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TOWARDS BETTER NATIONAL POLICY STATEMENTS: NZCPS REVIEW

The Minister of Conservation gazetted New Zealand's Coastal Policy Statement (NZCPS) in 1994. The purpose of the NZCPS as outlined in s.56 of the RMA is "to state policies in order to achieve the purpose of this Act in relation to the coastal environment of New Zealand". S.57 of the RMA requires that there shall be at least one NZCPS in place at all times. S.58 contains the matters that shall be provided for in the NZCPS, including most matters of national importance in RMA ss.6, 7 and 8).

The NZCPS was the first national policy statement prepared in New Zealand as part of the resource management legislative reforms carried out in the late 80's and early 90's. It is the only mandatory national policy statement, and it is still the only policy statement translated into the Maori Language – "*Te Kupu Kaupapahere Takutai Mō Aotearoa*" (DoC 1994). The Board of Inquiry (BoI) played an important role in determining content of the NZCPS, the prescriptiveness of policies and the interpretation of key terms associated with the NZCPS, such as "*Kaitiakitanga*" and "*significant*".

This paper reports on the findings of the independent review to the Minister in January 2004 and summarises lessons learned for the preparation of the next generation of national policy statements. The NZCPS has no direct influence on use, subdivision or development apart from Ministerial decisions about restricted coastal activities and the need to have regard to the NZCPS in the preparation of plans and policy statements and in consideration of resource consents. Therefore, there are considerable difficulties in attributing successes to individual NZCPS policies.

In 1991 with the enactment of the RMA, the Minister of Conservation inherited responsibilities for various coastal management roles for a number of reasons including the fact that the Minister of Conservation is the agent of the Crown concerned with protecting NZ's national interests in the Coastal Marine Area (CMA). Maori have concerns about the

Crown meeting its obligations under the Treaty of Waitangi, in managing the CMA. Although some Harbour Act functions were transferred to regional councils and territorial authorities in RMA 1991, the Minister of Conservation retains some responsibilities for sub-national matters prescribed in the RMA.

THE 2004 NZCPS REVIEW

The review methodology relied on several processes: reviews of government reports; analysis of a variety of regional and district plans and policy statements about the coastal environment; along with assessment of the influence of NZCPS on resource consents in the relevant local authorities. Jacobson (2004) carried out a separate analysis of the effectiveness of provisions regarding coastal hazards.

HOW EFFECTIVE IS THE 1994 NZCPS?

The assessment of the effectiveness of NZCPS policies in achieving environmental outcomes in the coastal environment is dependent not only on the actions of the Department of Conservation, but also on the philosophies and actions of local government planners and the effectiveness of their policy statements and plans. The NZCPS has not been changed or a new or additional NZCPS prepared since 1994 (other than the deemed NZCPS in the Hauraki Gulf Marine Park Act 2000), even though significant issues have emerged (i.e. the occupation of space in the CMA for aquaculture purposes).

Coastal planning capacity in local authorities has developed considerably since 1994, particularly in regional councils. However, feedback from the local government workshops (Young 2003) and the review analysis indicate that there is considerable variation in planning capacity between councils, so national policy guidance is still an important aspect of the RMA regime.

The first NZCPS has been effective in

generating debate about New Zealand's national priorities for coastal management. Along with the RMA provisions, implementation of the NZCPS has also required local government to change the way in which coastal issues are considered in local planning frameworks. For example, communities have been required to change current practice concerning direct discharges of sewage effluent in the coastal marine area. Restricted Coastal Activities have been implemented where appropriate in regional coastal plans.

NZCPS policies have generally been effectively implemented through regional policy statements and regional coastal plans analysed in this review. However, the NZCPS has only been partially effective in influencing district plans. Although the NZCPS is often briefly referred to at the beginning of each of the six district plans analysed, the wording of NZCPS policies is only generally reflected in some District Plan phrases – mainly in the policy sections of the plans. Most importantly, there has been poor implementation of NZCPS policies about natural character of the coastal environment and public access. The Department of Conservation has not provided the same level of input to district plans as was provided in submissions to regional coastal plans.

The NZCPS is only generally referred to in applications and officer reports about resource consents. The Environment Court makes more detailed reference to NZCPS policies in decisions on application appeals.

The poorest area of implementation has been in monitoring environmental outcomes and assessing the degree to which plans and policy statements have influenced environmental results. Many local authorities are still developing monitoring strategies. It would be useful to provide national guidance to ensure increased consistency between local authority approaches to monitoring and plan review requirements so that review of national policy statements is more effective.

LESSONS LEARNED ABOUT PREPARATION AND IMPLEMENTATION OF NATIONAL POLICY STATEMENTS

There are a number of national policy statements (NPS) proposed, including the biodiversity NPS. Therefore, there is potential for overlapping or conflicting policies. Good liaison is needed between government ministries and departments to ensure consistency between NPSs. Officers preparing NPS documents should refer to *any* NPS that deals with an issue under discussion. In the

past, the NZCPS policies have virtually been ignored in the preparation of other national reports about RMA matters. Ministries also need to monitor the effect of non-government initiatives – for example beach care programmes.

Care needs to be taken in preparation of the Section 32 analysis, especially in establishing desired outcomes, and criteria for monitoring the expected environmental results. In reviewing the NZCPS, it was difficult to assess whether the policies were effective in achieving outcomes specified in the s32 report, especially given changes made by the BoI. The Section 32 report should

also provide insight into the reasons for any recommendations made about local authority implementation of NPS policies as required under s55.

An implementation strategy is crucial. This should not simply address initial concerns of interpretation of NPS in local government policy statements and plans. The strategy should include provisions to enable ongoing input into resource consent processes and monitoring of NPS and effectiveness of plans and policy statements. Although DoC's implementation strategy for the NZCPS has not been explicitly provided for, the Department has carried out important activities



Dune planting in Bay of Plenty.

to implement the NCZPS. However, action is ad hoc and although the reasons for various activities and guidelines have been implicitly understood within Head Office, they are difficult to trace through DoC outputs programmes. So it is not always clear how DoC coastal management outputs relate back to implementation of the NZCPS.

There are conflicting ideas about the prescriptiveness of NPS policies. The NZCPS review recommends that additional prescription is needed. But a balance is needed to retain

flexibility at the sub-national levels of planning. For example, most local authority planners believe that NZCPS policies relating to natural character of the coastal environment need to be strengthened (Young 2003).

Once an NPS is in place, what criteria need to be met to trigger a process to review an existing NZCPS or NPS or prepare a new NPS? For example, many submitters believe that new NZCPS policies were required to guide analysis to define AMAs. Instead AMAs have evolved with Environment Court guidance

in a national policy vacuum (notwithstanding the recent Aquaculture legislation that came into effect on 1/1/05). In some cases, redundant policies need to be revoked.

The NZCPS has not provided guidance in dealing with problems associated with achieving integrated coastal management in nationally significant coastal marine/land seascapes/landscapes – with community and industry involvement. Two current national models - the Hauraki Gulf Marine Park model or the Fiordland Integrated Marine Management Strategy - could inform the debate about national guidance for “place based” integrated approaches to manage nationally significant landscapes. Both models facilitate strategic processes driven by regional communities to meet national objectives about the protection of entire landscapes and seascapes.

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

Given the number of areas listed by local government for which national guidance is needed (Young 2003), it is imperative that national guidance in coastal management is retained. However, national ministries and departments need to identify which areas local government should manage, and then outline programmes for preparing policy and guidelines at the national level as guided by national priorities.

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