

Theme Occupation Charging / Financial Contributions

Total number of submission points on the theme

592 individual submission points.

Number of submission points supporting or agreeing with the provisions in the Proposed NZCPS

191 submissions.

Number of submission points opposing the provisions in the Proposed NZCPS

31 submissions.

Note: some submissions comment on but do not support or oppose the provisions.

Key messages within the submissions

1. Tangata whenua should have access to an appropriate proportion of funds raised through occupation charges to assist them to carry out their kaitiaki obligations.
2. Occupation charges should not be imposed, because the statutory framework for charges is unclear. The statutory regime should be subject to a full review prior to implementing occupation charging.
3. The requirement for Councils to establish a coastal occupation charging scheme is ultra vires and has the effect of legislative amendment.
4. There should be a clear and principled basis for occupation charging with guidance in either the circumstances in which they will be imposed or the methodology for setting charges.
5. Occupation charges will provide a mechanism for funding many necessary restoration programmes and enable more active management in the CMA. In the event any charges are recovered, money should be spent on activities including works that will enhance public access or public use of the CMA and not able to be directed off to other unrelated activities, as possible under the broad language currently used.
6. The NZCPS should prevent the double taxation that occurs with the present system. For example, activities which occur between district and regional council jurisdictions. It fails to recognise that in some areas, occupiers may already be paying a rent or licence fee to occupy. There needs to be clarity between the provisions for occupation charging and financial contributions to ensure double taxation will not occur.
7. Occupation charges should be consistent with other local authority charges for exclusive use of public open space outside of the CMA. It is suggested that charges be proportionally similar to those under the Reserves Act.
8. Leaving local authorities to set occupation charges will result in inconsistencies between regional councils. By allowing local authorities to price differently, the Minister is pricing the public good more (or less) than another region. Imposition of excessive or inequitable occupation charges will generate barriers to the utilisation of settlement assets by iwi.

9. A uniform charge would make the process less complicated and more expedient. It would also address issues of equality and consistency.
10. Sand mining royalties should be returned to local authorities, considering the costs of managing the seabed and foreshore. Funds could be used to help ensure sustainable management of the CMA.
11. The NZCPS fails to recognise potential public benefits of any particular occupation. Charges should not be levied on activities that provide public benefits, including ports, infrastructure of regional or national importance, marinas etc. There is strong support that a regional council should consider whether any other circumstances of an occupation of the CMA warrant a reduction or waiver of any occupation charges. Rebates or discounts should be available from any occupation charge, where structures are available for public or multiple use.
12. Occupation charges should relate to occupation of the CMA only.
13. Occupation charges are not about resolution of other resource management issues and should not be used as a tool to control the use of the coastal environment.
14. Schedule II would significantly limit when an occupation charge would apply, and introduces uncertainty. It is excessively complex and unwarranted for the majority of occupation types. Schedule II criteria should be reviewed closely.
15. Section 64A of the RMA already contains sufficient provisions without further guidelines being necessary. To be consistent with section 64A, Schedule II should apply to publicly owned land in the CMA not privately owned land.
16. It is unclear how regional councils would define the 'market', as they would be the only party setting coastal occupation charges. Also, regional councils will not be making an investment in the land in relation to which they may be levying coastal occupation charges. It is unclear why the concept of a "fair return" is relevant.
17. In relation to occupation charging, the NZCPS does not appear to offer any further guidance to councils over what is stated in the RMA 1991.
18. The 12 month period to give effect to coastal occupation charging is insufficient and is inconsistent with section 64A of the RMA. All other NZCPS provisions are to be given effect to within 5 years. This timeframe may be contrary to the Local Government Act financial provisions, LTCCPs and annual plans. It is requested that the timeframe to amend regional coastal plans be extended to 3 years.
19. Occupation charges fail to take into account any environmental and social contributions the occupiers of coastal space may make to local economies and which may be beneficial to the CMA.
20. The principle of occupation charging is supported, in that it acknowledges a private benefit from the occupation of public space.
21. The concept of choosing whether or not to introduce a charging scheme is about whether it is administratively efficient to do so. This is supported.
22. Clauses relating to financial contributions have the potential to enable developers to use contributions as leverage for development.

23. The use of financial contributions is not supported to offset adverse effects where there is a loss of public access; development creates a coastal hazard risk; there is a direct loss of a natural feature or landscape, or area of indigenous vegetation, important to the region.
24. The NZCPS implies that effects from development should be offset by financial contributions, irrespective of the scale, intensity, duration or frequency of the effect, or whether or not it creates a demand for infrastructure of public services in the coastal environment. It is implied that financial contributions can be used as a default mechanism for offsetting effects without first giving due regard to avoiding, remedying or mitigating the effects.
25. Financial contributions cannot offset adverse effects in any meaningful way and must not be used as a means to “buy off” adverse effects. It is contrary to the overriding purpose and principles of the Part 2 of the RMA and suggests that financial contributions can overcome objections to inappropriate use.
26. The NZCPS does not recognise that under the Local Government Act 2002, councils have the discretion to require development levies rather than financial contributions under the RMA. There is a potential cost and difficulty of administering two financial contribution regimes to council. This may result in duplication of processes, as most local authorities are already using the Local Government Act provisions.
27. A development should not be permitted to create a coastal hazard. A financial contribution should not allow them to do so.
28. Financial contributions should not act as a tax on all development just because, for example, there is a loss of public access to the CMA. There may be important reasons why public access is not appropriate in the particular case, for example, to ensure safety and security. Financial contributions should be limited to where there is some cost likely to be imposed on Council, not the applicant.
29. Payment of contributions is supported for the provision of infrastructure or reserves. New coastal reserves are appropriate if the effects are permitted, but a more progressive approach would be to spend contributions on restoring dunes, which is an affordable option that also improves community cohesion.
30. Occupation charges will continue to be a barrier to further investment and development for the aquaculture industry.
31. Regional councils should not be required to use a RMA schedule 1 notification process to establish (or record a decision not to establish) coastal occupation charges.
32. The NZCPS fails to clarify whether charges for occupation of space in the CMA are a ‘rental’ or ‘compensation’ for loss of public use and benefit.
33. It is a concern that occupation charges could be mixed with political manoeuvring.

Additional Provisions Sought

34. Submission 423.16 seeks new policy in relation to the return of sand mining royalties to district councils.
35. Submission 277.18 seeks new policy in relation to occupation charges to provide for a rebate if structures are made available for public or multiple use.