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From: Fraser Clark [fraser@nzwea.org.nz]
Sent: Wednesday, 7 May 2008 4:47 p.m.
To: submissions.nzcps@doc.govt.nz
Subject: NZWEA submission on draft NZCPS
Importance: High
Attachments: 080507 NZWEA NZCPS Submission.pdf

NEW ZEALAND COASTAL POLICY STATEMENT

- 7 MAY 2008

SUBMISSION NO: 407 NOTED: JL

The New Zealand Wind Energy Association's submission on the draft NZCPS is attached.

Please acknowledge receipt of this submission in due course.

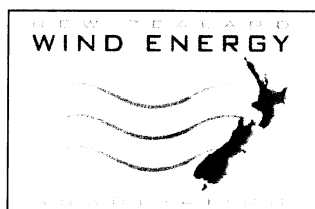
Thanks and best regards
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Submission on the Proposed New Zealand Coastal Policy Statement 2008

Sections 49 and 57 Resource Management Act 1991.

NEW ZEALAND COASTAL POLICY STATEMENT

- 7 MAY 2008

SUBMISSION NO: _____ NOTED: _____

To: Board of Inquiry – Proposed NZCPS
C/- Department of Conservation
PO Box 10 420
Wellington 6143

1. This is a submission on the Proposed New Zealand Coastal Policy Statement 2008 ('the proposal') by the New Zealand Wind Energy Association ('NZWEA').
2. NZWEA's submission relates to all provisions of the proposal, but also specifically to the objectives and policies identified in the attached Appendix 1.
3. NZWEA's submission is set out in detail in Appendix 1. This appendix outlines:
 - a) An overview of some of NZWEA's concerns regarding aspects of the overall direction and apparent intent of the proposal; and
 - b) The specific provisions of the proposal that are of interest to NZWEA; and
 - c) A description of NZWEA's concerns regarding these provisions; and
 - d) Where possible, the changes that NZWEA proposes to address these concerns.
4. The changes sought by NZWEA are outlined in Appendix 1. Alternatively NZWEA seeks the changes the Board deems appropriate for addressing the concerns outlined in Appendix 1.
5. NZWEA wishes to be heard in support of this submission.
6. If others make a similar submission, NZWEA would consider presenting a joint case with them at the hearing.

Fraser Clark
Chief Executive
on behalf of the New Zealand Wind Energy Association

Date: 7 May 2008

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Appendix 1 to the New Zealand Wind Energy Association's submission on the proposed New Zealand Coastal Policy Statement 2008 ('NZCPS')

Details of New Zealand Wind Energy Association's submission and requested changes:

About the New Zealand Wind Energy Association ('NZWEA')

1. NZWEA seeks to encourage the uptake of wind energy as a reliable, sustainable, clean and commercially viable energy source. The Association consists of around 80 companies and organisations with an interest in wind energy. Our members include all of New Zealand's major electricity generators, wind farm operators and developers, Transpower, several lines companies, wind turbine manufacturers and a wide range of industry service and consulting companies with interests ranging from resource consent planning through to operations and maintenance services.
2. NZWEA's activities include
 - policy advocacy with central and local government, regulatory bodies and other interested bodies; and
 - running industry seminars and events such as our annual industry conference (270 delegates and more than 30 sponsors in 2008); and
 - providing a forum for industry networking, both internally and externally; and
 - promoting the many benefits of wind energy to the public, media, schools, etc.

While NZWEA has sought and received input into this submission from its members the views of NZWEA may not necessarily represent those of its member companies.

NZWEA's interest in the coastal environment (and the proposal)

3. Electricity generation from the wind is at its most effective where wind speeds are the highest and most consistent. The amount of power generated is proportional to the cube of the wind speed (i.e. power \approx wind speed³) and so locations with a persistent and strong wind resource will provide the greatest energy yield.
4. Wind speeds are typically at their highest when the wind flow is undisturbed by land or other obstacles. Accordingly wind speeds offshore can often be higher than they are on land. Wind generation offshore does however present a number of technical challenges and so onshore generation is typically preferred, with the electricity generated then also more readily supplied to sources of demand. Sites located close to the coast (i.e. in the coastal environment) are then more likely to be subject to

a less impeded wind flow than those further inland, and so are typically ideally located for maximum utilisation of the wind resource. This is especially the case for the western coast of New Zealand that receives the prevailing west to north-west winds off the Pacific Ocean. Some sites in elevated coastal locations may also receive some benefit from topographic effects that can cause localised wind speed increases.

5. New Zealand's seafloor topography does not lend itself to the offshore wind farms that are starting to become more common in Europe (where low water depths several kilometres offshore mean that the turbines can be directly mounted on the sea bed). However as the technologies for other mounting systems (such as floating turbines) are developed, wind farms may also become an option in the coastal marine area.
6. A current New Zealand wind farm development - Meridian Energy's Project West Wind - is under construction in Wellington's coastal environment. The project was consented with reference to the existing NZ Coastal Policy Statement (that had also been given effect to in the Wellington Regional Coastal Plan). That project not only includes turbines located in the coastal environment but some temporary structures (required to facilitate construction) in the coastal marine area.
7. A further project in the coastal environment, Genesis Energy's Awhitu wind farm, has also received resource consent through the Environment Court. Taharoa C is currently in mediation with the Department of Conservation regarding issues related to their resource consent for their proposed wind farm in the coastal environment near Kawhia in the Waikato. Allco Wind Energy has a notified resource consent application for the Waverley wind farm, located within the coastal environment in South Taranaki. Further wind energy projects are expected to be pursued in the coastal environment in the future.
8. NZWEA also notes that some electricity transmission infrastructure, that is essential for connecting sources of electricity generation to sources of demand, is also located within the coastal environment (and, in the case of the inter-island HVDC cable, the coastal marine area). The development of further renewable energy sources such as wind energy in the coastal environment will also require the construction of additional transmission infrastructure.
9. We also note that other forms of renewable generation, most notably marine energy (i.e. tidal, current or wave devices) are also expected to be developed in the coastal environment.

Why renewable generation is important – the New Zealand Energy Strategy

10. In October last year the Government released its New Zealand Energy Strategy ('NZES') and its companion document, the New Zealand Energy Efficiency and Conservation Strategy ('NZECS'). The two documents outline the Government's strategy for achieving "*a reliable and resilient system delivering New Zealand sustainable, low emissions energy services*". The strategy looks ahead to 2050, and so is relevant to the time frames being considered in the proposal.
11. The NZES also identifies that one of its seven key elements is "*maximising the contribution of cost-effective renewable energy resources while safeguarding our environment*" and establishes a target that 90% of electricity should be generated from renewable sources by 2025 (up from around 70% today). As identified above, the high yield of coastal wind farm sites increases their "cost-effectiveness". The success of projects in achieving consent demonstrates they can be built while also "safeguarding our environment". Accordingly the NZES represents an important consideration when developing the NZCPS.
12. The Government has subsequently sought to reinforce this strategy through its Climate Change (Emissions Trading and Renewable Preference) Bill, tabled in December 2007. That Bill, amongst other actions, seeks to create a preference for renewable generation through the implementation of a 10 year restriction on new baseload, fossil fuel generation.
13. The NZES also identifies that electricity demand is expected to continue to grow (though at a slower rate than it has historically, due to measures to increase the efficiency of energy use). There will be an ongoing requirement for new electricity generation accordingly. Most of this will be required to be from renewable sources, given the "renewables preference" discussed above and the Strategy's target of 90% renewable electricity by 2025. Based on available data NZWEA calculates that this will require around 1,100 GWh of new renewables generation per year, equivalent to one to two reasonable sized generation plants per year (together with some smaller projects).
14. The Government has also recognised that their commitment to this target means that a substantial increase in renewable capacity and that this development will need careful management using the RMA. Accordingly they have also proposed that a National Policy Statement (NPS) for renewable energy "*to help decision-makers weigh up the national benefits of renewable energy*" will also be prepared during 2008. At the time that this submission was being prepared the Ministry for the Environment had held some preliminary discussions with stakeholders but a formal proposal for the NPS had not been released for consultation.

Renewable energy and the RMA

15. In recent years the Resource Management Act 1991 ('RMA') itself has been amended to recognise the significance of renewable energy, with the addition of s7(j) requiring that local authorities have regard to "*the benefits to be derived from the use and development of renewable energy*". This new section has yet to be implemented into many plans and policies as most local authorities are only now starting to enter their review processes to develop their "second generation" plan documents.
16. We also note that electricity itself can be considered to be important under the RMA, given that it "*enables people and communities to provide for their social and economic well being and for their health and safety*" (i.e. s5 RMA). The Ministry for the Environment identified this in their recent "state of the environment" report:
- "Energy is an essential part of everyday life. Fuels and electricity power our transport systems, heat our buildings, and produce the goods and services that underpin New Zealand's economic and social wellbeing"* (Environment New Zealand 2007, p103)
17. As described above, it is also "reasonably foreseeable" (given the expected demand growth identified in the NZES) that the country's need for electricity is expected to continue.
18. NZWEA also notes that the Government has also now gazetted (on 13 March 2008) its National Policy Statement ('NPS') on Electricity Transmission. That NPS identifies the vital role that electricity transmission plays in the wellbeing of New Zealand, its people and environment. The need to operate, maintain, develop and upgrade the electricity transmission network is identified as a matter of national significance. Any new renewable generation located in the coastal environment is almost certain (unless it is a smaller project) to require connection to the electricity transmission network in order to provide the electricity to consumers. Electricity transmission therefore needs to be considered alongside renewable generation in the development of the proposal.

General comments in relation to the proposal

19. NZWEA has some specific comments in relation to the proposal's objectives and policies, but also has some general comments regarding the overall direction of the proposed policy.

Lack of recognition of renewable generation

20. As identified above, the need to pursue electricity generation from renewable sources is now a core component of government energy and climate change policy that requires consideration within the RMA. Section 7(j) of the Act also identifies the significance of renewable generation. The coastal environment has demonstrated renewable energy resources and electricity generation has been found to be appropriate in that environment. Accordingly it is disappointing to see only one reference to

renewable generation in the proposal, with that reference limited to the use of Crown land within the coastal marine area. NZWEA believes that the benefits of renewable energy and its appropriateness in the coastal environment should receive greater acknowledgement in the proposal through a specific objective and policies.

Focus on “avoiding”, “protecting” and “preserving”, rather than “avoiding, remedying or mitigating”

21. Section 5 of the RMA identifies that the purpose of the RMA is “to promote the sustainable management of natural and physical resources”.

‘Sustainable management’ is then defined in s5(2) as:

“managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while---

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

22. NZWEA notes that the coastal environment is very important for use and development by a significant number of existing and possible future uses. This submission specifically discusses renewable electricity generation but the foreword to the proposal notes that “*vital industries, from ports to aquaculture, depend on coastal resources*”. These resources can then “enable” people to provide for their social, economic and cultural wellbeing, etc. as long as any adverse effects are “avoided, remedied or mitigated”.

23. The proposal appears in many cases not to recognise the sustainable management provisions that allow developers to “remedy” or “mitigate” the potential adverse effects of their projects. Several of the policies require “avoidance” of effects altogether (regardless of magnitude) and do not make provision for any potential remedies or mitigation. NZWEA has attempted to identify these objectives and policies in its specific responses, but suggest that the proposal as a whole be considered in light of the s5(2) definition.

Focus on natural and not physical

24. As identified above, the RMA considers both natural and physical resources, both of which can be found in and are important parts of the coastal environment. The proposal however appears to be predominantly focussed on the natural environment only, with little recognition given to the physical environment. This is most clearly demonstrated by policies that require “restoration” of elements of the natural environment. Achieving such restoration could potentially require the removal of significant physical resources (that have been demonstrated to achieve sustainable management through their obtaining and/or holding resource consent).
25. NZWEA has identified some specific policies and objectives that could be adjusted to recognise these physical resources but suggests that the proposal as a whole be considered in light of its requirement to equally consider both physical and natural resources.

Appropriate subdivision, use and development

26. Section 6(a) RMA identifies that the coastal environment should be protected from “*inappropriate use and development*”. Accordingly the RMA recognises that certain types of development may be appropriate in the coastal environment.
27. The proposal, particularly around policies 14-17, appears to be requiring local authorities to ‘zone’ the coastal environment as being suitable for some uses and unsuitable for others. The outcome could see local authorities attempting to “zone” for or against types of development that they have not seen before, and for which the effects may vary depending on the type and extent of a specific project proposal. In the case of wind farm developments considerations such as the number, size and arrangement of the turbines can create significantly different visual effects, and the RMA is an effects-based assessment.
28. The values of the coastal environment itself can also vary significantly along the length of the coastline. Some areas are already highly modified and developed while others are relatively untouched. Classification of the entire coastal environment in terms of its “appropriateness” for certain types of development would not recognise that a range of “appropriateness” might exist depending on the specific values in a certain location, and the specific development proposal that is being pursued.
29. Accordingly, efforts might be better spent encouraging local authorities to identify the areas of the coastal environment that have high values, and the reasons or considerations behind this identification. Specific development proposals could then be considered in respect to those specific values, and the effects on those values assessed accordingly. The developer would know when pursuing a project that a “higher bar” has been set for a project in that particular location.

Outcomes of Board of Inquiry process

30. NZWEA notes that during the recent Board of Inquiry process for the National Policy Statement on Transmission that the Board recommended to the Minister a number of new policies that were not included in the consultation draft. Those recommendations were then approved by the Minister, without the possibility for submitters to comment on the proposed revisions. While there may be no requirement for this under the RMA it might prove useful, should it occur again in this case, for submitters to be able to provide comment on proposed changes before they are approved (and so avoid any unintended outcomes).

Comments of specific objectives and policies

31. Aside from the general discussion above, and general comments on Objectives below, NZWEA's comments are directed only at the specific objectives and policies that are listed in the table below.

Objectives – General

32. Section 56 of the RMA identifies that the purpose of the New Zealand Coastal Policy Statement is *“to state policies in order to achieve the purpose of this Act in relation to the coastal environment of New Zealand”*. The objectives of the Statement should therefore reflect the purpose of the Act where particular consideration of this purpose is required in respect of the coastal environment.
33. NZWEA notes that some of the objectives make reference to some specific matters from s6 and s7 but are silent on others. For instance no reference is made in the objectives to the effects of climate change (s7(i)) or the benefits of renewable energy (s7(j)) – both of which are relevant to the coastal environment - yet there is a specific objective relating to amenity values (s7(c)). It is not clear why some matters have been deemed significant enough to have specific objectives, while others have not. There is possibly a potential to rationalise the objectives in recognition that these s6 and s7 will need to be considered in any case.
34. NZWEA also notes that there appears to be potential for these objectives to conflict with one another (i.e. “use and development” in objective 1 could have impacts on natural character in objective 3, for example). While the ‘Interpretation’ notes that the sequence of objectives is not a ranking of their importance some consideration is perhaps required regarding how they might be read together with reference to s5, etc.
35. As discussed above, the objectives are heavily weighted towards “protection” and “avoidance” rather than “use, development and protection” and “avoiding, remedying or mitigating”. More balance could be brought to the number and content of the objectives accordingly.
36. If no rationalisation of the overall objectives is deemed appropriate, NZWEA makes the following comments regarding the objectives in the proposal:

Objective	Topic/Content	Submission/Comments	Changes Sought
1	Providing wellbeing through use, development and protection	Support in part For consistency with s5, people and communities should be "enabled".	Revise start of objective to read "Enable people and communities to provide..."
2	Managing subdivision, use, development	Support in part "Sustainable management" is <u>the</u> permissible limit under the Act.	Revise objective to: "Subdivision, use and development in the coastal environment are managed to ensure they occur in places and in forms that achieve sustainable management".
3	Preservation of natural character	Oppose "...preserved, through the protection or restoration" does not align with s6(a) that allows appropriate use and development. "Natural character" (s6(a)) has been put together with "natural landscapes" (s6(b)) and "indigenous biological diversity" (possibly a simplified version of s6(c)) when these are all treated separately within s6.	Revision of this objective, possibly with its devolution into separate objectives for the various s6 matters is required (if this is deemed necessary when s6 already exists).

Objective	Topic/Content	Submission/Comments	Changes Sought
5	Public open space	<p>Oppose</p> <p>No recognition is made that "use and development" may be appropriate.</p> <p>The "cultural and amenity values of open space" are undefined (and potentially open to wide interpretation) as is the "public utility" of that "open space".</p>	<p>As it stands the objective is too broad and undefined. Should such an objective be required it should be consistent with s5, etc.</p>
6	Public access	<p>Support in part</p> <p>It should be recognised that public access may not always be possible, or appropriate.</p>	<p>It is suggested that the proviso "where appropriate" be added at the end of the objective.</p>
11	Renewable energy	<p>New objective proposed</p> <p>Where the review of the objectives proposed above does not result in a rationalisation of the objectives, renewable energy is as worthy of special recognition as amenity values (i.e. both fall under s7).</p>	<p>A new objective should be drafted that recognises that the coastal environment has the potential for renewable energy generation and that this can (though not always) be appropriate development. The need for transmission in conjunction with this generation should also be recognised.</p>

NZWEA's comments on specific policies of the proposal follow in the table below:

Policy	Topic/Content	Submission/Comments	Changes sought
1	The coastal environment	<p>Support in part</p> <p>The policy does not appear to recognise that physical resources also form part of the coastal environment (i.e. ports, etc.)</p> <p>The definition of (f) appears to provide for landscapes and features that can be viewed from the coastal environment but that lie well inland.</p>	<p>Add an additional section (g) that identifies physical resources and infrastructure that is consistent with the Act.</p> <p>The terms "visual qualities or amenity values" should be removed from (f) so that it is consistent with s6(a).</p>
5	Precautionary approach	<p>Oppose</p> <p>It is a requirement of developers, when seeking consent for a project, to demonstrate that it aligns with the purpose of the Act. Decision makers then need to be comfortable that any adverse effects are avoided, remedied or mitigated, etc. The Act then already appears to provide a sufficiently precautionary approach.</p>	Delete policy 5.
7	Conservation land	<p>Oppose</p> <p>The status of land affected by the Conservation Act 1987 can be considered under s104(1)(c) of the RMA so no specific policy is required.</p>	Delete policy 7.

Policy	Topic/Content	Submission/Comments	Changes sought
8	Areas proposed for statutory protection	<p>Oppose</p> <p>A "proposal for statutory protection" is undefined. The level and type of protection is also unclear. Section 104(1)(c) would appear to provide for the possibility that other statutory matters may need to be considered.</p>	Delete policy 8.
13	Amendment of policy statements and plans	<p>Support in part</p> <p>NZWEA notes that proposed policy and plan amendments can sometimes be subject to appeal. The time required to resolve these appeals is generally not something that can be controlled by the local authority.</p>	Revise policy 13 to require local authorities to have instigated the plan changes (i.e. have completed the changes, subject to appeal) within the 5 year time period.
14	Location of subdivision and development.	<p>Oppose</p> <p>This policy appears to have been written with urban development in mind but also, perhaps inadvertently captures <u>all</u> forms of development.</p> <p>This policy, together with policy 16, appears to be requiring local authorities to pre-judge what types of development are "appropriate" and "inappropriate" without reference to the specific projects, with specific effects that might be proposed.</p>	<p>Delete policies 14 – 16.</p> <p>Failing this, ensure that the "zoning" requirements are removed and replaced by a preference for identifying areas with high values and defining the extent of those values so that the "appropriateness" of specific proposals can be assessed.</p>

Policy	Topic/Content	Submission/Comments	Changes sought
14 (cont.)	Location of subdivision and development. (cont.)	<p>In the case of a wind farm, a wide range of factors may need to be considered for each specific project that might mean that some are “appropriate” while others are not. A blanket, prescriptive approach prevents the specific effects from being examined. Accordingly the policy may be too “blunt” and prevent appropriate development from occurring.</p> <p>The “set-back of development from the coastal marine area” may not be appropriate for all types of development (that may also not affect “open space character”, etc.).</p> <p>NZWEA also notes that technology in the area of renewable energy is changing and developing rapidly. Attempts to be too prescriptive (and so conservative) may prevent important existing and new technologies from being utilised.</p> <p>The coastal environment, including the coastal marine area (policy 16) holds significant renewable energy potential that will become increasingly important for ensuring social, economic and cultural wellbeing into the future. Where policies unnecessarily restrict that potential (remembering that projects will still need to provide sustainable management) they should be discouraged.</p>	Any policy should make clear that renewable energy projects (and the related transmission) that meet the purpose of the Act can be appropriate development.

Policy	Topic/Content	Submission/Comments	Changes sought
15	Form of subdivision and development	Oppose See comments to policy 14 above.	See comments to policy 14 above.
16	Use and development of the coastal marine area	Oppose See comments to policy 14 above.	See comments to policy 14 above. Where a specific policy is required it should recognise the potential for and benefits of renewable energy.
17	Crown interest in particular activities	Support in part The recognition that the Crown may have interest in the use of its land in the coastal marine area for renewable energy is important. However it fails to recognise that renewable energy is important on any land (not just that of the Crown) and not just in the coastal marine area (it is clearly also possible in the coastal environment and some projects may even encompass both areas). While renewable energy development (together with the associated transmission) might not always be appropriate development it needs to be recognised that there is significant potential for it to occur, that there are resultant benefits and that there are also reverse sensitivity considerations.	Revise policy 17(b) to encompass all land (not just that of the Crown) in the coastal environment (and not just the coastal marine area) in a way that recognises the benefits of appropriate renewable energy and related transmission development and protects it from other forms of development that may be inappropriate.

Policy	Topic/Content	Submission/Comments	Changes sought
19	Amenity values	<p>Oppose</p> <p>The expression "open space" (used throughout the proposal) is undefined.</p> <p>The level at which the amenity values of an area used for outdoor recreation becomes sufficient to warrant maintenance or enhancement is also unclear.</p> <p>Amenity values are also already considered under s7(c) of the Act, so it is difficult to understand why this has warranted a particular policy where other s7 matters have not.</p>	Delete policy 19.
20	Surf breaks of national significance	<p>Support in part</p> <p>It is unusual that a matter that is not recognised in the Act (surf breaks) receives specific protection in the proposal while those that are (renewable energy) does not. While NZWEA is comfortable that surf breaks receiving some sort of protection, the policy currently makes that protection potentially vast by encompassing "enjoyment". This could conceivably include the view from the surf break, or the drive to it, rather than the actual experience of surfing on that particular break.</p>	Clarify the policy to reflect only effects on the physical surf breaks themselves.

Policy	Topic/Content	Submission/Comments	Changes sought
21	Cumulative effects	<p>Oppose</p> <p>There are many different types of development, leading to many different potential cumulative effects (and levels of effects where this becomes an issue). Trying to accommodate this with one "broad brush" policy would seem to be unlikely to achieve the desired outcomes.</p> <p>NZWEA also notes that the RMA allows for effects to be remedied or mitigated and not just avoided (as is required under this policy).</p>	<p>Delete policy 21.</p> <p>If such a policy is required the potential for remedy and mitigation should be included.</p> <p>Efforts should also be made to identify which types of development are of concern and the extent of development that would be considered to be an issue.</p>
22	Precedent effects	<p>Oppose</p> <p>The Act allows each proposed development to be considered on its merits. If a particular issue has been identified that might affect all developments of a particular type this could be considered using s104(1)(c).</p>	Delete policy 22.
	NATURAL CHARACTER	The inclusion of biological diversity (31) and outstanding natural landscapes (32) under the overall heading of "natural character" is inconsistent with s6 of the Act.	Policies relating to biological diversity and natural landscapes should come under separate headings.

Policy	Topic/Content	Submission/Comments	Changes sought
30	Integrity and functioning	<p>Oppose</p> <p>As it is written, policy 30 "protects" all natural landscapes and landforms, not just the "outstanding" examples of s6(b). The use of "protect" also fails to recognise that appropriate used and development can be permitted, even in those outstanding areas.</p>	<p>Delete policy 30 (as it is already covered under s6).</p> <p>If such a policy is required it should recognise the potential for appropriate use and development and also that not all landscapes require protection.</p>
31	Indigenous biological diversity	<p>Oppose</p> <p>The RMA provides for remedying and mitigating effects, not just avoiding them.</p> <p>Reference to "areas" could have broad meanings when the intent is to protect specific taxa and vegetation.</p>	<p>Recognition is required of the potential to remedy and/or mitigate effects.</p> <p>References to "areas" should instead refer to the specific taxa or vegetation within those areas that are of concern.</p> <p>Should be under its own heading and not "Natural Character".</p>
32	Outstanding natural features	<p>Oppose</p> <p>As identified above, appropriate development is permitted in the coastal environment. The policy appears to depart from the intent of the Act by requiring that the effects be "no more than minor". Case law (i.e. the Project West Wind decision in the case of wind farms) identifies that developments can have effects that are more than minor but can still be appropriate.</p>	<p>Delete the references to "no more than minor" and adjust the text accordingly.</p> <p>Should be under its own heading and not "Natural Character".</p>

Policy	Topic/Content	Submission/Comments	Changes sought
32 (cont.)	Outstanding natural features (cont.)	See also our comments in respect to the issue of "zoning" for policies 14-16.	
33	Appropriate location, density and design	Oppose Under the Act it is the type of development that is assessed for its appropriateness in that location, and not, in advance, whether it is an appropriate location for the type of development.	Delete policy 33.
34	Natural areas and features	Oppose The policy does not recognise that appropriate use and development are permitted under the Act, and not just protection (s6). Use of the descriptor "wild and scenic" is too wide to be of assistance.	Delete policy 34. Should such a policy be required reference should be made to the possibility of appropriate use and development.
35	Restoration of natural character	Oppose in part Some effects may result from a development where restoration is not possible but appropriate development has still occurred. Similarly, restoration may often be "practicable" but not "reasonable" due to cost or other matters. The use of "restoration" is also difficult, in that it does not set a benchmark regarding the level it is to be restored to.	Revise policy 35 to recognise that some effects may occur where restoration is not possible and replace references to "practicable" with "reasonable" or "where appropriate".

Policy	Topic/Content	Submission/Comments	Changes sought
36	Assessment and protection of natural character	<p>Support in part</p> <p>The policy refers only to "preservation", where appropriate use and development may still be considered.</p> <p>The assessment and ranking of the natural character of the entire coastline is likely to be an expensive and extensive commitment. Perhaps consideration should be made to allowing for the highest priority sites to be assessed separately with perhaps some more generic assessment criteria to be used in lower priority regions as and when project proposals are received?</p>	<p>Reference should be made to appropriate use and development and not just development.</p> <p>Suggest consideration be made of the level of work required to meet this policy requirement.</p>
38	Maui dolphin	<p>Support in part</p> <p>As written, the policy could require the avoidance any and all activities in the coastal environment of the identified area that could have a potential impact on the habitat of the dolphin. However not all effects on habitat may have an effect on the dolphin.</p>	<p>The potential should be allowed for avoiding, remedying or mitigating effects on the dolphin's habitat.</p>

Policy	Topic/Content	Submission/Comments	Changes sought
55	Historic heritage identification and protection	Support in part Policy 55(a) requires avoidance of adverse effects on significant historic heritage, where s6(f) of the RMA requires protection from inappropriate use and development (i.e. the RMA does not require total avoidance of adverse effects).	Combine 55(a) and (b) with reference to "avoid, remedy or mitigate" and not just "avoid".

