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COASTAL PLANNING – Vision 50/50

“Regional Coastal Planning and the Challenges of Integration”

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1. Introduction

With the advent of the RMA, Coastal Planning emerged as a more focused and detailed area of planning. Increasing pressures on developing and protecting coastal resources has contributed to the need for a more formalised approach to planning in coastal areas.

In looking to the future of coastal planning under the RMA over the next 50 years, a significant challenge is for central government and the two different levels of local government involved, to manage the different aspects of coastal pressures in an **integrated** manner. Currently landward issues are the domain of District Councils and seaward issues those of Regional Councils. The Ministers of Conservation and the Environment also have responsibilities for management of the coastal environment.

This paper looks particularly at the aspect of integrating the planning directions of the two levels of Councils into a comprehensive approach to coastal planning and discusses the challenges associated with achieving integrated management at a practical level.

2. Background

Within NZ and prior to the RMA, coastal or maritime planning was undertaken in an ad hoc manner around the country. Where it was undertaken, it focused either on harbour planning, to differentiate between different uses (eg moorings/ wharves/ stormwater etc) or planning for port facilities/ operations. Within the Waikato Region (as it is currently delineated) there was no pre-1991 maritime plan, however two of the present six coastal Districts did have some plan provisions for some harbours within their respective District Schemes.

With the enactment of the RMA in 1991, coastal planning was given a far more significant role and it aimed to provide a more nationally consistent approach. Requirements for coastal planning were established as primarily the responsibility of the Regional Councils (s30(1)(d)). However this related only to that area defined in the RMA as the coastal marine area¹. Thus the line of MHWS is the critical delineation between the management of coastal land based issues (which are the responsibility of District Councils) and the coastal seaward issues (which are the responsibility of Regional Councils).

¹ S2: “coastal marine area” means the foreshore, seabed, and coastal water, and the air space above the water –

(a) of which the seaward boundary is the outer limits of the territorial sea:

(b) of which the landward boundary is the line of mean high water springs, except where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of –

(i) one kilometer upstream from the mouth of the river; or

(ii) the point upstream that is calculated by multiplying the width of the river mouth by 5:

The RMA also set out statutory requirements for a NZ Coastal Policy Statement (ss 56-58 RMA). This national policy sought to provide a mechanism for integration by providing policy directions relating to the “coastal environment”. This term was not defined in the RMA and nor in the NZCPS. Rather it was deemed to include the coastal marine area (which as mentioned above is defined in the RMA) plus a landward component, as determined by each District Council to be the landward extent to which their district is influenced by coastal issues. The intent was to provide some integration of policy between the region and district plans.

Likewise the Regional Policy Statement provides a regional perspective on requiring/encouraging integration in the coastal environment and in particular has addressed the way natural hazards are to be addressed between the two levels of Councils. The RMA is clear that any subordinate plans (regional or district) must not be inconsistent with the NZCPS nor the RPS (ss62(2), 67(2); 75(2)).

Thus in spite of this policy background, ensuring and achieving integrated management across this line of MHWS is in my opinion, one of the biggest challenges which will continue to face effective coastal planning over the next 50 years. This paper outlines some of the current challenges in attempting to achieve integration across MHWS and queries whether in 50 years time it will still be appropriate to have two levels of Councils involved.

3. What is Integrated Management for the Coasts?

The coastal edge is influenced significantly by the sea and weather patterns, but also by land use planning and catchment management issues. It is when the natural cycles of erosion and accretion come up against human development, such as roads, reserves, housing, etc that planning provisions are seriously tested. For example, many of the coastal settlements in the Coromandel area have been built historically close to the shoreline and on top of sand reserves. Therefore not only are these sands no longer available to the beach in terms of natural erosion cycles but the development on these sections come under threat from time to time from the encroaching seas.

“Integrated Coastal Management” (ICM) has been an international concept since the 1980’s². ICM can be defined as:

“a conscious management process that acknowledges the interrelationships amongst most coastal uses and the environment they potentially affect”. Cincin-Sain & Knecht, p1.

le this involves catchments, shorelines, near shore developments, estuarine and coastal waters and it involves a process for making rational decisions about the sustainable use of these resources, in a way that can overcome issues associated with multi-agency involvement.

Taking a wider perspective within NZ, managing marine resources involves a complex mix of legislation and agencies. There are currently 18 main statutes, 14 agencies and six government strategies involved. (*Parliamentary Commissioner for the Environment, preface & Appendices.*) Thus the philosophy of integrated management is fundamental to any approach to managing marine resources and is

² NB: there have been a number of terms used to describe this concept but for simplicity in this paper I will use ICM.

indeed a fundamental principle of the Oceans Policy which is currently being developed.

Integrated management was not defined in the RMA, but through use, has been applied to inter-agency issues, inter-resource issues and inter-legislative issues. In this paper, I will focus primarily on the relationship between district and regional plans, as prepared under the RMA.

Under the RMA, both regions and districts have as one of their functions for the purpose of giving effect to the RMA:

“The establishment, implementation, and review of objectives, policies, and methods to achieve **integrated management** [of the natural and physical resources of the region]/ [of the effects of the use, development or protection of land and associated natural and physical resources of the district]” (ss30(1)(a); 31(a)).

In addition the contents of plans are required to cover cross boundary issues between territorial authorities (ss62(1)(h); 67(1)(h); 75(1)(h)).

Thus there is a clear legislative basis aimed at ensuring there is appropriate and effective management of issues which cross the line of MHWS. However, in looking back over the past 10 years of coastal planning in NZ, it is clear that the implementation of this legislation has not been effectively achieved at a practical level. It is therefore timely to reflect on a number of challenges that have faced the practitioners.

The following section briefly discusses three areas: legal definition; political issues; and administrative realities. Three topical examples are then outlined.

4. Challenges to Integrated Management across MHWS

4.1 Legal Definition

While the RMA defines the coastal marine area, at a practical level defining where MHWS actually lies, can have significant implications for which agency issues what resource consent or indeed whether a resource consent is even required. Under the RMA, the fundamental premise for land use activities is that an activity can occur unless the District plan says otherwise, whereas in the coastal marine area, an activity cannot occur unless the Coastal plan or a resource consent says it can. This is a critical difference for activities which may cross the line of MHWS, or where there is debate on the location of MHWS. NB The Waikato region has some 1200km of coast line. Where unresolved debate occurs, a survey of the line has had to be undertaken, to clarify what consents are required for an activity.

The situation also arises where the effects of an activity on one side of the line of MHWS may also have significant effects on the other. While the respective plans have methods relating to working together and in some cases, dealing with off-site effects, there is no mutually agreed policy directions for the specific management of coastal interface issues, especially where there are obvious land/water effects. EG catchment development, stormwater discharges, roading access, hazard management.

Case law has also contributed to defining this boundary (*Brookers*):

1. **Ordinary Meaning** - ie it is not a mathematically precise geographical location, but rather an administrative boundary which is conveniently ascertainable – it is determined by cautiously identifying the greatest extent to which MHWS extends from time to time, while excluding the advance of waters by winds, storms, freshets, or floods over that line.

2. **Special Meaning** – ie where there are dynamic shifts occurring, the boundary is to be based on hard survey evidence –leading to a practical judgement rather than speculation.

3. **Excavation** – this deals with situations where the land is dug out and then seawater introduced. Ie the new line of MHWS is created after the area has been flooded and the District ceases to be the consent authority for this area for all purposes except subdivision.

Finding the mean for the line of MHWS it is the averaging of tidal levels, not the averaging of the location of the line that applies. Accretion of a shoreline will result in a seaward movement of a physical location of the line of MHWS, while erosion (or excavation) will result in a landward movement of that location.

Ie to determine MHWS - need to take two steps:

- find the level of MHWS; and
- find the line where that plane intersects with the land.

4.2 Political Issues

Within the Waikato region there are six district councils which have coastal edges, and one regional council. At a political level one of the key issues affecting integration between region and district Councils is that the elected representatives of each authority do not generally have common priorities, when allocating monetary or staffing resources to address management issues which require integration. Political rivalry is also an issue whenever there is a perception of power imbalances between regional and districts.

There is a strong tendency for each Council to consider that difficult land-water interface issues are outside their functions/ responsibilities. It is also difficult to focus interest unless or until the “problem” has become urgent – eg weather bomb in Coromandel, houses on Mokau spit.

Awareness and aspirations of different communities is assessed differently from a Regional and District perspective. The respective communities of interest and/or influence also may vary, thereby influencing objectives set out in plans as well as colouring political choices for work priorities.

Likewise there is no strong incentive for “integrating” the annual plan requirements (in particular resources) under the Local Government Act. Annual plans are prepared approximately 6 months in advance of a new financial year and are often constrained by a 10-year strategic vision. Minimal if any joint planning/ strategising goes into the development of annual plans of the respective district and regional councils. The practicalities of doing so cannot be underestimated either. Not only is it achieving meeting time in busy schedules and when pressure is on Councils to get draft plans developed, there is also the difficulty of getting politicians from different agencies onto the same wave length, and to be sufficiently informed to make good decisions.

Support of an integrated approach is likely to occur if new resources are provided to address a problem and the process maximises the input of expertise and community views. On the other hand resistance is likely if costs outweigh benefits and if the power base shifts. *Cincin-Sain & Knecht*.

4.3 Administrative Realities

When the RMA was enacted, there were a number of transitional plans, however both regions and districts commenced work on new plans at similar times. Added time pressures arose from the fact that the Regional Council was particularly focused on meeting the statutory deadline for having a proposed plan. In the Waikato there was also an atmosphere of staff concern at the role the region might have and an underlying unwillingness to co-operatively look at interface issues between the regional and district plans. This first generation of coastal plans did not mesh at all well with District plans.

Ten years on and one of the key issues affecting further work on integration between planning documents, is achieving commitment to agreed priorities, and agreement to work together on issues. Again the lead-in time required to get both agencies aligned in terms of work and resourcing is significant. Questions of which agency is responsible/ has jurisdiction/ has liabilities etc continue to abound. In addition, as workloads increase, the effective levels of communication also diminish.

Another key barrier to effective integration is the provision of timely information. Not only is this a question of identifying what the likely impacts on the environment of activities might be, but it is also providing sufficient information to write rules and zone appropriately, particularly in accordance with the requirements of s32 of the RMA.

The length of the planning process must also be recognised. Of the 6 coastal Districts 4 plans are operative, the regional plan for Waikato is not. Of the 17 regional coastal plans nationally, only 8 are operative. Community views and aspirations have changed over the past 10 years and yet the plans are supposed to be robust for the coming 10 years as well. The cost of rewriting a new plan now is so significant and likely to be highly litigious as well, that it is not a choice any Council would take lightly.

5. One Example of Integrated Management

One key example of the need for integrated management is in the management of coastal erosion structures. The complexity of managing across the line of MHWS is not only an issue of plan provisions, it also involves debate on where MHWS is and which agency is responsible.

When the pressure of erosion impacting on human development is occurring the key questions are “where is MHWS” and “who is responsible”? With over 75% of the beaches in the Coromandel being developed, the pressures on the edge of the sea/land interface are potentially significant. The past 50 years has seen heavy development and in fact redevelopment in beach front areas. In some areas, property is well within the zone of natural erosion/accretion, thereby exacerbating the hazard potential.

The RMA does not have a strong philosophy in terms of hazard management. While the protection of environmental concerns such as natural character, beach amenity and access are national priorities, there is also a pressure to consider the social and

economic aspirations of the affected residents ie environmental protection vs property protection. Property protection will hold the line of MHWS well seaward of where it would naturally lie.

The NZCPS and RPS are clear on policy directions relating to protection of natural character and retaining amenity values (as provided by beaches), however there is no specific policy guidance on the use of hard structures for protection works. Nor do the District and Regional Plans have effective provisions on this matter. Addressing a structure either as a consent or as an enforcement matter is not as simplistic as saying it is a joint hearing/ enforcement action. Matters of liability, Building Act provisions, consent responsibilities, political will all have an influence on actions taken/ not taken.

From a planning perspective, it is extremely difficult to “dispatch” houses that are too close to the sea. Building controls can lessen the potential impact in the future – for example houses may be required to be “removable”. Many engineers will certify these large redevelopments as being “removable”, but the reality of this occurring is very low.

The planning issues that arise from an erosion situation are primarily land use concerns and property protection, in particular for example planning for setback areas, controlling development intensification, building protection structures. By comparison the ecological impacts on the beach are often considered to be secondary. The introduction of a wall inevitably results in loss of the beach area in front of the wall and an exacerbation of effects where the wall ends. This has a major impact on natural character, which is a matter of national importance under the RMA.

My concern is that unless there is a joint strategic view, every erosion protection structure will be argued and debated until there is a string of cumulative structures bordering every developed edge and an associated loss of beach amenity.

The challenge for the future is to deal effectively with existing development. This includes acknowledging the financial issues associated with “threatened edge properties”, acknowledging that responsibilities do not lie with just one agency, and acknowledging that this problem is going to increase as sea level rises and weather patterns change.

7. Where is coastal planning heading in the future?

I wish to now reflect on the future of Coastal Planning in NZ. There is currently a planning structure guided by the RMA, NZCPS, HGMPA, RPS, RCP and DP. In addition an Oceans policy is currently being developed. These include a wealth of strategic directions and visions for the management of coastal matters. However the Coastal and District plans do not mesh well at a policy nor, more particularly, at an implementation level. This is a function of politics, and administrative issues such as resourcing, timing of plan development and community processes.

Ten years on from the advent of the RMA and there are 8 operative coastal plans (out of the potential sum of 17) and these plans have a further potential life of another 10 years. This raises the question of how can the plans be considered to be relevant when the pace of change is exponential and that there are significant changes in people’s visions/ attitudes within such a periods of time?

However the need to achieve integration at the line of MHWS will not abate. Indeed with projected sea level rise of 0.5m over the next 100 years may result in a long-term erosion trend and could lead to a recession of 15-20m at beaches on the Coromandel. Associated with this are the changes in weather patterns that could see more storm events, exacerbating the erosion trends.

There is a continuum of approaches that could be taken to managing the interface between coastal waters and land better. But wherever the responsibilities lie there is a need to ensure there is a balance between local aspirations and regional and national priorities. A clear line of accountability for implementing integrated management is also critical if consistent and effective management is to be undertaken.

In reality the majority of coastal activities required to be addressed through the RMA, occur within a pressure area close to shore – eg a couple of kilometres of shore (with the exception of some marine farming) and generally have significant on-shore/off-shore linkages.

The region and two districts have trialled a joint approach under the framework of “Local Area Management Plans” – one in Whaingaroa and the other in Whangamata. While these participatory approaches are having a marked impact on resolving environmental issues and setting visions, they have not led to any changes to the respective planning documents. A full assessment on their effectiveness and costs is yet to be undertaken. However it raises the option of one way to achieving positive environmental outcomes – in spite of the statutory plans.

Alternatively the RMA framework currently provides for joint plans. Perhaps these should be made mandatory for coastal issues? This would ensure a policy level of integration but also pave the way for working more effectively together on implementation of the policy. A stronger emphasis on participatory planning would assist in seeking to prepare an integrated plan which resolved conflicts over use and development, but to be of most value it would need to be undertaken jointly between the region and district councils. However notwithstanding that approach, the political and legal processes of the First Schedule plan making process has the potential to subvert any integrated draft provisions.

Or as a further alternative, my vision for coastal planning into the future is that in ten years time there should be a second generation of operative coastal provisions and that these should form a part of the District Plans. Recent Environment Court decisions and indeed the recent proposals to amend the RMA (in regard to marine farming) are leading to a more prescriptive approach to planning rather than the purely effects based philosophy which was a founding element of the RMA. In my view this trend is likely to require that the next generation of Coastal Plans will be far more akin to the allocative/ zoning approaches of the District Plans. Such harbour planning would provide a clear linkage for land use planning, roading, catchment management, service provision, public access, development zones, ecological pressures, natural character to be truly integrated into one basket.

I consider that the Region would still have a role in providing an overview of science issues, as these are likely to expand beyond the boundaries of any one District, and that the Region should provide advice to the Districts to assist in future plan developments. I consider that it is only in this respect that the interface between land and water can be managed appropriately and effectively into the future and that coastal planning will be relevant to the communities concerned.

Notwithstanding my vision for the future, achieving integration between the policy and implementation directions of the two levels of Councils remains the biggest challenge for planners, and for them to find ways of working jointly to manage conflict arising from use and development.

References:

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