlled by sections 15A or 15B of the Resource Management Act 1991 is not a restricted coastal activity.

The discretion to regulate deposition activities as discretionary activities at a higher threshold has been removed, for the reason's noted above. Deposition of this scale will have significant adverse effects on the site for a long time. If the site is repeatedly used for deposition, any re-colonisation or recovery of ecosystems will be limited. If there are contaminants contained in the material being deposited they could enter the food chain and have irreversible effects on ecosystems. Effects are likely to be wider than the actual deposition site. Deposited material may re-enter the sediment transport system.

Note: The dumping of 'dredge material' from a vessel (which includes a dredge barge) in the coastal marine area is restricted by sections 15A and 15B of the RMA. The Marine Pollution Regulations 1998 control the dumping of dredge material by deeming that activity to be a discretionary activity in a regional coastal plan or proposed regional coastal plan (refer Regulation 4(2)(a)). A deposit of dredge material in the coastal marine area will also include a discharge component.

Restrictions on coastal permits are derived from section 12 of the RMA. Section 12(6) of the RMA states 'This section shall not apply to anything to which section 15A or 15B applies', hence such activities have been excluded from the RCA criteria.

S1.8 Exotic plants in the coastal marine area

Any activity involving the introduction of any exotic plant species to the coastal marine area is a restricted coastal activity, except where that plant is already present in an area and an operative or proposed regional coastal plan specifies that the planting of it is a discretionary activity.

The introduction of exotic species may irreversibly modify the balance of indigenous species and result in significant adverse effects on ecosystems. No changes are proposed to the discretion for this RCA in recognition that there are existing extensive areas of exotic vegetation in the coastal marine area.

S1.9 Occupation of the coastal marine area

(a) Any activity involving occupation of the coastal marine area that:

- (i) would exclude or effectively exclude public access from areas of the coastal marine area over 10 hectares; or*
- (ii) would exclude or effectively exclude the public from more than 316 metres along the length of the foreshore; or*
- (iii) would restrict public access to or through 50 hectares or more of the coastal marine area;*

is a restricted coastal activity.

(b) Any activity involving the occupation of the coastal marine area for aquaculture activities is not a restricted coastal activity.

The title has been amended to clarify that this criteria considers occupation, not just exclusive occupation. Exclusive or restrictive occupation of the foreshore or seabed at these scales has significant adverse effects on public access.

The aquaculture reform legislation introduced on 1 January 2005 created a new regime for aquaculture planning and approval for Aquaculture Management Areas (AMAs) and consents. Given that the Minister of Conservation approves regional coastal plans and any changes to them, including those to establish AMAs, it would be inappropriate and unnecessary to have another layer of consent approval by requiring applications for consent for large marine farms that could trigger the occupation RCA to also be considered as RCAs.

S1.10 Discharges to the coastal marine area

(a) Any discharge of human sewage to the coastal marine area is a restricted coastal activity.

(b) Any discharge to the coastal marine area in respect of which the applicant may desire to rely on section 107(2)(a) is a restricted coastal activity.

(c) Any discharge to the coastal marine area that is controlled by section 15B of the Resource Management Act 1991 is not a restricted coastal activity.

This scope of discharges that this RCA criteria captures has been expanded from the discharge of human sewage that has not passed through soil or wetland first to include any discharge of wastewater. This is to avoid situations where passage through a soil or wetland has been cursory and had no treatment affect on the discharge. Wastewater has been defined in the glossary as: point discharges of sewage containing human/trade/ industrial or agricultural wastes. The discharge of sewage containing human/trade or industrial or agricultural wastes can have significant adverse effects on both the health and safety of the general public and of ecosystems.

Restrictions on coastal permits are derived from section 12 of the RMA. Section 12(6) of the RMA states 'This section shall not apply to anything to which section 15A or 15B applies', hence discharge activities that would be controlled by section 15B of the RMA have been excluded from the RCA criteria.

Policy 38: Maui dolphin

The achievement of Objective 3 requires the protection of indigenous biological diversity. Specific policy is required to achieve this with regard to Maui dolphins. Maui dolphins are an endangered endemic species, with an estimated population of 111 animals (95% Confidence Interval = 48 - 252). The reported range of Maui dolphins are the west coast of the North Island from Manganui Bluff in the north to New Plymouth in the south. In recent years the Maui dolphins' core area has been restricted to the area between the Manukau Harbour entrance to Port Waikato. Maui dolphins are inshore coastal species that have a limited home range. As a result of this they have both become genetically and geographically isolated and management within the population is needed. While the main threats to the dolphins are fishing related threats, they are also vulnerable to injury by boats, and pollution and debris.

With a New Zealand population of less than 250 breeding adults, Maui dolphins are classified as 'nationally critical'⁸ (the highest risk-ranking possible). Under the World Conservation union (IUCN) red list categories Maui dolphin are classified as 'critically endangered', i.e. that the best available evidence indicates that this subspecies is considered to be facing an extremely high risk if extinction in the wild. Some estimates suggest that the Maui dolphin could become extinct within 25 years if active management to mitigate human impacts is not undertaken.

Maui dolphins do not breed until they are between 7-9 years old, have a slow reproductive rate (one calf every 2-3 years) and live to around 20 years old. Potential Biological Removal (PBR) analysis estimated that human-induced mortalities need to be zero to reduce extinction risk for this population. The threats that can be managed under the RMA, such as pollution, vessel operations, marine farming, sand mining, etc, are considered to be sub-lethal impacts as overseas evidence suggests that they are likely to reduce reproductive success.

Policy to protect indigenous biological diversity therefore requires that adverse effects on the habitat of Maui dolphins are avoided. Given the critical status of the Maui dolphin population and to provide immediate information on the their habitat it is appropriate for the NZCPS to require that this habitat to be shown on planning maps, without the need of a full public hearing and notification process.

⁸ This is based on DOC's 2002 'Classifying species according to threat of extinction - a system of New Zealand'.

This will reduce the cost of the implementation of this policy to local authorities. Four local authorities are affected by the implementation of this policy, being the regional councils for Northland, Auckland, Waikato and Taranaki.

Table 3.3.8 sets out an assessment of the marginal costs and benefits of this policy.

TABLE 3.3.8

	BENEFITS	COSTS
Party		
Central government	High Assists in ensuring the purpose of the RMA is met and in the achievement of Objective 3.	Medium Information concerning the dolphins' full home range will need to be up-dated in response to research. Implementation advice and support will be required.
Local authorities	High Provides an alert layer in plans, without the need to go through a full public consultation process. Provides certainty as to the current known habitat of Maui dolphin.	Low Four local authorities are affected. Habitat maps can be included in plans without a Schedule 1 process. Councils will still need to develop further controls in plans to protect Maui dolphin habitat.
Resource users	Medium Provides resource users with high level of certainty as to the current known habitat of Maui dolphins.	Medium Within areas identified in plans as Maui dolphin habitats, it is likely that resource users will either need to demonstrate that the activities they wish to undertake will not adversely impact on the dolphins or modify those activities.
Environment		
Coastal environment	High Assists in avoiding the extinction of Maui dolphins.	Low Maps are based on best available information of full home range at the time but may exclude some habitat.

Overall it is considered that the benefits of the policy exceed the costs.

Limited information is known about the full home range and distribution of Maui dolphin and there is uncertainty concerning the size of the population. However failure to act may lead to the extinction of this species.

To address the above matters and provide for the protection of indigenous biological diversity Policy 38 is proposed as follows:

Policy 38 Maui dolphin

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

It is considered that Policy 38 is the most appropriate means of achieving Objective 3 because it is:

- Effective in providing information on the location of the habitat of Maui dolphins;
- Effective in requiring the avoidance of adverse effects on that habitat;
- Efficient as it generates greater benefits than costs.

3.4 PUBLIC ACCESS

Policy 39: Walking access as a national priority

Objective 6 requires the maintenance and enhancement of public access, and a critical element to achieving this includes the maintenance and enhancement of walking access as a matter of national priority. The majority of access issues reported through the review process relate to threats to walking access to and along the coastal marine area, and the risk of reduced walking access in some cases and missed opportunities for enhancement in others. Some review participants recommended that walking access needs be differentiated from other forms of access.

It is desirable that those exercising functions and powers under the RMA recognise walking access as a national priority. Therefore policy guidance is required to ensure that walking access is maintained and enhanced. At the same time it is important to recognise that provision for walking access does not reduce the need to provide for other means of public access where appropriate.

Table 3.4.1 identifies the costs and benefits of providing for the maintenance and enhancement of walking access to and along the coast as a national priority.

At present there is uncertainty around the provision of public walking access to and along the coastal marine area and decisions concerning its future management. This uncertainty is compounded by the lack of distinction from other forms of

TABLE 3.4.1

	BENEFITS	COSTS
Party		
Central government	High Assists in ensuring the purpose of the RMA is met and that matters of national importance are maintained and enhanced. Provides policy direction including national priorities (new RMA s58(ga)).	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Regional and district councils	Medium Provides better direction and guidance to provide for matters of national importance.	Low The majority of councils already provide direction for statutory decisions on access, although firmer policy on exceptions is likely to lead to decisions that are more favourable to access.

Continued next page

Table 3.3.2—continued

	BENEFITS	COSTS
Regions and district councils		These decisions might have an additional cost to councils and/or resource consent applicants in that region/district depending on the standard of existing practice in the area.
Resource users	Medium Provides greater certainty for resource users on priority for maintaining and enhancing walking access to and along the coastal marine area.	Medium Better maintenance and enhancement of walking access is likely to incur costs for those undertaking subdivision, use, or development in the coastal environment.
Environment		
Public access	High Knowledge of walking access that is legal and practical will increase. Access priorities are clearer in RMA plans, policies and other decision-making.	Low There is still likely to be some loss of public walking access as a result of sealevel rise.

access, such as vehicles, and the potential for such uses to be in conflict. These uncertainties present a risk unless there is clear policy direction to assist priority setting and decision-making to sustain walking access to and along the coastal marine area.

To address the above matters and provide for the identification and protection of walking access, Policy 39 is proposed as follows:

Policy 39 Walking access as a national priority

It is a national priority to maintain and enhance public walking access to and along the coastal marine area, including by:

- (a) ensuring that public walking access to and along the coastal marine area is free of charge;*
- (b) avoiding significant loss of existing public walking access resulting from subdivision, use, and development;*
- (c) remedying or mitigating constraints on public walking access resulting from subdivision, use, or development;*
- (d) identifying where the public have walking access to the coastal marine area;*
- (f) identifying opportunities to enhance or restore public walking access; and*
- (g) having particular regard to pedestrian safety where public walking access is available.*

Policy 39 identifies the need to accord priority to walking access and translates the objective into meaningful policy that assists and provides greater certainty to decision-makers and resource users. It is considered that the policy is the most appropriate means of assisting the achievement of Objective 6 because it is:

- Effective in implementing the need to maintain and enhance walking access as the primary component of public access to and along the coastal marine area;
- Effective in implementing the need to enhance walking access in council and other RMA decision-making processes;
- Effective in avoiding significant loss to walking access;
- Effective in identifying particular priorities for enhancement;
- Efficient in generating greater benefits than costs.

Policy 40: Esplanade reserves and strips

By providing for public ownership of or access to the margins of the coast and other water bodies in the coastal environment esplanade reserves and strips are an important mechanism for the achieving the objectives of the NZCPS and promoting sustainable management. Councils have discretion to waive or vary the requirements under the RMA to require the creation of esplanade strips or reserves and may negotiate the provision of access strips. To implement the objectives of the NZCPS and promote sustainable management guidance is required on the exercise of these discretions. It is considered that esplanade reserves and strips should only be waived in exceptional circumstances, including those where a esplanade or strip cannot physical be provided or where it would not be in the publics interest to create an esplanade reserve or strip.

Table 3.4.2 sets out an assessment of the marginal costs and benefits of a policy providing this guidance on the creation of esplanade reserves and access strips in the coastal environment.

Overall it is considered that the benefits of the policy exceed the costs.

TABLE 3.4.2

	BENEFITS	COSTS
Party		
Central government	High Clarifies nationally the importance of land use that borders the MHWS for future management. Assists in ensuring the purpose of the RMA is met.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Local authorities	Medium Provides direction and guidance on providing for esplanade reserves and access strips in the coastal environment. Provides ability for public access into the future, especially acknowledging the potential for MHWS to move inland over time.	Medium Not all councils choose to require esplanade reserves or access strips. Potential for costs in implementing and maintaining these areas.
Resource users	Medium Provides more certainty to land owners of areas that should be esplanade reserves or access strips.	Medium May be a cost to the developer of having less land to 'develop'.

Continued next page

Table 3.4.2—continued

	BENEFITS	COSTS
Environment		
Coastal environment	<p>High</p> <p>Provides for land use decision-making to be integrated with marine management.</p> <p>Provides for future public access.</p>	<p>Low</p> <p>Provides for reserves and strips to be waived in some circumstances.</p>

There is variable application of esplanade reserves and access strips. By not improving on this practice, there is a risk in exacerbating the effects from coastal hazards and limiting public access for the future.

To address the above matter and provide for the appropriate assessment of esplanade reserves and access strips, Policy 40 is proposed as follows:

Policy 40 Esplanade reserves and strips

Policy statements and district plans shall promote the creation of esplanade reserves and esplanade strips, where they do not already exist, to provide public access to and along the coastal marine area. A requirement for an esplanade reserve or strip that would provide public access to or along the coastal marine area shall not be waived unless there are exceptional circumstances that mean provision of an esplanade reserve or strip would not be in the public interest.

It is considered that Policy 40 (in conjunction with the other policies of this chapter) is the most appropriate means of achieving the objectives because the policy is:

- Effective in strategically guiding decisions on esplanade reserves and access strips;
- Effective in enabling proactive planning for future management of hazards and public access;
- Efficient as it generates greater benefits than costs.

Policy 41: Access enhancement

Policy direction is required to provide direction for how and when to achieve enhanced access, with priority given to enhancing in particular circumstances. Priority setting to guide the establishment of new public access that is both legal and practical would significantly assist fulfilment of Objective 6. Priority considerations include improving linkages with existing public areas, access for people with disabilities, sea level rise effects, recreational opportunities, sites of cultural significance, and the effects of land development.

Table 3.4.3 identifies the costs and benefits of a policy requiring and setting priorities for the enhancement of access.

It is considered that the benefits of these policies are greater than the costs.

TABLE 3.4.3

	BENEFITS	COSTS
Party		
Central government	Medium Assists in ensuring the purpose of the RMA is met and that matters of national importance are maintained and enhanced. Provides policy direction including national priorities (new RMA s58(ga)).	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Regional and district councils	Medium Provides better direction and guidance to provide for matters of national importance.	Low The majority of councils already provide direction for statutory decisions on access, although firmer policy on exceptions is likely to lead to outcomes more favourable to access. These decisions will have an additional cost to councils and/or resource consent applicants.
Resource users	Medium Provides greater certainty on priority for maintaining and enhancing public access.	Low Maintenance and enhancement of public access including the avoidance of future loss due to matters such as sealevel rise is likely to affect some coastal owners and/or occupiers.
Environment		
Public access	Medium Enhanced public access to coast.	Low There is still likely to be some loss of public access as a result of sea-level rise.

At present there is uncertainty around the location of existing public access to and along the coastal marine area and decisions concerning its future management. There is also uncertainty about the potential for loss of public access as result of dynamic physical processes including sea level rise. This lack of information and uncertainty present a risk unless there is clear policy direction to assist priority setting and decision-making to sustain walking access to and along the coastal marine area.

To address the above matters and provide for the identification and enhancement of public access the following policy is proposed:

Policy 41 Access enhancement

Policy statements and plans shall identify where it is desirable that public access to and along the coastal marine area is enhanced, giving priority where:

- (a) connections between existing public areas can be provided;*
- (b) improving access would promote outdoor recreation;*
- (c) physical access for people with disabilities is desirable;*
- (d) the long-term availability of public access is threatened by erosion or sea level rise;*

- (e) access to areas or sites of cultural significance is important; and
- (f) subdivision, use, or development of land adjacent to the coastal marine area has reduced public access, or has the potential to do so.

This policy is considered to be the most appropriate means of achieving Objective 4 because it is:

- Effective in implementing the need to identify existing public access;
- Effective in implementing the need to enhance public access in council and other RMA decision-making processes;
- Effective in identifying particular priorities for enhancement;
- Efficient in providing guidance for plan and policy development and resource consent determination;
- Efficient in generating greater benefits than costs.

Policy 42: Vehicle access

The appropriate use of vehicles on the foreshore and seabed and adjacent public land is a significant management issue within the coastal environment, and affects achievement of Objective 6 and other NZCPS objectives and policies (in particular natural character and biodiversity).

Public access onto the foreshore and seabed and/or adjacent public land is vulnerable to damage by inappropriate vehicle use in the coastal environment. Clarification of the risk of adverse effects of vehicles relative to non-vehicular access, particularly walking access, is desirable. At present a small proportion of district and regional plans and policies provide direction on the management of vehicle access issues.

Table 3.4.4 identifies the costs and benefits of policy identifying the matters to be considered in restricting vehicle access and in controlling that access.

TABLE 3.4.4

	BENEFITS	COSTS
Party		
Central government	Medium Assists in ensuring the purpose of the RMA is met, that matters of national importance are maintained and enhanced and conflict is addressed appropriately.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Regional and district councils	Medium Provides direction and guidance to provide for matters of national importance and to address conflict appropriately.	Medium Some councils already provide the appropriate management of vehicles on the foreshore and seabed and adjacent public land although this direction may not be provided within statutory plans. The policy may incur cost to councils depending on the standard of existing practice in the area.

Continued next page

Table 3.4.4—continued

	BENEFITS	COSTS
Resource users	Medium More likely to achieve appropriate management and provision for vehicle use on the foreshore and seabed.	Medium Possible reduction of opportunities for vehicle use and increased sense of management.
Environment	High Addresses threat to sustaining coastal environment.	
Public access	High Supports more appropriate management of vehicle use on foreshore and seabed. Access priorities are clearer in RMA plans, policies and other decision making.	

It is considered that the overall benefits are greater than the costs. It is not considered that there is any uncertainty associated with the subject matter which needs to be addressed. Therefore Policy 42 is proposed as follows.

Policy 42 Vehicle access

Plans shall identify where the use of vehicles on the foreshore and seabed and on adjacent public land is and is not appropriate, with particular regard to:

- 1. public safety;*
- 2. the amenity values of the coastal environment for the public;*
- 3. the maintenance of opportunities for recreation; and*
- 4. the protection of dunes, estuaries and other sensitive natural areas or habitats;*

and shall control vehicle access accordingly.

It is considered that Policy 42 is the most appropriate means of achieving Objective 6 because the policy is:

- Effective in recognising the range of recreational uses on the foreshore, seabed and adjacent public land and the potential or existing conflict between vehicle users and other users of those areas;
- Effective in identifying the appropriate considerations for the management of vehicles on the foreshore and seabed and adjacent public land;
- Effective in leaving scope for a range of management options to address issues relating to the effects of vehicle use;
- Efficient in providing a high overall benefit while generating small to medium costs to some existing users.

Policy 43: Restrictions on access

Restrictions on public access to and along the coastal marine area are justified in certain circumstances and in particular to assist in achieving Objectives 2, 3,

4, and 8. Existing policy direction is based on relatively broad categories. It is intended that policy direction be provided with greater specificity in relation to matters where there is greater sensitivity to the effects of public access.

Understanding of the situations where restrictions on public access may be justified has changed since the 1994 NZCPS. Sensitivities to the effects of public access can exist in places such as significant habitats, public amenity areas and in relation to national defence and biosecurity needs. These matters are relevant practical considerations in resource management decision-making and provide a practical qualification with regard to Objective 6 and the other access policies.

The policy clarification of occasions where public access might be restricted provides benefit with improved achievement of sustainable coastal management, particularly in relation to Māori cultural values, biodiversity, natural character, historic heritage and amenity. The cost of implementation is low across central and local government and resource users. These policy elements would not compromise the achievement of Objective 6 or the other public access policies.

Provisions generally in favour of public access to and along the coastal marine area potentially risk adversely affecting some other significant place or value and therefore risk achieving sustainable coastal management. Recognition of these potential circumstances and the provision of appropriate policy guidance provide greater certainty of outcome for decision-makers and resource users. The following policy is therefore proposed:

Policy 43 Restrictions on access

A restriction on public access to and along the coastal marine area shall only be imposed where such a restriction is necessary:

(a) to protect threatened indigenous species; or

*(b) to protect dunes, estuaries and other sensitive natural areas or habitats;
or*

(c) to protect sites and activities of cultural value to Maori; or

(d) to protect historic heritage; or

*(e) to protect the amenity values of the coastal environment for the public;
or*

(f) to protect public health or safety; or

(g) to avoid or reduce conflict between public uses of the coastal marine area and its margins; or

(h) for defence purposes; or

(i) to ensure a level of security consistent with the purpose of a resource consent.

The policy is the most appropriate means for achieving Objectives 2, 3, 4, 5 and 8 in conjunction with other public access provisions. Policy 43 is:

- Effective in implementing the need to restrict public access in certain circumstances;
- Effective in identifying those circumstances and/or places in and along the coastal marine area where there is likely to be greater sensitivity to the effects of public access;

- Efficient in providing guidance for plan and policy development, determination of resource consents and/or other methods;
- Efficient in generating low costs while providing benefits through increased certainty of outcome.

3.5 WATER QUALITY

Policy 44: Maintaining water quality

Objective 7 requires that water quality in the coastal environment be maintained, or be improved over time where it has deteriorated from its natural state. Maintenance of water and substrate quality, and particularly high water quality, also contributes to the preservation of natural character in terms of Objective 3. Discharges of contaminants from both point and non-point sources are the principle contributors to reduced water and substrate quality, and require effective management if existing water quality is to be maintained or enhanced. Direction also needs to be provided on how water quality is to be maintained while allowing for people and communities to provide for their social, economic, and cultural wellbeing in terms of Objective 1, including through the discharge of contaminants. In achieving Objective 7 it is therefore appropriate to provide clear guidance in relation to these activities.

Maintenance of water quality is considered to mean that water quality is protected from the adverse effects of discharges after reasonable mixing. Further policy guidance on reasonable mixing is provided in the proposed NZCPS.

Table 3.5.1 sets out an assessment of the marginal costs and benefits of policy requiring that, after reasonable mixing discharges avoid adverse effects on areas of high water quality or deterioration in the quality of other waters and substrate.

TABLE 3.5.1

	BENEFITS	COSTS
Party		
Central government	Medium Assists in ensuring the purpose of the RMA is met.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Local authorities	Medium Provides additional direction and guidance in meeting the purpose of the RMA in the coastal environment.	Medium May require assessment of existing water quality, and the development of water quality standards and rules in Policy Statements and Plans.
Resource users	High Protects users of higher quality water resources.	Medium May prevent or limit some discharge activities, and impose higher costs on applicants who do not meet the relevant provisions of plans, including discharge standards.
Environment		
Coastal water quality	High Protects high quality waters and avoids deterioration in the quality of other coastal waters and substrate.	Low Some adverse effects within mixing zones.

Overall it is considered that the benefits of the policy exceed the costs.

It is not considered that there is any risk related to uncertainty or insufficient information concerning water quality.

Policy 44 is therefore proposed as follows:

Policy 44 Maintaining water quality

Discharges of contaminants shall, after reasonable mixing, avoid adverse effects on high water quality in the coastal environment, and shall not cause deterioration in the quality of other water or substrate in the coastal environment.

It is considered that Policy 44 in conjunction with Policies 45 to 50 is the most appropriate means of achieving Objective 7 because the policy is:

- Effective in that it will assist in maintaining high water quality;
- Effective in avoiding further deterioration of water and substrate quality; and
- Efficient as it generates greater benefits than costs.

Policy 45: Enhancement of water quality

Objective 7 requires that water quality be improved over time where it has been degraded. The quality of both fresh and saline waters has deteriorated in many locations in the coastal environment, but often levels of contamination are low, or are not giving rise to significant adverse effects. To require the improvement of all degraded water in all locations would impose considerable costs and it is appropriate in achieving Objective 7 to provide guidance on priorities for enhancement. To achieve Objectives 1, 3 and 4 priority should be given to those locations in which existing uses, tangata whenua interests or natural character are particularly affected. Stating these priorities will provide benefits for those three areas and avoid the costs of enhancing all degraded water quality in an unreasonable time frame. Costs for resource users and communities will depend on the enhancement mechanisms chosen but should not exceed benefits. Enhancement should be undertaken where deterioration in water quality has been clearly identified, the risks of acting are low, and enhancement is practicable. In achieving Objective 7 it is appropriate to provide clear guidance in relation to these activities.

Policy 45 is therefore proposed as follows:

Policy 45 Enhancement of water quality

Where the quality of water in the coastal environment has deteriorated it shall be enhanced, where practicable, with priority given where:

- (a) adverse effects on natural character, ecology or habitat are significant; and/or*
- (b) tangata whenua identify a particular interest in the affected waters; and/or*
- (c) water quality is unsuitable for, or constrains, existing uses.*

It is considered that Policy 45 is the most appropriate means of achieving Objectives 1, 3, 4 and 7 because the policy is:

- Efficient in identifying priorities for water quality restoration;
- Effective in providing for the restoration of natural character,
- Effective providing for tangata whenua interests;
- Effective in providing for existing uses; and
- Efficient as it generates greater benefits than costs.

Policy 46: Mixing zones

Objective 7 requires that water quality in the coastal environment be maintained, or be improved over time where it has deteriorated from its natural state. However, some discharges of contaminants are necessary to allow people and communities to provide for their social, economic, and cultural wellbeing, and these can lower water quality, particularly in the ‘mixing zone’ around the point of discharge. Impacts can be reduced by avoiding the use of large mixing zones, protecting the life-supporting capacity of waterbodies and ensuring that discharges are of a standard that avoids adverse effects (other than minor effects) outside the mixing zone. Providing guidance on these matters assists in determining reasonable mixing zones in terms of both the area and the scale of effects. Alternatives to providing for mixing zones such as end of pipe standards also need to be considered where there is the potential for significant adverse effects from the discharge. In achieving Objective 7 it is therefore appropriate to provide clear guidance in relation to these activities.

Table 3.5.2 sets out an assessment of the marginal costs and benefits of a policy setting out these requirements for reasonable mixing.

TABLE 3.5.2

	BENEFITS	COSTS
Party		
Central government	Medium Assists in ensuring the purpose of the RMA is met.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Local authorities	Medium Provides additional direction and guidance in meeting the purpose of the RMA in the coastal environment.	Medium May require assessment of existing water quality, and the development of water quality standards and rules in Policy Statements and Plans.
Resource users	High Protects users of water resources.	Medium May limit some discharges, and impose higher costs on applicants who do not meet the relevant provisions of plans, including discharge standards.
Environment		
Coastal water quality	High Protects high quality waters and avoids deterioration in the quality of other coastal waters.	Low Some adverse effects within mixing zones.

Overall it is considered that the benefits of the policy exceed the costs.

There may be some risk related to uncertainty or insufficient information concerning the cumulative effects of discharges on water quality. However as the risk of not acting could result in adverse effects on water quality the policy is considered appropriate.

Policy 46 is therefore proposed as follows:

Policy 46 Mixing zones

The management of discharges to water in the coastal environment shall have particular regard to the sensitivity and resilience of the receiving environment, and to the nature of the contaminants to be discharged and their associated risks, and shall:

- (a) avoid the use of large mixing zones to dilute discharges with high contaminant loadings;*
- (b) avoid adverse effects on the life-supporting capacity of the water within a mixing zone; and*
- (c) avoid adverse effects that are more than minor after reasonable mixing.*

'End of pipe' water quality standards shall be considered where necessary to avoid significant adverse effects at the point of discharge.

It is considered that Policy 46 in conjunction with the other water quality policies is the most appropriate means of achieving Objective 7 because the policy is:

- Effective in that it will assist in managing the effects of discharges and in maintaining overall water quality;
- Effective as it sets clear standards for discharges; and
- Efficient as it generates greater benefits than costs.

Policy 47: Ecological effects of discharges

Discharges of contaminants (either on their own, or in combination with other contaminants) can adversely affect aquatic ecosystems, particular in enclosed or semi-enclosed waters, or in situations where contaminant loadings are high or contain bio toxins. The maintenance of water quality as required by Objective 7 should ensure that the adverse effects of discharges on indigenous species, habits and ecosystems are no more than minor outside of the mixing zone. Ecosystems and their associated habitats and species are part of the natural character of the coastal environment, and safeguarding their life supporting capacity is consistent with the sustainable management purpose of the RMA and Objective 3 of the proposed NZCPS. It is therefore appropriate that policy direction concerning the impacts of discharges on indigenous ecosystems, habits and species be included in the proposed NZCPS.

Policy 47 is proposed as follows:

Policy 47 Ecological effects of discharges

Discharges of contaminants to water in the coastal environment, singly or in combination with other discharges, shall not have more than minor adverse effects, after reasonable mixing, on the indigenous species, habitats, or ecosystems of those waters.

This policy will provide benefits to coastal ecosystems and those resource users who depend on those ecosystem's continued life supporting capacity and health. Costs may be imposed on those seeking to discharge contaminants to the coastal environment. It is considered that the benefits of the policy outweigh the costs. There can be uncertainty regarding the effects of contaminants on coastal ecosystems. However as the risk of not acting could result in significant adverse effects on coastal ecosystems the policy is considered appropriate.

It is considered that Policy 47, in conjunction with the other water quality policies is the most appropriate means of achieving Objectives 3 and 7 because the policy is:

- Effective in protecting species, habitats, and ecosystem in coastal waters;
- Effective in providing a clear direction to local authorities; and
- Efficient as it generates greater benefits than costs.

Policy 48: Discharge of human sewage

Wastewater discharges can have adverse effects on waters in the coastal environment, and their associated amenity and cultural values. Māori cultural and spiritual values can be particularly affected if wastewater containing human sewage is discharged directly to water without passing through land. However, most cities in New Zealand discharge wastewater either directly or indirectly to the CMA, and it is often the most suitable physical site for new or upgraded sewage discharges. Notwithstanding this the potential adverse effects of proposed discharges of wastewater and the reasons for a coastal discharge need to be carefully evaluated, and land based alternatives should be considered where these are suitable.

In order to address Objective 7, and also Objectives 1 and 4, guidance is required about the circumstances when discharges of wastewater containing human sewage are appropriate. Policy 48 is therefore proposed as follows:

Policy 48 Discharge of human sewage

Discharge of human sewage directly into water in the coastal environment, without passing through land, shall occur only where:

- 1. it better meets the purpose of the Act than disposal onto land;*
- 2. there has been consultation with the tangata whenua in accordance with tikanga Maori and due weight has been given to Sections 6, 7 and 8 of the Act; and*
- 3. there has been consultation with the community generally.*

This policy is based on existing Policy 5.1.2 in the NZCPS. Additional costs associated with retention of this policy are considered to be low as it should have been implemented through existing discharge consents, and for new consents evaluation of environmental effects and alternatives to a proposed discharge is required under the RMA (s105). The policy provides an overall benefit by effectively and efficiently providing guidance on discharges of wastewater containing human sewage in the implementation of Objective 7, as well as Objectives 1 and 4 in regard to wastewater discharges. It is considered that there is sufficient certainty concerning the adverse effects of these activities to include

this policy. Therefore Policy 48, in conjunction with the other water quality policies, is considered the most appropriate means for achieving Objective 7.

Policy 49: Stormwater discharges

Discharges of stormwater are a major contributor to degraded water quality and substrate contamination, particular where discharges are occurring from urban areas, or to enclosed waters. These impacts can be addressed by improving stormwater management in urban catchments, and requiring new subdivision and development to avoid adverse sedimentation and contamination of waters in the coastal environment. To require the improvement of all stormwater discharges that are degrading the quality of receiving waters would impose considerable costs and it is appropriate in achieving Objective 7 to provide guidance on priorities for enhancement.

Table 3.5.3 sets out an assessment of the marginal costs and benefits of requiring improved stormwater management.

TABLE 3.5.3

	BENEFITS	COSTS
Party		
Central government	Medium Assists in ensuring the purpose of the RMA is met.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Local authorities	Medium Provides additional direction and guidance in meeting the purpose of the RMA in the coastal environment.	High Catchment studies, development of water quality standards and rules for stormwater in Plans. Upgrading of stormwater systems and discharge standards.
Resource users	High Protects users of water resources.	Medium May prevent or limit some discharge activities, and impose higher costs on applicants who do not meet the relevant provisions of plans, including discharge standards.
Environment		
Coastal water quality	High Improves degraded water quality in priority areas and arrests deterioration in the quality of other coastal waters and substrate over time.	Low Setting priorities means that not all adverse discharges will be addressed.

Overall it is considered that the benefits of the policy exceed the costs.

It is not considered that there is any risk related to uncertainty or insufficient information concerning water quality.

Policy 49 is therefore proposed as follows:

Policy 49 Stormwater discharges

Adverse effects of stormwater discharges to waters in the coastal environment shall be reduced, over time, including by:

- (a) promoting design options that reduce inflows to stormwater reticulation systems at source,*
- (b) reducing contaminant loadings, including sediment, in stormwater through appropriate controls on land use activities;*
- (c) avoiding sewage entering stormwater systems;*
- (d) setting stormwater discharge standards; and*
- (e) promoting integrated management of stormwater catchments; and priority should be given to improving management of stormwater discharges where:*
- (f) existing uses or values of the receiving waters are adversely affected; or*
- (g) the cumulative adverse effects of discharges on receiving waters are significant.*

It is considered that Policy 49, in conjunction with the other water quality policies is the most appropriate means of achieving Objective 7 because the policy is:

- Effective in that it will assist in managing the adverse effects of discharges of stormwater and in maintaining overall water quality; and
- Efficient as it generates greater benefits than costs.

Policy 50: Ports and other marine facilities

Runoff and other point and non-point discharges of contaminants from port areas and other marine facilities such as slipways and marinas can significantly degrade water quality and contaminate the seabed in and adjoining these areas. Dredging and dumping of material, particularly where this involves contaminated materials, can also give rise to adverse effects on water quality and the seabed. The provision of collection facilities at marine facilities for ships waste and maintenance residues would assist in avoiding contaminants and waste materials entering coastal waters from these sources. In achieving Objective 7 it is therefore appropriate to provide clear guidance in relation to these activities.

Table 3.5.4 sets out an assessment of the marginal costs and benefits of managing discharges associated with ports and other marine facilities.

Overall it is considered that the benefits of the policy exceed the costs.

It is not considered that there is any risk related to uncertainty or insufficient information concerning water quality.

Policy 50 is therefore proposed as follows:

Policy 50 Ports and other marine facilities

Local authorities shall:

- (a) require port areas and other marine facilities to avoid adverse contamination of coastal waters and substrate;*
- (b) ensure that the disturbance or relocation of contaminated seabed material and the dumping or storage of dredged material does not result in significant adverse effects on water quality or the seabed; and*
- (c) require ports, marinas and other relevant marine facilities to provide sewage and waste collection facilities for vessels, and for residues from vessel maintenance.*

TABLE 3.5.4

	BENEFITS	COSTS
Party		
Central government	Medium Assists in ensuring the purpose of the RMA is met.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Local authorities	Medium Provides additional direction and guidance in meeting the purpose of the RMA in the coastal environment.	Medium May require the development of guidelines, water quality standards and rules in Policy Statements and Plans.
Resource users	High Protects users of water resources.	Medium May impose higher costs on activities that do not meet the relevant provisions of plans, including discharge standards.
Environment		
Coastal water quality	High Avoids deterioration in water and substrate quality.	Low Some adverse effects within mixing zones.

The policy provides an overall benefit by effectively and efficiently providing guidance on the implementation of Objective 7 in regard to these activities. It is considered that there is sufficient certainty concerning the effects of these activities to include this policy. Therefore Policy 50, in conjunction with the other water quality policies is considered the most appropriate means for achieving Objective 7.

3.6 COASTAL HAZARDS

Policy 51: Identification of hazard risks

To implement Objective 8 areas potentially at risk from coastal hazards must be identified and assessed. This is a fundamental step in the proactive management of existing or potential risks for development. It is also critical to recognise that there will be areas of the coast that are at higher risk than other areas and therefore should be given a higher priority for the identification and assessment of the risk.

Coastal processes tend to have trends that occur over the short-term (e.g. months upwards to 50 years) and the long-term (e.g. 50 years upwards to hundreds of years). The current default period of 50 years for planning decisions, (as influenced by the Building Act), is not considered appropriate for risk assessment purposes for coastal hazards. The 100 year time frame sought by submitters to the Issues and Options paper provides for long term trends to be assessed. A period of 100 years allows for short term fluctuations and trends to be acknowledged within the longer time cycles of geological changes. A one hundred year time span is therefore considered to be a more reasonable and realistic planning period. If risk is to be progressively reduced over time, risk assessments should apply to

new development proposed in existing green field areas as well as to existing developed areas. While risk assessments can cover a range of matters, there are some fundamental components that should be considered. This includes in particular, the effects of climate change, as now emphasised in s7 RMA. National guidance on climate change is derived from the work undertaken by the Inter-Governmental panel on Climate Change (IPCC). This provides internationally peer reviewed data on climate change impacts at regular intervals. The NZ government then produces guidance on this data in a NZ and regional context. Due to the potential for this international data to change over time, as a result of the work of the IPCC, it is not appropriate to specify a specific sea level or climate change range for application at a national level for NZ.

While it is acknowledged that NZ has the potential to be adversely affected by tsunami, this is not a coastal hazard that can be readily identified and managed cost effectively. It is also considered to be a lower priority than the need to manage development from other coastal hazards. It is therefore considered appropriate at this stage to exempt areas at risk from tsunami from requiring identification and assessment.

The effective implementation of Objective 8 therefore requires that priority areas in the coastal environment that are at risk from coastal hazards should be identified and assessed. Without good information on areas potentially at risk from coastal natural hazards, appropriate management of use and development cannot be undertaken.

Table 3.6.1 sets out an assessment of the marginal costs and benefits of a policy requiring identification and assessment of areas at risk from coastal hazards.

TABLE 3.6.1

	BENEFITS	COSTS
Party		
Central government	High Complements government policy directions on climate change and hazard risk management. Raises national awareness of baseline information. Assists in ensuring the purpose of the RMA is met.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Local authorities	High Provides direction and guidance relating to risk assessment information. Enables proactive decision-making. Would provide more certainty to public of areas at risk, and potentially avoid legal debates at the site specific level.	Medium Not all councils have identified areas of hazard risk. Identification of hazard risk can be contentious.
Resource users	Medium Would provide more certainty to land owners of areas at risk. Assists in avoiding future 'crisis' management.	Low May impact on the development aspirations of some land owners.

Continued next page

Table 3.6.1—continued

	BENEFITS	COSTS
Environment		
Coastal hazard risk management	Medium Provides for coastal hazard risk to be considered in land use decision-making.	Nil

It is considered that the benefits of the policy are greater than the costs. There is a variable level of information available on hazard risk around the coast of NZ. If this level of knowledge is not improved there is a risk of increasing adverse effects on coastal property.

To address the above matters and provide for the identification and assessment of coastal hazard risk Policy 51 is proposed as follows:

Policy 51 Identification of hazard risks

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

- (a) short-term natural dynamic fluctuations of erosion and accretion;*
 - (b) long-term trends of erosion or accretion;*
 - (c) slope stability or other geotechnical issues;*
 - (d) the potential for natural coastal features and areas of coastal hazard risk to migrate as a result of dynamic coastal processes, including sea level rise; and*
 - (e) the effects of climate change on:*
 - (i) matters (a) to (d) above;*
 - (ii) storm frequency, intensity and surges; and*
 - (iii) coastal sediment dynamics;*
- taking into account the most recent available national guidance on the likely effects of climate change on the region or district.*

It is considered that Policy 51 (in conjunction with the other coastal hazard policies) is the most appropriate means of achieving Objective 8 because the policy is:

- Effective in implementing a risk management approach;
- Effective in enabling proactive planning in identified risk areas;
- Effective in enabling the potential impacts of climate change to be recognised;
- Efficient in providing guidance on information required for a risk assessment;
- Efficient in aligning the RMA functions of local authorities across mean high water springs;
- Efficient in generating greater benefits than costs.

Policy 52: Subdivision and development in areas of hazard risk

To implement Objective 8 the location and design of subdivision and development must be managed appropriately to ensure risk to property and infrastructure is not exacerbated. This builds on the previous policy direction of the identification and assessment of hazard risk areas and promotes proactive management of existing or potential risks for subdivision and development.

The effective implementation of Objective 8 therefore requires that the location and design of subdivision and development in areas in the coastal environment that are at risk from coastal hazards should be managed to:

- Avoid creating new risks in ‘greenfield’ areas;
- Avoid increasing the potential level of risk in areas of existing development;
- Seek to reduce the level of risk through proactive adaptive management decisions such as retreat;
- Avoid a reliance on hard protection structures to protect property from coastal hazards.

Table 3.6.2 sets out an assessment of the marginal costs and benefits of a policy guiding the location and design of subdivision and development in areas potentially at risk from coastal hazards.

TABLE 3.6.2

	BENEFITS	COSTS
Party		
Central government	High Complements government directions on climate and hazard risk management. Potentially reduces extent of damage from hazard events. Assists in ensuring the purpose of the RMA is met.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Local authorities	High Provides direction and guidance on appropriate location and design of subdivision and development. Provides for proactive planning to guide land use decisions.	Medium Not all local authorities have controlled development in coastal hazard areas, through their District Plans.
Resource users	High Provides more certainty to land owners of areas at risk. Assists in avoiding future ‘crisis’ management.	Medium The development aspirations of some land owners may be affected. Adaptive management options may not be achievable financially.
Environment		
Coastal hazard risk management	High Provides for future coastal hazard risk to be considered in land use decision-making.	Low May still allow for ‘coastal squeeze’ to occur where there is insufficient area between the coastal marine area and existing development.

Overall it is considered that the benefits of the policy exceed the costs.

The need to control the location and design of subdivision and development in areas at risk from coastal hazards is clearly established and certain. Implementation of this policy will also build on the increased information on coastal hazards provided by Policy 51.

To address the above matters and provide for the management of subdivision, use and development in areas of at risk from coastal hazards Policy 52 is proposed as follows:

Policy 52 Subdivision and development in areas of hazard risk

In areas potentially affected by coastal hazards, local authorities shall:

- (a) avoid new subdivision and residential or commercial development on land at risk from coastal hazards;*
- (b) avoid redevelopment, or change in land use, that would increase risk from coastal hazards; and*
- (c) encourage redevelopment, or change in land use, that would reduce risk from coastal hazards, including:*
 - (i) managed retreat, by relocation, removal or abandonment of existing structures;*
 - (ii) replacement or modification of existing development to reduce risk without recourse to hard protection structures, including by designing for relocatability or recoverability from hazard events.*

It is considered that Policy 52 (in conjunction with the other policies of this chapter) is the most appropriate means of achieving Objective 8 because the policy is:

- Effective in addressing the conflict between coastal development and coastal processes;
- Effective in recognising the difference between existing developed areas and 'greenfield' developments;
- Effective in enabling adaptive management options to be considered;
- Efficient in providing guidance on land use planning;
- Efficient in its alignment with the functions of Local Authorities under the RMA;
- Efficient as it generates greater benefits than costs.

Policy 53: Natural defences and Policy 54: Protection structures

To implement Objective 8 guidance is required on the appropriate forms of protection from coastal hazard risks. It is recognised that total avoidance of coastal hazard risk will not be achievable in all instances. Protection of the built environment can be provided through the protection or restoration of natural features which provide barriers, such as dunes, estuaries and coastal vegetation or through the erection of hard protection works such as seawalls, groynes and other similar structures.

The effective implementation of Objective 8 therefore requires that natural areas in the coastal environment that can provide a barrier to coastal processes that could result in hazards to property should be protected or restored. In addition it

requires guidance for the appropriate location of hard protection structures. Hard protection structures (usually seawalls) are a common response when coastal development is at risk of damage from natural coastal processes. Such structures can have significant adverse effects on natural character, amenity values (e.g. causing loss of beach sand and foreshore) and public access to and along the coastal marine area. It is therefore appropriate to provide guidance on the planning and decision-making for such structures. The land of the coastal marine area is held by the Crown on behalf of all New Zealanders. This status should be recognised when considering the location of any such structures, to ensure that public values are addressed as well as any private gains. In this respect, hard structures should not be considered as the only management option. Due consideration should also be given to other options as well as climate change trends and the public costs and benefits over a long time period as discussed under proposed Policy 51. This would enable more robust sustainable management decision to be made involving environmental, social and economic considerations.

Table 3.6.3 sets out an assessment of the marginal costs and benefits of policies:

- Requiring the protection and restoration of natural barriers; and
- Providing guidance on coastal hazard protection structures.

TABLE 3.6.3

	BENEFITS	COSTS
Party		
Central government	High Protects natural barrier features that could protect the built environment from the adverse effects of climate change. Ensures decisions about structures consider the special status of the land in the coastal marine area. Assists in ensuring the purpose of the RMA is met.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Local authorities	High Provides direction and guidance on barrier features and location of hard protection structures. Provides guidance on the appropriate values to be considered with regard to coastal hazard management.	Medium Not all councils undertake proactive coast care programmes. Not all councils currently consider public costs and benefits in decision-making.
Resource users	Medium Supports community projects to assist in protecting barrier features. Provides more certainty to land owners of areas at risk. Seeks to avoid future 'crisis' management. Recognises that protection works may not be the only management option. Reinforces the need for integrated management.	Medium May impact on the development aspirations of some land owners. May require modification to development projects including infrastructure projects. Increases the amount of information required to assess whether structures are an appropriate solution.

Continued next page

Table 3.6.3—continued

	BENEFITS	COSTS
Environment		
Coastal hazard risk management	<p>High</p> <p>Provides for the protection and enhancement of natural barrier features.</p> <p>Provides for robust consideration of appropriateness of structures.</p>	<p>Low</p> <p>Recognises that where structures are appropriate there will be a loss of values such as beach amenity, natural character and public access.</p>

It is considered that the benefits of these policies are greater than the costs. The adverse effects of the loss of natural barriers and the construction of hard protection structures are well established.

The effects of climate change (in particular sea level rise and an increase in storms of a greater intensity) will drive increasing pressures for more protection of the built environment. By not recognising this issue, there is a risk that hard protection works will become increasingly prevalent along many areas of New Zealand's coast. The associated risk is a loss of natural character, amenity and public access in many coastal marine areas. Hard protection structures need to be assessed to ensure their 'appropriateness' for location and purpose.

To address the above matters and provide for the protection of natural barrier features and the appropriate location of hard protection structures, Policies 53 and 54 are proposed as follows:

Policy 53 Natural defences against hazards

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

Policy 54 Protection structures

When considering the potential use of hard protection structures in response to coastal hazard risk, local authorities shall:

- (a) promote alternative responses, including soft engineering solutions and the relocation, removal or abandonment of existing structures;*
- (b) take into account the expected effects of climate change, over at least a 100-year timeframe; and*
- (c) evaluate the likely public costs and benefits of any proposed hard protection structure, and the effects on the environment, over at least a 100-year timeframe.*

Where hard protection structures are considered to be necessary, local authorities shall:

- (d) generally avoid the location of such structures in the coastal marine area;*
- (e) promote the location of hard protection structures on private land, rather than public land, where the purpose is to protect private land;*
- (f) ensure provision for the continuation or restoration of public access to and along the coastal marine area at high tide; and*
- (g) ensure structures are designed to minimise consequential erosion.*

It is considered that Policies 53 and 54 (in conjunction with the other coastal hazard policies) are the most appropriate means of achieving Objective 8 because the policies are:

- Effective in providing guidance on the protection of natural barriers;
- Effective in providing guidance on appropriate hazard protection structures;
- Effective in encouraging proactive planning in identified risk areas;
- Effective in enabling the potential impacts of climate change to be recognised;
- Efficient in providing guidance on matters to be considered in decision-making;
- Efficient in aligning the actions and decisions of differing Local Authorities with RMA functions in the coastal environment, including alignment across MHWS;
- Efficient in generating greater benefits than costs.

3.7 HISTORIC HERITAGE

Policy 55: Historic heritage identification and protection

To implement Objective 9 historic heritage must be identified and assessed, this includes historic heritage that is discovered during the development process. The implementation of the objective also requires an evaluation of 'inappropriate' subdivision, use, and development in relation to historic heritage. In relation to that evaluation:

- Protection of all historic heritage from all subdivision, use, and development would restrict use and development of coastal resources to an extent incompatible with Objective 9 and the purpose of the RMA;
- Subdivision, use, and development with adverse effects on significant historic resources would not be appropriate;
- Appropriate subdivision, use, and development should be able to avoid, remedy or mitigate adverse effects on historic heritage that is not significant but is otherwise of value or importance to a region or district.

The effective implementation of Objective 9 therefore requires that adverse effects on significant historic heritage should be avoided while adverse effects on historic heritage that is otherwise of importance to district or region should be avoided remedied or mitigated. To improve the efficiency of plan development and consent determination this tiered evaluation should be included in the NZCPS. Because this tiered evaluation allows for some adverse effects on historic heritage to occur, and because historic heritage once lost cannot be replaced, the implementation of the objective requires that the information pertaining to any historic heritage which is damaged or destroyed should be recorded.

Table 3.7.1 sets out an assessment of the marginal costs and benefits of policy requiring the identification and assessment of historic heritage along with the application of the above tiered evaluation of historic heritage and the appropriateness of adverse effects.

TABLE 3.7.1

	BENEFITS	COSTS
Party		
Central government	Medium Assists in ensuring that the purpose of the RMA is met and that matters of national importance are provided.	Low Development, implementation and monitoring of the policy undertaken as part of the NZCPS review, implementation and monitoring.
Regional and district councils	Medium Provides additional direction and guidance in meeting the purpose of the RMA and providing for matters of national importance.	Medium The majority of Coastal and District Plans already contain schedules and rules relating to historic heritage (Beca Carter 2007). Some additional costs will be required to meet the specific requirements of Policy 7.1.
Resource users	Medium Protects greater certainty in the determination of appropriate subdivision, use, and development.	Medium The avoidance of adverse effects on significant historic heritage, the requirement to avoid, remedy, or mitigate adverse effects on otherwise important historic heritage discovered during development may prevent or delay some subdivision, use, and development.
Environment		
Coastal hazard risk management	High Provides certainty in meeting the purpose of the RMA and providing for the protection of historic heritage as a matter of national importance.	Low There will be some adverse effects on historic heritage.

Overall it is considered that the benefits of the policy exceed the costs

There is a lack of certainty and information concerning historic resources in the coastal environment, and the CMA in particular (Department of Conservation 2006a). For example, there are over 2,000 known shipwrecks in New Zealand territorial waters, of which only approximately 150 have been accurately located (Ingram 1990 in McGavock, undated). Historic heritage is sometimes only revealed by development processes.

This uncertainty and lack of information presents a risk unless there are clear policies requiring the protection of historic heritage and the evaluation of any unexpectedly uncovered heritage resources.

To address the above matters and provide for the identification and protection of historic heritage Policy 55 is proposed as follows:

Policy 55 Historic heritage identification and protection

Local authorities shall assess and record historic heritage in the coastal environment, and in particular, historic heritage that is significant or otherwise important to the region or the district. Plans shall:

- (a) avoid adverse effects of subdivision, use, and development on significant historic heritage;*

- (b) avoid, remedy, or mitigate adverse effects of subdivision, use, or development on other historic heritage;*
- (c) ensure that where an approved activity will involve damage or destruction of historic heritage, the affected site is investigated and historic information is recorded; and*
- (d) state the process to be followed for evaluation of any historic heritage discovered during development.*

It is considered that Policy 55, in conjunction with Policies 56 and 57, is the most appropriate means of achieving Objective 9 because the policy is:

- Effective in implementing the need to identify and assess historic heritage;
- Effective in implementing the need to avoid adverse effects on significant historic heritage while avoiding, remedying or mitigating adverse effects on historic heritage that is otherwise of importance to a district or region;
- Effective in requiring that any historic heritage which is damaged or destroyed shall be recorded;
- Effective in protecting historic heritage despite uncertainty concerning the subject matter;
- Efficient in providing guidance for plan development and resource consent determination; and
- Efficient in generating only small to medium costs while providing medium to high benefits.

Policy 56: Historic heritage of significance to Māori and Policy 57: Collaborative management of historic heritage

Historic heritage includes sites of significance to Māori, including wahi tapu. The achievement of Objectives 4 and 8 requires that the relevant iwi and hapu be involved in the identification, assessment and management of historic heritage of significance to Māori and that tikanga Māori be followed.

Historic heritage in New Zealand is managed within a relatively complex legal and policy framework, involving some 20 statutes (Parliamentary Commissioner for the Environment 1996) and an array of government and non-government policy documents, some of them international. This law and policy framework is administered by a range of agencies, again both governmental and non-governmental. Because of this integrated management and collaboration between agencies is particularly important for the protection of historic heritage and the achievement of Objective 9.

To provide certainty the need to involve Māori and to collaborate with other heritage protection agencies and needs to be explicitly stated in the proposed NZCPS.

Collaboration between agencies requires particular consideration when historic resources cross mean high water springs as the management, responsibilities, instruments and mechanisms for the protection of historic heritage protection differ on either side of that boundary. To achieve Objective 9 the proposed NZCPS needs to ensure that policy statements provide for integrated management of historic heritage across MHWS and that this is implemented in Plans.

The explicit statement of the generally and specific situations where the involvement of Māori and interagency collaboration is required provides an overall marginal benefit by removing doubt. The marginal cost of providing this certainty is negligible as this involvement and collaboration is already required by the provisions of the RMA and other Acts.

To address the above matters and provide for the integrated management of historic heritage Policies 56 and 57 are proposed as follows:

Policy 56 Historic heritage of significance to Māori

Identification, assessment, and management of historic heritage of significance to Maori shall be undertaken in consultation with tangata whenua and in accordance with tikanga Maori.

Policy 57 Collaborative management of historic heritage

Identification, assessment and management of historic heritage should be undertaken in collaboration with agencies that have historic heritage responsibilities. Policy statements and plans should integrate management of historic heritage that spans the line of mean high water springs.

It is considered that Policies 56 and 57, in conjunction with Policy 55, are the most appropriate means of achieving Objective 9 because the policies are:

- Effective in providing clarity and certainty that Māori involvement in the identification, assessment, and management of historic heritage of significance to Māori is required.
- Effective in providing clarity and certainty that collaboration between heritage protection agencies is required.
- Effective in requiring the integrated management of historic heritage across MHWS in policy statements and plans.
- Effective in requiring the integrated management of historic heritage that is affected by natural processes
- Efficient in providing an overall benefit while generating no more than negligible costs.

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