

Monitoring the Effectiveness of the New Zealand Coastal Policy Statement: Views of Local Government Staff

By Denise Young, Policy Analyst, Conservation Policy Division, Department of
Conservation, PO Box 10-420, Head Office, Wellington

March 2003

ISBN 0-478-22402-8

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This report may be cited thus:

Young, D.; (2003) "Monitoring the Effectiveness of the New Zealand Coastal Policy Statement: Views of Local Government". Unpublished report prepared for the Reviewer/s of the New Zealand Coastal Policy Statement. Department of Conservation, Head Office, Wellington, 54p.p.

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1.0 Executive Summary

The New Zealand Coastal Policy Statement (NZCPS) is a mandatory national policy statement under the Resource Management Act 1991 designed to guide local authorities (regional, unitary and city and district councils) in their day-to-day management of the coastal environment.

The NZCPS, gazetted in May 1994, is required to be independently reviewed in 2003. To assist this review, this report summarises information gathered from 12 focus group workshops attended by local government staff in June 2002. The objectives of these workshops were to seek feedback on the effectiveness of the NZCPS, and to identify the major issues that the independent review should address.

Support for the continuation of a national policy statement for the coastal environment was voiced at 10 of the 12 workshops¹. Support was particularly strong in regions facing significant pressure for coastal subdivision, use and development (Auckland, Northland and Waikato). However, there was a clear message that the NZCPS, while helpful in preparing first generation coastal plans, was in need of a review. The revised NZCPS should be shorter, and provide more direct guidance on issues of national priority. It should add value, rather than just repeat those matters contained in Part II of the RMA.

Is the NZCPS effectively dealing with current issues?

Local government staff believe the effectiveness of the NZCPS has been mixed. Where NZCPS policies were specific and provided clear guidance, effectiveness was high. However, where policies were poorly drafted (in particular policies in Chapter 1) and where little thought had been given to implementation, effectiveness was low. If councils are to effectively implement Chapter 1 of the NZCPS, more guidance and direction from central government is required.

Natural hazard policies in Chapter 3 were also seen as largely ineffective and needed to be strengthened. Policies also need to be updated to incorporate the concept of 'risk' and new information on hazards, including figures on sea level rise.

Another key issue was whether or not the NZCPS should persist with restricted coastal activities. At the majority (8 out of 12) of workshops it was stated 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.

Is the NZCPS dealing with emerging issues?

The most frequently stated emerging issue was the expansion of marine farming and other types of aquaculture. It was the clear view of workshop participants that the NZCPS does not provide councils with sufficient guidance for addressing the adverse effects of the aquaculture boom.

¹ Participants at the Southland and Otago meetings did not see the need for a new NZCPS, once all regional coastal plans had become operative.

Another emerging, (though not necessarily new) issue, was the inability of the NZCPS to effectively address water quality in the coastal marine area. An integrated catchment management approach was needed—current NZCPS policies have failed to achieve this.

With demand for use of the coast increasing, there has also been a significant increase in incidents involving conflicting uses. NZCPS policies on public access have provided little guidance on how to manage these conflicts. Policies need to be strengthened to enforce the right of public access to the coast.

Council staff reported higher expectations from tangata whenua for involvement in coastal management. Current NZCPS policies on these matters may not go far enough in a post Treaty-settlement environment.

Other issues

This report highlights a number of other issues that require attention. These include institutional issues (improved integration of coastal management functions between regions and districts) and addressing problems with the implementation of NZCPS policies (by increasing funding to local government, or by exploring non-statutory methods, such as the development of best practice guidelines).

2.0 Background

2.1 PURPOSE OF THIS REPORT

The Resource Management Act 1991 (RMA) established a new coastal management regime based on a partnership between the Crown and local government. The Act requires that at all times there shall be a New Zealand Coastal Policy Statement (NZCPS) to guide local authorities in their day-to-day management of the coastal environment, including the preparation of policy statements and plans. Regional coastal plans (RCPs) are also mandatory under the Act.

The NZCPS was gazetted in May 1994. By September 2002, seven² of 18³ RCPs were operative. The remaining 11 plans were at the Environment Court.

This report has been prepared to advise the reviewer of the NZCPS of the views of local government staff on the effectiveness of the NZCPS. It also outlines key issues local government staff would like addressed by the review.

The report summarises the results of 12 focus group workshops conducted with local government staff in June 2002.

2.2 PURPOSE OF THE WORKSHOPS

Policy 7.1.1 of the NZCPS requires that

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

(a) assessing the effect of the statement on all subordinate regulatory planning instruments.

In May 2001 the Department of Conservation established an external peer review group⁴ to advise the department on developing a monitoring framework for the NZCPS.

This group suggested that the department should talk to local government planners about their experiences implementing the NZCPS. The peer review group also supported the department undertaking quantitative analysis, including plan and resource consent assessment and an analysis of case law.

Twelve workshops were held, in Christchurch, Invercargill, Dunedin, Stratford, Hamilton, Whakatane, Whangarei, Auckland, Napier, Nelson, Wellington and Palmerston North. They were attended by staff from regional, district and unitary councils directly involved in preparing plans or processing resource consents in the coastal environment.

² Regions with operative coastal plans are: Chatham Islands, Hawkes Bay, Manawatu-Wanganui, Otago, Taranaki, Wellington Region and the West Coast.

³ This figure includes 14 regional councils and 4 unitary councils (Gisborne District Council, Nelson City Council, Marlborough District Council and the Chatham Islands).

⁴ The external peer review group consists of planning staff from Wellington Regional Council, Environment Waikato, Auckland Regional Council, Marlborough District Council, Tauranga District Council, Kapiti Coast District Council, lecturers in coastal planning from Massey and Waikato University, and staff from the Ministry for the Environment.

Workshops were facilitated by Johanna Rosier, a senior lecturer from the School of Resource and Environmental Planning at Massey University. Notes were taken by Denise Young, a policy analyst at Head Office, Department of Conservation. Department conservancy staff were invited to observe the workshops, but not did actively participate.

The workshops and participants are described in Appendix 1.

2.3 CONTEXT

Participants in the workshops were asked to focus on three main topics:

(i) Emerging issues

- What are the emerging coastal issues or pressures facing their region?
- What has changed since 1994?
- How well does the current NZCPS address these emerging issues and pressures?

(ii) Usefulness of the NZCPS policies

Participants at each workshop were asked to go through the NZCPS page by page and identify:

- Policies which were helpful in the preparation of plans and in resource consents
- Policies which were difficult to implement and why?
- Policies which were outdated, never used or unhelpful
- Suggestions on which policies needed further clarification or guidance.

(iii) Key issues for the review

- What are the key issues that the reviewer/s should address?
- Are there any suggestions for minor drafting amendments?

3.0 Emerging Issues

3.1 SPECIFIC COMMENTS

3.1.1 Aquaculture

The expansion of marine farming and other types of aquaculture was cited at all workshops, except Taranaki and Palmerston North, as an emerging coastal issue.⁵ Workshop participants raised concerns about the ability of the NZCPS to provide adequate guidance to councils to address the adverse effects of aquaculture. Common concerns centred on the inability of the NZCPS to provide guidance on:

- the allocation of coastal space;
- conflict between marine farming and recreational boating and port traffic;
- the visual effects of marine farming (NZCPS did not envisage floating buoys and lines);
- impacts on fish stocks, including from recreational fishing;
- the need to address integrated catchment management issues (Nelson);
- impacts on biodiversity, including impacts on Hector's dolphin populations (Christchurch);
- adverse effects of large-scale off-shore marine farming (10,000 ha or more);
- the effects on infrastructure, such as roading (Marlborough Sounds); and
- the effects on social and economic values, where marine farming operations have a number of locations within one region in which to build a processing plant (Whakatane).

Participants were critical of the Government's proposal to require regional councils to identify Aquaculture Management Areas (AMAs) in RCPs before applications for marine farming activities could be received. Criticisms included:

- the Crown had not considered the allocation of coastal space to iwi in the development of AMAs (Hamilton, Wellington, Northland and Nelson);
- identifying of AMAs was expensive (Wellington and Whakatane);
- AMAs are an activity-based approach, which conflicts with the effects-based approach of the RMA (Northland and Whakatane). However, participants at the Nelson meeting rejected this criticism, stating that it was "logical to plan or zone for an activity, such as marine farming, based on the anticipations of acceptable risks and effects"; and
- AMAs may not be able to keep pace with changes in technology (Whakatane).

It was generally acknowledged in all regions where there was significant pressure to provide for aquaculture, that, although it would be preferable to provide guidance on issues arising from the management of aquaculture through the NZCPS in order to achieve national consistency, there simply may not be sufficient time⁶ (Hamilton, Auckland, Wellington, Nelson and Whakatane).

⁵ Participants in the Taranaki and Palmerston North meetings stated that that there are few or any suitable aquaculture sites within their regions.

⁶ It is estimated that a revised NZCPS will be gazatted until late 2005. The proposed amendments to the RMA to require regional councils to identify AMAs will come into force well before 2005.

Another concern centred on the inability of the current criteria for RCAs to address aquaculture. At the Nelson meeting it was stated that one applicant had put in seven 49 ha marine farm applications within the same area to avoid being caught by the 50 ha RCA threshold. It was also difficult to apply RCA criteria to mussel farming and spat catching, as it was unclear whether the 50 ha threshold applied to linear length or occupation (Whakatane and Nelson).

3.1 Water quality

Water quality issues were raised as an emerging issue at 11 of the 12 workshops; the Palmerston North workshop was the only exception. These issues can be grouped into four main themes:

- the need to address integrated catchment management, including better management of stormwater;
- issues relating to policies on the disposal of human sewage;
- a general request for more guidance on water quality issues; and
- comments on specific NZCPS water quality policies.

Integrated catchment management

Criticism that the NZCPS did not provide much more guidance than the RMA in promoting integrated catchment management across land and water was raised at six workshops (Hamilton, Auckland, Southland, Nelson, Wellington and Whakatane). Issues affecting coastal water quality varied from region to region. In Southland, the issues related to the adverse effects of farm effluent, Auckland had sedimentation issues, while Nelson had concerns about heavy metals leaching from industrial sites located near Waimea Inlet, poor water quality limiting sites available for aquaculture, and non-point discharges from septic tanks into the coastal marine area.

A range of options for improving the integration of catchment issues were suggested. The Nelson workshop suggested that a new NZCPS policy was required directing councils to integrate water quality issues across land, freshwater and the coastal marine area. At the Auckland workshop it was suggested that a watching brief be kept on how these issues were being addressed through coastal strategies (including the Long Bay and Okura structure plans) and the Hauraki Gulf Forum. The Hamilton workshop acknowledged that the concept of integrated coastal management was not well understood.

Issues relating to the disposal of human sewage

The Hamilton, Christchurch, Whakatane, Northland, Taranaki and Nelson workshops all raised issues relating to the disposal of human sewage. In Taranaki it was acknowledged that iwi pressure on the regional council to address the disposal of human sewage into coastal waters existed well before the NZCPS was gazetted.

The Hamilton and Whakatane workshops both raised difficulties implementing NZCPS policies on discharges of human sewage. Participants at Hamilton expressed the view that “sewage is an emotive word”. They felt that the NZCPS should address what is practicable and can be implemented. Not all coastal communities can discharge their sewage onto land (Hamilton and Whakatane) because of the nature of the physical environment or because of the lack of monetary resources. In Whakatane it was found that wetland treatment can degrade the quality of effluent after it has had UV treatment.

More guidance on general water quality issues

A call for more general guidance on water quality issues was heard at six workshops (Otago, Hamilton, Wellington, Northland Whakatane and Tasman). One solution proposed was that of developing national water quality standards for the coast. Otago, however, warned that one set of national water quality standards for the entire coastline would be unwise. Any mechanism aimed to improve coastal water quality must provide national guidance yet take local conditions into account.

Issues with existing NZCPS policies on water quality

The Whakatane workshop highlighted a potential conflict between policy 3.2.6 and the policies in Chapter 5, which aim to maintain and enhance water quality. Policy 3.2.6 states:

Policy statements and plans should make provision for papakainga housing and marae developments in appropriate places in the coastal environment.

Participants cited an example at Maketu where papakainga housing development had been inappropriately sited, resulting in septic tanks leaching into the estuary.

At all meetings participants stated that the policies in 5.2 (Limiting of Adverse Environmental Effects From Vessel Waste Disposal Maintenance) of the NZCPS were redundant due to the Resource Management (Marine Pollution) Regulations and Maritime Rules under the Maritime Transport Act. These regulations and rules give effect to the International Convention for the Prevention of Pollution from Ships 1973/78 and the London Convention which controls the dumping of waste at sea.

At Whakatane it was suggested that Policy 5.1.7, which states that:

Provision should be made to ensure that the Public is adequately warned when the degradation of water in the coastal environment has rendered the water unsafe for swimming, shell-fish gathering or other activities

was also outdated and should move towards the approach taken in the proposed Public Health Bill. This Bill includes agreements or protocols with regional councils and local territorial authorities on which agency will monitor and warn the public.

3.1.3 Natural hazards

While it was acknowledged at most workshops that natural hazards were neither a new or emerging issue, the management of and information about hazards, including information on the risk of hazards, had changed considerably since 1994 (Otago, Southland, Christchurch, Taranaki, Hamilton, Whakatane Northland, Auckland, Napier and Nelson).

Impacts of climate change and sea level rise

Sea level rise was the most frequently mentioned climate change hazard. Participants requested that NZCPS policies be amended to include a clear statement that sea level rise was occurring. They also wanted guidance on how to implement management responses, including managed retreat (Otago, Southland, Christchurch, Hamilton, Whakatane and Napier). Comments included:

Climate change - how do you allow for changing ecosystems? Need more national guidance, need legislation to do it. NZCPS doesn't help, need figures (Hamilton).

Climate change - need statement that you need to address sea level rise. Want national guidance, but this could be separate from the NZCPS. Use latest IPCC figures (Whakatane).

Management of hazards in areas which are already developed

Councils were under pressure from coastal communities to protect property and infrastructure (Otago, Southland, Christchurch, Hamilton, Whakatane, Napier and Nelson).

Coastal hazards - hard versus, soft protection. NZCPS provides guidance through policies in section 3.4. However, the management of hazards is more problematic where there is existing development. Communities want hard protection works - don't accept dynamic coastal processes (Napier).

If not a new NZCPS, then we need more guidance for Waitaki District Council - main issue is coastal erosion - the main highway is under threat (Otago).

Managed retreat in developed areas

Councils acknowledged the need in some places to adopt a policy of managed retreat. This entails relocating existing dwellings in areas facing high risks from natural hazards. However, the high cost of compensation, low perceived risk of hazards among coastal communities and landowners' preference for hard protection works rather than relocation, has prevented many councils implementing policies advocating managed retreat in their RCPs.

In existing communities Thames-Coromandel District Council is under pressure to protect land. This prohibits retreat - should the government pay? (Hamilton).

Coastal developers don't accept storm events etc. They expect the council to fix things (Napier).

Problem with people's perception of hazards [is that] they believe if you put in a structure their properties are safe (Nelson).

Even in areas where property values are low, communities still want sea walls" (Hamilton).

Participants at the Hamilton workshop warned that the central government must consider the cost if they want local government to enforce a policy of managed retreat.

Do NZCPS hazard policies go far enough?

Opinions were mixed about whether current hazard policies in the NZCPS provided enough direction to prevent development in areas of high hazard risk. The Western Bay of Plenty District Council stated that it had used Policy 3.4 of the NZCPS to assist the council in preventing development in some areas with high hazard risk.

Other participants at the Whakatane workshop were concerned that current policies were out of date as they only addressed the identification of hazards, not the *risk of occurrence of hazards* in the coastal environment.

At Napier, participants were critical of the lack of direction provided by the NZCPS when it came to prohibiting development in areas with a high risk of coastal hazards, and by the inability of Department of Conservation to prevent such development.

Coastal subdivision is still taking place in hazard areas (Napier).

Coastal developers see Chapter 3 of the NZCPS as a hurdle to get around (Napier).

The Department of Conservation should be more forceful about hazards and provide more direction to territorial local authorities (Napier).

Integrated management of hazards

The issue of poor integration of hazard planning between regional and district councils was raised at both the Auckland and Napier workshops. While RCPs may contain policies and provide information on hazard management, they could not contain rules for managing hazards above mean high water springs. It was up to district plans to develop rules for the dry part of the coast, (including set backs from coastal margins) to implement policies in the RCPs.

Integration is lacking at Mean High Water Spring (MHWS) between regional and district councils. For example, there are no rules about sea walls in the RCP, as Policy 4.1.6 recognises that most of the infrastructure and assets that are likely to be affected by hazards are located above MWHS. The RCP does provide policies and hazard maps, but sea walls are a permitted activity in the district plan (Napier).

In Auckland, this lack of integration was being addressed through the development of a joint project between the Auckland Regional Council and the Auckland City Council which will look at coastal hazard management at Onetangi Beach.

3.1.4 Public access

Public access was raised as an emerging issues at 7 of the 12 workshops (Southland, Christchurch, Auckland, Nelson, Whakatane, Wellington and Palmerston North).

These issues can be grouped into three main themes:

- (i) What form of access should be provided? Access by vehicle/boat/foot/for fishing/by cycle or visual access?

At the Nelson workshop participants criticised NZCPS policies for tending to only address public access by land.

- (ii) Should conflicting uses be addressed?

The main conflict cited was between passive and active forms of recreation. The most common example was vehicles on beaches. Participants questioned whether the NZCPS was the most appropriate document to address such conflicts, or whether it was more appropriate to use local regulation (e.g. local authority bylaws). In Auckland an inter-agency group had been established to look at the impacts of vehicles on beaches, including the conflict between different types of recreational users and impacts on shellfish beds and bird nesting sites.

Examples of other conflicts included the construction of a sea wall in Ruby Bay in Tasman District which was designed to maintain public access, but which has had a negative impact on the area's natural character. Also in Tasman District was the issue of whether the carrying capacity of the Abel Tasman National Park foreshore was sufficient to absorb increased tourism activity and competition for space, especially at Marahau.

In Hamilton conflict has arisen between boats and jet skis and boats and mangroves. In Christchurch there was conflict arising from an inadequate number of ski lanes, increased demand for tourist activities such as whale-watching and fishing charters, and swimming with the dolphins.

(iii) Uses which exclude other uses

Participants at the Auckland, Southland and Wellington workshops described instances where some uses precluded or attempted to preclude public access. The most common example was where people had built private wharves and then tried to prevent the public from using them. Participants in the Auckland meeting referred the NZCPS reviewer to *Hume v Auckland Regional Council (Court of Appeal, CA 262/01, 17 July 2002)*.

Also in Auckland, the high cost of beach-front properties has meant developers have tended to provide conservation covenants with no provisions for public access instead of esplanade strips or reserves that do allow public access.

Southland council staff reported cases in Bluff harbour where the expansion of marine farming was excluding recreational boating.

In Wellington, the need to balance access against the need to prevent poaching of fish species was questioned. It was not clear whether the NZCPS could address the poaching issue as the RMA cannot address matters covered by the Fisheries Act 1996.

3.1.5 Implementing natural character policies

Natural character issues, in particular the issue of how to implement the policies in Chapter 1 of the NZCPS, were raised as an emerging issue at all workshops. (For a more detailed analysis of Chapter 1 policies, see 4.2).

Definition of the coastal environment

Otago, Auckland, Nelson, Northland and Wellington workshops reported that the lack of a definition of the landward boundary of the coastal environment has caused confusion (especially at district councils) about where and how NZCPS policies on natural character should be applied.

No definition of the coastal environment. Variation in the Wairarapa - Carterton 60 m, other councils 2 km inland. Councils also use property boundaries and landscape features to define the coastal environment. Definition needs to be vague to give direction to territorial local authorities to define the coastal environment. Should be based on case law. Look at urban vs. rural. DOC has failed to address TLA issues in coastal environment issues - to avoid going to Court. Need to work with MfE to produce guidelines on the coastal environment (Wellington).

Coastal environment - better to be defined at a local level for North Shore City. If defined by the top of the ridge line then all of city would be in the coastal environment, but would be good to have overarching criteria (Auckland).

Definition of coastal environment is a key issue for review (Northland).

More guidance needed to implement policies in Chapter 1 of the NZCPS

There was concern at all workshops that the NZCPS failed to provide adequate guidance on how to implement policies in Chapter 1. In particular participants requested further guidance on:

- identifying of areas which should not be developed. This could be achieved either by listing areas or developing national criteria (Otago, Christchurch and Wellington);
- subjective terms used in policies, including, 'appropriate subdivision, development and use', 'cumulative effects', 'sporadic subdivision' and 'compromised' (Northland, Auckland, Whakatane and Wellington);
- the role of the NZCPS in urban areas. Whakatane District Council was facing pressure for high rise apartments in the coastal environment and was unsure how the NZCPS can assist them. The Auckland City Council questioned how natural character policies apply to the Gulf Islands, which due to their history of pastoral farming were very much 'working landscapes'. The Wellington Regional Council questioned what value the NZCPS added in the recent debate about the re-development of Lambton Harbour;
- adverse effects relating to the intensification of coastal subdivision in existing settlements - NZCPS policies direct councils to concentrate development in existing settlements with little guidance on how to address the adverse effects of consolidation in urban centres with poor infrastructure (Wellington and Northland);
- measuring and monitoring changes to natural character (Auckland); and
- the conflict between natural character and the need to provide for papakainga housing (Opotiki District Council).

Emergence of non-statutory coastal strategies to address lack of central guidance

Lack of guidance on the above issues was creating secondary problems. In Wellington and Northland, councils were having difficulty in addressing the adverse effects of greenfield subdivision (development on the rural coastal fringes). To combat uncertainty in the face of increasing pressure for coastal subdivision, Hastings District Council, Whangarei District Council and the three district councils on the Wairarapa Coast were developing non-statutory coastal strategies. The strategies aimed to direct development.

Pressure to manage mangroves

Another emerging issue raised at the Whakatane, Hamilton, Auckland and Northland workshops was the pressure from landowners and developers to remove or manage mangroves which they claimed were spoiling coastal views and spreading into previously mangrove-free harbours. Mangroves are listed in NZCPS Policy 1.1.2 (c) as an ecosystem "unique to the coastal environment and vulnerable to modification". At the Auckland and Hamilton workshops, participants reported cases of illegal removal and spraying of mangroves.

3.1.6 Impact of Treaty claims and higher expectations of tangata whenua

Participants at the Wellington workshop signalled that within the next five years claims by iwi to ownership of the seabed and the general flow-on effects from the Treaty settlement process would be major issue for coastal management in New Zealand.

In Northland participants wanted to alert the reviewer to the fact that iwi have much higher expectations of their involvement in coastal management issues than when the NZCPS was first drafted in the early 1990s.

3.1.7 Coastal occupation and charging

Criticism of the inadequate guidance provided by the NZCPS for implementing policies relating to the use and occupation of coastal space was voiced at the Hamilton, Whakatane, Northland, Auckland and Wellington workshops. More guidance was sought from central government. At the Hamilton workshop it was suggested that a set of national criteria be developed directing the use and occupation of coastal space.

The related issue of coastal charging was also raised at workshops in Whakatane and Wellington. Coastal charging is currently regulated under the RMA and is not included in the NZCPS. Participants requested that the government again examine the issue of coastal charging.

3.1.8 Monitoring and implementation of the NZCPS by the Department of Conservation

It was recognised by participants in Whakatane and Auckland that the Ministry for the Environment's Environmental Indicators Programme had overtaken the requirements of Policy 7.1.2 (b) of the NZCPS that "the Minister of Conservation work with regional councils and with all other interested bodies willing to co-operate to establish a national state of the coastal environment monitoring programme".

Criticisms of the Department's lack of involvement in the development of methods to implement the NZCPS were raised at the Northland, Whakatane, Christchurch and Wellington workshops. Several ways to improve the Department's performance were discussed, including the use of environmental education programmes for the coast, co-management or joint agency programmes and the preparation of non-statutory guidelines.

3.1.9 Restricted coastal activities

The need for making an activity a restricted coastal activity (RCA) was questioned at the Palmerston North and Whakatane workshops. Problems with the existing RCA process were pointed out, including the requirement that a hearing must be held even when there are no submitters. It was suggested that the role of the Minister's appointee be replaced by a council-appointed hearing commissioner or an independent technical advisor to hear resource consent applications which have significant adverse effects.

3.1.10 Specific regional issues

Several emerging issues or new pressures were raised at workshops that were specific to individual regions or councils. These included:

- Southland - inability of the NZCPS to address the adverse effects of cruise ships;
- Papakura District Council - the Pahurehure Inlet Protection Society had applied for a resource consent from the Auckland Regional Council to create a tidal gate, which

- would create a lake and help control sedimentation and mangrove growth;
- West Coast Regional Council – removal of stones from beaches. This affects the profile of the beach, but little information is available about other effects. The council felt this activity was best addressed at the local level;
- Auckland – locations for marinas;
- Christchurch – increasing enquiries about reclamations, which signalled a demand for more coastal land; and
- Whakatane – a call for the NZCPS to recognise dredging for recreational purposes because estuaries within the Bay of Plenty are filling with sediment and affecting boat passage.

3.2 GENERAL COMMENTS

Three general emerging issues were raised at the workshops:

- (i) Is the NZCPS relevant or needed once all regional coastal plans were operative? Participants at the Otago, Northland and Southland workshops questioned the need for the NZCPS .

Otago Regional Council is of the view that we don't need a NZCPS, since RCPs are in place. RCPs are more detailed, and developed in consultation with community; they have overtaken the NZCPS (Otago).

The NZCPS adds another level of analysis for resource consent application, but issues are covered by the RCP. RCPs often just repeat the NZCPS. Could delete the current NZCPS without much impact on the outcomes (Palmerston North).

In the post-plan environment, participants at the Southland workshop suggested that the role of the NZCPS was to “provide detailed guidance on national priorities”. This was echoed at the Otago meeting:

The NZCPS should only look at global/national issues. Should define what the national issues are and direct what we can do about them (Otago).

- (ii) Does the NZCPS add value to Part II of the RMA?

The Nelson, Southland, Palmerston North and Otago workshops questioned whether the NZCPS provided any further guidance than the RMA. The more specific policies were seen as the most helpful.

RMA, s6 issues impact more [than NZCPS] on District Plans (Otago).

NZCPS did not add value to Part II RMA considerations (Nelson).

NZCPS is as vague as Part II of RMA – West Coast (Nelson).

More specific policies are better. Need to be more specific on issues (Palmerston North).

- (iii) What is the link between the NZCPS and other legislation and policies, including the Oceans Policy?

Participants at the Hamilton, Whakatane, Nelson, Palmerston North and Wellington workshops questioned how the NZCPS integrated with the Government’s Oceans Policy, the Hauraki Marine Park Act (Hamilton) and marine biosecurity legislation. It was important in the review of the NZCPS to examine how various policy regimes work together to achieve positive outcomes for the coast.

4.0 Analysis of NZCPS Policies

4.1 PRINCIPLES

General comments

There was general confusion about the legal status and intent of the NZCPS principles. There was a strong call for the legal intent of the principles to be clarified at all workshops where the principles were discussed (Southland, Hamilton, Whakatane, Wellington, Northland, Auckland, Nelson and Palmerston North).

Despite confusion about the legal intent of the principles councils, did use them and found them helpful for providing context for the NZCPS policies (Southland, Hamilton, Whakatane, Auckland, Palmerston North).

The Hamilton and Wellington workshops suggested that the principles should be incorporated into the policies.

In Palmerston North and Nelson it was requested that the principles be linked to the Oceans Policy vision statement.

Due to a printing error, there was no heading for the principles section. This needed to be rectified in the revised NZCPS.

Specific comments

Principle 3

The proportion of the coastal marine area under formal protection is very small and therefore management under the Act is an important means by which the natural resources of the coastal marine area can be protected

At the Nelson workshop it was requested that the phrase 'formal protection' be replaced with 'statutory protection'.

Principle 5

People and communities expect that lands of the Crown in the coastal marine area shall generally be available for free public use and enjoyment.

Participants in Auckland said that the presumption that the coast is public open space had to be strengthened. Auckland faced significant issues relating to the allocation of coastal space resulting from activities such as aquaculture, sand mining and the cumulative effects of coastal subdivision.

Principle 9

The tangata whenua are the kaitiaki of the coastal environment.

The consistency of this statement with Part II of the RMA was questioned at both the Otago and Whakatane workshops. Participants at the Whakatane workshop commented that it was "too bold of statement to make".

Principle 12

The ability to manage activities in the coastal environment sustainably is hindered by the lack of understanding about coastal processes and the effects of activities. Therefore, an approach which is precautionary but responsive to increased knowledge is required for coastal management.

This principle was considered useful in supporting the precautionary approach (Policy 3.3.1) (Southland and Hamilton).

Principle 14

The potential for adverse effects of activities to spread beyond regional boundaries may be significant in the coastal marine area.

Participants in both Hamilton and Whakatane questioned who was responsible for the implementation of this policy. How would parameters be identified? Those at the Whakatane workshop concluded that the statement was “too detailed for a national policy statement”.

4.2 CHAPTER 1 POLICIES

General comments

Participants made a number of general comments relating to the policies contained in Chapter 1. These comments can be grouped into two main themes:

(i) Issues about defining natural character

The question ‘what is natural character?’ was asked at the Auckland, Napier, Hamilton and Nelson workshops. Discussion in Auckland focused on difficulties defining natural character in urban areas.

Hard to argue natural character in an urban area like North Shore City. In the North Shore City Plan the term ‘soft green edge’ is used rather than natural character (Auckland).

The Auckland workshop acknowledged that case law on natural character was confusing and there needed to be more recognition of the natural character of modified environments. For example, coastal trees on private property can contribute to amenity values and the natural character of urban coastal areas.

The Napier workshop referred the reviewer to the *Pigeon Bay Aquaculture Ltd & Ors versus Canterbury Regional Council*. In Nelson participants were concerned that the NZCPS was:

caught between being too general, vague and creating specificity which is not based in fact. There needs to be generality to allow for all, and specificity. There is a danger in policies becoming too arbitrary and not applicable to all.

(ii) Difficulties with the general implementation of policies

At the Taranaki meeting, the New Plymouth District Council stated:

In developing the district plan natural character was the hardest section of the NZCPS to implement (Taranaki).

Difficulties identifying the landward boundary of the coastal environment was raised at the Hamilton and Christchurch workshops.

Also raised at the Hamilton workshop was the fact that councils don't have all necessary information for implementing Chapter 1 policies. For example, in terms of regional endangered species, Environment Waikato only had information on birds.

Participants at the Christchurch and Palmerston North workshops felt that the drafters of NZCPS policies had given little thought to how they would be implemented. Chapter 1 created high expectations but offered little guidance on how to implement or achieve the stated policy outcomes. It was suggested at Christchurch that:

In the future methodology should be developed to show how policies would be implemented. This methodology should clarify the words and avoid banging policies. Drafters of the new NZCPS should ask - so what? How can this policy be implemented? (Christchurch).

In Wellington participants wondered what the term 'It's a national priority' meant. Were some policies in the NZCPS more important than others? Participants in the Christchurch workshop added:

if it is a national priority than central government should pay for it. Also need to address the hierarchy of importance of each of the policies. If a policy is important then use the word 'shall'

At Napier, participants suggested that in order to fully implement Chapter 1 policies, the Department of Conservation should be seen as an affected party for coastal subdivision.

Approaches to implementing Chapter 1 policies

It became clear that the approaches to implementing Chapter 1 policies were variable throughout the country. In Southland, large areas of land with high natural character were managed by the Crown, while in Auckland City most land that contributed to high natural character in the coastal environment was in private ownership.

Approaches by districts councils

In Southland, districts had some rules and policies on coastal landscapes. The New Plymouth District Plan had a coastal overlay which was effects-based. For the Papakura District Council, Chapter 1 was of particular importance for maintaining rural lifestyle with regard to the development of the Hingaia Peninsula. In Auckland City, esplanade reserves were mostly used to protect natural character, while coastal trees on private land also contributed to public amenity. Chapter 1 policies were reflected in the Wairoa District Plan, but the NZCPS was not viewed as a core document by the council.

Approaches by regional councils

Regional councils found Chapter 1 useful in planners' reports for resource consents at the regional level and for submissions to territorial local authority plans and resource consents (Auckland, and Wellington).

The Auckland Regional Council was unsure whether it was the role of the RCP to define district significance. The council was concerned that Chapter 1 does not specify the outcomes that should be aimed for, and requested that a revised NZCPS contain more guidance or explanation in relation to the type of outcomes the policies should produce.

Specific comments

Policy 1.1.1

It is a national priority to preserve the natural character of the coastal environment by:

- (a) encouraging appropriate subdivision, use or development in areas where the natural character has already been compromised and avoiding sprawling or sporadic subdivision, use or development in the coastal environment;
- (b) taking into account the potential effects of subdivision, use, or development on the values relating to the natural character of the coastal environment, both within and outside the immediate location; and
- (c) avoiding cumulative adverse effects of subdivision, use and development in the coastal environment.

Participants at the Otago and Whakatane workshops stated that Policy 1.1.1 was a “generic statement which had no value once plans were in place”. However, at the Whakatane workshop participants stated that Policy 1.1.1 was a “good policy, useful in both plan development and in resource consents”.

Specific comments on wording

Policy 1.1.1(a)

Participants at the Christchurch workshop requested that the word ‘encouraging’ be replaced by a more directive phrase such as ‘directing, enabling, providing for’.

The term “appropriate subdivision, use or development” was difficult to determine and define (Hamilton, Wellington, Auckland and Nelson), resulting in difficulties implementing this policy. For example, Thames Coromandel District Council staff said:

Policy 1.1.1(a) directs development in existing settlements, but doesn’t prohibit development in other areas.

Policy 1.1.1(c)

Participants from Southland felt that the term “cumulative effects was frequently used”, but it was unclear how councils should define cumulative effects at a local level. They requested more guidance from central government on how to implement this policy.

Possible conflict between Policy 1.1.1(a) and 1.1.1(b)

Participants at the Nelson workshop said that implementing policies 1.1.1(a) and 1.1.1(c) through resource consents created a potential conflict for councils because concentrating development in existing areas could lead to cumulative adverse effects. This conflict may also be relevant to zoning and other plan provisions with a spatial context.

Policy 1.1.2

It is a national priority for the preservation of the natural character of the coastal environment to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna in that environment by:

- (a) avoiding any actual or potential adverse effects of activities on the following areas or habitats:
 - (i) areas and habitats important to the continued survival of any indigenous species; and
 - (ii) areas containing nationally vulnerable species or nationally outstanding examples of indigenous community types;
- (b) avoiding or remedying any actual or potential adverse effects of activities on the following areas:
 - (i) outstanding or rare indigenous community types within an ecological region or ecological district;
 - (ii) habitat important to regionally endangered or nationally rare species and ecological corridors connecting such areas; and
 - (iii) areas important to migratory species, and to vulnerable stages of common indigenous species, in particular wetlands and estuaries;
- (c) protecting ecosystems which are unique to the coastal environment and vulnerable to modification including estuaries, coastal wetlands, mangroves and dunes and their margins; and
- (d) recognising that any other areas of predominantly indigenous vegetation or habitats of significant indigenous fauna should be disturbed only to the extent reasonably necessary to carry out approved activities.

In Southland, participants stated that Policy 1.1.2 had a “strong influence” on their RCP, especially given the clear policy direction “to avoid”. However, it was difficult to establish which had the greater influence on the plan – section 6 (c) of the RMA or the NZCPS.

At the Otago and Auckland workshops it was suggested that the policy should be changed to incorporate the term biodiversity. Similarly, the Whakatane workshop requested that the policy be amended to recognise biodiversity of international significance.

At Wellington, it was suggested that the NZCPS should incorporate Department of Conservation data, and list nationally vulnerable species in an Appendix to the policy statement.

Participants at the Hamilton workshop criticised the NZCPS for not including the option of mitigation, as provided for in section 5(2)(c) of the RMA. It was stated that the phrase “extent reasonably necessary” was not helpful in the implementation of Policy 1.1.2 (d).

It was suggested at the Nelson workshop that policies 1.1.2 to 1.1.4 be re-written as a single policy.

Policy 1.1.3

It is a national priority to protect the following features, which in themselves or in combination, are essential or important elements of the natural character of the coastal environment:

- (a) landscapes, seascapes and landforms, including:
 - i significant representative examples of each landform which provide the variety in each region;
 - ii visually or scientifically significant geological features; and
 - iii the collective characteristics which give the coastal environment its natural character including wild and scenic areas;
- (b) characteristics of special spiritual, historical or cultural significance to Maori identified in accordance with tikanga Maori; and
- (c) significant places or areas of historic or cultural significance.

Participants at the Hamilton workshop commented that Policy 1.1.3 was too inclusive and effectively meant that councils “had to protect everything in the coastal environment”. Environment Waikato had undertaken a landscape study to help them implement Policy 1.1.3, but this study identified nearly the whole region as an important landscape and was difficult to translate into plans.

The term ‘seascapes’ was not well understood and has not been implemented in plans (Christchurch, Wellington and Northland). Comments included:

Seascapes – does this include underwater landscapes? Plans only cover landscape requirements (Northland).

Participants in Northland expressed similar concerns to those expressed in Hamilton in relation to policies 1.1.3 (b) and (c).

The inclusion of the phrase ‘special’ in Policy 1.1.3 (b) means that the whole of the Northland coast should be protected, as local iwi claim that the whole of the coast line is of cultural significance.

In relation to Policy 1.1.3 (c) participants at the Northland workshop were confused about the relationship between natural character, which presumably consists of natural elements and areas of historic and cultural significance, which may relate to human-made structures.

Policy 1.1.4

It is a national priority for the preservation of the natural character of the coastal environment to protect the integrity, functioning, and resilience of the coastal environment in terms of:

- (a) the dynamic processes and features arising from the natural movement of sediments, water and air;
- (b) natural movement of biota;
- (c) natural substrate composition;
- (d) natural water and air quality;
- (e) natural biodiversity, productivity and biotic patterns; and
- (f) intrinsic values of ecosystems.

Councils generally reported problems implementing Policy 1.1.4 due to their inability to readily define the “integrity, functioning and resilience of the coastal environment”. The phrase “intrinsic values of ecosystems” was also difficult to define and implement through plans (Auckland, Hamilton, Northland and Wellington). Participants in Wellington wondered how other councils had applied this policy.

Policy 1.1.5

It is a national priority to restore and rehabilitate the natural character of the coastal environment where appropriate.

Discussion focused on how to identify areas in need of restoration and rehabilitation and who should pay (Southland, Christchurch, Hamilton, Whakatane, Northland, Auckland, and Napier).

More guidance was required from central government provide on how to apply this policy. If it was a national priority to restore and rehabilitate the natural character of the coastal environment, then the government should be prepared to pay.

Comments included:

Policy 1.1.5 highlights the need to restore. It's used in conditions on resource consent, but is difficult to do through plans - who pays for restoration? (Southland).

If it's a national priority - then DOC should be an important player. There should be a commitment from government that if it's a national priority, then they should ensure that's done. For example, sedimentation of the Maketu Estuary, [we] expect DOC to identify this (Whakatane).

The term “where appropriate” weakens the intent of the policy (Hamilton, Whakatane, Northland and Auckland). In Whakatane there was a request for the government to develop a mechanism that was better than using a qualifying statement such as “where appropriate”.

In Napier it was suggested that restoration and rehabilitation of the coastal environment may be better addressed through non-regulatory methods. The Hawkes Bay Regional Council was currently addressing some of these issues through their wetlands programme.

4.3 CHAPTER 2 AND POLICY 4.2⁷

General comments

Participants raised issues relating to the difficulties of policies that attempted to address tangata whenua issues on a national scale (Otago, Southland, Whakatane, Northland, Auckland, Wellington and Palmerston North). Comments included:

- tangata whenua issues, including wāhi tapu are better addressed at the local level (Southland and Taranaki);
- NZCPS policies on tangata whenua issues provided no more guidance than Part II of the RMA (Otago, Southland, Auckland, and Palmerston North);

⁷ At most workshops participants tended to talk about tangata whenua issues in a holistic sense combining the matters set out in Chapter 2 of the NZCPS with the Treaty obligations outlined in 4.2 of the NZCPS.

- was tangata whenua the most appropriate term? In Whakatane and Northland consultation often occurred at the hapu level. In Northland it was also stated that identifying who has mana whenua was often more important than identifying who was tangata whenua; and
- iwi management plans and Treaty settlements, such as the Ngai Tahu Settlement Act meant that Chapter 2 was redundant (Otago and Southland).

Specific comments

Policy 2.1.1

Provision should be made for the identification of the characteristics of the coastal environment of special value to the tangata whenua in accordance with tikanga Maori. This included the right of the tangata whenua to choose not to identify all or any of them.

Policy 2.1.2

Protection of the characteristics of the coastal environment of special value to the tangata whenua should be carried out in accordance with tikanga Maori. Provision should be made to determine, in accordance with tikanga Maori, the means whereby the characteristics are to be protected.

The main problems councils faced when implementing policies 2.1.1 and 2.1.2 was identifying who was 'tangata whenua'. Comments included:

Who is tangata whenua? Inland groups have associations with the coast also claim an interest (Central Hawkes Bay and Waiora District). Their primary interest is fisheries (Napier).

Chapter 2 - difficulty in dealing with multiple iwi, with different levels of resourcing. Who do you talk to? Competing interests, iwi as developers. Also operating at the hapu level (Whakatane).

"The identification of the characteristics of the coastal environment of special value to the tangata whenua" was further complicated by the fact that Policy 2.1.1 gave tangata whenua the option to choose not to identify all or any of these characteristics. In Hamilton, Auckland and Northland, participants said that allowing iwi not to identify sites caused conflict when councils attempted to develop policies with criteria and boundaries to help identify areas and values. Iwi wanted councils to take a more holistic approach. Resourcing issues within councils and iwi also impacted on the number of sites identified in plans.

Policy 2.1.3

Where characteristics have been identified as being of special value to tangata whenua, the local authority should consider:

- (a) The transfer of its functions, powers and duties to iwi authorities 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 Resource Management Act 1991.

A study by Rennie et al (June 2000) found that there have been no transfers of functions, powers and duties to iwi authorities under section 33 of the RMA⁸. Participants at all meetings supported this finding. Reasons for this included:

Politicians are not keen (Auckland).

Government needs to overcome the barrier to section 33 transfers. Need resourcing to enhance the capacity of iwi to act in a co-management regime (Nelson).

Participants in Palmerston North stated that requests for section 33 transfers may in the future come out of the settlement of Treaty of Waitangi claims.

At the Wellington and Napier workshops there was criticism that Policy 2.1.3 was outside the scope of RCPs because of the complexity of issues involved in the transfer of powers. In particular, it was noted that even though a function, duty or power may be transferred to an iwi organisation they were still required to manage the areas or resource in accordance with the plan and the RMA. The policy also failed to take into account the development focus of many iwi organisations.

Policy 4.2.1

All persons exercising functions and powers under the Act in relation to land of the Crown in the coastal marine area shall recognise and facilitate the special relationship between the Crown and the tangata whenua as established by the Treaty of Waitangi (Te Tiriti o Waitangi).

Policy 4.2.2

All persons exercising functions and powers under the Act in relation to land of the Crown in the coastal marine area should follow these general guidelines:

- (a) take into account the principles of the Treaty of Waitangi;
- (b) make provision for consultation with tangata whenua which is early, meaningful and on-going, and which is as far as practicable in accordance with tikanga Maori;
- (c) have regard to any relevant planning document recognised by the appropriate iwi authority;
- (d) where appropriate, involve iwi authorities and tangata whenua in the preparation of plans and policy statements, in recognition of the relationship of Maori and their culture and traditions with their ancestral lands; and
- (e) where practicable, and with the consent of the tangata whenua, incorporate in policy statements and plans and in the consideration of applications for resource consents, Maori customary knowledge about the coastal environment, in accordance with tikanga Maori

⁸ Rennie, Hamish, Thomson, Jill and Tutua-Nathan, Tikitu, (June 2000) 'Factors Facilitating and Inhibiting Section 33 Transfers to Iwi' Department of Geography, University of Waikato.

At the Southland, Otago, Auckland and Palmerston North workshops, participants questioned whether policies in section 4.2 provided any further guidance on Treaty matters than what was already set out in section 8 of the RMA. Comments included:

Treaty of Waitangi policies are always an issue, you need to do it anyway, the RMA directs it (Auckland).

Policy 4.2 is already in the Act and the regional policy statement. Instead the Crown needs to clarify what it wants in terms of the Treaty of Waitangi and how it can be achieved. It isn't the role of regional councils to do this (Palmerston North).

In Southland it was suggested that the policies in 4.2 should be combined with the policies in Chapter 2 of the NZCPS.

Many felt it was difficult to determine what a “relevant planning document recognised by the appropriate iwi authority” actually was. For some, there was a question of who decided what was relevant? The council or iwi? (Hamilton).

However, the main criticism of Policy 4.2.2 was that it was outdated, for the following reasons:

- it did not provide policy guidance on the allocation of coastal space in light of Treaty claims or iwi expectations (Hamilton, Nelson and Palmerston North);
- it doesn't reflect the new Local Government Act, which clarifies local government's Treaty obligations (Napier); and
- it doesn't take into account relevant case law on consultation, e.g. the Wellington Airport case (Whakatane).

4.4 CHAPTER 3

4.4.1 Amenity values

General comments

Policies in 3.1 of the NZCPS did not provide any further guidance than the RMA (Wellington and Auckland). Councils in these large urban areas requested that the NZCPS provide more guidance on how these policies should be implemented. In Auckland, guidance was needed that described the degree to which private property could be used to enhance public amenity. If private property was to be used, then specific guidance was needed about the level of compensation needed or other appropriate compensatory techniques to offset the loss of private benefits.

Specific comments on policies

Policy 3.1.1

Use of the coast by the public should not be allowed to have significant adverse effects on the coastal environment, amenity values, nor on the safety of the public nor the enjoyment of the coast by the public.

In Hamilton participants said they used Policy 3.1.1 when assessing resource consent applications to ensure that development did not have an adverse effect on amenity values. In Northland, Policy 3.1.1 was very important when the Northland Regional Council was developing policies on the exclusive occupation of coastal space.

Criticisms of Policy 3.1.1 included:

- there is definition of significant adverse effects (Nelson);
- the policy only refers to the coast, not the coastal environment (Nelson);
- “use by the public” had not been defined (Nelson); and
- it wasn’t clear if water quality was a component of amenity values (Northland).

Policy 3.1.2

Policy statements and plans should identify (in the coastal environment) those scenic, recreational and historic areas, areas of spiritual or cultural significance, and those scientific and landscape features, which are important to the region or district and which should therefore be given special protection; and that policy statements and plans should give them appropriate protection.

When interpreting Policy 3.1.2, Southland and Northland councils found it hard to define which places should be given special protection. Participants in Nelson were concerned with the implication that places not defined as needing special protection were “up for grabs”.

However, policies 3.1.1. and 3.1.2 were useful in the development of the Wairarapa Coastal Strategy (Wellington).

Policy 3.1.3

Policy statements and plans should recognise the contribution that open space makes to the amenity values found in the coastal environment, and should seek to maintain and enhance those values by giving appropriate protection to areas of open space.

The need to protect the open space nature of the coastal environment was a significant issue in Auckland. Participants at that meeting requested that the policy be strengthened. However, Policy 3.1.3 was difficult to implement on eroding coasts. In Hamilton, a potential conflict was identified between building sea walls to protect a coastal reserve and meeting the requirements of Chapter 1 of the NZCPS to preserve natural character. At the Whakatane workshop it was suggested that Policy 3.1.3 be deleted because the provision of open space was better addressed through the acquisition of coastal land and esplanade reserves at the local level.

4.4.2 Appropriate subdivision, use and development of the coastal environment

Policy 3.2.1

Policy statements and plans should define what form of subdivision, use and development would be appropriate in the coastal environment, and where it would be appropriate.

Implementing Policy 3.2.1 had been difficult for councils in the Northland and Waikato because it was hard to define “what form of subdivision, use and development would be appropriate”. Comments included:

'define what form' - how specific do you need to be? How do you implement this? Need criteria to help councils with diverse coasts determine what is appropriate. This is very complex and zoning may not be possible (Hamilton).

Policy 3.2.2

Adverse effects of subdivision, use or development in the coastal environment should as far as practicable be avoided. Where complete avoidance is not practicable, the adverse effects should be mitigated and provision made for remedying those effects, to the extent practicable.

Participants at the Hamilton and Northland workshops said Policy 3.2.2 was useful. Comments included:

Policy 3.2.2 should be kept. The emphasis on "avoid" is useful in providing for a hierarchy of choosing options (Northland).

Other work shops were critical of the Policy 3.2.2:

"Where practicable" is bad drafting (Nelson).

Policy 3.2.2 is against the Act. Look at the case law, it states that you need to avoid, remedy and mitigate, not just avoid. However, it makes good sense to avoid first. The Wellington Regional Council looked at health and safety legislation for the principle of hierarchy for clarification (Wellington).

Policy 3.2.3

Policy statements and plans should recognise the powers conferred by Section 108 to obtain environmental benefits which will (to a degree) offset environmental damage, by specifying purposes in their plans for which 'financial contributions' can be sought, in cases where there will be unavoidable adverse effects from subdivision, use or development in the coastal environment.

There was a strong call at the Wellington workshop for Policy 3.2.3 to be deleted. The ability of councils to take financial contributions was already provided for in the RMA, - the NZCPS did not need to re-state this.

Policy 3.2.4

Provision should be made to ensure that the cumulative effects of activities, collectively, in the coastal environment are not adverse to a significant degree

Councils said Policy 3.2.4 was unhelpful and did not provide any further guidance than the RMA (Hamilton and Wellington). More guidance was needed to allow councils to fully implement this policy. The policy also needed to address 'precedent effects' (i.e. the first development in an undeveloped area) as well as cumulative effects (Wellington).

Policy 3.2.5

Subdivision, use and development in the coastal environment should be conditional on the provision of adequate services (particularly the disposal of wastes), and the adverse effects of providing those services should be taken into account when preparing policy statements and plans and when considering applications for resource consents.

Councils in Hamilton and Northland found Policy 3.2.5 to be useful for controlling sporadic subdivision into areas without sewers. However, most territorial local authorities had similar controls to this in their subdivision requirements or codes.

“Policy statements” should be removed from the policy, as regional policy statements were high level integrating documents, and generally did not address that level of detail (Hamilton).

Policy 3.2.8

Provision should be made for the protection of the habitats (in the coastal marine area) of species which are important for commercial, recreational, traditional or cultural purposes.

Because section 30(2) of the RMA excludes regional councils from functions relating to fisheries management as controlled under the Fisheries Act 1996, councils reported difficulties in obtaining information from the Ministry of Fisheries about the habitat needed for fish managed under the quota system (Hamilton and Nelson). Changes in the quota management system also impact on the amount and type of habitat needed. Because it was not a function of regional councils under the RMA, participants at the Nelson workshop suggested that Policy 3.2.8 be deleted.

Policy 3.2.9

Policy statements and plans should contain a requirement that the Maritime Safety Authority and the Hydrographic Office of the Royal New Zealand Navy are to be notified of new structures and works in the coastal marine area at the time permission is given for their construction.

There was a general consensus at most workshops that Policy 3.2.9 was outdated and some suggested it should be deleted because legislative reforms since 1994 had renamed the agencies it mentioned, This undertaking is also required in the RMA and other relevant legislation.

Other councils reported that they only notified the listed agencies if there was a direct impact on navigational safety (Wellington and Hamilton).

The Hydrographic Office must then put information on charts, otherwise there is no use in councils giving them the information. However, not all marine farms are useful on charts, i.e. fish cages may move, which causes a problem with the consequent need to update charts (Hamilton).

Policy 3.2.10

Policy statements and plans should indicate that when restoration plantings are carried out, preference should be given to the use of indigenous species, with a further preference for the use of local genetic stock.

At the Hamilton workshop, the importance of using indigenous species was acknowledged, but there was support also for exploring the use of other options in certain circumstances.

4.4.3 The precautionary approach

Policy 3.3.1

Because there is a relative lack of understanding about coastal processes and the effects of activities on coastal processes, a precautionary approach should be adopted towards proposed activities, particularly those whose effects are as yet unknown or little understood. The provisions of the Act which authorise the classification of activities into those that are permitted, controlled, discretionary, non-complying or prohibited allow for that approach

All except those at the Otago workshop have generally found the precautionary approach to be useful for policy development (Christchurch, Whakatane, Northland, Auckland, Nelson, Wellington and Palmerston North).

However, there was a call for the NZCPS to provide more guidance on what is meant by the precautionary approach. Councils outlined a number of concerns about the current policy, which focused on confusion about whether it applied to resource consents and the need to incorporate current case law (Christchurch, Whakatane, Northland, Auckland, Nelson and Wellington). Suggested amendments to the Policy 3.3.1 included:

Policy 3.3.1 is useful, but case law warns of double accounting if used in plans and resource consents. Should delete the last sentence so the policy could apply to both plans and consents (Whakatane).

Policy 3.3.1 should include 'biological' as well as coastal processes (Auckland).

Policy 3.3.2

Local authorities should share information and knowledge gained by them about the coastal environment, particularly where it relates to coastal processes and/or to activities with previously unknown or little known effects

There was a clear view that Policy 3.3.2 should be deleted. Information sharing between councils was already occurring, and having a policy in the NZCPS that required this did not add anything (Christchurch, Northland and Wellington).

4.4.4 Natural hazards

General Comments

There was general support for the policies contained in section 3.4. Most councils found them useful for developing plans. However, participants requested further guidance and resourcing from central government for policy implementation. Comments included:

Policies in section 3.4 were actively used in developing the plan, however, they are difficult to implement (Otago).

Natural hazard policies do not provide enough guidance for resource consents and plans (Hamilton).

The NZCPS should clarify outcomes at the national level (Auckland).

Need to beef this section up. Now have more knowledge of risks. Natural hazards are a big issue with the increasing demand for coastal development. Councils need expert help in the form of best practice guidelines (Napier).

General suggestions for clarification of existing policies included:

- specifying which hazards in the coastal environment councils should address;
- updating policies to include the concept of ‘risk of hazards occurring’; and
- including a 100 year planning horizon for hazard management.

Specific comments on policies

Policy 3.4.1

Local authority policy statements and plans should identify areas in the coastal environment where natural hazards exist.

On Policy 3.4.1 comments related to problems establishing what was a natural hazard in the coastal environment, and the need to update this policy to include the ‘risk of occurrence of future hazards’.

What is a natural hazard in the coastal environment? Are they only hazards that arise from the action of the sea? Are rocks falling onto beaches from cliffs above a hazard? (Christchurch).

Is it only a hazard when people are involved? (Northland).

Do policies apply to future natural hazards? Policies should be more proactive (Auckland).

Policy 3.4.1 - should look at risk of a natural hazard occurring in the future (Whakatane).

Policy 3.4.2

Policy statements and plan should recognise the possibility of a rise in sea level, and should identify areas which would as a consequence be subject to erosion or inundation. Natural systems which are a natural defence to erosion and/or inundation should be identified and their integrity protected.

Councils requested that Policy 3.4.2 be strengthened by including the current IPCC figure on sea level rise. However, a number of councils reported problems implementing this policy. This was because it was difficult to give effect to the statement that “natural systems which are a natural defence to erosion and/or inundation should be identified and their integrity protected”.

Comments included:

The NZCPS can recognise sea level rise, but identifying these areas should be done at the plan level (Hamilton).

What kind of protection do you provide for a natural system? (Nelson).

Policy 3.4.3

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

The Auckland Regional Council has had difficulty giving effect to Policy 3.4.3 in areas where there were hard cliff beaches.

In Whakatane it was suggested that “dune and estuarine vegetation” be added to the policy.

In Northland there was some debate about whether or not mangroves should be removed from the policy.

Policy 3.4.4

In relation to future subdivision, use and development, policy statements and plans should recognise that some natural features may migrate inland as the result of dynamic coastal processes (including sea level rise).

Again, with Policy 3.4.4 (as with Policy 3.4.2) participants wanted more guidance from central government on sea level rise. Comments included:

Sea level rise should be addressed at a national level. Need to establish that sea level rise is occurring and what is and what can be done about it. Government should sort this out at a national level so that councils don't have to argue it in Court. At the moment this policy is merely a platitude (Christchurch).

Policy 3.4.4. How? This is hard to implement. How do you define inland migration? Can features also migrate seaward? (Northland).

Policy 3.4.5

New subdivision, use and development should be so located and designed that the need for hazard protection works is avoided.

Participants generally reported that Policy 3.4.5 was a good policy because it was specific (Southland and Christchurch). However, a number of councils suggested amendments. In Northland, Auckland and Hamilton participants criticised the policy for not providing any guidance on how to address erosion in already developed areas, and gave no direction about who was responsible for liability issues for existing development.

Policy 3.4.6

Where existing subdivision, use or development is threatened by a coastal hazard, coastal protection works should be permitted only where they are the best practicable option for the future. The abandonment or relocation of existing structures should be considered among the options. Where coastal protection works are the best practicable option, they should be located and designed so as to avoid adverse environmental effects to the extent practicable.

There were two main criticisms of Policy 3.4.6:

- the policy was poorly worded, which weakens its enforceability (Wellington, Whakatane, Hamilton and Nelson); and
- there were a number of barriers preventing the implementation of a policy of managed retreat (Auckland, Whakatane and Napier).

Comments included:

Policy 3.4.6 is problematic due to poor wording. Managed retreat needs to be addressed in relation to the legal barrier of existing use rights (Whakatane).

Policy 3.4.6 - who pays? This is a big issue in terms of liability and is a problem with high value coastal property. Need guidance on existing use rights and liability (Auckland).

Policy 3.4.6 - keep abandonment as a real option. People still think the government and councils will bail them out. We have a managed retreat policy on LIMs but after the April storm people demanded that the district council build a sea wall. Abandonment is possible in the Hawkes Bay, but the difficulty is with enforcement (Napier).

Policy 3.4.6 - what is "the best practicable option"? Who decides? Strongly support keeping abandonment option in (Nelson).

Policy 3.4.6 - does it have any bite? The phrase "should be permitted" is sometimes confused with the permitted activity status under the RMA (Wellington).

"Policy 3.4.6 has made the building of new coastal protection structures a good debate but no applications for sea walls have been declined. Community pressures mean that sea walls are established. NZCPS has not altered the outcome. There has been no managed retreat" (Taranaki).

4.4.5 Public access

General comments

There was a general criticism that policies in 3.5 of the NZCPS provided little guidance to local government about the type of public access that should be identified and provided for. In particular, the policies failed to recognise that there were different types of public access (e.g. by foot, boat or by vehicle) and that conflict may arise between different uses of the coast (Auckland, Northland, Palmerston North, Wellington, Christchurch, Whakatane, Napier and Nelson).

What is public access? Does it include 4WDs? Need to look at the types of access and possible conflicts (e.g. between people and cars on beaches). Structures can also limit access. (Palmerston North).

The policies also failed to recognise instances where, as in the Opotiki District there were a number of blue water titles in Māori ownership, where the land adjacent to the coast was not in public ownership.

Participants also suggested general solutions to strengthen policies in 3.5, including the introduction of the concept of 'compatible uses', when developing policies for addressing potential conflicts.

The Taranaki Regional Council had initiated a joint study with the New Plymouth and South Taranaki district councils in relation to public access to the coastal marine area.

The study will look at:

- the effects of subdivision on public access;
- the how often farmers closed access because of risks to larger stock herds;
- tangata whenua concerns about people not respecting wahi tapu sites; and
- the identification of paper roads.

Specific comments on policies

Policy 3.5.1

In order to recognise the national importance of maintaining public access to and along the coastal marine area, a restriction depriving the public of such access should only be imposed where such a restriction is necessary:

- (a) to protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna;
- (b) to protect Māori cultural values;
- (c) to protect public health or safety;
- (d) to ensure a level of security consistent with the purpose of a resource consent; or
- (e) in other exceptional circumstances sufficient to justify the restriction notwithstanding the national importance of maintaining that access.

Participants at the Hamilton workshop stated that Policy 3.5.1 was a clear policy, and very useful in resource consent applications. Other meetings stated they had encountered problems implementing this policy. These included:

- Policy 3.5.1 (c) was being abused by the Port Company (Southland);
- difficulties implementing this and other policies within 3.5 without a definition of “public access to and along the coastal marine area” (Northland);
- difficulties providing access to the coast via water (Nelson);
- people generally resented policies that restricted access to the coast (Palmerston North); and
- if beaches were also public roads, then restrictions cannot be placed on public access (Southland and Napier).

At Napier it was suggested that the phrase “to protect amenity” should be added to the list from (a) to (e).

Policy 3.5.2

In order to recognise the national importance of enhancing public access to and along the coastal marine area, provision should be made to identify, as far as practicable:

- (i) the location and extent of places where the public have the right of access to and along the coastal marine area;
- (ii) those places where it is desirable that physical access to and along the coastal marine area by the public should be enhanced; and
- (iii) those places where it is desirable that access to the coastal marine area useable by people with disabilities be provided.

There is a high level of non-compliance with Policy 3.5.2. While at a regional level there may be policies in policy statements and plans providing for public access, there were no rules, nor did public access tend to be identified in district plans (Southland, Hamilton, Auckland and Christchurch).

In particular, the following questions were raised about the practicability of Policy 3.5.2:

How do you provide for disabled access? (Christchurch).

How do you identify public access? - by signs?" (Hamilton).

By whom and where? Access to the sea or to the land? This is not a regulatory control, it is asking councils to spend money (Wellington).

Participants at the Whakatane workshop suggested combining policy 3.5.1 and 3.5.2.

Policy 3.5.3

In order to recognise and provide for the enhancement of public access to and along the coastal marine areas as a matter of national importance, policy statements and plans should make provision for the creation of esplanade reserves, esplanade strips or access strips where they do not already exist, except where there is a specific reason making public access undesirable.

At the Auckland workshop the need for more guidance on the choice between creating esplanade reserves or access strips on eroding coasts was raised. The boundaries of esplanade reserves are fixed and with an eroding coast the reserve may disappear over time. However, section 233 of the RMA allows for the boundary of an esplanade strip to move with any alteration in mean high water springs.

Some commented that providing public access was becoming more complex and disputed as coastal property values increased. Esplanade reserves were vested with the local council, which may allow people to camp on reserves. In Napier, people who had paid a lot of money for their coastal house or bach were objecting to people camping in reserves adjacent to their properties.

Policy 3.5.4

Policy statements and plans should as far as practicable identify the access which Maori people have to sites of cultural value to them, according to tikanga Maori.

Participants at the Northland, Wellington and Nelson workshops questioned whether Māori would actually wish to identify the access to sites of important cultural value. It was also noted at Nelson that the RMA was unable to identify access to customary fishing sites, as these were addressed under separate regulations.

In Taranaki, participants reported that Maori were concerned about the impact of coastal erosion on wāhi tapu sites and that people were not respecting their sacredness.

It was suggested at the Wellington workshop that Policy 3.5.4 be moved to Chapter 2.

4.5 CHAPTER 4

General comments

Views about the usefulness of Chapter 4 were mixed. General comments included:

- Chapter 4 should be deleted.

The Crown's interest is not part of a national policy statement. Crown is able to address Crown issues through the development of plans. Chapter 4 provides another type of protection of the Crown's interest which isn't needed (Southland).

Chapter 4 is rhetoric and dealt with by other legislation (Otago).

Chapter 4 doesn't add anything to plan development or resource consent. It gives no direction or outcomes of what the Crown wants to achieve (Hamilton).

What does it add? Already covered in the Act or by other legislation (Palmerston North).

People don't understand the role of the Crown. The role of the Crown would be better explained outside of the NZCPS (Wellington).

- is the focus on ownership appropriate, given the RMA's focus on the management of effects?

Chapter 4 is about property management, but the Act is about managing effects (Whakatane).

Ownership focus not consistent with the RMA (Auckland).

How does the ownership of the seabed relate to the role of the Minister? What happens to areas of sea bed which the Crown does not own, e.g. Lambton Harbour? (Wellington).

- move Chapter 4 to the beginning of the NZCPS to emphasise the principle that the coast is predominately land of the Crown and it is a privilege, not a right, to use, or develop that land (Auckland and Nelson).

Specific comments on policies

Policy 4.1.1

Regional coastal plans should identify land and areas under the Conservation Act 1987 and other land and areas administered by the Department of Conservation so that their status will be taken into account in deciding resource consents

Both the Wellington and Southland regional councils had problems implementing Policy 4.1.1. The Wellington Regional Coastal Plan does not identify Department of Conservation land. Southland Regional Council had difficulty obtaining up-to-date information from the department. At the Southland workshop it was stated that

Policy 4.1.1 should be deleted. RCPs would have addressed the impact of activities on the Department of Conservation land via the consideration of other cross boundary issues.

Policy 4.1.2

If an application for a resource consent affects an area proposed for protection under a statute administered by the Department of Conservation then the publicly notified purpose of the proposal should be taken into account when deciding the application.

Participants at the Whakatane workshop commented that councils object to being told to publicly notify consents. In Wellington, Policy 4.1.2 was taken into account, but largely ignored, in the resource application to sink a frigate off the south Wellington coast.

Policy 4.1.3

In respect of the erection of any structures in the coastal marine area, in cases where the provisions of the Building Act 1992 do not apply, provision should be made to ensure that, where appropriate, the consent holder will remove any abandoned or redundant structure that the consent holder erected or took responsibility for, or any structure that is not in active use and is not likely to be used in the future.

Participants at the Hamilton workshop found Policy 4.1.3 confusing:

Can you force someone to remove an old structure in order to build a new structure? This [is] bad drafting as it links two different things. If the Crown wants to get rid of an abandoned structure, then they should make the policy more directive (Hamilton).

On the other hand, participants in Christchurch found the policy useful:

Policy 4.1.3 is useful as a condition for the erection of a structure.

Policy 4.1.4

Provision should be made to ensure that material used to create and form a reclamation, or material sited on a reclamation, in land of the Crown in the coastal marine area, does not include contaminants which are likely to, or have the potential to, adversely affect the coastal marine area.

Participants at the Christchurch workshop said Policy 4.1.4 stated this was a good policy which they used when assessing resource consents applications.

Policy 4.1.5

Regional coastal plans should make provision for use of the coastal marine area for Defence Purposes. Defence Purposes are those in accordance with the Defence Act 1990.

At the Auckland and Palmerston North workshops the necessity and relevancy of Policy 4.1.5 was questioned.

Policy 4.1.6

Policy statements and plans should require that on applications for coastal permits for the following in relation to lands of the Crown in the coastal marine area:

- (a) reclamations;
- (b) the removal of sand, shingle, shell or other natural materials for commercial purposes; and
- (c) rights to occupy;

regard shall be had to any available alternatives to what the applicant seeks to do, and the applicant's reasons for making the proposed choice.

In general, Policy 4.1.6 was said to be useful for ensuring coastal development and use occurred in an appropriate place (Christchurch, Southland, Whakatane). However, at the Auckland and Napier workshops participants thought that the policy could be amended.

The aim of the policy is to make reclamations as small as possible, yet the need for esplanade reserves or strips makes reclamations larger and more expensive. Need guidance on this issue for activities like the Bayswater marina (Auckland).

With port developments there is a need to accept that reclamations are the only way in which they can expand. Port companies try and get around these policies, while people against reclamations quote these policies (Napier).

4.6 CHAPTER 5

General comments

Chapter 5 was generally considered to be useful, however, because a number of policies referred to rules in plans, they were of limited use for resource consent applications (Palmerston North, Wellington, Southland, Hamilton, Whakatane).

Criticisms of Chapter 5 included:

- the heading of the chapter should be changed to reflect the fact some of its policies also referred to dry parts of the coastal environment, not just those managed in regional coastal plans (Nelson, Hamilton and Auckland).
- there was no guidance on how Chapter 5 related to, or impacted on, natural character (Auckland).
- Chapter 5 did not define whether the policies were the responsibility of regional or district councils. Mean high water springs was hard to define on the ground (Christchurch).
- Chapter 5 was out of date. It needed to focus on reduction of waste at source and integrated catchment issues, including the need for greater control of non-point discharges. Chapter 5 needed to be linked to national recreational bathing standards. (Otago, Napier and Auckland).

The Wellington workshop suggested that the reviewer study the different approaches and mechanisms used in RCPs in relation to water quality issues in the coastal marine area.

Specific comments on policies

Policy 5.1.1

Rules should be made as soon as possible with the object of enhancing water quality in the coastal environment (including aquifers) where that is desirable to assist in achieving the purpose of the Act, and in particular where:

- (a) there is a high public interest in, or use of the water;
- (b) there is a particular tangata whenua interest in the water;
- (c) there is a particular value to be maintained or enhanced; or
- (d) there is a direct discharge containing human sewage.

Because the issues raised in Policy 5.1.1 have been addressed by regional councils, through rules in plans, workshop participants in Nelson questioned the need for the revised NZCPS to re-state this policy. Others were more critical:

Policy 5.1.1 might stop more discharges, but it won't clean up coastal waters. This is mostly achieved through changes in land practices (Wellington).

Policy 5.1.1 - change the word 'should' to 'shall' (Southland).

Policy 5.1.2

Those rules should provide that a discharge of human sewage direct into water, without passing through land, may occur only where:

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

The intent and wording of Policy 5.1.2 was felt to be unclear and has led to a number of implementation problems, including:

What is land? Could it be a metre of land before sewage is discharged into the water? (Christchurch).

Reference to human sewage is very emotive (Hamilton).

Ratepayers don't want to pay for better treatment systems. If it is a national issue, then central government should pay (Napier).

There was a general consensus that this policy was in need of review. Comments included:

Policy 5.1.2 - sloppy wording, needs to be more precise. This issue needs to be considered by the reviewer (Nelson).

Some treatment plants produce a higher level of treatment than land disposal methods. If the preference for land-based disposal is for cultural reasons then state it (Palmerston North).

Policy 5.1.3

Those rules should also provide that, after reasonable mixing, no discharge (either by itself or in combination with other discharges) may give rise to any significant adverse effects on habitats, feeding grounds or ecosystems.

Participants in Hamilton said that the term ‘reasonable mixing’ was hard to define in the coastal environment, and that it was difficult to develop rules in their regional coastal plan to implement this policy. They requested that the revised NZCPS develop criteria to define what ‘reasonable mixing’ in the coastal environment would involve.

Policy 5.1.4

Policy statements and plans should provide:

- (a) that once such rules have been made, a review of all permits to discharge a contaminant into water in the coastal environment will be undertaken; and
- (b) that where the standards set by the rules are not being met, and it is desirable that those standards be met, steps will be taken pursuant to Section 128 to review the conditions of those permits.

Three workshops questioned the need for Policy 5.1.4 given that the RMA already allowed councils to review conditions on permits (Christchurch, Hamilton and Nelson). Participants at the Christchurch workshop said the policy was inconsistent with the RMA. The cost of reviewing all permits (which is additional to resource consent monitoring) was stated at the Hamilton workshop as a reason why the regional council had not implemented this policy.

Policy 5.1.6

Consideration should be given to reducing contamination of natural water in the coastal environment from non-point sources.

Non-point contamination was an important issue in the Waikato, Hawkes Bay and Auckland regions. However, it was an issue which was difficult for councils to address:

In the Thames Coromandel District it is hard to define the sources of non-point sources of contamination in the coastal marine area. This is better addressed in regional discharge plans, which can address the impact of land management activities, such as the removal of vegetation (Hamilton).

Policy 5.1.7

Provision should be made to ensure that the public is adequately warned when the degradation of water in the coastal environment has rendered the water unsafe for swimming, shell-fish gathering or other activities.

Three workshops said Policy 5.1.7 referred to a public health issue that should be addressed under the Public Health Act, not the NZCPS (Southland, Hamilton and Christchurch).

Policy 5.2.1

Provision should be made to require adequate and convenient rubbish disposal facilities in ports, marinas and other such busy areas, and for the provision of facilities for the collection and appropriate disposal of the residues from vessel maintenance.

Policy 5.2.2

Provision should be made to require in all new ports and marinas adequate and convenient facilities to collect sewage from boats.

As previously stated in section 2.1.2 of this report, workshop participants believed policies in 5.2 have been succeeded by the Resource Management (Marine Pollution) Regulations. However, these regulations do not cover the provision of collection facilities on dry land. Discussion arose as to which agency was responsible for the provision of adequate and convenient rubbish and sewage collection in ports and marinas (Hamilton, Wellington, Nelson and Northland). At Hamilton it was pointed out that regional councils have no functions under the Local Government Act to provide for rubbish collection. The West Coast Regional Council, while agreeing with the need for such facilities, did not have the necessary resources to provide them.

Who is responsible for rubbish collection in the coastal marine area? Regional councils have no functions for rubbish collection under the Local Government Act. Districts can extend their by-law making powers to mean low water springs to address this, but is direction on this issue at a national level necessary? The NZCPS should only relate to RMA functions (Hamilton).

Policy 5.2.1 – use of the word “require” in the first part of this policy is not appropriate in every region. On the West Coast there are no facilities established or in operation and none are proposed in the future. The Council supports the principle of the provision of waste collection facilities in ports and encourages their installation. However, who should pay for them? The West Coast Regional Council does not have the resources to provide them. Ministry for the Environment has raised the option of a fee for users, but how would this fee be administered or collected? (Nelson).

4.7 CHAPTER 6

Statement

Where the government has accepted international obligations which affect the coastal environment, the intention is that guidelines shall be issued from time to time by the government outlining the manner in which these obligations can best be carried out and implemented.

Chapter 6 was the shortest and according to workshop participants the most unhelpful chapter in the NZCPS. Questions were raised if the chapter was needed, as it was just a statement of intent. Councils requested that the relevant international obligations, which have been ratified and translated into domestic law, be listed, with the possibility of these obligations being reflected in policies throughout the NZCPS, rather than just in a single chapter. Others saw this chapter as an attempt to get local government to implement international obligations without considering costs or implications. Comments included:

Chapter 6 is bloody useless. Need to translate international obligations into domestic law (Taranaki).

MARPOL regulations have an influence on plans, but this is not thought through. Need to clarify whether councils need to change plans when the government introduces regulations. In law, regulations also supercede provisions in plans. Chapter 6 should only apply to ratified treaties (Christchurch).

Central government have attempted to get local government to implement international obligations without implementing this themselves, i.e. MARPOL (Wellington).

NZCPS policies should reflect international agreements. Should be throughout the statement not just in one chapter (Palmerston North).

4.8 CHAPTER 7

4.8.1 Review of the NZCPS

It was suggested at the Nelson workshop that Policy 7.1.1 be deleted and a new section inserted in the RMA specifying a process and time period for the review of the NZCPS. Participants in Palmerston North stated that the NZCPS should define the term 'effectiveness'.

4.8.2 Monitoring of the NZCPS

Workshops revealed a strong consensus on the need for more detailed policies on monitoring and implementation (Otago, Northland, Southland, Hamilton, Whakatane, Wellington, Auckland and Palmerston North). Suggestions for a new framework included:

- the development of a joint local/central government programme to determine environmental baselines for the monitoring of the coastal environment, possibly through the use of public good science funding (Otago);
- replacing NZCPS monitoring policies with a non-statutory implementation strategy, which would include:
 - best practice guidelines, to help develop plans;
 - regular reviews of plans; and
 - the identification of procedures and methods (which may change over time) for monitoring changes in the coastal environment (Southland, Hamilton, Whakatane and Wellington).
- acknowledgement within current policies that the Ministry for the Environment, through its Environmental Indicators Programme, has largely made the need for Policy 7.1.3 redundant (Northland, Hamilton, Wellington and Palmerston North).
- including district councils as well as regional councils in the development of state of environment reports and monitoring for the coast (Whakatane, Wellington and Hamilton).

4.9 SCHEDULE ONE

General Comments

There was a call from 10 out of the 12 workshops to delete restricted coastal activities (Southland, Canterbury, Otago, Taranaki, Whakatane, Northland, Napier, Nelson, Wellington and Palmerston North). Reasons stated included:

- RCAs encouraged non-compliance. For example, in Taranaki there have been instances of people applying for 299 metre sea walls to avoid the application being processed as an RCA. Nelson has had seven applications for 49 ha marine farms in adjoining areas;
- RCAs must be notified, which created unnecessary costs and time processing applications when all parties agreed, or where there were no submitters;
- councils could appoint a technical advisor, or an independent commissioner to hearing committees to replace the need for the Minister's representative;
- there was no possibility of appealing the Minister of Conservation's decision to the Environment Court (under the current system appellants can only seek judicial review of the Minister's decision in the High Court);
- RCAs created more uncertainty for applicants as they must go through two processes;
- there was no clear reason for having RCAs. They don't relate to any category of activity under the RMA (e.g. permitted, discretionary activities, etc);
- RCA triggers were out-of-date and there was no explanation of how RCA thresholds in Schedule 1 of the NZCPS were arrived at. Some triggers had been set too low, which resulted in a large amount of analysis being undertaken for activities with minor effects;
- regional coastal plans provided local guidance. What issues did the Minister need to address? RCAs created another level of analysis, but these issues were addressed by RCPs;
- RCAs don't produce a national picture; and
- the Department of Conservation's dual role as a submitter, and then in providing advice to the Minister, was viewed by local government staff as a conflict of interest.

Some participants saw benefits in retaining RCAs:

- RCAs may improve practice in unitary authorities, especially where a council is the applicant. Appointment of a representative on the hearing committee by the Minister of Conservation, as opposed to the appointment of a commissioner by the council, may be viewed as more independent (Southland, Northland and Nelson);
- councils don't have to justify the need to notify RCA decisions (Wellington);
- RCAs made people think - in Nelson City this had limited the number of applications received for RCAs since the NZCPS was introduced (Nelson);
- the Minister's representative may add technical skills to a hearing committee (however councils also had the ability to appoint technical representatives and commissioners) (Nelson);
- if RCAs were retained then the current triggers should remain the same as they promote consistency (Wellington); and
- RCAs were useful for activities not anticipated by a plan (Christchurch).

Alternatives to the current RCA regime were suggested at a number of workshops. These included:

- the Minister of Conservation being given call-in powers similar to those under section 140 of the RMA (Christchurch, Taranaki, Northland and Nelson);
- difficult consents go straight to the Environment Court (Northland);
- have policies which contain triggers similar to those in Schedule 1, but aren't processed as RCAs (Palmerston North);
- allow regional councils to write rules about allocating coastal space under section 68 of the Act (Nelson); and
- the need for national consistency could be addressed through the development of guidelines. These may be more effective than the RCA process (Christchurch).

Specific comments

S.1.2(b) Any activity involving the erection of a structure or structures which will:

(iii) the plan defines or provides the criteria for determining:

- where it would be permissible to locate any such structure or structures; and
- the materials to be used in the constructions of any structure or structures; and
- the activities for which such structure or structures can be used; and

(iv) the plan:

- requires consideration of the likely adverse effects of the structure or structures; and
- defines, or provides the criteria for determining, the limits on likely adverse effects of the structure or structures;

is **not** a restricted coastal activity.

Participants at the Whakatane workshop found criteria in S1.2 difficult to implement.

S1.3 (a) Any activity involving the erection of a structure or structures:

(i) which is solid (or presents a significant barrier to water or sediment movement), and when established on the foreshore or seabed extends less than 300 metres in length more or less parallel to the line of mean high water springs (including separate structures which total less than 300 metres contiguous length)

Instances were cited where applicants applied for 299 metre sea walls to avoid an application being classified as an RCA, and within three years applied for another consent for another 299 metre sea wall adjoining the current structure (Taranaki).

- S1.5 Structures in the coastal marine area used in the petroleum and chemical industry
- (a) Any activity involving the erection of structures for the storage or containment of any petroleum, petroleum products, or contaminants in quantities less than or equal to 50,000 litres is not a restricted activity.
 - (b) Any activity involving the erection of structures for the storage or containment of any petroleum, petroleum products, or contaminants in quantities less than 100,000 litres and more than 50,000 litres and the relevant operative or proposed regional coastal plan specifies that the activity is a discretionary activity and defines, or provides criteria determining:
 - (i) where it would be permissible to locate any such structures; and
 - (ii) the effects of the structure;
 is **not** a restricted coastal activity.
 - (c) Except as provided for in S1.5(a) and (b) above, any activity involving the erection of structures for the storage or containment of any petroleum, petroleum products, or contaminants, in quantities greater than 50,000 litres is a restricted coastal activity.

S1.5 was considered to be poorly worded. In particular, it was not clear if the term 'contaminants' could be applied to solid substances because the triggers were expressed in litres (Southland).

- 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 material which is either:
 - (i) maintenance dredging; is **not** a restricted coastal activity
 - (b) Except as in S1.6(a) above any activity involving, in any 12 month period, disturbance of foreshore and seabed for specific purposes, including any removal of sand, shell or shingle:
 - (iii) extending 1000 metres or more over foreshore and seabed; is a restricted coastal activity.

Participants at the Hamilton and Whakatane workshops questioned why S1.6(a)(i) only applied to maintenance dredging. It was often difficult to determine whether a dredging activity was covered by the term 'maintenance dredging'. In Whakatane participants emphasised the importance of allowing dredging to maintain recreational boating access where estuaries were infilling. At both workshops it was suggested that these matters would be better addressed on a case-by-case basis, through conditions placed on resource consent applications.

Participants at the Palmerston North workshop said the trigger point for S1.6(b)(iii) was too low. This resulted in activities with minor effects on the environment having to go through the RCA process.

S1.8 Exotic plants in the coastal marine area
Any activity involving the introduction of any exotic plants 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.

There were a number of comments S1.8:

- Control of exotic plants was not a regional council issue. This issue was better addressed under the Biosecurity Act (Southland);
- Why doesn't this policy apply to exotic animals as well as plants? (Hamilton). This may be because section 30(2) of the RMA excludes regional councils from controlling the harvesting or enhancement of populations of aquatic organisms, where the purpose of that control is to conserve, enhance, protect, allocate, or manage any fishery controlled by the Fisheries Act 1996.
- It was unclear what the term 'area' referred to. The policy would be clearer, and thus easier to implement, if it specified the number of kilometres from a site where the introduction of exotic plants occurred (Christchurch).

S1.9 Exclusive occupation of the coastal marine area
Any activity involving occupation of the coastal marine area which:
(a) would exclude or effectively exclude public access from areas of the coastal marine area over 10 hectares (except where such exclusion is required in commercial port areas for reasons of public safety or security);
(b) would exclude or effectively exclude the public from more than 316 metres along the length of the foreshore; or
(c) would involve occupation or use of areas greater than 50 hectares of the coastal marine area and such occupation or use would restrict public access to or through such areas;
is a restricted coastal activity.

There was significant debate at workshops about what the term 'exclusive occupation' meant (Auckland, Napier, Hamilton, Taranaki and Whakatane).

Exclusive occupation needs to be tightened up. What does 'would exclude or effectively exclude' mean? (Hamilton).

Occupation charges, in relation to S1.9 were also discussed (Auckland, Hamilton, Taranaki, Whakatane).

The Reviewer should look at coastal occupation charges. Occupation consent is needed if activity will exclude the public (Taranaki).

S1.10 Discharges to the coastal marine area
(a) Any discharge of human sewage to the coastal marine area, except from vessels, which has not passed through soil or wetland, shall be a restricted coastal activity.

Participants at the Hamilton and Whakatane workshops had numerous problems implementing S1.10(a). Comments included:

Sewage is an emotive word; the policy must look at what is practicable/what can be implemented. Some communities cannot discharge to land. Environment Waikato found this policy hard to write as a rule in a plan (Hamilton).

Treatment through wetlands land disposal is not appropriate in the Gisborne District. There must be a realisation that there are different responses from different communities and also a conflict with iwi values (Whakatane).

5.0 Key Issues for the 2003 Review of the NZCPS

The following is a list, not in a priority order, of the broad issues participants stated were the key issues for the review. The review should:

- replace RCAs with alternative processes (Otago, Southland, Taranaki, Whakatane, Northland, Nelson, Wellington, Palmerston). Remaining workshops identified the need to review RCA criteria and processes (Auckland, Napier, Hamilton and Christchurch);
- develop a definition of the inland boundary of the coastal environment (Otago, Auckland, Nelson, Christchurch, Hamilton, Northland, Napier, Wellington);
- consider the role of the NZCPS in a post-plan environment (Otago, Southland, Christchurch, Hamilton, Whakatane, Auckland and Palmerston North).
 - is there a need for a new NZCPS? (Otago and Southland);
 - a new shorter NZCPS must provide more directive guidance on issues of national priority, including:
 - what is appropriate subdivision, use and development?
 - what is natural character?
 - what is the national vision and outcomes for the coast?
- focus on current gaps and implementation problems (Otago, Southland, Christchurch, Taranaki, Hamilton, Auckland, Napier, Nelson, and Wellington), including:
 - the ability of councils to implement current NZCPS policies;
 - transaction costs and resourcing requirements of current policies; and
 - monitoring (lack of guidance on how to monitor the statement's effectiveness and state of the coastal environment);
- consider the impact of the Oceans Policy (Otago, Christchurch, Auckland and Wellington);
- improve the integration between regions and districts in coastal management (Christchurch, Taranaki, Hamilton, Northland, Auckland and Napier);
- examine the role of the Department of Conservation in coastal management: (Otago, Taranaki, Hamilton, Northland) including:
 - the question of whether or not the Minister of Conservation should have a role in coastal management under section 28 of the RMA (Otago and Taranaki);
 - the ability of the Department of Conservation to implement the NZCPS. If the NZCPS is to be revised, an implementation strategy is required (Hamilton, Northland, Wellington, Napier);
- develop water quality policies for stormwater, human sewage and the impact of MARPOL regulations (Whakatane, Auckland, Nelson and Wellington);
- update natural hazards policies to include the concept of 'risk' and new information on sea level rise (Otago, Southland, Whakatane and Auckland);
- strengthen public access policies. Policies need to clarify public versus private benefits, and address the increase in conflicts between different types of recreational uses and users of the coast (Southland, Hamilton, Auckland, and Wellington); and
- reflect new issues since 1994 - aquaculture, biosecurity, and biodiversity (Otago, Southland, Christchurch, Hamilton, Whakatane, Auckland and Nelson).

6.0 Acknowledgements

This report would not have been possible without the contributions of the workshop participants. As a result of their willingness to share their experiences of the NZCPS, the Department of Conservation now has a clearer understanding of the views of local government staff on the effectiveness of the NZCPS.

Workshop Description and Attendees

OBJECTIVES OF THE WORKSHOP

- To seek the feedback of local government staff involved in coastal management on the effectiveness of the NZCPS.
- 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 in 2003
 - make suggestions for any technical or drafting amendments to the NZCPS.

The location and dates of the workshops are listed below. A letter was sent to all regional councils inviting them to co-host the workshops. All councils accepted the invitation and were responsible for inviting key people in district and city councils. Not all district and city councils in a region were represented at the workshops.

A semi-structured interview guide was used in all meetings. Participants were asked about:

- emerging coastal issues
- the usefulness of the NZCPS policies
- the main issues for the review in 2003.

Participants were told that their comments would be recorded and that a summary report of all meetings would be prepared and given to the independent reviewer of the NZCPS. Both individual meeting notes and a draft copy of this summary report were sent back to participants to check.

Name	Represents
Christchurch (5 June 2002)	
Adele Schoon	Christchurch City Council
Heather Lunn	Canterbury Regional Council
Frank Stewart	Canterbury Regional Council
Carolyn Ingles	Canterbury Regional Council
David Gregory	Canterbury Regional Council
Two representatives	Kaikoura District Council
Southland (6 June 2002)	
Kevin Sullivan	Southland Regional Council
Ken Murray	DOC - Southland Conservancy
Deirdre France	Southland Regional Council
Adrian Rowland	Invercargill City Council
Scott Crawford	Southland Regional Council
Ken Swinney	Southland Regional Council

Otago (7 June 2002)

Jim Fife	DOC - Otago Conservancy
David Horn	Otago Regional Council
Graham Martin	Otago Regional Council
Selva Selvadajah	Otago Regional Council
Jack Chandra	Waitaki District Council
Allan Cubbitt	Consultant for Clutha District Council
Murray Burns	Clutha District Council
Brian Turner	Dunedin City Council

Taranaki (11 June 2002)

Bill Bayfield	Taranaki Regional Council
Gray Severinsen	Taranaki Regional Council
Katrina Lewis	Taranaki Regional Council
Helen Johnson	New Plymouth District Council
Jeff Mitchell-Anyon	DOC - Wanganui Conservancy

Hamilton (12 June 2002)

Robyn Britton	Environment Waikato
Blair Dickie	Environment Waikato
Bruce McAuliffe	Environment Waikato
Jeanette Black	Environment Waikato
Shelly Monrad	Environment Waikato
Stephanie Turner	Environment Waikato
Bruce Baker	Thames Coromandel District Council
Cherrie Overloder	Thames Coromandel District Council
David Lamison	Thames Coromandel District Council
Allan Turner	Waikato District Council
Vicki Carruthers	DOC - Waikato Conservancy

Whakatane (13 June 2002)

Gay Payze	Whakatane District Council
Tracey May	Opotiki District Council
Mike Houhghton	Opotiki District Council
Todd Wittaker	Western Bay of Plenty District Council
Ross Muir	Gisborne District Council
Kerry Hudson	Gisborne District Council
Paul Dell	Environment Bay of Plenty
Aileen Lawrie	Environment Bay of Plenty
Chris Jenkins	DOC - Conservator, Bay of Plenty

Northland (14 June 2002)

Glen Mortimer	Northland Regional Council
Tony Seymour	Northland Regional Council
Ian Briggs	Northland Regional Council
Allan Richards	Northland Regional Council
David Roke	Northland Regional Council
Brendon Neale	Northland Regional Council
Mark Farnsworth	Northland Regional Council
Anita Longert	Whangarei District Council
Jeff Griggs	DOC - Northland Conservancy

Auckland (14 June 2002)

Warwick Murray	DOC - Auckland Conservancy
Debbie Wingate	DOC - Auckland Conservancy
Sharlene Pardy	Auckland Regional Council
Robert Kelly	Auckland Regional Council
Alan Moore	Auckland Regional Council
Andrew Benson	Auckland Regional Council
Sue Parsons	Auckland City Council
Nathanael Savage	Papakura District Council
Kath Coombes	North Shore City Council

Napier (24 June 2002)

John Glengarry	Central Hawkes Bay District Council
Ian McDonald	Hastings District Council
Nia Belcher	Hastings District Council
Murray Buchannan	Hawkes Bay Regional Council
Liz Lambert	Hawkes Bay Regional Council
Stuart Mearns	Hawkes Bay Regional Council
Neil Grant	DOC - Napier Area Office
Victoria Seaton	DOC East Coast/Hawkes Bay Conservancy
Alastair Thompson	Napier City Council
Sarah Munro	Wairoa District Council

Nelson (25 June 2002)

Miles Rowe	West Coast Regional Council
Lillie Saddler	West Coast Regional Council
Keith Heather	Marlborough District Council
Tania Bray	Marlborough District Council
Steve Markham	Tasman District Council
Neil Jackson	Tasman District Council
Cushla Loomb	Tasman District Council
Steven Wynne-Jones	DOC - Nelson Conservancy
Rob Harris	DOC - West Coast Conservancy
John Pattisen	Nelson City Council

Wellington (26 June 2002)

Peter Kloosterman	Wairarapa Regional Planner
Romae Duns	Wellington Regional Council
Wayne Hastie	Wellington Regional Council
Murray McLay	Wellington Regional Council
Nicola Shorten	Wellington Regional Council
Karen Williams	Wellington Regional Council - Wairarapa
Richard Peterson	Porirua City Council
Ivy Heung	Wellington City Council
Wendy Harris	DOC - Wellington Conservancy

Palmerston North (27 June 2002)

Clare Ridler	DOC - Wanganui Conservancy
Chris Thompson	Horizons
Jeff McNeil	Horizons
Fiona Morton	Horizons
Ross Quayle	Horizons
Andrea Harris	Horizons