

# ***Executive Summary***

The Planning Context and Methods Technical Report is aimed principally at identifying the statutory requirements that highlight the need for a Wairarapa Coastal Strategy. The report also provides commentary on the range of methods available to the Masterton, Carterton and South Wairarapa District Councils and Wellington Regional Council, as well as other community groups, to achieve any objectives identified in the Wairarapa Coastal Strategy.

The Resource Management Act 1991 sets out the manner in which councils and other statutory agencies shall manage and control the use and development (including subdivision) of natural and physical resources. The purpose of this approach is to ensure the *sustainable management* of natural and physical resources. Sustainable management is defined as being able to meet current generation's needs, without compromising the ability of future generations to meet their own needs. Within this approach there are a number of specific matters that are afforded particular consideration and protection, these are the subject of this technical report.

The key constraints to achieving sustainable management arise in part from the varying and sometimes fragmented manner in which responsibilities of councils have been undertaken.

To assist in promoting the principles of sustainable management, the report introduces a range of methods that can be identified in the Wairarapa Coastal Strategy for later implementation. This approach is intended to assist consideration of management responses, as part of the identification of significant issues during the consultation process. It does not attempt to fulfil the statutory tests imposed by the RMA, which requires an assessment of such things as the benefits and costs of each method, as it is not possible to determine these until the objectives and policies of the Wairarapa Coastal Strategy have been identified.

The methods considered are: voluntary agreements; land acquisition; levying charges; transferable development rights; research; monitoring; regulation; education and

awareness; incentives; provision of goods and services; design guides; structure plans; and precincts.

Each of the methods have relative benefits and disadvantages and can be applied to a number of situations. To effectively meet objectives of the Wairarapa Coastal Strategy it is likely that a mix of methods will need to be employed.

The methods include both regulatory and non-regulatory provisions. Regulatory provisions are supported by the RMA and generally require an individual or group to behave in a certain way (e.g. RMA rules). Non-regulatory provisions are generally voluntary, but encourage an individual or group to behave in a certain way. In reviewing the range of methods, particular note is made that they are often applied at many different management levels, by the various authorities. For this reason, it is recommended that the Wairarapa Coastal Strategy provides strategic guidance on the use of all of these tools by the various authorities.

The methods identified in this report must be combined with findings from the other technical reports and the outcomes of public consultation to formulate an integrated strategy for coastal environmental management. This approach should incorporate land use planning, asset and infrastructure planning and investment and recreation planning, and should seek to satisfy the statutory requirements outlined in this report.

# ***Acknowledgements***

The authors would like to thank the members of the Wairarapa Coastal Strategy Working Group who have participated in the development of this report, particularly: Janet Palmer-Langley (Masterton District Council), Helen Marr, Rachel Hornsby, Tim Watson, Karen Williams and Steve Blakemore (Wellington Regional Council).

Beca staff who contributed to the Working Group were Ainsley McLeod and Steve Taylor.



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# **Chapter 1**

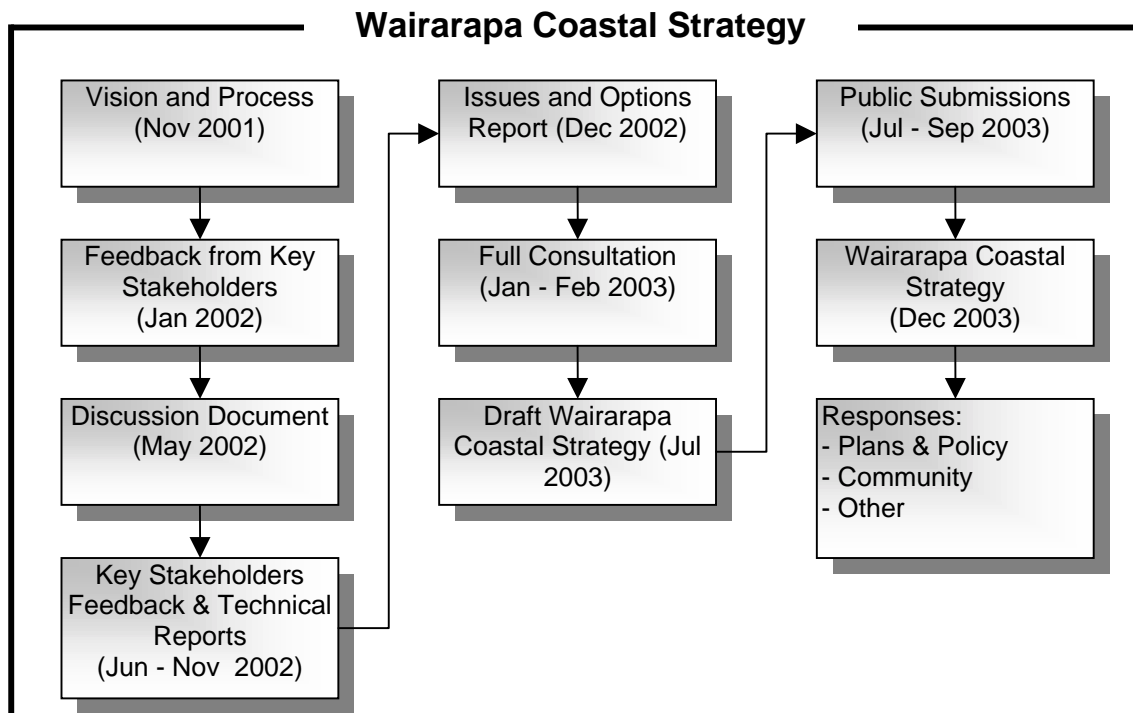
## **Introduction**

The purpose of the Wairarapa Coastal Strategy is to enable the community to establish a long-term integrated strategy to protect, manage and develop the coastal environment. The strategy has a long term planning horizon (looking towards our grandchildren's future), and the recommendations and outcomes of the strategy are intended to go beyond the scope of the Resource Management Act to encompass wider Council and community goals.

It is intended that this technical report will feed into subsequent documents such as the Issues and Options Paper, and the draft and final versions of the Coastal Strategy, as well as assist with various community consultation forums. This report is one of a series aimed at addressing key technical issues for the Strategy. Other technical reports include:

- ∄ Landscape;
- ∄ Natural Environment and Ecology;
- ∄ Heritage;
- ∄ Built Environment and Infrastructure;
- ∄ Land Use and Development.
- ∄ Access and Recreation;
- ∄ Hazards;

The Coastal Strategy process is being undertaken by the Wairarapa Coastal Strategy Group, comprising the Masterton, Carterton, and South Wairarapa District Councils, the Wellington Regional Council, and local Iwi. This group formed after concerns that development was proceeding along the Wairarapa coast in an ad hoc and fragmented way. The development of the Wairarapa Coastal Strategy will span three calendar years, with most of the work occurring in 2002 and 2003 (refer Figure 1.1).



*Figure 1.1: Wairarapa Coastal Strategy Process*

A key issue for sustainable and integrated management relates to the recognition of those statutory provisions which provide the framework for management of the Wairarapa coast. The purpose of this technical report is to bring together work to date related to the consideration of this statutory framework. In particular this report focuses on the Resource Management Act 1991 (RMA) and those matters of Part II of the Act. In addition, this assessment analyses the manner in which the purposes and principles of the RMA are implemented through objectives and policies of other relevant statutory documents<sup>1</sup>. The extent to which non-statutory provisions, and the provisions of other legislation are able to satisfy RMA principles is also considered.

While the focus of this report relates to the planning context established by the RMA, where relevant, other legislation has been considered and reference is made throughout the text. In particular this includes:

<sup>1</sup> The Resource Management Act 1991 establishes a 'hierarchy' of documents, which District Plans must not be inconsistent with (Section 75(2)). It is important that the Wairarapa Coastal Strategy establish a framework of these documents, to ensure that the goals, objectives and policies of the Strategy are consistent and will therefore be transferable into the District Plan.



- Local Government Act 1974;
- Reserves Act 1977;
- Building Act 1981;
- Conservation Act 1987; and
- Historic Places Act 1993.

This report identifies statutory requirements related to resource management of the coast<sup>2</sup> and the extent to which non-statutory provisions can be used to support those requirements. This report provides supporting detail for the Wairarapa Coastal Strategy, which will integrate, and where necessary build on the objectives and policies of planning documents for the protection, management and development of the coastal environment. As noted above, the focus of this report is on the planning context established under the RMA, other issues of land use and management are addressed in the remaining technical reports and the final Wairarapa Coastal Strategy.

For the purpose of interpretation, the following summarises the outline of this report:

1. **Introduction:** Introduces the technical report in the context of the other technical reports, the Wairarapa Coastal Strategy and outlines the report.
2. **Statutory Context:** Outlines the matters of the Resource Management Act 1991, objectives and policies of other statutory documents under the RMA, and other legislation as relevant to the Wairarapa Coastal Strategy.
3. **Strategic Methods:** On the basis of this outline, summarises the statutory framework and range of regulatory, as well as non-regulatory methods available to provide for this framework within the Wairarapa Coastal Strategy.
4. **Assessment of Methods:** Provides an overview of the constraints and opportunities provided by each, or a combination of, the methods identified.
5. **Summary:** The Way Forward: Provides recommendations for the implementation of the findings of the report and the integration of this report with the Wairarapa Coastal Strategy and remaining technical reports.

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<sup>2</sup> In particular, those statutory requirements for that area landward of Mean High Water Springs (MHWS) are addressed.



## Chapter 2

# Statutory Context

This chapter identifies the Resource Management Act 1991 (RMA) statutory considerations for the resource themes of; hazards; heritage; landscape; natural environment and ecology; built environment and infrastructure; access and recreation; land use and development.

The RMA is the principle legislation governing the protection use and development of natural and physical resources (excluding minerals). The RMA establishes an integrated framework for the management of activities affecting land, air, water and ecosystems for the purpose of sustainable management.

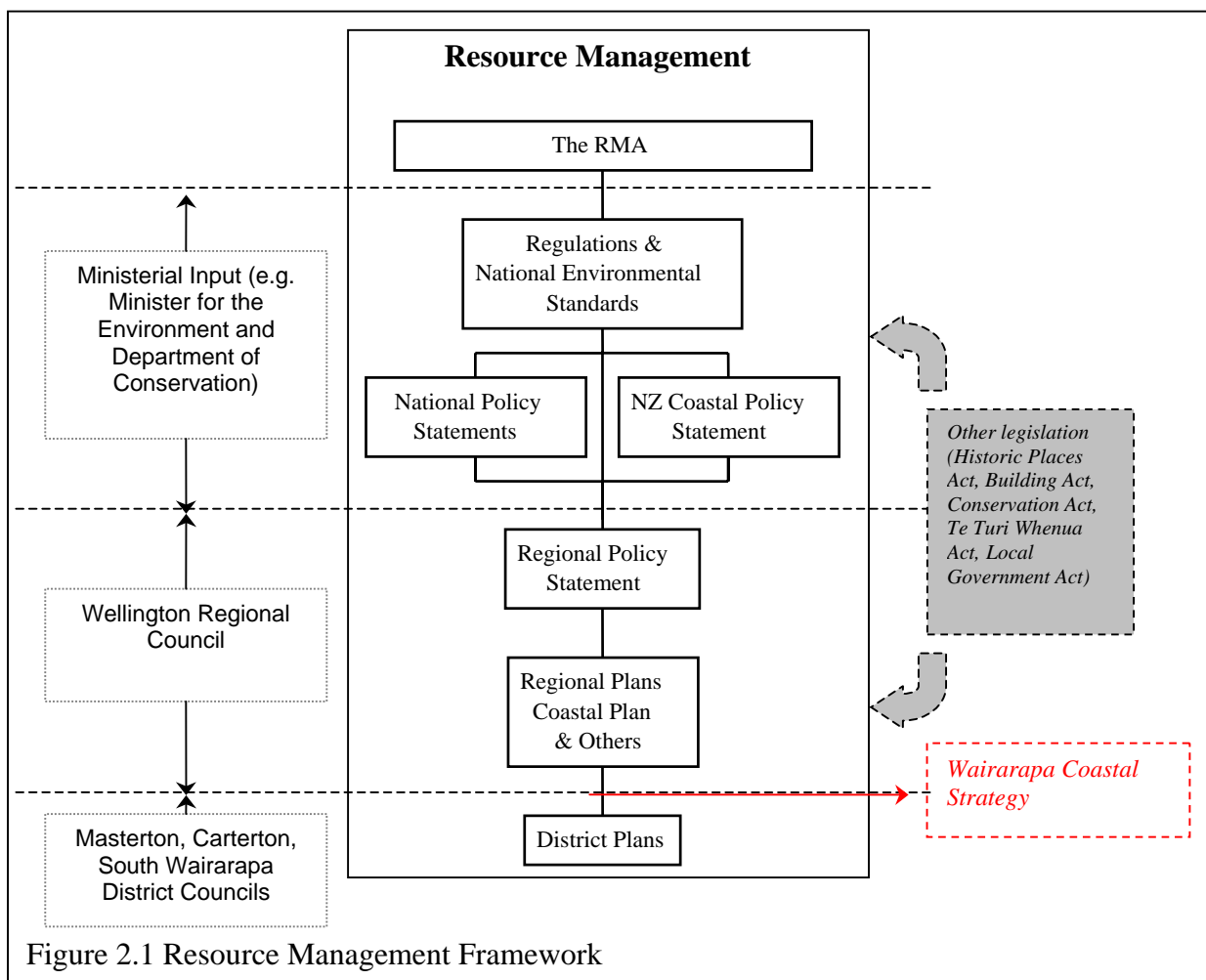


Figure 2.1 Resource Management Framework

The RMA establishes a management structure of statutory agencies and their respective policy statements and plans, for the management of the natural and physical environment (Part IV of the Act) (graphically represented in Figure 2.1 above). This framework sets out the statutory context for managing the future use and development of the Wairarapa coastal environment. The remainder of this section briefly identifies and summarises the objectives, policies and methods established in the relevant statutory documents.

## 2.1 Sustainable Management

The RMA is the key legislation governing the protection, use and development of natural resources. As discussed in Chapter 1 of this report, the Part II matters of the RMA outline the purpose and principles of the Act, which guides the management and use of natural and physical resources.

The purpose of the RMA is to promote the **sustainable management** of natural and physical resources (section 5). Under section 5, sustainable management is defined as:

- “(2) ... 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**.”*

Under section 5 of the RMA, Councils are required to take affirmative action to promote the sustainable management of natural and physical resources. This is achieved by managing the adverse effects of activities on the environment. The purpose of the Wairarapa Coastal Strategy is to ensure that the various Councils clearly identify the strategic objectives and policies for management of the coastal environment to achieve ‘sustainable management’ as defined under the Act.

Under the RMA (section 2) the term **environment** is wider than simply the physical characteristics and includes:

- “(a) Ecosystems and their constituent parts, including people and communities; and*
- (b) All natural and physical resources; and*
- (c) Amenity values; and*
- (d) The social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters”*

Thus, in consideration of the sustainable management of the environment, there are a number of significant resources and resource values that must be taken into account. The identification of these resources has been considered in the identification of the strategic objectives and policies later in this chapter.

## **(1) Sections 6, 7 and 8**

In order to achieve sustainable management of natural and physical resources, the RMA identifies specific matters of national importance (section 6), other matters (section 7) and the Treaty of Waitangi (section 8), which need to be recognised by those persons exercising functions and powers under the Act<sup>3</sup>. These matters and resources are afforded priority, both implicitly and explicitly, in terms of various planning instruments (for example policy statements and plans) and in terms of assessment of resource consents<sup>4</sup>. However, while consideration of these matters must be afforded priority, they are subordinate to the overall objective of the Act; to achieve sustainable management, and should be considered an ancillary consideration<sup>5</sup>.

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<sup>3</sup> Under the RMA, section 6 must be ‘recognised and provided for’, while ‘particular regard’ shall be had to section 7 matters, and the principles of the Treaty of Waitangi shall be taken into account in section 8. These wordings provide a hierarchy of the matters in sections 6, 7 and 8. The requirement that those exercising functions and powers under the RMA recognise and provide for matters of national importance implies that these values have a significant priority. In contrast, to have ‘particular regard’ to matters in section 7 implies that matters which have to be considered, but are not requirements or standards which have to be met. The duty to ‘take into account’ the principles of the Treaty indicate that those exercising functions and powers under the Act must weigh this matter with other matters and demonstrate a balance of these matters (see *Haddon v Auckland RC A77/93*; (1993)).

<sup>4</sup> See sections 51, 61, 66, 74 and 104 of the RMA.

<sup>5</sup> See *NZ Rail Ltd v Marlborough DC [1994] NZRMA 70 (HC)*.

In this regard, it is necessary to consider the appropriateness of activities within certain locations (and the possibility of alternative locations) in light of those matters in sections 6, 7, and 8<sup>6</sup>. This approach is addressed further in the consideration of strategic objectives and policies that are contained in the various districts and Regional Council plans and policy statements.

The following matters of sections 6, 7 and 8 are considered relevant for resource management and the development of a management strategy for the Wairarapa coastal environment.

- (6) *In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:*
  - (a) *The preservation of the **natural character** of the **coastal environment** (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;*
  - (b) *The protection of **outstanding natural features and landscapes** from inappropriate subdivision, use, and development;*
  - (c) *The protection of areas of **significant indigenous vegetation** and significant habitats of indigenous fauna;*
  - (d) *The maintenance and enhancement of **public access** to and along the coastal marine area...;*
  - (e) *The **relationship of Maori** and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*
- (7) *In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—*
  - (a) *Kaitiakitanga:*
    - (aa) *The ethic of stewardship*
    - (b) *The efficient use and development of natural and physical resources:*
    - (c) *The maintenance and enhancement of amenity values<sup>7</sup>:*
    - (d) *Intrinsic values of ecosystems:*

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<sup>6</sup> In the case of *Tainui hapu vs Waikato District Council* (August 1996) (A75/96) Judge Sheppard concluded that an assessment of alternative sites was appropriate for a discretionary activity resource consent (although the exclusion of other sites is not commonly required for a discretionary activities) as the proposed activity at the site would offend a matter of national significance. Accordingly, in this case, it was concluded that, while the proposed activity was a sustainable use of the environment, the proposed location of the activity was inappropriate as it offended matters of national importance.

<sup>7</sup> Under section 2 of the RMA, amenity is defined as: "*those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes*".

- (e) *Recognition and protection of the heritage values of sites, buildings, places, or areas:*
  - (f) *Maintenance and enhancement of the quality of the environment:*
  - (g) *Any finite characteristics of natural and physical resources:*
- (8) *In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the **Treaty of Waitangi** (Te Tiriti o Waitangi).*

The following provides further definition and detail on these matters.

## **(2) Analysis**

As it is not defined in the RMA, the Board of Inquiry into the New Zealand Coastal Policy Statement concluded that the definition of **coastal environment** used in cases heard under the Town and Country Planning Act 1977 is relevant. In *Northland Regional Planning Authority v Whangarei County* (1977) A4828 the coastal environment is defined as an environment in which the coast is a significant part or element:

*“What constitutes the coastal environment will vary from place to place and according to the position from which a place is viewed. Where there are hills behind the coast, it will generally extend up to the dominant ridge behind the coast.”*

This general definition has been used in the identification of the Wairarapa coastal environment for the purposes of this technical report. The specific interpretations of this definition to areas within the Wairarapa will, however, be determined by community views and be confirmed after consultation is complete.

The definition of **natural character** has also been debated and is recognised as dependent on the maritime context of the setting. It is accepted that the word 'natural' does not necessarily equate with the word 'pristine', as held by the Tribunal in *Harrison v Tasman District Council* (1994) NZRMA 193, 197), which stated that:

*“The word "natural" is a word indicating a product of nature and can include such things as pasture, exotic tree species (pine), wildlife ... and many other things of ilk as opposed to man-made structures, roads, machinery.”*

In the case *Browning v Marlborough District Council* (March 1997) (W20/97), Judge Kenderdine concluded that the natural character of the area was to be assessed in its own maritime context. Matters considered in that particular case included the presence of buildings or built structures and the occurrence of activities which result in differing textural land patterns (e.g. exotic forestry blocks), explicitly excluding those patterns resulting from erosion. In this case, the Judge concluded that:

*“the experiential recognition of what is natural character and a landscape worthy of protection goes not to the matter of tasteful subjective judgment (sic) but to a recognition that the dominant land patterns on the landform consist of scrub and regenerating forest uncluttered by buildings or jarring colours, and an unencumbered land/sea interface.”*

These definitions of ‘natural character’, in addition with those provided in the New Zealand Coastal Policy Statement (see section 2.2.1 below) will form the basis of identifying the Wairarapa coastal environment.

In addition to the section 6(c) requirements of the RMA, the management and protection of **sites and areas of significant indigenous vegetation and habitats of significant indigenous fauna** are afforded recognition and protection through the Conservation Act 1987. This Act sets out the functions of the Department of Conservation, including:

- ≠ Management for conservation purposes that land held and managed by the Department of Conservation;
- ≠ Advocacy of conservation of natural and historic resources generally; and
- ≠ Promotion of the benefits of conservation of natural and historical resources (section 61(1)).



The Department of Conservation has identified a number of areas of significant vegetation and habitat of significant fauna, for example the identification of Recommended Areas for Protection (RAP) sites throughout the Conservancy Region. This information provides Councils and the Wairarapa Coastal Strategy guidance on those resources and resource values which need to be taken into account to give effect to the requirements of Part II of the RMA.

While the **principles of the Treaty of Waitangi** are not defined in the Act, further definition on these is provided in Court decisions and reports of the Waitangi Tribunal. In summary, these principles are:

- i) there is a duty on the two parties to the Treaty to act reasonably towards each other and in utmost good faith;
- ii) the Crown must make informed decisions;
- iii) the Crown must not impede its capacity to provide redress for proven grievances; and
- iv) there is a duty on the Crown to actively protect Maori interests.

It is worth stressing that it is the Crown, not the various councils comprising the Wairarapa area, which is the Treaty partner to Maori. The obligations of the councils arise from the requirements of the RMA contained in other sections, including such matters as kaitiakitanga and the ethic of stewardship.

The 1997 amendment of the RMA has clearly distinguished the role of **kaitiakitanga** and the **ethic of stewardship**, with the former the exclusive domain of tangata whenua. The role of tangata whenua as kaitiaki of resources in the Wairarapa coastal environment is significant, in particular in regard to ancestral lands, taonga and kai moana. This role, and Wellington Regional Council's recognition of this role, has been considered in the objectives and policies contained within regional policy statements and plans (refer paragraph 2.3 of this chapter).

The recognition of the **heritage value** of sites, buildings and areas, as required under the RMA is also afforded weight under the Historic Places Act 1993, which provides a framework for the identification and registration of historic buildings and areas, as well as waahi tapu sites and areas. The New Zealand Historic Places Trust (NZHPT) is then notified when any development or building consent is proposed for any registered item. In addition to registration, there is legal protection for archaeological sites<sup>8</sup>, as the Historic Places Act 1993 requires consent from the NZHPT to damage, destroy or modify any such site.

The remainder of this chapter establishes the key parameters for an appropriate resource management framework for the Wairarapa coastal environment, in light of the Part II matters of the RMA.

## **2.2 New Zealand Coastal Policy Statement**

The New Zealand Coastal Policy Statement 1994 (NZCPS) set out policies to achieve the purpose of the RMA specifically in relation to the coastal environment of New Zealand. The NZCPS is required under section 56 of the RMA. Regional policy statements and plans and district plans cannot be inconsistent with this document.

Consent authorities must 'have regard to' the NZCPS when making decisions on resource consents. A number of policies of the NZCPS are relevant to the Wairarapa Coastal Strategy and these are identified and discussed below. These policies provide further directional guidance on the Part II matters of the RMA. The NZCPS will be reviewed in 2003.

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<sup>8</sup>Under the Historic Places Act 1993, an 'archaeological site' is 'any place that either 'was associated with human activity before 1900' or 'is the site of the wreck of any vessel where that wreck occurred before 1900' and where these sites or areas are able 'through investigation by archaeological methods to provide evidence relating to the history of New Zealand' (Section 2).

# (1) Natural Character

Chapter 1: *National priorities for the preservation of the natural character of the coastal environment including protection from inappropriate subdivision, use and development.*

This chapter the NZCPS identifies policies for the preservation of the **natural character** of the coastal environment. All of these policies are considered relevant to the Wairarapa Coastal Strategy. In addition, Chapter 1 of the NZCPS provides further guidance to those matters which are considered to significantly contribute to natural character values (from the definition of natural character discussed above).

Rather than recite the NZCPS in full, the following provides a summary of those matters in Chapter 1:

**Policy 1.1.1** identifies that it is a national priority to preserve natural character of the coastal environment by:

- € encouraging appropriate subdivision, use and development in areas where natural character has already been compromised;
- € avoiding sprawling or sporadic subdivision, use or development;
- € taking into account the effects of subdivision, use and development both within and outside the immediate location; and
- € avoiding cumulative impacts of subdivision, use and development.

**Policy 1.1.2** identifies the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna in the coastal environment, as an important element in the preservation of natural character. In order to achieve this, protection of the following areas are specifically identified:

- € areas and habitats important to the continued survival of any indigenous species;
- € areas containing nationally vulnerable species or nationally outstanding examples of indigenous community types;

- ∄ outstanding or rare indigenous community types within an ecological region or district;
- ∄ habitat important to regionally endangered or nationally rare species and ecological corridors connecting such areas;
- ∄ areas important to migratory species, and to vulnerable stages of common indigenous species, in particular wetlands and estuaries;
- ∄ those areas of the coastal environment vulnerable to modification (estuaries, wetlands, dunes); and
- ∄ other areas of predominantly indigenous vegetation or habitats of significant indigenous fauna.

**Policy 1.1.3** identifies the protection of the following as essential or important elements for the protection and preservation of the natural character of the coastal environment:

- ∄ landscapes, seascapes and landforms, including significant representative examples for each region, visually or scientifically significant geological features, and the collective characteristics which give the coastal environment its natural character including wild and scenic areas;
- ∄ characteristics of special spiritual, historical or cultural significance to Maori, and
- ∄ significant places or areas of historic or cultural significance.

**Policy 1.1.4** identifies the integrity, functioning and resilience of the coastal environment (in terms of the dynamic of natural, physical and ecological processes) as an important element of preserving the natural character of the coastal environment.

**Policy 1.1.5** states that it is a national priority to restore and rehabilitate the natural character of the coastal environment where appropriate.

The NZCPS provides a clear guide for the protection and enhancement of the natural character of the coastal environment and those elements which contribute to natural character. The identification of these values and the specific implementation of these policies in regard to the Wairarapa Coastal Strategy are discussed further in Chapters

4 and 5 of this report and in the “Landscape” and Natural Environment and Ecology” technical reports.

## (2) Tangata Whenua Values

Chapter 2: *The Protection of the Characteristics of the Coastal Environment of Special Value to the Tangata Whenua Including Waahi Tapu, Tauranga Waka, Mahinga Maataitai, and Raranga.*

This chapter of the NZCPS outlines national policies for the protection of those characteristics of the coastal environment of special value to **tangata whenua** and of particular relevance to the Wairarapa Coastal Strategy. These are:

*“Policy 2.1.1*

*Provision should be made for the identification of the characteristics of the coastal environment of special value to the tangata whenua in accordance with tikanga Maori<sup>9</sup>. This includes the right of tangata whenua to choose not to identify all or any of them.*

*Policy 2.1.2*

*Protection of the characteristics of the coastal environment of special value to tangata whenua should be carried out in accordance with tikanga Maori. Provision should be made to determine, in accordance with tikanga Maori, the means whereby the characteristics are to be protected.*

*Policy 2.1.3*

*Where characteristics have been identified as being of special value to tangata whenua, the local authority should consider:*

- (a) The transfer of its functions, powers and duties to iwi authorities in relation to the management of those characteristics of the coastal environment in terms of Section 33 of the Resource Management Act 1991; and/or*
- (b) The delegation of its functions, powers and duties to a committee of the local authority representing and comprising representatives of the relevant tangata whenua, in relation to the management of those characteristics of the coastal environment in terms of Section 34 of the Resource Management Act 1991.”*

There are a number of areas along the Wairarapa coast of significance to tangata whenua. The management and protection of these sites, areas and resources needs to take into account both the principles of the Treaty of Waitangi and the policies of the

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<sup>9</sup> 'Tikanga Maori': Maori custom or habit.

NZCPS. Constraints and opportunities to achieve these directives are discussed further in Chapters 3 and 4 of this report.

### **(3) Land Use and Development**

Chapter 3: *Activities Involving the Subdivision, Use or Development of Areas of the Coastal Environment.*

This chapter of the NZCPS specifically addresses those matters for consideration in the subdivision, use and/or development of the coastal environment. The policies in this chapter provide guidance on how subdivision, use and development shall be undertaken in the coastal environment to address and balance those matters listed in Part II.

There are a number of policies in this chapter which are considered relevant to the Wairarapa Coastal Strategy, and particularly in regard to Part II matters of the RMA. For ease of interpretation, each of the specific matters identified are addressed and discussed separately.

Section 3.1 of the NZCPS, outlines policies for the **maintenance and enhancement of amenity values**, of relevance to this study, and contains the following policies:

*“Policy 3.1.1*

*Use of the coast by the public should not be allowed to have significant adverse effects on the coastal environment, amenity values, nor on the safety of the public nor on the enjoyment of the coast by the public;*

*Policy 3.1.2*

*Policy statements and plans should identify (in the coastal environment) those scenic, recreational and historic areas, areas of spiritual or cultural significance, and those scientific and landscape features which are important to the region or district and which should therefore be given special protection; and that policy statements and plans should give them appropriate protection; and*

*Policy 3.1.3*

*Policy statements and plans should recognise the contribution that open space makes to the amenity values found in the coastal environment, and should seek to maintain and enhance those values by giving appropriate protection to areas of open space”.*

Section 3.2 of the NZCPS addresses the identification of areas where subdivision, use and development in the coastal environment is appropriate. While not specifically addressing those matters of Part II of the RMA, the policies in this section provide guidance on where subdivision, use and development is appropriate and the specific matters which should be provided for to ensure that such use and development is sustainable. The matters of Section 3.2 are discussed in the “*Land Use and Development*” technical report.

Section 3.3 of Chapter 3 addresses the adoption of a precautionary approach to activities with unknown but potentially significant adverse effects. Policy 3.3.1 identifies coastal processes and the effects of activities on coastal processes as a particular area where a precautionary approach should be adopted.

Section 3.4 identifies the importance of recognising natural hazards and provision for avoiding or mitigating their effects. As with Section 3.2, the policies of this section do not specifically address Part II matters of the RMA but rather the mechanisms which should be implemented to ensure that the subdivision, use and development of the coastal environment is undertaken in a sustainable manner. Natural hazards are addressed in further detail in the technical report “*Hazards*”.

Section 3.5 addresses issues relating to the **maintenance and enhancement of public access to and along the coastal marine area** for activities involving the subdivision, use and development of the coastal environment. Policy 3.5.1 of this section sets out those conditions where restrictions to public access should be imposed (including areas of significant indigenous vegetation and/or significant habitats, protection of Maori cultural values, public health and safety, security or other exceptional circumstances). In all other cases, public access should be provided as a matter of national importance, relevant policies include the following:

*“Policy 3.5.2*

*In order to recognise the national importance of enhancing public access to and along the coastal marine area, provision should be made as far as practicable:*

- (i) the location and extent of places where the public have the right of access to and along the coastal marine area;*

- (ii) those places where it is desirable that physical access to and along the coastal marine area by the public should be enhanced; and*
- (iii) those places where it is desirable that access to the coastal marine area useable by people with disabilities be provided.*

*Policy 3.5.3*

*In order to recognise and provide for the enhancement of public access to and along the coastal marine areas... policy statements and plans should make provision for the creation of esplanade reserves, esplanade strips or access strips where these do not already exist, except where there is a specific reason making public access undesirable.*

*Policy 3.5.4*

*Policy statements and plans should as far as practicable identify the access which Maori people have to sites of cultural value to them, according to tikanga Maori.”*

Policy 3.5.1 of the NZCPS is considered particularly significant, as it establishes a clear prioritisation of values outlined in section 6 of the RMA. The RMA does not provide any mechanism to rank or order those matters in either section 6 or 7 (though there is clear weighting between these sections). In contrast, the NZCPS, while recognising that the provision of public access to and along the coastal marine area is a matter of national importance, clearly places this matter as secondary to other matters (for example to areas of significant vegetation and/or significant habitats of indigenous fauna, to the protection of Maori cultural values, and to other exceptional circumstances).

In addition to the provision of public access to and along the coastal marine area, the coastal environment is recognised as an important recreational resource for the Wairarapa community. In recognition of this, and taking into account the role of the various councils in the provision and management of reserves and public open space, the technical report “*Access and Recreation*” specifically addresses issues relating to recreation and reserves in the Wairarapa coastal environment.



## 2.3 Regional Policy Statement

The Wellington Regional Policy Statement 1995 (RPS), provides an overview of the resource management issues of the region, outlining objectives, policies and methods to achieve integrated management of the regions resources.

A number of sections of the RPS are relevant to the Wairarapa Coastal Strategy. These objectives and policies are required to be consistent with the RMA and NZCPS. For the sake of avoiding repetition, only those objectives and policies that provide additional management guidance to that provided in the RMA or NZCPS have been provided here. The RPS is due for review in 2005 and it may be reviewed as a result of the Wairarapa Coastal Strategy process.

### (1) Tangata Whenua Values

Chapter 4: *The Iwi Environmental Management System*. This chapter of the RPS provides an overview of resource management matters of significance to Maori. This is of relevance to the development of strategic objectives and policies for management of the Wairarapa coastal environment.

Reference is made in objectives 1 to 4 to:

- € Developing and maintaining a satisfactory relationship between the Wellington Regional Council and iwi of the region;
- € Taking into account the principles of the Treaty of Waitangi; and,
- € Increasing opportunities for tangata whenua to exercise kaitiakitanga, and meet cultural aspirations and tikanga of tangata whenua with regards to natural and physical resources.

To achieve these objectives, Policy 1 seeks to develop an understanding of, and recognising the relationship between rangatiratanga and kawanatanga in the management of resources. Policies 2 to 8 support the active participation of tangata whenua in the development of resource management policy and plans, promoting awareness of the Treaty of Waitangi and Maori management systems, and to

recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.

## **(2) Land Use and Development**

Chapter 14: *The Built Environment and Transportation*. This chapter of the RPS addresses land resources and the management of land use from a regional perspective. The objective for the management of the built environment and transportation is identified in Objectives 1 to 3 which notes the need for urban areas, the built environment and transportation systems to *use resources efficiently, moderate demand on finite resources, avoid remedy or mitigate adverse effects, and maintain environmental quality in urban areas.*

Particular policies which address the planning context established by the RMA and are considered of relevance to the management of the Wairarapa coastal environment include:

*“Policy 2*

*To use natural and physical resources efficiently in the development of urban areas and in use of the built environment by:*

- (1) Encouraging forms of urban development that reflect efficient use of resources; and*
- (2) Avoiding, where practical, the use of new resources, particularly non-renewable resources.*

*Policy 7*

*To take account of regionally significant effects on the environment of any new use or development, the size, function or location of which is likely to give rise to those effects.*

*Policy 8*

*To promote a high level of environmental quality in urban areas by:*

- (1) Encouraging good urban design;*
- (2) Enhancing and protecting amenity values; and,*
- (3) Maintaining and enhancing natural areas and protecting those places, features or buildings with significant heritage, ecological, cultural or landscape values.”*

### **(3) Coastal Environment**

The coastal environment is addressed directly in Chapter 7 of the RPS. The objectives reflect provisions outlined in Part II of the RMA and the NZCPS. In particular, Objective 1 seeks the protection of the natural character of the coastal environment through:

- “(1) The protection of nationally and regionally significant areas and values;*
- (2) The protection of the integrity, functioning and resilience of physical and ecological processes in the coastal environment*
- (3) The restoration and rehabilitation of degraded areas; and*
- (4) The management of subdivision, use and development, and the allocation of resources in the coastal environment so that adverse effects are avoided, remedied or mitigated.”*

Policy 1 then lists in order of priority, the level of protection to be awarded to areas of national or regional significance, features or sites of historical or cultural significance, and finally general requirements for the protection of specific components of natural character.

*“To give effect to the following matters when planning for and making decisions on subdivision, use and development in the coastal environment:*

- (1) Protection, from all actual or potential adverse effects, of areas of nationally or regionally significant indigenous vegetation and significant habitats for indigenous fauna, including those listed in Table 8.*
- (2) Protection of the values associated with nationally or regionally outstanding landscapes, seascapes, geological features, landforms, sand dunes, and beach systems and sites of historical or cultural significance, including those listed in tables 9 and 10.*
- (3) Protection of sensitive, rare or unusual natural and physical resources, habitats, amenity values and ecosystems which are unique to the coastal environment (including estuaries, coastal wetlands, mangroves and dunes, and their margins) by avoiding, remedying or mitigating adverse effects so as to preserve the natural character of the coastal environment.*
- (4) Protection of the integrity, functioning and resilience of the coastal environment in terms of the:*
  - (a) Dynamic processes and features arising from the natural movement of sediments, water and air;*
  - (b) Natural movement of biota;*
  - (c) Natural substrate composition;*
  - (d) Natural water quality and quantity, and air quality;*
  - (e) Natural biodiversity; productivity and biotic patterns; and*
  - (f) Intrinsic values of ecosystems.”*

Cape Palliser (Haurangi State Forest Park), including the lighthouse, “Kupe’s Sail” and views of the South Island are listed within the RPS as being a *regionally significant landscapes*, whereas Castlepoint scenic reserve, is listed of *national significance* for its landscape values (including the lighthouse), its indigenous vegetation and indigenous fauna. The Castlepoint Scenic Reserve is also listed as being an *outstanding natural feature* on account of its nationally significant marine benches of limestone and marine fossils.

Other features within the Wairarapa, which are listed as regionally *outstanding natural features* include Honeycomb Rock (foreshore and seabed) and Kahu Rocks, White Rock (amuri limestone) as well as the Whakataki-Mataikona coast (tongue and groove erosion patterns).

The sand dunes from Whareama River to Riversdale, as well as those at Ocean Beach, Castlepoint, White Rock and Uruti Point are listed as having *Regional Biological Values*.

Policy 2 of the RPS outlines a range of criteria for assessing subdivision, use and development within the coastal environment:

*“Policy 2*

*To consider, where relevant and to the appropriate extent, the following matters when planning for and making decisions about subdivision, use or development in the coastal environment:*

- (1) The degree to which the proposed activity will impose effects additional to those resulting from existing subdivision, use and development, and the extent to which such cumulative adverse effects on natural character may be avoided, remedied or mitigated;*
- (2) The extent to which natural character has already been compromised in an area and the need to avoid sprawling or sporadic subdivision, use or development;*
- (3) The efficient use of finite resources in the coastal environment and the viability of alternative sites outside the coastal marine area and outside of the coastal environment for the proposed activity;*
- (4) The potential impact of projected sea level rise;*
- (5) The actual or potential adverse effects of subdivision, use or development on areas of cultural or spiritual significance, heritage resources and on scenic, scientific, recreation, open space or amenity values; and*
- (6) The adequacy of provision of infrastructure services (particularly for the disposal of waste).”*

Objectives 2 to 4 of Chapter 7 of the RPS address coastal water quality, the need to enhance public access and increasing opportunities for tangata whenua aspirations to be met.

## 2.4 Regional Plans

### (1) Wellington Regional Coastal Plan

The Regional Coastal Plan, June 2000 (RCP) focuses on the sustainable management of natural and physical resources within the coastal marine area (below mean high water springs). It contains general objectives on environmental, tangata whenua and management subjects, as well as more specific objectives on topics related to specific activities within the coastal marine area including: reclamation and drainage; structures; destruction, damage or disturbance to the foreshore or seabed; deposition of substances on foreshore or seabed; exotic or introduced plants; discharges to land and water; discharges to air; taking, use damming or diversion of water; and surface water and foreshore activities.

The majority of provisions reflect those contained in the NZCPS and sections 12<sup>10</sup>, 14<sup>11</sup> and 15<sup>12</sup> and Part II of the RMA related to areas of the coast below mean high water springs, and are thereby not repeated here. Provisions with particular reference to activities above MHWS include Objective 4.1.20, which states:

*“In promoting the sustainable management of the coastal marine area, appropriate recognition is given to integrating management of land, water and air, both within the coastal marine area, and across the line of mean high water springs.”*

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<sup>10</sup> Section 12 of the RMA imposes controls on activities within the coastal marine area, including to reclaim or drain the foreshore or seabed; on structures; disturbance to the foreshore or seabed; on activities within the foreshore or seabed that are likely to adversely affect plants or their habitat; and on occupation within the coast to ensure consistency with Part II of the RMA (discussed earlier).

<sup>11</sup> Section 14 of the RMA imposes restrictions related to the use of water, including damming and diversion to ensure consistency with Part II of the RMA (discussed earlier).

<sup>12</sup> Section 15 of the RMA controls the discharge of contaminants to air and water to ensure consistency with Part II of the RMA (discussed earlier).

This objective recognises the implications of landward activities on the coastal marine area, and vice versa. A related objective is 4.1.22, which states:

*“There is good communication between all agencies with management responsibilities in the coastal environment.”*

## **2.5 District Plans**

District plans contain management provisions from a district perspective. Under the RMA, district councils have particular responsibilities for the management of land above mean high water springs, including for subdivision, use and development. District plans are required to not be inconsistent with the NZCPS, RPS and any regional plans.

The Masterton, Carterton and South Wairarapa District Councils are in the process of undertaking a review of existing planning provisions with the purpose of preparing a combined District Plan. The plan is likely to be notified in 2003, following completion of the Wairarapa Coastal Strategy process. Given that district plan provisions are likely to change, this Chapter does not attempt to undertake a thorough review of each plan.

A summary of plan provisions relevant to the coastal environment based around the key management themes of Coastal Heritage, Maori/Iwi; Significant Landscape/Natural Character; Hazards; Access and the extent to which these provisions are consistent with the Regional Policy Statement is contained in Appendix 1. In providing a comparative analysis, this table provides an overview of the degree to which the various plan provisions satisfy the requirements of Part II of the RMA.

From this summary it can be seen that where particular issues are identified in the RPS, these are not necessarily translated to corresponding objectives, policies or rules within the various district plans. This is particularly so for features identified within the RPS as being nationally or regionally significant areas. Where rules are contained within district plans, these do not provide specific guidance on which features should

be protected, or how to protect other significant features which are not identified in the RPS.

Other issues include:

- ∄ Variable definitions of ‘coastal environment’. This varies greatly in extent (60 metres to >1km) and level of protection offered. Defined settlement areas are excluded from these areas and its provisions.
- ∄ All the districts include policies on protecting the natural character of the coastal environment (although Carterton District Council does not refer to ‘natural character’) and protecting significant landscapes. With the possible exception of South Wairarapa District Council, only very general guidance for decision makers has been given in terms of rules, assessment criteria, lists of significant values or areas to be protected.
- ∄ There is a lack of specific detail on coastal natural hazards, instead the plans usually rely on general hazard provisions in other parts of the plan. South Wairarapa District Council has not defined a separate ‘coastal hazard area’. South Wairarapa District Council and Carterton District Council have no different development controls for a coastal hazard area. This could be because of a lack of information about natural hazards on the coast i.e. stability, sea level rise, tsunami, subsidence.
- ∄ The relationship of Maori with the coastal environment is not extensively recognised in the District Plans. The District Plans tend to rely on general heritage provisions to recognise and protect these values. Carterton District Council recognises and protects one feature of significance to Iwi along the coast.
- ∄ Provision of public access to and along the coast is recognised in all plans. All Plans make some mention of improving access along the coast, and using the consent process and voluntary mechanisms to achieve this.

## 2.6 Other Legislation

A number of other statutes will have an impact upon the planning and management of the coastal environment. These are outlined in the remainder of this chapter.

### (1) Local Government Act 1974

The Local Government Act 1974 outlines administrative and management responsibilities for regional and district councils, including such matters as land management, utility services, recreation assets, transportation and the associated provision of services.

This Act requires stopped roads along the margins of the coast (along Mean High Water Springs) to be vested in Council as esplanade reserves. The Local Government Act 1974 also establishes the means by which Council may collect financial contributions for funding the acquisition, maintenance and development of reserves.

The proposed Local Government Amendment Bill carries new provisions providing for councils to set development contributions for costs associated with the incremental provision of reserves and network infrastructure when granting resource consents, building consents, or authorisations for a service connection (clause 161). The Local Government Association stated in its submission on the Bill that this will “*resolve many problems faced by councils of districts with growing populations. Current powers which are drawn from the RMA based only on “environmental effects” have been shown to be insufficient to deal with the effects of growth on infrastructure*”.

Section 650A1(i) of the Local Government Amendment (No 2) Act allows for district councils to undertake various works in the coastal environment including the erection and maintenance of: quays, docks, piers, wharves, jetties, launching ramps, and any other works for ‘*the improvement, protection, management, or utilisation of waters within its district (subject to the controls established by the RMA)*’.



## **(2) Reserves Act 1977**

The Reserves Act has three main functions (as outlined in section 3 of the Act). These are summarised as follows:

- € To provide for the preservation and management, for the benefit and enjoyment of the public, areas of New Zealand with some special feature or value.
- € To ensure, as far as practicable, the preservation of representative natural ecosystems or landscapes and the indigenous species of flora and fauna, both rare and commonplace, which the reserves contain.
- € To ensure, as far as practicable, the preservation of access for the public to the coastline, islands, lake shores and river banks, and to encourage the protection and preservation of the natural character of these areas.

The Reserves Act makes provision for the acquisition, control, management, maintenance, preservation, development and use of public reserves, and makes provision for public access to the coastline and rural areas. Administering bodies are required to prepare management plans for their reserves, which are open for public comment and review (with an exception for most government and local purpose reserves).

The eight classifications of reserves differ in their degree of protection and public access rights. The various classifications are considered in more detail in the “*Access and Recreation*” technical report.

## **(3) Conservation Act 1974**

This Act is administered by the Department of Conservation and has a number of provisions that relate to recreational use and access to conservation lands.

The Act provides for marginal strips, which are similar to the esplanade reserve provisions in the RMA, but owned by the Crown. The purposes of marginal strips are, amongst other things, to enable public access to any adjacent watercourses or

bodies of water, and for public recreational use of the marginal strips and adjacent watercourses or bodies of water.

Section 17 of the Act deals with access to conservation areas. Entry and use of conservation areas is generally free of charge, although charges may be imposed for the use of facilities (other than paths and tracks) that are provided. Part IIIB, Section 70 of the Act requires that any trade or business conducted on land administered by the Department, or a business that services visitors, must be authorised by way of a concession. Concessionaires may, to the extent of their concession, impose charges for:

- € Access to or use of any structure, site or place;
- € The use of facilities, including camping sites or parking places;
- € People to partake in particular activities undertaken in a conservation area.

The Minister of Conservation has the power to close conservation areas to the public from time to time (s13). The Act also contains provisions for dog control, which enable the Minister to declare conservation lands as controlled dog or open dog areas.

Each conservancy is required to prepare a Conservation Management Strategy for its area of jurisdiction. In the interests of integrated management, it is important that the priorities outlined in the Conservation Management Strategy for Wairarapa are given due consideration in the Wairarapa Coastal Strategy.

The extent of conservation land and reserves are provided in greater detail in the “*Access and Recreation*” technical report.

## **(4) Public Works Act 1981**

The Public Works Act deals with the rights of central and local government to acquire private land for public purposes such as reserves (within the meaning of the Reserves Act 1977) and the procedures for acquiring and disposing of this land.

## 2.7 Private Land Rights

The issue of private land rights are often quoted as being paramount to planning legislation, and underpinning principles of democracy. The legal implications on planning provisions are, however, often misunderstood. The New Zealand legal system is based on constitutional grounds established in England<sup>13</sup>. New Zealand and England share the Magna Carta 1297, which in section 29 provides:

*“No freeman shall be taken or imprisoned, or be disseised of his freehold, or liberties, or free customs, or be outlawed, or exiled, or any other wise destroyed; nor will we not pass upon him, nor condemn him [deal with him], but by lawful judgment of his peers, or by the law of the land. We will sell to no man, we will not deny or defer to any man either justice or right.”*

The significant implication is that a person (*freeman*) may have his or her property taken (*be disseised of his freehold*) according to law (*by the law of the land*), without any requirement for compensation. Under the RMA there is a specific provision in section 85 which provides that no compensation is payable in respect of planning controls.

*“(1) An interest in land shall be deemed not to be taken or injuriously affected by reason of any provision in a plan unless otherwise provided for in this Act.”*

There are specific provisions within this section, which go on to provide a procedure for persons to follow where they claim that any planning control renders their interest in land incapable of reasonable use. As well, the requirements of section 32 of the RMA<sup>14</sup>, are intended to ensure, among other things, that there is a good justification for any planning control.

Case law indicates that the test to be inferred from section 85 is not whether the proposed plan provision is unreasonable to the owner (a question of private land

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<sup>13</sup> Kirkpatrick D, (1999) Financial Contributions and the Law.

<sup>14</sup> Considered further in Chapter 3 of this report.

rights), but whether the plan provision serves the statutory purpose of promoting sustainable management of natural and physical resources<sup>15</sup>.

## 2.8 Summary

The principle purpose of the RMA is to promote the sustainable management of natural and physical resources. However, within this goal, a number of other matters (section 6, 7 and 8) are identified as requiring particular consideration and attention. While these matters should not preclude options for the sustainable management, it is essential to give due consideration to these matters (particularly in assessing alternative sites, location and methods).

The above statutory documents provide the framework for the management of natural and physical coastal resources in order to recognise and provide for matters contained in Part II of the RMA.

Review of existing plan provisions has identified a lack of integration between the Regional Policy Statement and District Plans. The practical implication of this is that it restricts the extent to which outcomes specified in either the RPS or NZCPS, and ultimately Part II of the RMA, can be achieved.

Other legislation, such as the Local Government Act 1974 and Reserves Act 1977, provides a framework for consideration of a range of methods that can be used to assist in promoting the principles of sustainable management. These methods are considered in more detail in the following Chapter.

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<sup>15</sup> Refer for example *Hastings AV v Auckland CC* A068/01, 6 NZED 705

## Chapter 3

# Strategic Methods

The preceding chapter has outlined the statutory need to promote principles of sustainable management. To assist in promoting these principles, the RMA provides a range of “regulatory” methods generically referred to as rules. Before a rule can be adopted however, there is a requirement to consider *alternatives* and to assess benefits and costs<sup>16</sup>. Alternatives specifically referred to in the RMA include the provision of information, services or incentives, and the levying of charges (including rates). These methods are generally referred to as “non-regulatory” methods, in that they do not require, but will encourage, an individual to behave in a certain way.

This chapter does not attempt to fulfil the statutory tests imposed by section 32 of the RMA, it is not possible to determine benefits and costs until the objectives and policies have been identified. Instead this chapter introduces a range of methods that can be used to give effect to the Wairarapa Coastal Strategy. This approach is intended to assist consideration of management responses, as part of the identification of significant issues during the consultation process.

In so doing, the following types of methods are considered

- € Voluntary agreements
- € Land acquisition
- € Levying charges
- € Transferable development rights
- € Research
- € Monitoring
- € Regulation

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<sup>16</sup> Section 32 of the RMA requires regard to be had to the extent to which any such rule or other method is necessary in achieving the purpose of the Act; the reasons for and against adopting the proposed rule or other method; and the likely benefits and costs of the principle alternative means, including the extent to which it is likely to be effective in meeting the desired objective or policy, and the likely compliance costs.

- € Education
- € Provision of incentives which influence decision making
- € Provision of goods and/or services
- € Design guides

Although these methods are considered individually, effective implementation generally relies on a mix of methods. They can also readily be adopted by the District Council's, Regional Council, non-governmental organisations, Crown agencies, and by community groups.

In addition to the above methods, the following geographically based methods are also considered.

- € Structure planning processes
- € Precincts

These latter methods rely on a mix of other management approaches – such as regulation and education, within a specified geographical area. In so doing, structure planning and the use of precincts can be part of the same planning process.

## **3.1 Voluntary Agreements**

Voluntary agreements can be legally binding restrictions on landowners property rights, or maintain existing landowners property rights, but allow additional rights to third parties. As such, they can be initiated either by private landowners, or other agencies. Private landowners often prefer voluntary agreements to other methods, as they retain title over the land.

Legally binding agreements include:

- € Easements;
- € Covenants; and,

€ Trusts.

Voluntary agreements may also impose restrictions on the types of activities (e.g. vegetation clearance) that can be undertaken on private land. Wellington Regional Council encourages the preparation of conservation farm plans, as a form of voluntary management approach.

## **(1) Easements**

An easement may impose voluntary restrictions on property rights under legal agreement and provide additional rights to third parties. An example in the coastal environment would allow public access across a piece of private land to maintain access to the coast. Compensation is often paid to the landowner as part of the agreement creation.

## **(2) Covenants**

A covenant is lodged on the land title and therefore survives the sale. Any subsequent owners purchase the land with the covenant in place. The Reserves Act 1977 has provision for conservation covenants and the Queen Elizabeth II National Trust Act 1977, for open space covenants. There is also provision under section 49 and section 66(A) of the Property Law Act 1952.

The roles of the QEII National Trust are established within the QEII National Trust Act 1977 “to encourage and promote the provision, protection and enhancement of **open space** for the benefit and enjoyment of the people of New Zealand”. The Act defines open space as “Any area of land or body of water that serves to preserve or to facilitate the preservation of any landscape of aesthetic, cultural, recreational, scenic, scientific, or social interest or value”.

The QEII National Trust rarely approaches landowners to establish covenants, and relies on landowners approaching the trust. This results in significantly lower costs of establishment. Where such covenants are established, they can only be revoked with

the unanimous approval of the full board of the QEII National Trust and the landowner.

Conservation covenants are similar to open space covenants except that the covenant is between the landowner and Council. Under both types of covenants the full costs of survey, and generally 50% of the cost of fencing is provided to the landowners by respective agencies. Occasionally the Department of Conservation will assist with the cost of fencing if the area being protected has exceptional conservation value.

### **(3) Trusts**

Trusts arise when one person (the settler) gifts property to another (the trustee) to be held subject to conditions (the deed) which govern its use, and the purposes for which income and principal can be used. The trust generally has the right to manage the land subject to a funding agreement (which either the Regional or District Council may be a party to). The QEII National Trust is an example of such a trustee, which manages the land for conservation purposes. The functions and purposes of the QEII National Trust are also defined in the QEII National Trust Act.

Under the Conservation Act 1977, areas of land or foreshore which are held for conservation purposes, or land in respect of which an interest is held for conservation purposes (e.g. under the QEII National Trust Act), are considered as Conservation Areas and thereby afforded special protection under the Act.

In other cases agreements may exist, for example between community groups and private landowners with no restriction on property rights. In these cases landowners may give public rights of access, even though no legal right exists. Such agreements rely on the goodwill of owner and the public and where land is acquired by a new owner, early contact with the new landowner is essential to maintain any agreements. These types of voluntary agreements can be a temporary measure until the land is provided more permanent protection.



## 3.2 Land Acquisition

Land acquisition allows land to be held in public ownership, where owning the land would satisfy objectives specified in the Wairarapa Coastal Strategy, for example for purposes of maintaining access, or protecting significant natural features. Acquisition can either be through direct purchase or land swap.

Outright purchase of a block of land or gazetting<sup>17</sup> provides the greatest control, but also the greatest cost to the authority concerned. Land acquired for specific purposes can more easily be used for that purpose, e.g. public access and/or protection. There are potential cost savings of purchase if the land is identified as part of a land acquisition and disposal strategy. Such a strategy can outline land that has significant access, landscape or other values. This land can then be bought when it comes available for sale, instead of approaching the landowner before such time. The combined resources of the relevant district council, Regional Council and DOC can then be pooled to secure purchase. There is also a range of funding sources available to assist with land purchase, including the Nature Heritage Fund, and DoC's Land Acquisition Fund where the land being acquired contains significant indigenous vegetation.

In the case of land swap, parcels of land, even isolated reserve land that contributes relatively little to the quality of the coastal environment or recreation values, could be swapped or even sold to a private landowner. The land, or money is then used to acquire strategic pieces of land.

Caution is required when disposing of land however. Blocks of land perceived as currently having little or no value need to be assessed in a broad context to determine where they fit in a long-term strategy. The land may, for example, have heritage values that have not fully been recognised. A land acquisition and disposal strategy, should therefore be developed which considers the various values of the land.

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<sup>17</sup> For example under the Reserves Act 1977.

Disposal or exchange can open up strategic opportunities and meet both Wairarapa Coastal Strategy and landowner objectives. However, provision of land that contributes to values ascribed to the coastal environment (for recreation, landscape, ecology etc.) should be a determinant of developing a reserve network, and not simply allowed to be those areas left over after development has occurred.

### 3.3 Levying Charges

Levying charges are commonly used to recover the costs of infrastructure investment as development and use occurs. In some cases these charges are listed in district planning documents as **financial contributions** under the RMA, and are therefore able to be imposed as conditions of consent to recover *environmental*<sup>18</sup> costs resulting from development. Such contributions can include money, land services or works. The key requirement, however, is that financial contributions imposed under the RMA must be for resource management purposes.

Aside from recovering direct costs of infrastructure investment, there is also provision under the RMA for reserve contributions to be taken by district councils as a financial contribution where new residential subdivision occurs. The regime for reserves contribution is also dictated by requirements outlined in district plans. As with land acquisition, reserve contributions are most effective when they are implemented as part of a wider strategy. The Wairarapa Coastal Strategy should provide the context for such a strategy. On completion of the Wairarapa Coastal Strategy process, it may be necessary to review the various council reserves.

By levying charges it may be possible to discourage certain forms of behaviour that would otherwise have adverse effects on either the environment or affected communities. At the same time, any administrative policies should encourage

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<sup>18</sup> Imposition of financial contributions under the RMA must be in accordance with: Council's functions under section 31; Part II of the RMA; the Council's duty under section 32 of the RMA; and any regulations made under the RMA.

behaviour that benefits the environment. Charges must bear a proper relation to the cost of providing the service or performing the functions.<sup>19</sup>

In the case of infrastructure investment, the level of the charge will impact the extent to which an individual is willing to undertake activities that are to be serviced by the new infrastructure investment. Therefore, in determining an appropriate levy, it is necessary to determine the percentage allocation of costs. For example, how much of the cost will be met by new development versus existing activities, and how much should be met by the public in general. The allocation of charges affects the long-term viability of development and investment in an area, and thereby requires robust economic analysis.

Detailed principles relating to charging of fees for particular matters are set out in the Audit Office and Treasury guidelines. The Audit Office guidelines require a public sector agency to consider a number of factors when setting or reviewing fees and charges. The fee setting process must include a determination of the costs of resources required to produce an output, apply an appropriate method for calculating fees or charges, and consider other relevant administrative aspects. The Treasury in its guidelines requires that charges set are not excessive in relation to the costs incurred and that charges are appropriate and fair.

### **3.4 Transferable Development Rights**

This mechanism depends upon having formalised District Plan rules for property development, which can be granted, or transferred to another site, for satisfying objectives contained in the Wairarapa Coastal Strategy. For example, current rights to subdivide can be transferred from areas where it is considered that the adverse effects of subdivision and development cannot be avoided, remedied or mitigated, into less sensitive and more suitable recipient areas. This approach has been adopted in

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<sup>19</sup> In determining an appropriate charge, the fundamental constitutional principle applies that Parliament, and Parliament alone, can levy money for the Crown. Case law establishes that a charge may in fact be a tax by

Rodney District's Plan Change 55, which enables the transfer of titles into its countryside living town zones, in exchange for forfeiting the right to develop existing 'loose' titles in the general rural areas. This enables existing reasonable expectations of development to be realised by landowners, but directed into locations where the effects on landscape values can be more readily avoided or mitigated.

The efficient use of this approach relies on the transparency of the process, and what it is attempting to achieve, through specific plan provisions.

## **3.5 Research**

Research is necessary to identify the potential impacts of land use activities, or changing values on specific areas, or on the coastal environment in general. Ongoing research is necessary to review the validity of any strategy. Research is also essential where information gaps are present, including where the impacts of coastal processes are unknown. The formulation of the Wairarapa Coastal Strategy should follow a coordinated research programme that identifies information gaps and areas for future research. Consequently, the need to continue to undertake research should be included within the final Wairarapa Coastal Strategy.

Research is also necessary when considering the need or otherwise to acquire, protect or otherwise manage the effects of activities on land. In many cases this research can be provided as part of resource consent applications, however, a strategic overview needs to be formulated to recognise the effects of incremental change. Research will also need to be undertaken independently of information provided as part of resource consent applications, to ensure the objectivity of data.

The final format of the Wairarapa Coastal Strategy should form part of a strategic overview and will provide information on the purpose of research and ways in which information can contribute to an understanding of wider environmental effects.

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another name. In such cases the fee or charge is invalid. However, a charge will not be considered to be a tax if the amount charged is merely for recovering administrative costs reasonably incurred in regulating an activity.

## 3.6 Monitoring

Monitoring the effectiveness of RMA plans and the exercise of resource consents is a statutory requirement<sup>20</sup>. The Wairarapa Coastal Strategy process can assist with monitoring requirements by confirming those issues that require ongoing monitoring.

The success of monitoring can be greatly improved by engaging community based groups to monitor the state of the coastal environment. The Wairarapa Coastal Strategy consultation process is thereby an opportunity to review some of these monitoring arrangements. A monitoring framework should also be included within the Wairarapa Coastal Strategy.

## 3.7 Regulation

There are several statutory planning levels through which the provisions in the Wairarapa Coastal Strategy can be given effect to. These have been considered in Chapter 2 of this report. Resource Management Act plans which can control activities within the coastal environment, include the Regional Coastal Plan, District Plans (and specifically the combined District Plan which is being prepared), Regional Soil Plan, Regional Discharges to Land Plan, and the Regional Freshwater Plan.

Examples of the range of statutory techniques available in plans prepared under the RMA are summarised in the table below<sup>21</sup>:

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<sup>20</sup> Section 35 requires every local authority to monitor the state of the whole or part of the environment; the suitability and effectiveness of policy statements or plans; the exercise of functions, powers and duties; and the exercise of resource consents.

<sup>21</sup> This list is based on MFE's (2000) *Protecting Rural Amenity Values The impact of development on rural landscape values*

- € Differentiating activity status for activities: permitted, controlled, limited-discretionary, discretionary or non-complying<sup>22</sup>.
- € Bulk and location requirements for buildings (e.g. maximum height, minimum yard or gross floor area), defined according to zones or management areas
- € Control over the scale or type of various activities, e.g. retail shops, tracks earthworks or subdivision.
- € Requirements to vest land (land acquisition), or access across land, as a condition of subdivision development.
- € Identification of special areas where there are additional restrictions on development, e.g. a 'coastal protection area' or precinct.

Further analysis of the relative advantages and disadvantages of each technique can be found in MFE's (2000) *Protecting Rural Amenity Values: The impact of development on rural landscape values*.

Once the Wairarapa Coastal Strategy is complete, changes to the various planning documents can be sought to accommodate the intent of the Wairarapa Coastal Strategy. The advantage of this is that where development that may potentially affect the coastal environment occurs, and where that development requires reference to a plan for consent, the potential effects can be evaluated under the statutory regime of the RMA and a decision about the development made accordingly. This regime also enables enforcement provisions to be engaged against those who do not act in accordance with the provisions of RMA plans.

Aside from the regulatory provisions provided through RMA plans, the Local Government Act allows District Councils to invoke bylaws regarding the control of such issues as dogs, rubbish and car parking. Under this regime, fines can be imposed on individuals who act in contravention of a bylaw. Bylaws are useful when these specific nuisance types of issues have been identified as detracting from the

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<sup>22</sup> The RMA imposes a range of assessment criteria depending on activity status. Resource consent is not required for a permitted activity. Applications for controlled activities must be granted, but can be subject to conditions. The assessment criteria for a non-complying activity are more stringent than those for a discretionary activity.

environmental quality of the coast identified in the Wairarapa Coastal Strategy. Caution should be exercised when relying on this approach for more than a limited range of issues. The Court has expressed reservations about the use of bylaws for resource management matters. The process for making bylaws does not allow for public participation, in contrast to plans, and changes prepared under the First Schedule of the RMA.

## **3.8 Education and Awareness**

The purpose of education is to help the community be aware of and understand coastal values identified within the Wairarapa Coastal Strategy, and how the range of methods (both regulatory and non-regulatory) can work for and against those values. Examples include:

- € The publication of reports detailing the state of the coastal environment.
- € Information pamphlets on particular coastal issues.
- € Consultation processes which are part of wider planning processes, for example the process associated with preparing the Wairarapa Coastal Strategy.
- € Consultation processes associated with resource consent applications.

Where appropriate, frameworks for consultation can be included within the Wairarapa Coastal Strategy. For example where particular areas or issues are involved, or with particular stakeholders e.g. iwi.

Education is often a critical component to the success of other methods, including adoption of covenants, easements etc. It can also result in an informal level of protection to significant features until more permanent protection can be given.

## 3.9 Incentives

Incentives are intended to influence decision making by private landowners. They may take the form of:

- € Financial encouragement or grants to a landowner to protect and/or manage a block of land in a certain way, or for fencing costs associated with the creation of an easement, or covenant.
- € Public recognition or an award, for a landowner who agrees to voluntarily comply with a desired land management activity to help the Wairarapa Coastal Strategy to be realised.
- € Promotion of community action groups, such as beachcare. Programmes undertaken by such groups could include the restoration and enhancement of highly valued natural areas and clean beach campaigns.
- € As a form of incentive, commercial sponsorships can be used to provide financial or other resources to assist with a project, such as works associated with protecting the coastal values of an area.
- € Rates relief can be provided to those private areas of land which provide substantial public benefit, such as access, or which otherwise satisfy Wairarapa Coastal Strategy objectives by being retained in their existing state.
- € Resource consent fee waivers

Wellington Regional Council can fund up to 35% of fencing on some areas of native bush for properties that have prepared conservation farm plans. In other cases, where conservation farm plans haven't been prepared, WRC will contribute 25% for costs. If the area also qualifies for QEII National Trust assistance, the Trust and landowner can meet the remaining costs.

As with voluntary agreements, where land is involved it will not be legally protected, the success of this method relies on the goodwill and commitment of the landowner. Incentives are generally viewed as a means of maintaining or improving an areas coastal values in the short term.



## **3.10 Provision of Goods and Services**

The provision of goods and services can also be used to provide an incentive to community groups, private developers or landowners to promote Wairarapa Coastal Strategy objectives. Examples of services to community groups include the provision of free advice to community beachcare, landcare or coastal protection groups. Goods may include fencing, trees or native plants.

In other cases direct funding may be more appropriate, for activities such as the fencing of significant dunes to ensure long-term protection. The provision of direct funding is highly dependant on the annual allocation of funds through the Annual Plan process. An individual, or organisation can make submissions on this process however, seeking to increase the amount of funding available for particular uses.

## **3.11 Design Guides**

Design Guides are non-statutory documents, which outline good planning techniques to achieve coastal objectives. In so doing, they can be used by landowners or developers in the design of a subdivision or development. They are more commonly associated with subdivision and can include provisions to ensure that development is in accordance with the amenity and character of an area. Some design guides are assessed in a statutory context as being one consideration which the council takes into account in deciding whether or not to grant consent, providing more certainty as to what types of development meet Council objectives. Other design guides have been adopted by some council's to determine the form of physical works, e.g. landscape planting, which the council is responsible for. In terms of coastal environment, design guides can be applied to the location and appearance of buildings, road layout and landscape or extent of tree planting to meet Wairarapa Coastal Strategy objectives.

Codes of Practice are a form of Design Guide.

## 3.12 Structure Plans

Structure plans can be included in district plans to define the allotment pattern and overall layout of roads, open-space and protection areas for any future development of specific areas. Structure plans are usually developed for areas that are likely to be under pressure for development in the immediate future.

The purpose of structure plans is to:

- ∄ Define a vision for future growth and plan for that growth;
- ∄ Provide a broad framework within which landowners and developers can prepare development proposals in a flexible manner while maintaining an integrated approach to resource management;
- ∄ Provide a guide to the staging of infrastructural services, which in turn will provide a basis for coordinated development; and
- ∄ Confirm costings as a basis for development levies and financial contributions required for the development of an area.

This approach can be used where it is recognised that development along the coast is inevitable, and seek to manage such development to restrict it to the most suitable areas and the most suitable form. Management is generally achieved through zoning provisions of district plans, or precincts, which control the type and effects, of development. The success of the process relies on the extent to which development outside of future growth areas is discouraged, and the extent to which identified future growth areas are consistent with market requirements. The process thereby relies on understanding demographic growth rates, market expectations, servicing requirements, and potential environmental effects.

Areas where the structure planning approach could be considered are Castlepoint and Riversdale Beach, on account of the regionally and nationally significant values and landscapes in these areas and the inherent development pressures associated with high levels of access and nearby coastal settlements.

### **3.13 The Use of Precincts**

Precincts are a spatial tool which apply a range of methods to specific sites. The use of precincts can be based on the physical, amenity, or other attributes of an area and the adoption of methods is intended to satisfy objectives identified for that area. More than one precinct can be used to apply to an area which has a range of values. Precincts can be used to either prevent or encourage development within an area. For example, where physical constraints makes the area more susceptible to the risk of natural hazards; the significance of particular physical features renders the need to prevent damage to the area. Alternately precincts can identify areas that have already been substantially developed and are more suitable for residential or other development. Precincts could, for example be applied to areas of Riversdale Beach, Castlepoint settlement, road termination points on the coast, and accessible beaches to recognise the range of values and access opportunities that these areas have.

### **3.14 Summary**

Section 32 explicitly requires councils to examine mechanisms other than regulation for achieving the purpose of the RMA, or for achieving objectives in a plan. If the analysis demonstrates that the most appropriate method is one that involves spending money, then the council must ensure that this cost is provided for in its annual planning process under the Local Government Act. The primary difficulty when addressing the coastal environment is that the various methods are often applied at many different management levels, by various authorities. For this reason, the Wairarapa Coastal Strategy should provide strategic guidance on effective use of all of these tools by each of the councils.

Non-regulatory approaches rely on goodwill rather than permanent legal protection. The key to success is the public support and level of buy-in to the strategy, which may otherwise seem vague and obscure. For this reason, consultation is essential, and needs to identify the range of mechanisms available for achieving objectives.

## **Chapter 4**

# **Assessment of Methods**

The preceding chapter has outlined a range, or possible mix, of methods that can be used to achieve objectives of the Wairarapa Coastal Strategy, once these are identified. This Chapter provides a brief overview of the advantages and disadvantages of the various methods, including the desired changes in behaviour able to be implemented. Further analysis on the relative costs and benefits will be possible once issues, objectives and policies of the Wairarapa Coastal Strategy are identified.

For ease of analysis, the various methods have been condensed into the following generic principles, which underlie each of the methods:

- € Provision of information
- € Regulation
- € The provision of Goods and Services
- € Providing Incentives.

## **4.1 Information**

The purpose of information/education is to inform landowners, or the public, and to modify behaviour as a result. The provision of information differs from consultation, in that it is a one-way flow of information. Consultation processes can, however, enable the development of community relationships essential to the success of any information delivery phase.

The primary advantage of information is that it does not lock up resources, and is thereby far more responsive to changes in circumstance. It also does not infringe on land rights and is thereby more likely to result in popular support. The relative costs of education are much lower than regulation or land acquisition.

The primary disadvantages of education are that it relies on accurate information. Where information gaps are present, there is no ability to adopt a precautionary approach. It also relies on the good will of those involved, which in some cases may be lacking. Information can also be misconstrued, as a result of it not being tailored to the receiving audience, or being confused with other information. Too much information is likely to confuse an issue.

## 4.2 Regulation

Regulatory methods include RMA plan provisions, the restrictions imposed on QEII National Trust Act 1977 and the Property Law Act 1952 (covenants and trusts). Regulation is supported by a governing legislation, which determines the instances where particular rules or other requirements can be invoked, and for what purposes.

### (1) RMA Plan Provisions

The Ministry for the Environment has identified the possible costs to resource users, council and the region of adopting regulatory methods prescribed in the RMA<sup>23</sup>. These are summarised below.

Sources of possible **costs to resource users/property owners**:

- € Challenging the plan provision
- € Foregone production or income, or reduced asset value (opportunity costs)
- € Modifying activities to address effects
- € The consent application process, including obtaining the necessary information (compliance costs)
- € Modifying activities to comply with the terms and conditions of resource consents
- € Carrying out off-setting activities
- € Financial contributions
- € Uncertainty about what is required by the plan, what will be acceptable under the plan and with delays in obtaining a decision

<sup>23</sup> What are the options? A guide to using section 32 of the RMA Ministry for the Environment July 2000

€ Any charges imposed by the council.

Sources of possible **costs to the council:**

- € Developing the plan provision
- € Getting the plan provision approved (potentially high if a challenge goes to the Environment Court)
- € Dealing with enquiries about plan requirements
- € Consent application processing, net of charges to the applicant (cost will vary according to the number and type of expected applications)

Most of the costs to council are considered as part of the cost of democracy. They are legislative requirements and consequently methods are available to councils recover such costs.

Sources of possible **costs to the community/region/nation:**

- € Reduced economic activity, reduced employment and the consequent social effects arising from the opportunity costs borne by resource users/property owners
- € Reduced economic efficiency from interventions when prices reflect social opportunity costs
- € Impaired relationships between groups within the community, arising from provisions that are perceived to be unfair, inappropriate or unacceptable

Weighted against the potential costs, are the following **benefits:**

- € Methods to protect significant landscapes or heritage may give financial benefits to tourism operators.
- € Methods to improve land-use sustainability and riparian management may improve the productivity of farms.
- € Rules giving resource users access to public resources such as water usually give financial benefits to those resource users.
- € Rules permitting increased subdivision often result in financial benefits for those landowners newly permitted to subdivide (but may have financial costs for landowners who were already permitted to subdivide), provide a benefit in terms of living environment to those who live on the new lots, and provide a benefit to the community in the form of increased choice of living environments.

- € Methods that give financial benefits to individuals and firms may provide flow-on economic benefits to the community, depending on the extent of any financial costs imposed by the method.
- € A plan provision that results in prices better reflecting social opportunity costs may increase economic efficiency.
- € A plan provision that requires the council to consult with particular parties confers a benefit on those parties.
- € Means of implementation that contribute to achieving a council's strategic goals yield a benefit to the council.

The primary advantage of relying on RMA plans is that processes of transparency and accountability are ensured. Appeal rights for potentially affected parties are also secured. They also enable assessment against site specific, regional or national considerations. Where issues are less clearly defined, or cause and effect is not clear, a precautionary approach can be adopted thereby preventing potentially irrecoverable damage. The RMA process also recognises the environmental costs of land use, and development, and attempts to allocate these more equally.

The primary disadvantage of RMA plans is that they lock in resources for the lifetime of the plan. They are not, thereby, as responsive and adaptive as non-statutory methods. Furthermore, where objectives and policies are ambiguous, the strategic nature of these plans can often be lost. Another disadvantage occurs where new rules are imposed without the support of affected communities (such as preventing the clearance of indigenous vegetation). In these cases the rule may pre-empt behaviour which anticipates the introduction of the rule (such as clearing indigenous vegetation before the rule is introduced), and thereby nullifies the purpose of the rule. In other cases, the behaviour (such as indigenous vegetation clearance) may pre-empt the rule, creating a situation where regulation is imposed after damage has occurred or (closing the gate after the horse has bolted).

RMA rules are generally considered as infringing on private land rights to a greater extent than voluntary agreements.

Many of the disadvantages of RMA plans can be overcome by combined use of a range of non-statutory methods in conjunction with rules. Whatever method is adopted, consistency with regulatory methods is considered critical to the success of the Wairarapa Coastal Strategy. If there are inconsistencies between the Wairarapa Coastal Strategy and the various plans, these will be targeted in any hearings in the Environment Court. The Wairarapa Coastal Strategy is less likely to be overlooked or undermined if it is represented consistently in more than one set of statutory documents.

## **(2) Covenants**

The advantage of covenants is that they can be targeted to achieve particular outcomes, and tailored to particular requirements. For example covenants can restrict public access during particular times of the year, or rely on contributions to the landowner for the cost of maintaining e.g. fencing. Land access may, thereby, not be secured for 100% of the time.

Covenants are more likely to achieve particular objectives if the landowner initiates them, or if they are offered as mitigation on a resource consent application. If Council initiates the process, it is likely to be in a weaker negotiating position and the issue of compensation for actual or perceived loss is a determining factor. Another disadvantage of covenants is that land ownership remains with the owner, so there is less control than land purchase.

## **(3) Trusts**

The principle advantage of trusts relates to their ability to attract community support, expertise and funding that would not otherwise be directly available. Trusts are also perceived as being more independent, and with less political interference.

The disadvantage relates to the additional establishment and administration costs and the loss of direct control of the asset which is gifted to the trust. Where Council establishes a trust it can influence its direction, by carefully specifying the purposes of the trust and the 'deed', and by retaining the right to appoint 'trustees'. Where



Council appoints trustees it is generally expected to reimburse them for their involvement.

## **(4) Reserve Contributions**

Unlike other forms of land acquisition, if managed well reserve contributions provide the advantage of allowing key areas identified in the Wairarapa Coastal Strategy to be set aside as part of subdivision at no direct cost. If the subdivision will not impinge on the quality of the coastal environment, then a monetary contribution can be taken which can be assigned to a fund for the achievement of the strategy in another form.

Reserve contributions do, however, impose additional management costs, where new land is vested in council. Management costs and responsibilities for management are an important consideration in deciding whether to acquire new reserves.

## **(5) Transferable Development Rights**

The disadvantages of transferable development rights is that recipient areas, or criteria for recipient areas, for any transferred allotments must be carefully chosen. The nature of the development permitted within these areas must be carefully managed to ensure that any adverse effects on landscape values are not simply being transferred from one location to another. In some districts this is achieved by only permitting transfer of subdivision rights to already zoned and identified areas. In other cases, a resource consent process addresses the suitability of both the donor site and the recipient area.

It can be argued that if development in the recipient area is appropriate following the transfer of subdivision rights from another location, why is it not appropriate without relying on such a transfer?

There also needs to be demand for residential allotments within the recipient area for there to be any incentive to transfer the subdivision right there from the donor site. Where the owners of donor sites do not own land in the recipient area, there can be delays and costs involved in achieving suitable arrangements between separate landowners.

Adequate mechanisms need to be put in place to prevent the further subdivision of the donor site in the future.

## **4.3 Provision of Goods and Services**

The delivery of goods and services can be used in those sites where groups or individuals are otherwise unable to meet the costs associated with promoting objectives of the Wairarapa Coastal Strategy. The greatest advantage occurs where there is an equal commitment from council and either the landowner, or community group. In these cases the investment of goods or services is less likely to be undermined.

The delivery of goods and services includes the gathering of information and monitoring. These services are core district and regional council functions and funding should be provided in annual plan provisions, as well as resource management plans. It will be necessary to identify funding priorities and the extent to which information and monitoring should be undertaken, in the development and final implementation of the Wairarapa Coastal Strategy.

The disadvantage of monitoring is that it relies on a baseline of data. Where the practical implications of this baseline are unclear, further research should be adopted. The delivery of goods and services does not result in long-term protection, and instead relies on the availability of councils or community groups to commit funds over the long term. It's effectiveness as a method is thereby limited in duration.

## 4.4 Incentives

Incentives can provide a financial or social reason to satisfy Wairarapa Coastal Strategy objectives. Such incentives include voluntary land acquisition, awards and sponsorship.

Aside from the high cost, outright land purchase relies on a willing seller. The costs of land purchase can, however, be minimised if the land is identified as part of a coastal land acquisition and disposal strategy, which enables land to be bought as it comes onto the market. The significance of acquiring land in a strategic manner is also highlighted by maintenance costs of additional land, and the fact that disposing of public land is not a straightforward exercise and imposes considerable administrative costs and time delays.

Awards provide social recognition for activities that meet the objectives of the Wairarapa Coastal Strategy. The advantage of rewards is that they also provide information on the issue, and ways in which to improve management.

As a form of incentive, sponsorship can be seen to commercialise a project. Alternatively sponsorship can add considerable resources and enable an activity that otherwise could not occur.

The primary disadvantage of incentives is that they do not secure protection of land beyond the timeframe of the existing owner. This approach is thereby considered as being a short-term solution.

## 4.5 Land Acquisition

Land can be purchased by any of the district councils, the Regional Council or DOC from private landowners which satisfies coastal objectives.

Aside from the high cost, outright land purchase relies on a willing seller. The costs of land purchase can, however, be minimised if the land is identified as part of a

coastal land acquisition and disposal strategy, which enables land to be bought as it comes onto the market. The significance of acquiring land in a strategic manner is also highlighted by maintenance costs of additional land, and the fact that disposing of public land is not a straightforward exercise and imposes considerable administrative costs and time delays.

## **4.6 Summary**

A range of methods have been identified which can be used to manage the coastal environment in order to promote principles of sustainable management outlined in Part II of the RMA.

Each method has distinct benefits and limitations related to duration, the types of adverse effects that can be managed, and how the method can be applied to particular sites. Where methods preclude solutions of long-term duration, it is possible to adopt shorter term, non-regulatory solutions, such as voluntary agreements, or incentives. In such cases, these methods may facilitate the development of more permanent protection, and remove the need for regulatory approaches.

As a management method, research, monitoring and education are significant and should be associated with any attempts at managing resources. The significance of research and monitoring is recognised as a statutory requirement, however education is equally as significant and should not be overlooked.

Each of the methods have application to issues of hazards, heritage, landscape, natural environment/ecology, built environment/infrastructure, access and recreation, land use and development. The suitability of the management approaches to each issue should therefore be reviewed following completion of those technical reports.

## **Chapter 5**

# **The Way Forward**

The RMA sets out the manner in which Council and other statutory agencies shall manage and control use and development to ensure the sustainable management of natural and physical resources. Within this approach there are a number of specific matters which are afforded particular consideration and protection, these are the subject of this technical report.

The strategy parameters identified in the previous chapters must be combined with findings from the technical reports to formulate an integrated strategy for coastal environmental management, land use planning, asset and infrastructural planning and investment and recreation planning. It is intended that the findings from this process will be formulated in the Wairarapa Coastal Strategy.

In addition, the following specific actions are recommended in regard to the recognition, management and protection of those matters identified in Part II of the RMA:

- € That a range of regulatory and non-regulatory methods be employed along the coast, particularly where sites are identified as requiring specific protection or enhancement.
- € That area specific strategy and structure plans be prepared for any areas of residential and/or recreation development (e.g. Castlepoint, Riversdale Beach), including any new or proposed settlement areas, to ensure that those matters identified in this report are recognised, provided for and where warranted protected.
- € That discussions be held with the Department of Conservation regarding the potential to integrate management and conservation approaches.
- € That discussions be held with local Iwi and other tangata whenua groups to canvas options for greater tangata whenua involvement in management and monitoring programmes in the coastal environment.

- € That monitoring and assessment is undertaken in regard to Part II matters, for those areas of the rural coast where public access is proposed, or where new development proposals or pressures emerge.
- € That the reserves and public open space policies, and the asset management plans of the participating council's be reviewed to ensure consistency with the Wairarapa Coastal Strategy and that councils consider the viability of delegating some management responsibilities of council reserves.
- € That policy statements, plans and strategies prepared under the RMA and other acts be amended to ensure consistency with the Wairarapa Coastal Strategy.

# References

## References:

Browne, V., Quayle, R., McNeill, J. (1998). *Strategies for sustainable management: The use of non-statutory documents*. In Planning Quarterly June 1998.

Hurunui District Council (1999) *Hurunui District Rural Subdivision Guide*

Kirkpatrick, D. (1999) *Financial Contributions and the Law*. A Presentation to Resource Management Law Association Conference 1999.

Ministry for the Environment (2000) *Impact of Rural Subdivision and Development on Landscape Values*.

Ministry for the Environment (1992) *Landscape Values*

Ministry for the Environment (2000) *The impact of development on rural landscape values*

Ministry for the Environment (2000) *What are the options? A guide to using section 32 of the RMA*

Ministry for the Environment (2000) *Protecting Rural Amenity Values The impact of development on rural landscape values*

Wellington City Council (2000) *Capital Spaces, Open Space Strategy for Wellington City*

## Resource management plans

Carterton District Plan

Masterton District Plan

South Wairarapa District Plan

Wellington Regional Discharges to Land Plan

Wellington Regional Freshwater Plan

Wellington Regional Policy Statement

Wellington Regional Soil Plan

## **Legislation:**

Historic Places Act 1993

Local Government Act 1974

Local Government (Rating) Act 2002 (2002 No 6)

New Zealand Coastal Policy Statement

Property Law Act 1952

QEII National Trust Act 1977

Rating Powers Act 1988

Resource Management Act 1991

## **Websites:**

[www.mfe.govt.nz](http://www.mfe.govt.nz)

[www.qualityplanning.org.nz](http://www.qualityplanning.org.nz)

## **Caselaw quoted:**

Browning v Marlborough District Council [1997] W20/97.

Haddon v Auckland Regional Council [1993] A77/93

Harrison v Tasman District Council [1994] NZRMA 193,197

Hastings AV v Auckland CC [2001] A068/01, 6 NZED 705

NZ Rail v Marlborough District Council [1994] NZRMA 70 (HC)

Tanui hapu vs Waikato District Council (August 1996) (A75/96)



# ***Appendices***

## **Appendix 1**

Coastal District Plan Provisions in the Wairarapa

## Current Coastal District Plan Provisions in the Wairarapa

- € RPS taken from Regional Policy Statement Chapter 7 'Coastal'.
- € MDC, CDC and SWDC refer to information from various chapters of the operative district plans for each of the District Councils.
- € Methods other than rules have not been included.

- € Where no rules refer directly to a topic i.e. Natural Character, the "assessment criteria" specific to that topic by which activities are measured have been included. General assessment criteria have not been included.
- € Some policies etc may have relevance to more than one topic; they have only been listed once in this analysis.

	RPS	MDC	CDC	SWDC
<b>Coastal Policy Area/Margin</b>				
<b>Definition</b>		<b>Coastal Management Area</b> Identified on planning maps. Generally 1km inland from MHWS, although varies as it is based on property boundaries. Castlepoint and Riversdale Beach are excluded and are managed as 'urban'.	<b>Coastal Management Area</b> Identified in <b>appendix 13A</b> , schedule of important natural features. 60 metres inland from MHWS	<b>Coastal Protection Policy Area</b> Defined on planning maps. Depth varies depending on topography, property boundaries and natural features. Coastal settlements are not included in the Coastal Protection Policy Area, and are managed under separate Settlement provisions, and the general urban provisions.
<b>Issue</b>				Management of the coastal area and the margins of lakes and rivers.
<b>Objective</b>				<b>5.5.1 (1)</b> Sustainable management of the natural and physical resources of the coastal environment.
<b>Policy</b>			<b>Policy 9.3.4</b> Ensure any subdivision and development protects any identified heritage feature or natural environment feature as identified in Appendix...13A	<b>5.5.2(4)</b> Restrict residential development to the settlements...  <b>5.5.2(7) (8)</b> Provide for commercial, tourism and limited industrial development in appropriate ways.
<b>Rules</b>		<ul style="list-style-type: none"> <li>€ <b>Dwellings</b>, residential business, community facilities, forestry, farming and reserves are <b>permitted</b>, unless they are within <b>hazard zone</b> (see below) and are subject to general rural criteria.</li> <li>€ Other activities are <b>discretionary</b>, subject to assessment criteria.</li> <li>€ <b>Subdivision</b> is <b>discretionary</b> no minimum lot size</li> </ul>	<ul style="list-style-type: none"> <li>€ All activities <b>discretionary</b> in this area, unless listed otherwise.</li> <li>€ All <b>subdivision</b> is <b>discretionary</b>.</li> </ul>	<ul style="list-style-type: none"> <li>€ <b>Dwellings</b> and other non-farming buildings are <b>discretionary</b>.</li> <li>€ Most other activities not covered by this are <b>discretionary</b>.</li> <li>€ All subdivision in policy area is <b>discretionary</b></li> <li>€ No building shall be erected within 30 metres of MHWS, this would be <b>non-complying</b></li> </ul>

	RPS	MDC	CDC	SWDC
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Coastal Heritage				
<b>Issue</b>		General Heritage provisions Chapter 12	General heritage provisions in Chapter 12 of the Plan, to protect features listed in Appendix 12A.  Identifies one heritage feature on the coast, of significance to iwi on Glenburn Road.  The Coastal Dunes at Flat Point are listed in the plan for information only, the heritage provisions do not apply to them.	
<b>Objective</b>				General Heritage objectives in part 5.7
<b>Policy</b>				General Heritage policies in part 5.7
<b>Rules</b>			<b>12.6.5</b> Removal or destruction of features or activity or subdivision in defined area listed in appendix is <b>Discretionary</b> .	General Heritage rules in part 6  <b>6.2.8(A)</b> Scheduled items may not be altered in any way. Includes: Cape Palliser lighthouse Zeuleika grave
Maori/Iwi				
<b>Issue</b>	<b>Issue 7</b> There is a need to recognise and provide for the relationship of Maori and their culture and traditions with the coast.	<b>Management Goal 17</b> To recognise Maori values by integrating Kaitiakitanga in managing the district's environment and by protecting places and resources of special traditional value to Maori.	Identifies one heritage area on the coast, of significance to iwi on Glenburn Road.	
<b>Objective</b>	<b>Objective 4</b> There are increased opportunities for the aspirations of the tangata whenua for the coastal environment to be met.	<b>Objective 3</b> The integration of the concept of Kaitiakitanga, as held by local iwi, into the sustainable management of the district's natural and physical resources, and the protection of resources of value to iwi.		<b>5.5.1 (3)</b> Recognition of areas and values significant to tangata whenua.
<b>Policy</b>	<b>Policy 7</b> To protect, where appropriate, the characteristics of the coastal environment of special value to the tangata whenua including waahi tapu, tauranga waka, mahinga maataitai and taonga raranga.	<b>Policy 10.3</b> To make provision for iwi input into the decision making process regarding the management of the coastal environment in regard to proposals affecting coastal resources of importance to iwi. <b>Policy 3.1</b> To recognise and provide for the relationship of local iwi and their culture and tradition with their ancestral lands, water, sites, wahi tapu, and other taonga.	<b>Policy 13.3.4</b> Identify and protect, as far as practicable, natural resources of importance to tangata whenua.	<b>5.5.2(10)</b> To protect in accordance with tikanga Maori, those characteristics of the coastal environment identified as being of special value to the Tangata Whenua.  <b>5.9.2(3)</b> To manage the use, development and protection of landscapes significant to tangata whenua  Other policies, indirectly related to coast.
<b>Rules</b>			<b>12.6.5</b> Removal or destruction of features or activity or subdivision in defined area listed in appendix is <b>Discretionary</b> .	

	RPS	MDC	CDC	SWDC
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## Significant Landscapes/Natural Character

<p><b>Issue</b></p>	<p><b>Issue 1</b> ...there is potential for individual developments to cause significant adverse effects. Also, the cumulative effects...increased potential for loss of natural character and damage to coastal ecosystems and landscape features. Demands to subdivide isolated rural coastal properties as a consequence of the downturn in the rural economy, resulting in sporadic development (e.g., in the Wairarapa) etc...</p> <p>There is quite limited knowledge of the nature and functioning of coastal ecosystems and coastal processes, particularly in the coastal marine area. The lack of knowledge makes for difficulties when local authorities need to make decisions about the potential effects of subdivision, use and development in the coastal environment whilst providing for the preservation of the natural character of that environment.</p>	<p><b>Management Goal 20</b> To protect or enhance resources of significant value in the context of their cultural or environmental function. Significant District Issues include:</p> <ul style="list-style-type: none"> <li>- The natural character of the coast</li> <li>- Important landscapes</li> </ul>	<p><b>Issue 13.1</b> Recognising and protecting the important natural areas and features of the district.</p>	<p>Management of the coastal area and the margins of lakes and rivers.</p>
<p><b>Objective</b></p>	<p><b>Objective 1</b> The natural character of the coastal environment is preserved through:</p> <ol style="list-style-type: none"> <li>(1) The protection of nationally and regionally significant areas and values;</li> <li>(2) The protection of the integrity, functioning and resilience of physical and ecological processes in the coastal environment;</li> <li>(3) The restoration and rehabilitation of degraded areas; and</li> <li>(4) The management of subdivision, use and development, and the allocation of resources in the coastal environment so that adverse effects are avoided, remedied or mitigated.</li> </ol>	<p><b>Objective 10</b> The preservation of the natural character of the coastal environment, with the avoidance of inappropriate subdivision, use and development.</p> <p><b>Objective 11</b> The District's outstanding natural features and landscapes will be protected and enhanced.</p>	<p><b>13.2.1</b> Recognition and protection of important natural areas and features.</p>	<p><b>5.5.1 (2)</b> The protection of the values and natural character of the coastal environment.</p> <p><b>5.9.1(1)</b> The recognition of the District's distinctive landscape types, patterns, character and values.</p> <p><b>5.9.1(2)</b> The protection and enhancement of the District's landscape by managing the effects of human activities on natural and physical resources.</p>
<p><b>Policy</b></p>	<p><b>Policy 1</b> To give effect to the following matters when planning for and making decisions on subdivision, use and development in the coastal environment: Natural values (4 clauses) and regionally and nationally significant areas including</p> <ul style="list-style-type: none"> <li>€ Cape Palliser (Haurangi State Forest Park) (R)</li> <li>€ Honeycomb Rock (foreshore and sea bed) (R)</li> <li>€ Castlepoint Scenic Reserve (R)</li> <li>€ Cape Palliser, including the lighthouse,</li> </ul>	<p><b>Policy 10.1</b> To provide for activities that would not adversely affect the natural character of the coastal environment, subject to environmental standards.</p> <p><b>Policy 10.2</b> The provision for those activities and development that may adversely affect the natural character of the coastal environment, subject to environmental standards, within areas that have already been developed.</p> <p><b>Policy 10.4</b></p>	<p><b>13.3.1</b> Identify the important natural areas and features of value by developing and maintaining a schedule of these resources in the Plan.</p> <p><b>13.3.2</b> Ensure no subdivision, use or development of land compromises the values of natural areas and features identified in Appendix 13A (includes Coastal Management Area).</p> <p><b>13.3.10</b> Avoid, remedy or mitigate the</p>	<p><b>5.9.2(2)</b> To identify and describe the particular features and characteristics of the District's landscape types and give priority consideration to landscapes of regional significance (included in RPS)</p> <p><b>5.5.2(1)</b> Ensure Council carries out its functions in RMA, NZCPS and RCP</p> <p><b>5.5.2(4)</b> Restrict residential development to the settlements...</p>

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	<p>"Kupe's Sails" and views of the South Island. (R)</p> <ul style="list-style-type: none"> <li>€ Castlepoint scenic reserve, including the lighthouse. (N)</li> <li>€ Honeycomb Rock and Kahau Rocks (R)</li> <li>€ Castlepoint Scenic Reserve: nationally significant marine benches of limestone and marine fossils (N)</li> <li>€ White Rock : amuri limestone (R)</li> <li>€ Whakataki-Mataikona coast: tongue and groove erosion patterns. (R)</li> <li>€ Dune system at Te Humenga Point (N)</li> <li>€ Dunes from Whareama River to Riversdale (R)</li> <li>€ The dunes at Ocean Beach, Castlepoint, White Rock and Uruti Point (R)</li> <li>€ Dunes west of Cape Palliser (R)</li> <li>€ White Rock to Oroī - concentration of archaeological sites</li> </ul> <p><b>Policy 2</b> To consider, where relevant and to the appropriate extent, the following matters when planning for and making decisions about subdivision, use or development in the coastal environment:</p> <ol style="list-style-type: none"> <li>(1) The degree to which the proposed activity will impose effects additional to those resulting from existing subdivision, use and development, and the extent to which such cumulative adverse effects on natural character may be avoided, remedied or mitigated;</li> <li>(2) The extent to which natural character has already been compromised in an area and the need to avoid sprawling or sporadic subdivision, use or development;</li> <li>(3) The efficient use of finite resources in the coastal environment and the viability of alternative sites outside the coastal marine area and outside of the coastal environment for the proposed activity;</li> <li>(4) The potential impact of projected sea level rise;</li> <li>(5) The actual or potential adverse effects of subdivision, use or development on areas of cultural or spiritual significance, heritage resources and on scenic, scientific, recreation, open space or amenity values; and</li> <li>(6) The adequacy of provision of infrastructure services (particularly for the disposal of waste).</li> </ol>	<p>To promote the restoration, rehabilitation and enhancement of the natural character of the coastal environment where development or activities have had an unacceptable adverse impact.</p> <p><b>Policy 10.5</b> To adopt a precautionary approach in making decisions that affect the natural character of the coastal environment.</p> <p><b>General landscape provisions</b> <b>Policy 11.1</b> To identify important natural features and landscapes within the district, and the values associated with them.*</p> <p><b>Policy 11.2</b> To protect or enhance outstanding landscapes, areas and significant views from the adverse environmental effects of activities.</p> <p><b>Policy 11.3</b> To work with adjacent local authorities in the management of landscapes or natural features of cross boundary importance.</p> <p>* No landscapes of significance are listed, although it is identified in the plan as a future project.</p>	<p>adverse effects of subdivision and development within significant natural areas or features.</p>	<p><b>5.5.2(7) (8)</b> Provide for commercial, tourism and limited industrial development in appropriate ways so that the natural character of the coastal environment is not adversely affected.</p> <p><b>5.9.2(5)</b> To protect significant landscapes from inappropriate subdivision, use and development.</p> <p><b>5.9.2(6)</b> To limit and where appropriate to control development at the interface between land and sea.</p>

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	<b>Policy 3</b> To restore and rehabilitate the natural character of the coastal environment where appropriate.			
<b>Rules</b>		<p>General Rules for the coastal area are listed above in Coastal Policy Area: Rules</p> <p>D1-1.4 Assessment Criteria for Coastal Management Area  Matter which shall be given regard to include visual impact and any measures to enhance the Nat char.</p>	<p>General Rules for the coastal area are listed above in Coastal Policy Area: Rules</p> <p>9.6.4.4 Assessment criteria for subdivisions in Coastal Management Area  ... consideration will be given to the impact on the amenity of the coastal area and any increased risk to development from coastal hazards...</p>	<p>General Rules for the coastal area are listed above in Coastal Policy Area: Rules</p> <p><b>7.2.2 Assessment Criteria</b>  (5) buildings on reserves and in Policy areas will be assessed with regard to the context and character of the area concerned, with particular regard to any requirements of the management plan, protection of historic, archaeological or natural features and landscaping provisions.</p> <p>(14) Activities in the coastal environment will be assessed in terms of the relevant provisions of the RPS , in particular 7.4 Policies 1 and 2 (see Regional Council section)</p> <p><b>7.11(8)</b> In particular the following shall be protected:  skyline ridges, knolls rock outcrops and special landform features, ...slope greater than 1 in 2, coastal cliffs and escarpments, land in the coastal environment.</p> <p><b>7.11(11)</b> (I) The building shall be sited as to maintain the integrity of the landform by not breaking the skyline profile when viewed from public locations;  (iv) Building materials and colours shall be selected to relate to the landscape.</p> <p><b>7.14.3(3)</b> Consideration should be given to the effect of the subdivision on the special characteristics of Policy Areas...  <b>(5)</b> to consider, where relevant the effects of the subdivision on the coastal environment (refers to Chapter 7 of RPS)</p>

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Hazards				
<b>Issue</b>	There is quite limited knowledge of the nature and functioning of coastal ecosystems and coastal processes, particularly in the coastal marine area. The lack of knowledge makes for difficulties when local authorities need to make decisions about the potential effects of subdivision, use and development in the coastal environment whilst providing for the preservation of the natural character of that environment.	<b>Management Goal 22</b> To minimise the risks from natural hazards and the use of hazardous substances, particularly where mitigation cannot adequately minimise the risks to the community. Significant District Issues include Natural Hazards.		
<b>Objective</b>		General Hazards Provisions Chapter 15		<b>5.5.1 (5)</b> Mitigation of coastal hazards.  <b>5.11.1(2)</b> To prevent unnecessary and undesirable development, including the erection of buildings, in the vicinity of ...the coast for the protection of conservation values and the avoidance of natural hazards.
<b>Policy</b>	<b>Policy 6</b> To adopt a precautionary approach to the evaluation of risk in making decisions that affect the coastal environment, recognising that there will be situations where there is a low probability of an event occurring, but that such an event has the potential to create major adverse effects. Such events include: (1) Earthquakes and tsunamis; (2) Maritime shipping disasters; and (3) Accidents involving release of contaminants into the coastal marine area.	General Hazards Provisions Chapter 15	<b>13.3.6</b> Ensure that subdivision and development along the coast will not be subject to erosion, subsidence, slippage or inundation from any source while ...  <b>13.3.8</b> Avoid or reduce the effects of natural hazards including, erosion, flooding and inundation on natural areas and features.	<b>5.5.2(6)</b> To ensure that development does not take place in coastal area presently subject to erosion or in sensitive areas where development could contribute to erosion...  General hazard policy section <b>5.12</b>
<b>Rules</b>		<b>Coastal hazard area</b> from MHWS As shown on map for Riversdale Beach 30 metres in Castlepoint 60 metres along rest of coast  Coastal hazard area rules prevail over those of coastal management area if there is conflict.  Buildings, subdivision, vegetation clearance and earthworks are <b>Discretionary</b> in this area.	<b>Coastal hazard area</b> is the same as Coastal management area (see above) and plan relies on those provisions to control development in hazard area.	<b>Assessment criteria</b> <b>7.14.2(1)</b> The land proposed to be subdivided should be suitable for subdivision by reference to: liability to flooding, erosion or subsidence...inundation by the sea...the stability of the land ...other natural hazard

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<b>Access</b>				
<b>Issue</b>	<b>Issue 2</b> Conflict arises from the need to maintain and enhance public access to and along the coastal marine area, and the need to protect certain areas or rights.	<b>Management Goal 19</b> To maximise public access to public resources, as appropriate, balanced with the protection of private rights.	<b>7.1</b> Preservation of the natural character of water margins. Provision for public access to and along water margins. Significant water margins includes the coast	Management of the coastal area and the margins of lakes and rivers.
<b>Objective</b>	<b>Objective 2</b> Existing provisions for public access to and along the coastal marine area remain and appropriate opportunities are taken to enhance public access.	<b>Objective 9</b> The provision of public access to natural and physical resources of significant value to the community in a manner appropriate to the value and circumstances.	<b>7.2</b> The natural character of significant water margins is preserved. Maintain and enhance public access to and along significant water margins.	<b>5.5.1(4)</b> Better public access to and along the coast where appropriate.  <b>5.11.1(1)</b> To recognise the need for public access to and the protection of the conservation values of the coast...and the utilisation of them where possible for recreation purposes.
<b>Policy</b>	<b>Policy 4</b> To ensure, in planning for or making decisions about new subdivision, use or development, that there is no reduction in the quality of existing legal access to and along the coastal marine area; and that opportunities are taken, other than in exceptional circumstances, to enhance the amount and variety of public access to and along the coastal marine area.	<b>Policy 9.1</b> To prioritise the needs for public access to areas of significant value. <b>Policy 9.2</b> To facilitate public access to areas of significant value by a systematic formation of appropriate access ways. <b>Policy 9.3</b> To ensure that private rights are protected when access to resources is created. <b>Policy 9.4</b> To ensure that conservation values are protected when access to resources is created. <b>Policy 9.5</b> To encourage the voluntary formation of access.	<b>7.3.1</b> Prioritise and protect those water margins which are significant in terms of recreational, public access, landscape and ecological values. <b>7.3.3</b> Promote access to and protection of water margins through the provision of esplanade reserves, esplanade strips, access strips and voluntary mechanisms. <b>7.3.3</b> In establishing esplanade land acknowledge the rights of private land owners.  <b>13.3.6</b> Ensure that subdivision and development along the coast will not be subject to erosion, ... while maintaining and enhancing public access and protecting important natural areas and features	<b>5.5.2(2)</b> To establish...a complete public easement along the landward margin of the CMA with appropriate access points.  <b>5.5.2(3)</b> To encourage voluntary agreements for protection of private land and provision of public access.  <b>5.5.2(9)</b> To recognise that public access to and along the coast may be restricted for reasons of public safety, security and defence purposes.  <b>5.11.2(1)</b> To ensure that in the subdivision of land abutting any...inlet of the sea or the coastline, appropriate provision is made for the creation of esplanade reserves/strips.  <b>5.11.2(2)</b> To work with landowners and interested parties to achieve the voluntary creation of esplanade reserves etc.
<b>Rules</b>		<b>5.4.1 5.5.1</b> General esplanade provisions; reserve or strip must be taken where all sizes of subdivision adjoins coastal marine area. Subject to general circumstances and variations. May also be imposed as condition of land use consent.	<b>7.6.2</b> An esplanade strip or reserve will generally be required along MHWS. Assessment criteria is general, the same for rivers as for coasts.	<b>6.4</b> Esplanade strips or reserves will generally be required when land is subdivided adjacent to MHWS