

North Shore City Council

NEW ZEALAND COASTAL POLICY STATEMENT

- 2 MAY 2008

SUBMISSION NO: 041 NOTED: JL



29 April 2008

Board of Inquiry - Proposed NZCPS
C/- Department of Conservation
PO Box 10420
WELLINGTON 6143

Dear Sir/Madam,

SUBMISSION ON THE PROPOSED NEW ZEALAND COASTAL POLICY STATEMENT

Please find attached a copy of North Shore City Council's submission to the Proposed New Zealand Coastal Policy Statement.

The Council wishes to have representatives appear before the Commissioners to speak to its submission.

If you have any queries please do not hesitate to contact me on phone 09 486 8600.

Yours sincerely

Phill Reid
Manager, Environmental Policy and Planning



To: Board of Inquiry
Proposed NZCPS
C/- Department of Conservation
P O Box 10 420,
WELLINGTON 6143

From: North Shore City Council
Private Bag 93 500
Takapuna,
NORTH SHORE CITY

Submission on the Proposed New Zealand Coastal Policy Statement - 2008

The provisions of the proposed NZCPS to which this submission relates are identified below:

i) The Structure and organisation of content of the proposed NZCPS.

Changes requested: That the Policy Statement would be more easily followed if –

- a) It addressed the qualities and values of the coastal environment that are to be protected, and then the activities/changes that give rise to environmental effects; and
- b) The Objective(s) and Policies that relate to particular qualities/values are grouped together.

Suggested order	Present order	Subject
1	2	Natural Character
2	4	Water Quality
3	6	Historic Heritage
4	1	Subdivision Use and Development
5	3	Public Access
6	5	Coastal Hazards

Reasons:

The (apparently random) ordering of the content, and the separation of Objectives from Policies, results in loss of clarity as to the meaning and intent of the document.

The suggested re-ordering would carry a strong implied message, that the intrinsic values of the coastal environment and the coastal marine area (and in particular their natural character, water quality, heritage value) are to be protected, and that activities impinging on these values will be constrained to achieve that outcome so far as practicable.

ii) Objective 3 – Natural Character, and Policies that require the “restoration” of natural character

Changes requested: That wherever reference is made to “restoration” of natural character, it should be amended to “rehabilitation”.

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Reasons:

If natural character has been lost to the extent that it is necessary to "restore" it, then it is arguable that character is no longer "natural". Rehabilitation implies bringing back an element that still exists but has been damaged.

iii) Use of the term "public utility" in Objective 5 and Policy 16

Changes requested: That these items be reworded to clarify their meaning.

Reasons:

The common meaning of "public utility" relates to infrastructural services – the expression is not used to refer to appreciation of value by the public of a quality such as public open space. Unless the objective is re-cast, or a special meaning of "public utility" is provided by definition, this objective will be of little help in management of the coastal environment.

The intention of this Objective 5 will be clearer if it is express as follows –

"The cultural and amenity values of the CMA and its value as a public open space shall be recognised and protected."

iv) Reference in Policy 8 to "statutory protection".

Changes requested: That a definition of the term be included in the glossary to the NZCPS.

Reasons:

The term is not defined in the RM Act, the Reserves Act or other related legislation. Presumably it means "land that is publicly acquired and designated as "reserve", land that is made subject to S. 76 of the Reserves Act, or land that is protected by way of a protective Covenant". In the absence of a definition, the meaning and effect of the above Policy is unclear.

v) Policy 12, which requires that local authorities recognise the need to collect data in a manner that facilitates comparison and collation to provide a national perspective on the state of the coastal environment.

Changes Requested: That the Ministries for Environment and Conservation might take the initiative, and coordinate work toward the establishment of national guidelines for data collection, so that practice across the country is brought into better alignment, the data collected is of greater utility, and it becomes possible to realistically assess the state of the coastal environment.

Reasons:

In the absence of national guidelines, and in the light of the widely varied ways in which sampling is carried out and data is collected, it is presently very difficult to make a useful assessment of the state of the coastal, and the marine, environment. This is an area where national leadership has been lacking, and is essential.

vi) Policy 14, which requires policy statements and plans to identify where in the coastal environment subdivision and development will be appropriate and where it will not

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Changes requested: That the sub-paragraphs (a), and (c) to (h) inclusive, are not helpful to a clear understanding of the intent of the Policy, and that the Policy might be re-cast as follows:

“Policy statements and plans shall identify in the coastal environment –

- (a) Where subdivision, use and development will be appropriate;
- (b) Where subdivision, use and development will not be appropriate.

Where development is to be allowed –

- The form and intensity of development shall have appropriate regard to, and protect so far as practicable, the landscape, amenity and cultural values of the locality; and
- That sprawling or sporadic development shall be avoided.

Where development is not to be allowed –

- The natural and rural character of the coastal environment shall be maintained; and
- The natural values (ecology and biodiversity) and natural character (landscape and amenity values) shall be preserved. “

Reasons

The meaning and intent of the Policy is unclear – indeed, confusing. The requirements to identify where development will be appropriate and where it will not (sub-paras (a) and (b)) are useful. But the detail of wording in sub-para (a), and the matters set out in sub-paragraphs (c) to (h) result in confusion as to the outcomes that are sought. For example, para (c) refers to “discouraging agglomeration of separate urban areas”. “Agglomeration” means “a large group of many different things gathered together” – a meaning that results in confusion as to the intent of sub-para (c). The Policy as written, could (and will) be interpreted in a variety of ways, and could lead to outcomes that are not sought.

vii) **Policy 15, which purports to provide guidance as to “appropriate” forms of subdivision and development.**

Changes requested: That the policy should be removed, or re-cast to require protection of the intrinsic values of the part of the coastal environment in which development is to occur.

Reasons

The matters to which this policy refers are aspects of “urban design”. They have little relevance to the protection of the coastal environment and the coastal marine area. Rather than addressing matters of density, mixtures of activities, and transport matters, “appropriateness” must be determined with regard to the context in which development is to occur, and with particular regard to the intrinsic values of the coastal environment in which development is to occur.

viii) **Policy 16 – requires policy statements and coastal plans to identify where in the coastal marine area use and development will, and will not, be appropriate.**

Changes requested: That the sub-paragraphs (a) to (e) be re-cast, to spell out more clearly and strongly that only those activities for which a site in the CMA

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is an operational necessity (i.e. the activity can't operate elsewhere than in the CMA, and is necessary to provide for the economic, social and cultural wellbeing of people and communities) will be allowed there. Also, that the **extent of space such activities may occupy is to be limited to that which is** necessary for the activity to operate efficiently and safely. Further, that any such activities should be sited and operated so that adverse effects on the intrinsic values of the locality are avoided or remedied.

Reasons

The wording of the policy is unclear. Again, it refers to "public utility" of the CMA (see earlier). Also, such facilities as ports and marinas are seldom seen to be "sprawling". Indeed the language used implies acceptance of some form of urban settlement in the CMA, and the NZCPS should seek such an outcome.

ix) **Policy 19 – requires the maintenance or enhancement of amenity values.**

Changes requested: That sub-para (a) of the policy be reworded so that ambiguity is removed. It might be expressed in the following terms: "maintaining or enhancing natural features or areas in the coastal environment that are of particular value for recreation."

Sub-para (c) should be amended to clarify what it is referring to, or it should be deleted.

Reason

What is meant by the term "natural sites" is unclear, and the wording of the proposed NZCPS could be read as requiring the maintenance or enhancement of natural features or areas of particular value for recreation, as alternatives.

The intent of sub-para (c) could be made clearer, if examples were provided in parenthesis, within the sub-para.

x) **Policy 25 – seeks to avoid proliferation of structures in the CMA, by requiring public use or multiple use wherever reasonable and practicable.**

Changes requested: That the outcome of avoiding proliferation of structures might be achievable by other means as well as requiring public and/or multiple use. Structures should only be permitted in the CMA if they are to accommodate activities for which a location in the CMA is an operational necessity (see earlier). Also, structures should be limited as to size and only be permitted in such locations as can be shown to –

- (i) be necessary to safely accommodate the activity if it is carried out efficiently; and
 - (ii) avoid adverse effects on significant values of the CMA;
- and also that –
- (iii) public use and/or multiple use be required structures in the CMA be required wherever practicable.

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Reason

The policy as worded asserts that proliferation of structures in the CMA will be avoided if public and/or multiple use of them is required. The intent of the Policy will be clearer if the requirement that there is an "operational necessity" for any structure be the prime requirement, and that when structures are permitted in the CMA multiple and/or public use be required so far as practicable.

- xi) Policy 26 requires that resource consent conditions require the removal of abandoned or redundant structures in the CMA.**

Changes requested: That the policy might be reworded, to make it clear that a condition should be attached to any consent for a new structure (i.e. to any coastal permit for a new structure) requiring the consent holder to remove it if it is no longer required for the purpose for which consent is granted. Such condition should also require the consent holder and his successors to maintain a Bond to an amount appropriate to secure fulfilment of the condition. Also, to remain effective, the Bond would need to include an "inflation" provision.

Reason

The Policy is worded in a way that implies that an applicant seeking a new consent might be required to remove abandoned or redundant structures. This is likely to be both inequitable and impractical. The new applicant may have had no interest or involvement in establishing the original structure, and there is unlikely to be any reason why he should bear the cost of cleaning up some earlier occupant's detritus.

- xii) Policy 27 sets out criteria for reclamation, with regard to the need for the activity to occupy space in the CMA, effects on natural processes and values of the coastal environment, and the likelihood of sea level rise.**

Changes requested: That a more stringent approach to reclamations be established – not just minimising adverse effects, but ensuring that -

- reclamation is only allowed when other alternatives are not practicable; and
- reclamation is allowed only to be of such extent as is shown to be needed to enable the activity to function safely and efficiently, and

adverse effects (including adverse effects on public access to and use and enjoyment of the coastal environment) are avoided, remedied or mitigated.

Reasons

The Policy is not sufficiently clear as to the outcome sought, and should be revised. The above bullet points could replace sub-paragraphs (a) and (b) of the proposed Policy. For the most part, the matters referred to in the further sub-paragraphs of the Policy are appropriate.

- xiii) Policy 31 provides graduated protection for different ecological environments. Adverse effects on environments of highest value are to be avoided, and significant adverse effects on less valuable environments are to be avoided, remedied or mitigated.**

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Changes requested: That, for the policy as cast to be effective it will be necessary to provide a definition of "significant". Further background as to the reasons for the reduced level of protection of some natural environments is also necessary. As an alternative, the equivalent provisions of the 1994 NZCPS (Policy 1.1.2) might be reinstated. Guidance should also be provided as to what constitutes "management" of the coastal environment, and as to the intended effect of omitting reference to mangroves (which were specifically mentioned in the equivalent clause of the earlier NZCPS).

Reasons

The introduction of a graduated level of protection for different environments is, on the surface, a sensible concept. It does however, require more explanation to enable it to be applied consistently across the country, and also to ensure that the desired outcomes will be achieved.

xiv) Policy 32 states it to be a national priority to protect outstanding natural features and landscapes.

Changes requested: That a national guideline setting out a standard methodology for identifying outstanding natural features and landscapes is needed, in order to achieve consistent implementation of this policy. Also, the implementation of such Guideline will need to be overseen from a national level to ensure consistency is maintained.

Reasons

To the present, the methodology used to identify "outstanding natural features and landscapes" varies in different parts of the country. Indeed, although this work is required in order to give effect to S.6 of the Act it has not been done in many parts of New Zealand. There is resistance in some rural areas to identification of outstanding natural features and landscapes, as this is seen as potentially constraining the future use and value of such areas. Consistent application of an appropriate methodology is an important step toward giving effect to a matter that is of national importance. Guidance is also needed to make it clear that "natural" qualifies "features" only, and does not apply to landscapes. Landscapes can be outstanding in terms of either their natural or their cultural significance

xv) Policy 33 states it to be a national priority to promote subdivision, use and development in the coastal environment, at appropriate locations, and avoid subdivision, use and development at inappropriate locations.

Changes requested: That Policy 33 be rationalised with Policy 14 – may involve deleting Policy 33.

Reasons

Re-ordering the content of the Statement (as suggested at the outset) may alleviate the duplication. At present this Policy duplicates Policy 14, without any greater clarification as to what is "appropriate" and "inappropriate" as regards location and the form or extent of subdivision, use or development.

xvi) Policy 36 directs regional and territorial councils to "assess the natural character of the coastal environment".

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Changes requested: That guidance from a national level is needed, for this to be undertaken consistently across the country.

Reasons

The lack of a standard method for carrying out such an assessment, and the absence of supervision or auditing of the process from a national level, severely limits effective implementation of S.6 of the Act.

xvii) Policy 39 states walking access to and along the coastline, to be a national priority.

Changes requested: Policy 39 would be clearer in its meaning, if it was worded along the lines that "the national priority established by S.6(d) of the Act, that the maintenance and enhancement of public access to and along the coastal marine, includes safe provision for walking access."

Reasons

The policy fails to acknowledge that "The maintenance and enhancement of public access to and along the coastal marine area" is already a matter of national importance, by virtue of S.6(d) of the RM Act. It will be appropriate to record that provision for walking access is included in this, and also that such provision should be safe.

xviii) Policy 44 requires that "Discharges of contaminants shall, after reasonable mixing, avoid adverse effects on high water quality in the coastal environment..."

Changes requested: That the policy be reframed so that the meanings of "reasonable mixing" and "high water quality" are made clear.

Reason

As expressed, the policy implies that discharges of contaminants to receiving waters that are pristine or uncontaminated, may be permissible provided there is provision for "reasonable mixing". It is suggested that discharges to such waters should be avoided, unless the discharges are treated so as to remove or neutralise all potentially adverse effects of contaminants.

xix) Policy 48 deals with the discharge of human waste to water in the coastal environment.

Changes requested: That the policy should include provision, recording it to be acceptable to discharge human waste to water in the coastal environment, provided it is treated to a standard that ensures the removal of pathogens and other significant pollutants.

Reason

The Policy appears to relate only to the discharge of untreated waste, and makes no mention of any requirement that such waste be treated to remove pollutants before discharge. While Maori Taonga should be respected, application of it to practical situations must be informed by the scientific fact that modern methods of treatment are more effective in preventing adverse effects on receiving waters than is direct discharge of such waste to the ground.

xx) Policy 49 – sub-paragraph (d) that standards be set for stormwater discharges.

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Changes requested: It is impracticable to set standards for stormwater quality. The sub-paragraph should be amended to require compliance with Best Practical Options that specify appropriate methods for the construction and management of stormwater systems.

Reason

The wide variations of hinterland conditions, stormwater networks (open or piped), outfall conditions, rainfall events and tidal regimes, make it impracticable to establish standards for stormwater discharges. Also, it is the effects of contaminants carried by stormwater (mainly contaminated sediments) on substrates and consequently on ecosystems, that are significantly adverse. Rather than setting standards, a "Good Practice Guide" should be established at a national level, to require appropriate design and effective management of stormwater systems, and to ensure that the volume and quality of stormwater are maintained at acceptable levels.

xxi) Policies 51 to 54 which relate to Coastal Hazards, and require –

- **Identification of risk to coastal hazards;**
- **Avoidance of subdivision, development or redevelopment of land at risk to coastal hazards;**
- **Protection of natural features that protect land uses from coastal hazards**
- **Evaluation of options (including their costs and benefits) when considering whether to establish protection structures.**

Changes requested: That this set of policies be recast, so that their intended scope and application are clarified. In outline, it is suggested that the policy set should –

- a) Require the identification of areas in the coastal environment potentially at risk to coastal hazards risks, and to assess the imminence and potential severity of risk (taking account of the relevant factors identified in Policy 51);
- b) Require local authorities to amend policy statements and plans, so that subdivision and development or redevelopment is managed in ways that will reduce the risk from coastal hazards, giving priority to areas of highest risk;
- c) Require protection or rehabilitation of natural defences against coastal hazards (including clarification of what this refers to);
- d) Require local authorities to identify those situations where it is both necessary and feasible (in both physical and economic terms) to protect risk areas from coastal hazards, taking account (so far as is practicable) of the factors identified in Policy 54.

Reason

The order of content within policies 51 to 54, and the manner in which potential consequences of coastal hazards are addressed, are not sufficiently clear. This section of the NZCPS needs to be revised and rewritten, so that the matters on which national guidance is needed (e.g. the likely effects of climate change on

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each region and district) are identified, and the relative roles of regional and district councils in relation to this matter are clarified. The present structure and wording of Policies 51 to 54 leave doubt as to the respective roles of regional and territorial councils, and appear to leave to local determination the circumstances in which protective works (hard and/or soft engineering solutions) are to be applied. Indeed, if the effects of climate change and sea-level rise are as severe as some prognostications suggest, these may need to be addressed through the medium of a further specifically targeted national policy statement, as provided for by S.45 of the RM Act.

xxii) The explanation of "Mixing Zone" in the Glossary – Schedule IV to the proposed NZCPS – which defines that term as "The area within which reasonable mixing occurs".

Changes requested: For this explanation of "mixing zone" to have relevance, it needs to be amended to clarify what is meant by "reasonable mixing".


Reason

In the absence of a common understanding of what is meant by "mixing zone" and "reasonable mixing", the explanation in the Glossary is of little assistance.

Hearing of Submissions

North Shore City Council **wishes to be heard** in support of its submissions. If others make a similar submission the Council would consider presenting a joint case with them at the hearing.

Signature of person authorised to sign on behalf of the North Shore City Council:


Date 29/4/08.

Councillor A.P. Holman

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