

Coastal Plan Review - Policy Direction Papers

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Contents

Contents.....	4
Waikato Regional Coastal Plan review.....	5
What area is managed by the Coastal Plan?.....	6
Plan stages and progress	8
Comments on Policy Direction papers from Councillors	9
Coastal Plan Topics.....	10
1 Air	11
2 Aquaculture.....	13
3 Biosecurity.....	17
4 Coastal water quality and discharges to water.....	20
5 Disturbances.....	25
6 Ecosystems and indigenous biodiversity	27
7 Historic heritage.....	30
8 Marinas	33
9 Moorings	36
10 Natural character	39
11 Natural features and landscapes (Seascapes).....	42
12 Natural Hazards.....	45
13 Noise	49
14 Public access and recreation	52
15 Structures	55
16 Surf breaks	58
17 Surface water activities.....	61
18 Tangata whenua/ mana whenua	63

Waikato Regional Coastal Plan review

The Waikato Regional Coastal Plan is the rulebook for activities in the coastal marine area – the wet area below high tide.

In this area the Coastal Plan recognises water quality, indigenous biodiversity and natural hazards while managing activities like the use of resources, the occupation of space, extraction of sand and other materials, aquaculture, the protection of natural features and landscapes (seascapes) as well as the discharge of contaminants.

The coastal plan sets the objectives, policies, rules and methods that the Waikato Regional Council will use to manage the region's natural resources in the coastal marine area.

But it is only a part of the council's response to the sustainable management of our coasts and it is supported by:

- National legislation and policy, including the New Zealand Coastal Policy Statement.
- the Waikato Regional Policy Statement
- Hauraki Gulf Marine Spatial Plan

Why are we reviewing the Coastal Plan?

The Resource Management Act (RMA) requires the coastal plan to be reviewed every 10 years to update provisions, as necessary, and take into account legislative changes and national and regional policy direction.

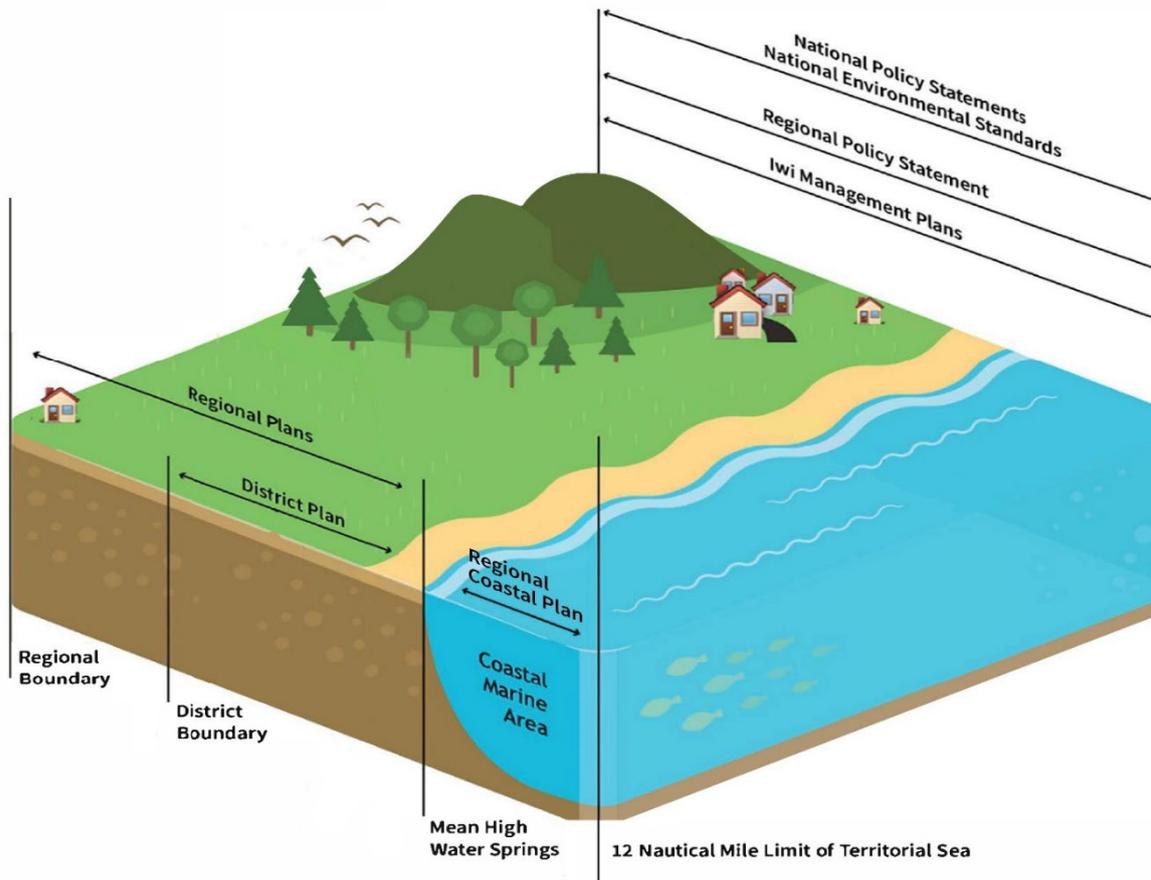
The Coastal Plan became operative in 2005 and a lot has changed since then.

- It does not fully implement some statutory documents, e.g. New Zealand Coastal Policy Statement, and national policy statements and environmental standards
- Some of the rules in the plan do not sustain values of the coastal marine area, enable regional development, or incorporate Treaty Settlement obligations
- It's also been identified as confusing, and difficult to meet, monitor and enforce.

What area is managed by the Coastal Plan?

The Waikato Regional Coastal Plan is the rulebook for activities in the coastal marine area – the area from the Mean High Water Springs (MHWS) mark to 12 nautical miles.

Land based areas within the coastal environment are managed by the Waikato Regional Plan and district plans.



What has been done so far?

Over the last 12 months, feedback has been sought from a range of stakeholders, iwi, agencies, industry and coastal users and residents. At the same time, council staff have compiled issues and identified gaps with the current coastal plan.

Communities have told us that the coastal plan needs to protect and enhance our unique way of life by providing for the restoration of indigenous habitats and ecosystems, prohibiting discharges and establishing water quality standards, and managing disturbances to protect natural coastal processes.

And at the same time, address climate change and the impacts of coastal erosion and inundation, while providing for tangata whenua perspectives and values, and support for our region's aquaculture industry.

This feedback, along with iwi management plans and statutory requirements, have informed our policy direction.

What are some of the key changes being proposed?

The coastal plan requires some significant updates to ensure it meets statutory requirements as well as the needs of our communities. The below outlines some of the changes we'll be seeking feedback on.

- Identify and map significant surf breaks, historic heritage, natural character, outstanding natural features and landscapes (Seascapes) and indigenous biodiversity and protect them through new objectives, policies and rules.
- Consider providing new areas for aquaculture in appropriate locations while maintaining the environmental bottom lines.
- Permit moorings within the Zoned Mooring Areas.
- Include a tāngata whenua chapter that detail processes and context relating to tāngata whenua, specifically tāngata whenua objectives, policies and rules that increase iwi views and mātauranga Māori, and the ability to exercise and provide for kaitiakitanga.
- Incorporate risk management and adaptation as a matter to consider when assessing resource consents for structures.
- New policies and rules will ensure that noise from any new activities will be managed in a more specific way, including the impact on marine mammals.
- Identify different coastal water types and set water quality standards for each.
- Restrict the location of the disposal of human ashes.

Plan stages and progress



Comments on Policy Direction papers from Councillors

Councillors have had the opportunity to discuss the Policy Direction papers. Below are some comments that councillors raised in discussions on the coastal plan. These include:

- Air - are rules to be included relating to climate change mitigation and adaptation including greenhouse gas emissions
- Aquaculture – will plastic waste from marine farms be controlled
- Aquaculture – iwi views will be required on the possible new aquaculture areas (identified in Sea Change - Tai Timu Tai Pari)
- Deposition – should the deposition of dredged material be prohibited in the Hauraki Gulf
- Deposition – provisions should not prohibit the opportunity for seabed mining
- Disturbances and biodiversity - Can controls be placed on bottom trawling activities, does the definition of dredging sufficiently precise and should trawling be prohibited in harbours
- Disturbances - Will livestock be restricted along certain parts of the coast
- Indigenous Biodiversity - What ways will there be look after flora and fauna biodiversity along the coast to increase its resilience in the face of climate change
- Indigenous Biodiversity - Need to identify biodiversity sites that need to be protected and more attention applied to those areas
- Marinas – will new marina developments be required to have resource consents
- Noise - Will noise effects on fauna in the sea be managed
- Outstanding Landscapes (Seascapes) and Natural Character - How detailed will the identification of outstanding natural features and landscapes be, will it be mapped
- Public Access – Will public access to the coast be protected if/when hard protection structures are considered
- Public Access - What can be done to restrict vehicle use in different areas along the coast to protect biodiversity and dune structures
- Structures – will hard protection structures such as groynes require resource consents
- Tāngata whenua/Iwi – need to ensure that the views of tāngata whenua/iwi from Sea Change - Tai Timu Tai Pari are included in the Coastal Plan review
- Water Quality and Discharges – Will restrictions be required on sewage and/or ballast discharges from boats into the sea.

Coastal Plan Topics

1 Air

The existing air quality in the coastal marine area is currently high.

Effects from the discharge of contaminants include odour, reduced visibility, adverse effects on animal and human health, and damage to ecosystems.

Although there are activities which occur in the coastal marine area that discharge contaminants into the air (exhaust fumes from boats, chemical spray to eliminate pests), it is predominately land-based activities that are the likely source of contaminants e.g. odours, dust, fumes, and chemical spray drift that are managed in the Regional Plan.

1.1 Statutory context

Resource Management Act 1991 (RMA)

Section 15 states that no person may discharge a contaminant to air from any place unless the discharge is allowed by resource consent.

Section 12 states that no person may carry out an activity in the coastal marine area in a manner that contravenes a rule in a plan and section 30 outlines the function of the regional council to control discharges of contaminants into or onto land, air, or water in conjunction with the Minister of Conservation.

National Environmental Standards for Air Quality 2004 (NES)

The NES is focused on air quality to protect human health but does not cover the health of fauna and flora. Ambient air quality standards do apply in the coastal marine area.

Waikato Regional Policy Statement (RPS)

The RPS requires the management of discharges to air (other than from home heating or transport) to ensure any resulting degradation avoids unacceptable risks to human health and is as low as reasonably achievable.

Waikato Regional Plan (RP)

Chapter 6 addresses discharges to air where the primary adverse effects are to air quality for the area above mean high water springs (landward).

1.2 What we have heard

There are currently no known issues regarding the quality of air in the coastal marine area. Potential issues that could arise include agrichemical application (pest management) or spray drift and petroleum exploration (hydrocarbon flaring), but these have not materialised to date.

1.3 What we have found to date on the topic

Existing air quality in the coastal marine area is perceived to be high. It has many characteristics that are valued by the community, including amenity values (i.e. good visibility, air free of offensive odours), low contaminant levels, intrinsic values and life supporting capacity. Discharge to air complaints are not very common and often associated with marine farming aquaculture activities.

1.4 Policy shift

The operative Coastal Plan

The operative Coastal Plan has one objective and policy to maintain high air quality. As there are no rules included in the plan, an application for a air discharge would be assessed as a non-complying activity. To grant a non-complying application the Council must be satisfied that the adverse effects are minor, or the application will not be contrary to the objectives and policies of the Coastal Plan. This appears to strict, and a discretionary activity status would be more appropriate.

Policy shift

There is no policy shift recommended.

Options:

- Option 1 Do nothing – status quo: retain current provisions without alteration.
- Option 2 Update and clarify the current the objective and policy and introduce a new non-complying activity or discretionary activity status.

Recommended approach:

- Option 2:** Update and clarify the current Coastal Plan provisions that includes a new discretionary or non-complying activity rule.

2 Aquaculture

Aquaculture involves the breeding, hatching, cultivating, rearing or on-growing of fish, aquatic life, or seaweed for harvest where the farm is occupying the coastal marine area. It includes the occupation of the coastal marine area and its water space, structures, discharges and deposition on, and disturbance to, the seabed, and requires high water quality.

The cultivation of marine species uses a variety of different types of structures, including suspended culture from rafts, longlines, seacages, inter-tidal racks and bottom sea culture. New forms of technology are continually being explored to increase farming efficiency and capability and to reduce environmental impacts. The two major types of marine farming within the Waikato region are conventional mussel longlines and inter-tidal oyster rack farms.

2.1 Statutory context

Resource Management Act 1991 (RMA)

The Resource Management Amendment Act (No 2) 2011 inserted new provisions relating to fish farming, diversifying species and structures, and adding small extensions to marine farms outside the Wilson Bay Zone. This Act also created the 300 ha Coromandel Marine Farm Zone specifically for fish farming.

New Zealand Coastal Policy Statement (NZCPS)

Policy 8 encourages a planned approach to aquaculture development through making provision in plans for aquaculture activities in appropriate places, and recognises the need to consider high water quality and associated land-based facilities.

Policy 12 requires policy statements and plans to provide for control of activities that might release or spread harmful aquatic organisms, including contaminated structures, discharge of material from maintenance activities (e.g., for moorings or jetties) and establishment and relocation of aquaculture equipment and stock. Other relevant policies relate to:

- the use of a precautionary approach
- integrated management and co-ordinated control of activities
- avoiding adverse effects on conservation lands or waters (e.g. marine reserves, marine mammal sanctuaries)
- promoting efficient use of occupied coastal space
- protecting indigenous biodiversity and preservation of natural character.

National Environmental Standards for Marine Aquaculture (NES-MA)

The NES-MA came into force on 1 December 2020 and set national rules for existing marine farms, except where regional council rules are allowed to remain in force (this includes Wilsons Bay). The standards provide a process for replacement consents for existing marine farms, realignment of farms and applications to change farmed species.

Māori have a significant interest in aquaculture with 20 percent of all new consented aquaculture space reserved for coastal iwi, or its equivalent value, or a combination of both.

Waikato Regional Policy Statement (RPS)

The RPS recognises aquaculture as a primary producer in the region. Policy 6.3 seeks that to ensure the provision and integrated management of infrastructure, including aquaculture, in the coastal

marine area. Method 7.1.1 includes identifying areas and opportunities for the development of aquaculture. Method 7.1.4 requires WRC to develop an aquaculture strategy.

2.2 What we have heard

Aquaculture industry interests, including Coromandel Marine Farmers Association, have told us they want clear and consistent identification of high value areas, including natural character, and guidance on activities, including consenting of aquaculture activities.

Some communities and individuals are concerned about amenity, natural character and recreational fishing impacts from aquaculture. The recent application for spat farming at Whauwhau in Mercury Bay, heard by the Environment Court late last year, has highlighted this concern for some.

Coastal mana whenua, such as Pare Hauraki, wish to undertake commercial aquaculture ventures through the Maori Commercial Aquaculture Settlement Act and as part of treaty settlements with the Crown.

Engagement with communities through Sea Change - Tai Timu Tai Pari on the Hauraki Gulf Marine Spatial Plan (2018) and the earlier Shore Futures (2007) and Coromandel Blueprint (2009) strategies has provided viewpoints on aquaculture.

2.3 What we have found to date on the topic

Boffa Miskell Ltd are completing the Waikato Regional Seascape Study, which will determine significant areas of the coastal marine areas not appropriate for use and development, such as aquaculture.

Pisces Consulting are completing an assessment of marine farms in the region. This will inform the assessment requirements of the draft coastal plan. Both technical pieces of work will be available after March 2021.

Aquaculture is a key theme in Sea Change - Tai Timu Tai Pari seeks to provide a prosperous aquaculture industry which positively contributes to the health and wellbeing of people and the environment of the Hauraki Gulf. It recommended:

- identify areas within the Hauraki Gulf Marine Park that should be prioritised for future aquaculture development.
- identify areas that are not suitable for aquaculture.
- ensure potential adverse ecological effects associated with aquaculture are appropriately managed and monitored.
- develop a clear and consistent aquaculture regulatory framework to provide the community, mana whenua and aquaculture industry with certainty about how it will be managed.
- support aquaculture related research and innovation.

The New Zealand Government Aquaculture Strategy 2019 has set an ambitious target for growth in the aquaculture industry which proposes a shift from \$600m in 2020 to \$3bn in 2035.

A Regional Aquaculture Strategy for the Waikato region is under development.

2.4 Policy shift

The operative Coastal Plan

The operative Coastal Plan seeks to ensure that marine farming is developed in an efficient and sustainable manner which avoids adverse effects on the coastal environment as far as practicable.

The policies emphasise the following key principles:

- a precautionary approach is taken to marine farming
- aquaculture should not compromise safe recreation and navigation
- management should be integrated between farm operators and between agencies
- space allocated for marine farming is used efficiently.

The rules provide for spat catching, oyster farming, shellfish farming and shellfish research, with one tendered site for fish farming (Coromandel Marine Farming Zone). The rules for most types of activities associated with marine farming require resource consent as a discretionary activity.

New marine farming structures (aside from structures for existing farm extensions, spat catching, oyster farming and structures for research purposes) are prohibited outside of current marine farming zones.

The Wilson Bay marine farming zone was established by a variation to the Coastal Plan in 2000. Area C within the zone was created by the Resource Management Amendment Act (No 2) 2011 and provides for 90 hectares of fed aquaculture such as fish farming. As required by the Maori Commercial Aquaculture Claims Settlement Act 2004, Waikato Regional Council has allocated of 20 per cent of Area C to the Maori Trustee.

Policy shift

The Coastal Plan review will provide for the re-consenting of existing marine farms (required by the NES-MA) and consider areas of new aquaculture space, in giving effect to indicative new areas identified in Sea Change - Tai Timu Tai Pari.

The rule framework will reflect the NES-MA and enable changes of species and amendment to marine farm boundaries within the existing marine farming zones.

The current schedules for information, monitoring and table of existing marine farm consents are not intended to be included. This guidance material will sit outside the Plan.

Decisions are required on whether to allow a resource consent pathway for the development of new aquaculture space outside of the intertidal harbours and current marine farm zones. The plan could spatially map suitable new aquaculture areas (as new zones or Aquaculture Management Areas) and determine an allocation mechanism for available space, such as coastal tendering. Constraint and use maps, which include planned benthic assessments, will need to support the opening up of new aquaculture space.

As well as section 32 evaluation requirements in preparing the plan, section 165H requires WRC to have regard to and be satisfied about certain matters before the inclusion of an allocation rule to allocate coastal space.

Options:

- Option 1 Do nothing - status quo: retain the existing provisions in the plan.
- This approach does not sufficiently give effect to Policy 8 of the NZCPS requiring Council to enable aquaculture in appropriate locations. Parts of the plan are also outdated and do not provide flexibility for aquaculture activities.
- Option 2 Provide for new areas of aquaculture, considering Sea Change - Tai Timu Tai Pari recommendations
- Identify on maps where new aquaculture activities may be appropriate and those high value areas where aquaculture is inappropriate (e.g. areas of significant cultural value,

outstanding natural character). Draft policy and rules will enable managed growth to occur and adverse effects to be considered through consenting requirements. No new commercial subtidal aquaculture would be allowed outside of these new areas and the current RCP zones.

Option 3 Provide for aquaculture anywhere outside of high value areas

Allow new aquaculture outside of identified high value areas, with criteria to assess the merits on a case-by-case basis. This approach would include both revision of existing provisions and drafting of new provisions, to give effect to the NZCPS and RPS. This option does not provide certainty for industry or communities as to where new aquaculture may establish.

Recommended approach:

Option 2: Provide for new areas of aquaculture, considering areas recommended by Sea Change - Tai Timu Tai Pari and other areas, and identify appropriate locations on planning maps with a suitable allocation mechanism for new coastal space. A revised policy and rule framework will consider enabling aquaculture in appropriate locations while maintaining the environmental bottom lines set out in the RMA, NZCPS and RPS.

Council will undertake targeted consultation on possible new areas with iwi, stakeholders and communities, which may result in only some areas being included or other areas being considered.

3 Biosecurity

Biosecurity has been defined as management of the risks posed by introduced (i.e. non-indigenous) species to environmental, economic, social and cultural values (Hewitt et al. 2004).

The introduction of harmful marine organisms may have irreversible effects, including biodiversity loss and the alteration of ecosystem function. Introductions may result in direct economic costs for high-value aquaculture and fisheries industries, and negative impacts on social, cultural, recreational and public health values.

The risk cannot be eliminated as most organisms can spread through natural dispersal mechanisms, but human activities including vessel and equipment movements and aquaculture activities can facilitate the introduction of invasive species to new areas and accelerate rates of spread. The risk from these activities can be managed through the coastal plan.

3.1 Statutory context

The introduction and spread of harmful organisms are managed through both the Resource Management Act and the Biosecurity Act 1993.

The Biosecurity Act 1993

The Biosecurity Act is the key legislation for managing marine pests in New Zealand. Key provisions and regulatory mechanisms available under the Biosecurity Act to manage marine pests include:

- national policy direction
- national and regional pest management plans
- national and regional pathway management plans
- government–industry agreements
- craft risk management standards
- controlled area restrictions
- small scale management programmes
- unwanted organism declarations.

The statutory provisions enabling pathway management plans and government industry agreements were added by amendments to the Act in late 2012. During marine response activities, the Biosecurity Act can also be used to direct vessel owners to comply with instructions from response staff (termed a Notice of Direction), such as removing the vessel to land or treating/removing biofouling present.

Resource Management Act 1991

Sections 12(1)(f) and 12(3)(a) and (b) restrict the introduction or planting of exotic or introduced plants in the coastal marine area.

Section 15 restricts the discharge of contaminants into the environment and section 15B(1) restricts the discharge of harmful substances from ships or offshore installations unless permitted by a plan.

Sections 30(1)(c)(ii) and (iii), and 30(1)(d)(iv), (iva) and (vii) set out the functions of regional councils and give them the responsibility for controlling specified matters within the coastal marine area in their region, including the maintenance and enhancement of waters and ecosystems in coastal waters, and the control of discharges and activities that may adversely affect coastal waters.

Section 70 restricts the inclusion in regional plans of permitted activities or a requirement to adopt the best practicable option where the discharge of a contaminant may give rise to any significant adverse effects on aquatic life.

Section 107 restricts the granting of discharge permits where the discharge of a contaminant may give rise to any significant adverse effects on aquatic life.

New Zealand Coastal Policy Statement 2010

Policy 12 requires where practicable, the control of activities with the potential to release or spread harmful organisms, including new structures, discharges or disposal of organic material from dredging, vessels and structures, provision and maintenance of marinas, moorings, jetties and wharves, and establishment and relocation of stock and equipment for aquaculture.

Waikato Regional Policy Statement (RPS)

Method 7.2.2 requires the plan to control activities with the potential to release organisms and Method 11.1.2 recognises threats on biodiversity from harmful organisms.

3.2 What we have heard

Feedback received:

- develop pathway plans under the Biosecurity Act to reduce the spread of pests and diseases that are already present in New Zealand, but not yet widespread
- need to manage biosecurity risks
- a more holistic approach towards marine biosecurity covering all users that can spread invasive organisms.
- management of invasive weeds and prefer non-toxic controls
- overlap with the Biosecurity Act should be avoided
- protection of coastal plantings
- rules should be more permissive to control saltwater paspalam.

3.3 What we have found to date on the topic

An assessment of marine biosecurity risks for the Waikato region prepared by the Cawthron Institute (WRC Technical Report 2020/09) considered species, vectors and management approaches. A pathway-based approach was considered better than a species-specific approach, as it is inclusive of all species and recognises that new organisms may emerge as problem organisms in future years. Pathways include movements of vessels, structures, equipment and organic material within the CMA.

The discharge of organisms from vessel hulls contravenes section 15 but has not been enforced to date.

Under the Biosecurity Act, work is underway on managing for clean vessel movements through an Inter-Regional Pest Management Pathway Plan (referred to as the Clean Hulls Plans) involving Northland, Auckland, Waikato and Bay of Plenty Regional councils. RMA actions will complement what can be achieved through this plan.

3.4 Policy Shift

The operative Coastal Plan

The operative Coastal Plan includes policy and requires a resource consent as a discretionary activity for the introduction or spread of exotic plants. The operative Coastal Plan does not manage the introduction or spread of harmful marine organisms.

Options:

- Option 1 Do nothing – status quo: retain existing provisions in the operative Coastal Plan as it is. This approach will not give effect to the NZCPS or RPS.
- Option 2 Draft new policy and rules to address harmful organisms on structures, discharges and aquaculture but leave vessels to be managed through the Biosecurity Act and the Clean Hulls Plan. This will not give full effect to the NZCPS and RPS.
- Option 3 Draft new policy and rules which manage the risks of introduction and spread of harmful organisms from vessel movements, vessel cleaning, structures, discharges and aquaculture activities, and revise policy and rules on exotic plants. This will give effect to the NZCPS and RPS.

A combined BSA-RMA approach is proposed for vessel movements:

- Under the BSA and proposed Clean Hulls Plan, if a vessel being moved has a fouled hull (more than slime and barnacle layer) WRC can issue a notice of direction (NOD) for the hull to be cleaned. If the NOD is not complied with, the boat owner can be fined. The fine is for not complying with the NOD, but not for the discharge of harmful organisms from the fouled hull.
- Under the RMA the WRC could fine a boat owner under s15B(1) for discharge from a fouled hull and in contravention of any rule in the Coastal Plan which restricts or prohibits discharges from vessel hulls.
- To counter the accusation of “double dipping” with two mechanisms to fine, the intent would be to issue a NOD in most cases and only use the RCP rule for repeat offenders and excessively fouled hulls.

The impacts of this policy direction include:

- Implications for WRC for costs of enforcement relating to inspection of vessels – this will have been considered for the Clean Hulls Plan.
- Costs to applicants to meet conditions relating to the need for structures and activities to avoid introducing or transferring harmful organisms.
- Restrictions on where boats can be cleaned, which may increase costs for boat owners.

If the Clean Hulls Plan is not completed or WRC does not implement it, the Coastal Plan rules relating to moving vessels will prevail. The Coastal Plan will also manage vessel cleaning and all other non-vessel activities, which are not covered by the Clean Hulls Plan.

Recommended approach:

- Option 3:** Draft new policy and rules to manage risks of introduction and spread of harmful organisms, and revise exotic plant provisions. The Coastal Plan will complement the Clean Hulls Plan.

4 Coastal water quality and discharges to water

Coastal water is valued for a range of aspects and activities. These include ecosystem/ aquatic health, natural character, recreational contact, aquaculture, gathering of Kai moana/shellfish, as well as cultural values.

Discharges into the CMA have three main sources – point source discharges, diffuse discharges from activities within the coastal environment and discharges from river systems. Coastal water is the final receiving environment for all activities in the CMA as well as discharges to land and fresh water within the region. The extent of potential effects depends on the assimilative capacity of the harbour, estuary or coast.

4.1 Statutory context

Resource Management Act 1991

Section 15 states that no person may discharge any contaminant into water unless the discharge is specifically allowed for in a national environmental standard, a rule in a relevant regional plan or a resource consent.

Section 30(1)(c)(iia) sets out the function of regional councils in maintaining and enhancing ecosystems in water bodies and coastal waters.

Section 69, sets out rules relating to water quality and provides that, subject to the reasonable mixing of a discharged contaminant, a regional council should not set water quality standards in a regional plan that result or may result in a reduction in water quality unless it is consistent with the purpose of the RMA to do so.

Section 70, which sets out that before a regional council includes a rule providing for a discharge as a permitted activity, it must be satisfied that the discharge by itself or in combination with other discharges will not, after reasonable mixing, result in specified effects on the receiving waters.

Resource Management (Marine Pollution) Regulations 1998

The Resource Management (Marine Pollution) Regulations 1998 regulate the discharge of oil, noxious liquids, sewage, garbage and clean ballast water, and the dumping of waste from ships (widely defined) and offshore installations.

Regulation 4 deals with the dumping of waste or other matter, including dredge material. The dumping of matter including dredge spoil, fish processing waste from an onshore facility, inert inorganic geological material and organic material of natural origin is a discretionary activity in all proposed and operative regional coastal plans subject to the assessment criteria listed in a schedule to the Regulations. The dumping of matter not listed in the Regulations is deemed to be a prohibited activity.

Regulation 11 provides that no person may discharge untreated sewage from a ship or offshore installation within 500m seaward of mean high water springs, within 500 m of a marine farm or gazetted mataitai reserve, in water less than 5m deep or within 200m of a marine reserve. Regional coastal plans may specify greater distances or depths for part of a region's coastal marine area under Regulations 12 and 12A, while lesser distances generally apply for treated sewage depending on the standard of treatment.

New Zealand Coastal Policy Statement (NZCPS)

Objective 1 specifically refers to the maintenance or enhancement of coastal water quality as a means of safeguarding the integrity, form, functioning and resilience of the coastal environment and sustaining its ecosystems.

Policy 21 requires the identification of areas of deteriorated water in the Coastal Environment where it is having a significant adverse effect on ecosystems, natural habitats, or water-based recreational activities, or is restricting existing uses, such as aquaculture, shellfish gathering, and cultural activities.

Policy 22 requires actions to be taken to reduce sedimentation and associated water quality effects in the CMA.

Policy 23 requires that discharges be managed considering the sensitivity and assimilative capacity of the receiving environment as well as the need to avoid significant adverse effects on ecosystems and habitats. The policy has specific requirements for human sewage, stormwater and discharges from ports and marine facilities.

National Policy Statement – Freshwater Management (NPS-FM)

Policy 3 requires that freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments. The receiving environment includes, but is not limited to, any water body (such as a river, lake, wetland or aquifer) and the coastal marine area (including estuaries).

Hauraki Gulf Marine Park Act

Sections 7 and 8 are to be treated as an NPS, so must be given effect to. These sections identify that sustaining the life supporting capacity of the Gulfs environment is a matter of national significance and that it should be managed to protect or where appropriate enhance the life-supporting capacity of the environment and the natural, historic and physical resources of the Hauraki Gulf, its islands, and catchments.

Waikato Regional Policy Statement

Objective 3.13 requires recognition and provide for mauri and health of marine waters.

Policy 7.2 requires that discharges shall be managed to maintain and enhance mauri and health of marine values and to protect ecosystems, amenity and tangata whenua values. Method 7.2.1 requires that different types of coastal water are identified based on assimilative capacity and water quality standards are developed for each type.

4.2 What we have heard

Public feedback includes:

- maintaining or improving coastal water quality is important to the wider community
- the effects of land and freshwater uses are considered to be the main source of coastal water quality issues
- there are concerns around sedimentation, particularly in harbours and estuaries and the need to integrate land use controls with the effects on coastal water quality
- concerns relating to:
 - the provisions for refuelling at wharves
 - sewage discharges both directly and indirectly to the CMA (including from boats)
 - effects of stormwater discharges including requiring improved treatment of stormwater prior to discharge

- spraying of hazardous substances is required for biosecurity and weed control (e.g. salt water paspalum control) but is also a discharge of toxic chemicals to the environment. A balance between the two needs to be found. Feedback has requested a less onerous consent requirement
- feedback through Sea Change - Tai Timu Tai Pari has been on water quality concerns related to stormwater, human wastewater and sewage (including untreated human waste from boats), human ashes, sedimentation (including heavy metal content) and nutrients in discharges.

4.3 What we have found to date on the topic

The State of our Gulf (2020) (Sea Change - Tai Timu Tai Pari) report released by the Hauraki Gulf Forum highlights ongoing degradation in the Hauraki Gulf / Tīkapa Moana outlines that one of the significant key issues affecting the Hauraki Gulf is water quality degradation and ecosystem decline as a consequence of development in Gulf catchments.

Technical and Internal Series Reports

A range of internal and externally commissioned reports identify water quality concerns such as acidification in the Firth of Thames, water quality for shellfish gathering and levels of nutrients in some estuaries could be potential issues. The reports recommend that additional monitoring be undertaken to ascertain the significance of these matters and that significant areas (estuaries) be identified based on values, sensitivity and pressures when identifying marine water types and identifying degraded areas.

4.4 Policy shift

The operative Coastal Plan

The operative Coastal Plan includes policy direction towards maintaining or enhancing water quality and the associated characteristics that are valued by the community. It also identifies that land-based discharges affect coastal water quality and contains policy that promotes appropriate land management practices, which cannot be implemented by the Coastal Plan.

The Operative Plan does not identify areas of deteriorated water or classify water based on assimilative capacity with associated water quality standards.

The Plan prohibits the discharge of untreated sewage to the CMA and the Firth of Thames except from boats, ships and offshore installations. The Plan has rules for discharges including the use of hazardous substances for weed and pest control and requires resource consent for discharges from stormwater, ports, marinas and boat maintenance areas and for sewage disposal. The Plan does not regulate the spreading of human ashes.

Policy shift

The Coastal Plan requires updating to comply with statutory requirements relating to classifying water types based on assimilative capacity and setting water quality standards reflecting the values to be maintained or enhanced.

The Coastal Plan review will need to:

- have objectives, policies and rules to manage discharges including for sewage and stormwater to satisfy the NZCPS. The RPS requires coastal water classification based on assimilative capacity and to set standards.

- address the discharge of sewage from vessels and that the spreading of human ashes into the CMA has been identified in Sea Change - Tai Timu Tai Pari as being culturally offensive to tāngata whenua. The matter of human ashes is a more cultural than environmental issue and further discussions are required with tāngata whenua.

Options: Water Classification and Standards

- Option 1 Do nothing – status quo: have no provisions in the plan. This approach does not comply with of NZCPS or RPS.
- Option 2 Classify areas of water based on individual areas assimilative capacity and set water quality standards reflecting that capacity and the values associated with that area. Develop rules based on absolute limits that must be achieved. We do not currently have the monitoring data to robustly support this approach.
- Option 3 Broadly classify areas of water based on an estimate of assimilative capacity and set initial water quality standards based on standard values, supported by policy direction of maintaining where existing water quality is higher. Review if necessary, as more monitoring data is collected.

Recommended Approach: Water Classification and Standards

- Option 3** Broadly classify areas of water based on an estimate of assimilative capacity and set initial water quality standards based on standard values, supported by policy direction of maintaining where existing water quality is higher. Review if necessary, as more monitoring data is collected.

Options: Discharges of Human Waste from Vessels

- Option 1 Do nothing – status quo: retaining existing provisions in the plan as it is. This approach does not comply with NZCPS.
- Option 2 Prohibit discharge of human waste in the wider CMA. Auckland Council attempted a wider exclusion areas of 2km from shore and was unsuccessful due to lack of evidence of effects.
- Option 3 In addition to the restrictions in the Marine Pollution Regulations, prohibit discharges within and around 500 metres of identified/mapped areas of cultural significance and locations of aquaculture, and within harbours or significant embayments. This is a similar approach to the Auckland Unitary Plan.

Recommended Approach: Discharges of Human Waste from Vessels

- Option 3** In addition to the restrictions in the Marine Regulations, prohibit discharges within and around 500 metres of identified/mapped areas of cultural significance and locations of aquaculture, and within harbours or significant embayments. This is a similar approach to the Auckland Unitary Plan.

Options: Discharges of Human Ashes

- Option 1 Do nothing – status quo: have no provisions in the Plan. This approach does not address the cultural effects of the discharge.
- Option 2 Prohibit discharge of human ashes in the entire CMA. This approach would be difficult to enforce.

Option 3 Prohibit the discharge of human ashes within 500 metres of identified/mapped areas of cultural significance, and locations of aquaculture.

Recommended Approach: Discharges of Human Ashes

Option 3 Prohibit the discharge of human ashes within 500 metres of identified/mapped areas of cultural significance, and locations of aquaculture.

NB All options need further consultation with tangata whenua in respect of how discharges of human ashes are handled.

5 Disturbances

There are many activities carried out in the coastal marine area involving disturbance of the foreshore and seabed.

Disturbance includes low impact activities (temporary events), the removal of material (extraction of minerals), dredging, depositing and disposal of material and reclamation/declamation. These activities can enhance economic and social wellbeing, but may also adversely affect the foreshore and seabed, for example, damaging or destroying habitats, degrading natural character, interrupting natural coastal processes and temporarily reducing water quality.

Low impact military activities are permitted activities and this is not recommended to change. However military training activities can be undertaken within specific coordinates northeast and east of Coromandel Peninsula as a discretionary activity. This area is not identified in the operative coastal plan maps or on the Defence Force website of military training areas. It is recommended that the discretionary activity rule be removed and if further information is supplied through Schedule 1 or submission process, it can be reinstated if appropriate.

5.1 Statutory context

Resource Management Act 1991 (RMA)

Section 12 states that no person may, in the coastal marine area, destroy, damage or disturb the foreshore or seabed in a manner that is likely to have an adverse effect on the foreshore or seabed, or plants, animals or their habitats, or historic heritage. It also restricts reclamation, drainage and the removal of sand, shell, shingle or other natural material. Depositing any substance in a manner that is likely to have an adverse effect on the foreshore or seabed unless expressly allowed by a rule in a regional coastal plan, or a resource consent.

Section 30 states that a regional council, in conjunction with the Minister of Conservation, has the control of land and associated natural and physical resources, the occupation of space and the extraction of sand, shingle, shell, or other natural material from the common marine and coastal area.

New Zealand Coastal Policy Statement (NZCPS)

Policy 10 requires avoidance of reclamation unless there is no other practicable alternative or significant regional or national benefit and have regard for the efficient operation of infrastructure.

De-reclamation is to be encouraged where it will restore natural character and provided more open space.

Policy 6 recognises the supply of energy including electricity, and the extraction of minerals are activities important to the social, economic and cultural well-being of people and communities.

Waikato Regional Policy Statement (RPS)

Method 7.1.2 encourages opportunities for reclamation to encourage restoration of natural character, imposing restrictions on vehicle use in sensitive areas and requires recognition of the Crown's interest in relation to and application for the removal of sand shingle, shell or other natural material for commercial purposes.

5.2 What we have heard

Feedback received:

- restrict trawling to protect benthic biodiversity
- restrict vehicle access to the foreshore and seabed, in particular for the removal for rocks from Waikeri/Manu Bay
- prohibit seabed mining
- permit vehicle access
- allow beach renourishment and dredging for beach renourishment where appropriate
- permit the establishment and maintenance of infrastructure
- consideration of cumulative effects
- allow the testing on a small scale to be undertaken prior to approving sea bed disturbance.

5.3 What we have found to date on the topic

There have been environmental changes, emerging issues and increased intensity of recreational and commercial use since the Coastal Plan became operative. The s35 review for efficiency and effectiveness identified that some rules had never been used, for example there has never been an application for military training activities.

Comment from Integrated Catchment Management (ICM) identified that there are some provisions that are difficult for them to comply with. Several wording changes are recommended but the intent of existing provisions remain.

5.4 Policy shift

The operative Coastal Plan

Most of the current disturbance provisions can be retained without any major changes. However, it is recommended to update provisions to bring them in line with the current NZCPS. It is recommended to remove the specific provisions for military training activities as these rules can be accommodated within the general activity rules and fine tune any required provisions through the submission process as needed.

There are several wording changes and reorganisation of the provisions to clarify meaning, bring the provisions in line with the NZCPS and the RPS.

Options:

- Option 1 Do nothing – status quo: retaining existing provisions in the Coastal Plan as it is. However this will not comply with statutory requirements.
- Option 2 Re draft objectives, policies and rules for disturbances to clarify meaning, align with the NZCPS and RPS. Remove specific rules for military training so that the general rules apply to all activities and restructure into an easy to implement format.

Recommended approach:

- Option 2:** This will clarify the application of current provisions and bring the Coastal Plan in line with statutory requirements.

6 Ecosystems and indigenous biodiversity

Indigenous biodiversity in the coastal environment is declining nationally and regionally. Thirty five percent of New Zealand's indigenous seabird species are threatened with extinction, giving New Zealand the highest number of threatened seabird species in the world.

Indigenous species, habitats and ecosystems are adversely impacted directly and indirectly by recreational and commercial activities in the coastal marine area and on land which result in animal death or injury, habitat loss and degradation, degraded water quality, and incursions of harmful aquatic organisms and pest species.

6.1 Statutory context

Resource Management Act 1991 (RMA)

The RMA 2003 amendment inserted a definition of biological diversity and a new function for regional councils. Section 30(1)(ga) requires regional councils to identify in plans how biodiversity will be maintained.

New Zealand Coastal Policy Statement (NZCPS)

Policy 11 requires the protection of indigenous biodiversity by avoiding adverse effects on species and habitats described in 11(a) and avoiding significant adverse effects or avoiding, remedying or mitigating other adverse effects on species and habitats described in 11(b).

Waikato Regional Policy Statement (RPS)

Policy 11.4 requires the identification and protection of significant indigenous biodiversity using the criteria in Table 11-1, and to maintain or enhance other biodiversity.

6.2 What we have heard

Feedback received:

- the need to talk to territorial authorities about aligning with significant sites on land
- implementing the Motiti decision and banning some fishing methods and extending marine protected areas
- restoring mussel reefs
- mangroves need to be more actively managed where expansion is impacting on other values
- marine biodiversity should be protected to 12nm, not just near shore
- removing pest plants and establishing a marine species database
- noise from sources such as jet skis and mining need to be managed
- horses on beaches should be banned or restricted to zones and times of the day
- a focus of rules on significant biodiversity areas risks missing other more mobile biodiversity.

6.3 What we have found to date on the topic

NIWA have identified sites of significant indigenous biodiversity in the CMA using the RPS criteria for determining significance of indigenous biodiversity. Eighty one sites were identified based on existing information and data. A site is indicative – species and habitat types are known to exist within the site but their exact location(s) may not be known or may vary over time and seasons.

For some species and ecosystem types, survey data were lacking but modelling based on water and substrate conditions indicated a further five potential habitat areas.

Two of the 81 sites covered all of the CMA for threatened whales and dolphins - Maui dolphin on the West Coast and Brydes whale, Orca and bottlenose dolphins on the East Coast.

The remaining 79 sites identify locations of threatened bird and fish species and habitats and ecosystems which meet at least one of the 11 significance criteria.

The NIWA report provides a basis for giving effect to the RPS by identifying in the plan areas of significant indigenous biodiversity.

An analysis comparing the RPS significance criteria to the species and habitat descriptions in NZCPS Policy 11 has been undertaken. This analysis guides the development of policy and rules to give effect to the NZCPS.

6.4 Policy shift

The operative Coastal Plan

Since drafting the operative Coastal Plan there have been changes to the RMA, NZCPS and RPS in relation to biodiversity.

The operative Coastal Plan has policy on significant biodiversity but its scope is limited. It maps Area of Significant Conservation Value but these include values other than biodiversity and biodiversity values were not identified using the RPS significance criteria and therefore do not give effect to the RPS.

The policy and rule framework in the Coastal Plan does not give effect to the hierarchy of avoid, avoid significant or avoid, remedy or mitigate adverse effects as prescribed by the NZCPS 2010.

Policy shift

The Coastal Plan review will need objectives, policies and rules for indigenous biodiversity to give effect to the hierarchy of avoid, avoid significant or avoid, remedy or mitigate adverse effects as prescribed by the NZCPS 2010.

Options:

- Option 1 Do nothing – status quo: retaining existing provisions in the plan as it is. This approach will not give effect to the NZCPS or RPS.
- Option 2 Draft policies and rules for biodiversity generally without identifying significant indigenous biodiversity. This would not give full effect to the NZCPS or RPS.
- Option 3 Schedule and map sites of significant indigenous biodiversity, with policies and rules that refer to the schedule. There will also be policies and rules for non-significant biodiversity. This approach would include both revision of existing provisions and drafting of new provisions, and would give effect to the RPS and NZCPS.

With all of the CMA contained within the 81 sites, it is proposed that rules include conditions requiring assessment of adverse effects on species, habitats and ecosystems, with the aim of restricting or guiding activities to suitable locations within a site and/or managing activities to protect significant species, habitats and ecosystems and to maintain all other biodiversity.

The need for resource consent applicants to assess the adverse effects of the proposed activity will be more transparent, with the activity status (i.e. whether permitted, controlled or discretionary) reflecting the scale of the activity and the species and habitats at risk.

This will likely increase the requirement for and/or costs of ecological assessments, and may restrict, or in some cases prevent, some activities occurring in some areas, but it will not prevent all activities from proceeding.

Recommended approach:

Option 3: Schedule and map significant indigenous biodiversity sites with policies and rules. There will also be policies and rules for non-significant biodiversity. This is a significant policy shift.

7 Historic heritage

Historic heritage in the coastal marine area includes structures such as wharves and jetties, wharf buildings, coastal defences, sea walls, lighthouses, shipwrecks, and hulks; places of significance to Maori, such as wāhi tapu, (sacred places), urupa (burial grounds) and waka landing places; archaeological sites; and places of historical or cultural interest and significance

Activities that may disturb of historic heritage sites may include the use of vehicles, erection, alteration or removing of structures and physical disturbances .

Historic heritage sites are not identified in the Coastal Plan and there are no rules to ensure protection.

222 sites of historic heritage in the coastal marine area or within 100m of it (other than middens, ovens or findspots currently on land) have been identified. After more detailed desk top review, 163 have been mapped as being in or within a buffer distance to the coastal marine area and a further 37 shipwrecks that could not be mapped have been identified.

7.1 Statutory context

Resource Management Act 1991 (RMA)

Section 6(f) requires the protection of historic heritage from inappropriate use and development.

Section 12 requires that any activity in the coastal marine area must not adversely affect historic heritage unless expressly allowed by a national environmental standard, a rule in a regional coastal plan or by a resource consent.

Section 30(d) gives the Council control (in conjunction with the Minister of Conservation) of (i) land and associated natural and physical resources in the Coastal Marine Area.

Section 66(2) requires the Council to have regard to any relevant entry on the New Zealand Heritage List/Rārangi Kōrero when preparing the coastal plan.

The New Zealand Coastal Policy Statement (NZCP)

Objective 7 is concerned with ensuring that management of the coastal environment recognises and provides for New Zealand's international obligations for the coastal environment. New Zealand is a signatory to a number of conventions and charters relating to heritage that apply in the coastal environment, and has specific commitments through the International Council on Monuments and Sites (ICOMOS) and the ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value 2010.

Policy 6(1)(j) states that, where appropriate, areas and sites of significant indigenous biological diversity or historic heritage value should be buffered.

Policy 17 requires the protection of historic heritage in the coastal environment from inappropriate subdivision, use and development.

Heritage NZ Pouhere Taonga Act 2014

The New Zealand Heritage List/Rārangi Kōrero ('the List') identifies New Zealand's significant and valued historical and cultural heritage places dated pre 1900. Section 42 requires that an authority be granted before the whole or any part of an archaeological site is modified or destroyed, whether or not the site is recorded or identified on the Heritage List.

Hauraki Gulf Marine Park Act 2000

Sections 7 and 8 are given the status of a National Policy Statement and identifies the historic, cultural and spiritual relationship of the tāngata whenua of the Gulf to be a matter of national significance and that it should be managed for protection or enhancement of the natural, historic and physical resources of the Hauraki Gulf.

Waikato Regional Policy Statement

Objective 3.18 and Policy 10.3 requires the protection, maintenance or enhancement of historic and cultural heritage.

7.2 What we have heard

Feedback has indicated that:

- heritage sites are currently unidentified in the Coastal Plan
- historical and cultural sites in the CMA are not adequately protected.

7.3 What we have found to date on the topic

A Heritage Assessment has identified all known historical heritage sites in the coastal marine area. This includes the Heritage NZ listings and the Archaeological Association sites, as well as shipwrecks recorded in the Australian National Shipwreck Database. All sites were recorded in the database and those with sufficient location data were mapped, although the accuracy for some is approximate.

Iwi cultural sites identification has yet to be completed. The operative Coastal Plan does identify ASCV areas that are of significance to tāngata whenua.

7.4 Policy shift

The operative Coastal Plan

The Coastal Plan does not map historic heritage sites and the Plan does not give clear direction in managing activities that affect historic heritage.

Policy shift

As required by the RMA, the NZCPS and RPS the Coastal Plan review will identify and map historic heritage and will have policies and rules to protect historic heritage. The historic heritage sites have been identified with the Historic Heritage Technical Report. Some of these sites are not identified as archaeological sites and are not currently on the Heritage List or under Heritage NZ jurisdiction (as they are post 1900).

Options:

- | | |
|----------|--|
| Option 1 | Do nothing – status quo: have no provisions in the plan. This approach will not give effect to the RMA, NZCPS and RPS. |
| Option 2 | Identify and map historic heritage sites (with buffer areas) with a policy to ensure that historic heritage is assessed when considering resource consents for activities requiring consent. Develop a ‘discovery protocol’ standard that applies to all locations in the CMA if an unknown site or artifact is discovered. The site location data we have has not all been verified so there is a risk that sites will be adversely affected unwittingly, or rules applied unnecessarily. |

Option 3 Identify and map historic heritage sites (with buffer areas) with policies and specific rules requiring the protection of all identified historic heritage. Develop a 'discovery protocol' standard that applies to all locations in the CMA if an unknown site or artifact is discovered when a consented activity is being undertaken.

Recommended Approach:

Option 3 Identify and map historic heritage sites (with buffer areas) with policies and specific rules requiring the protection of all identified historic heritage. Develop a 'discovery protocol' standard that applies to all locations in the coastal marine area if an unknown site or artifact is discovered when a consented activity is being undertaken.

8 Marinas

There are three marinas in the Waikato region, located in Whangamata, Whitianga, and Tairua (providing approximately berthage for 505 vessels). Marinas provide an efficient way to moor vessels and require appropriate land-based servicing.

The development of marinas requires integrated management between land use and marine planning. They involve a wide range of resource management issues from occupation, structures, dredging, reclamations to public and natural environmental values. Marinas are generally of much interest in the local areas where they are proposed.

8.1 Statutory context

Resource Management Act 1991

Section 12 sets out the restrictions on the use of the coastal marine area. This includes reclamations, drainage, structures, disturbances, deposition, historic heritage, vegetation, occupation, removal of material. All these would apply to a marina activity.

Section 165F has provisions relating to the management of competition for the occupation of space.

New Zealand Coastal Policy Statement (NZCPS)

Policy 6 recognises recreational qualities and values, functional need and efficient use of space. The importance of infrastructure to the community well-beings is also noted in Policy 6.

The location of any new marina would be subject to other directive policies in the NZCPS relating to matters such as natural character, landscapes and public access. Policy 4 emphasises the need for integrated management across MHWS as well as between regional and district councils. Policy 10 (reclamations), Policy 12 (biosecurity) and Policy 23 (discharge of contaminants) would also apply.

Waikato Regional Policy Statement (RPS)

Objectives 3.1, 3.7 and Policy 4.1 recognises the importance of integrated management and strategic planning for resource pressures.

Policy 6.3 addresses growth and infrastructure and identifies the need to establish a strategic framework for moorings, including the connectivity with land (method 6.3.9).

Policy 6.10 covers the implementation of the Coromandel Peninsula Blueprint which recognised existing mooring zones.

Policy 7.1 recognises that the marine area is public space and that the allocation of space needs to recognise different activities or different purposes. Policy 7.2 addresses marine water quality.

Thames Coromandel District Plan

The District Plan has zoned the landward areas for each existing marina for marine services.

8.2 What we have heard

Feedback received:

- remove the extension of Tairua Marina into Stage 2
- dredging of the Tairua Marina Channel conflicts with other dredging activities

- have rules around the best placement of marinas rather than just responding to consent applications
- remove swing moorings and get the boats into marinas where sewage and waste can be collected, and fuel spills can be addressed through having the proper equipment and facilities
- have controls on sand and water blasting at marinas and slipways (i.e. air and noise effects).

8.3 What we have found to date on the topic

To date, marinas in specific locations have not been provided for within the operative Coastal Plan. Marina applications in the region have been processed using resource consent applications and all have been considered by the Environment Court. The Court directed the Coastal Plan to accommodate the Tairua decision (Ch 6A of the operative Coastal Plan).

While the Environment Court decisions have been in response to site specific resource consent applications, the legal advice has indicated that Coastal Plan review is not bound by those directives.

In general, site specific decisions will always be required as the chosen location is dependent on compatible and adjoining marine and land areas. Two proposals have been developed historically in two different areas of Coromandel Harbour. However, there is no evidence for demand for marinas in other areas of the region.

8.4 Policy shift

The operative Coastal Plan

The operative Coastal Plan has a specific chapter for Tairua marina, otherwise other existing or new marinas are managed in accordance with all other relevant provisions in the Plan e.g. structures, dredging, water quality, outstanding natural character and landscape (seascapes) etc.

Options:

Option 1 Do nothing - status quo: retaining existing provisions in the Coastal Plan as is. This provides an “uneven” approach to managing marinas consistently and does not fully give effect to the NZCPS and the RPS.

Option 2 Zone the existing marinas and provide for the ongoing use of the area for marina activities. This recognises that the existing marinas have been through a process to become established and are therefore recognised as an on-going use in that area. The recommended focus is on permitted or controlled activities. Any extension to the existing footprint would however need to consider cumulative effects on other public values, and is therefore proposed as a discretionary activity.

Remove the zone 2 area relating to the Tairua marina. This area was zoned by the Environment Court at the time of consideration of the resource consent application and appears to have been focused on restoration of a bird roost area and the diversion of Graham’s creek. These activities have been undertaken. The zone 2 area is a large area and it is subject to significant community interest and biodiversity values. On this basis it is not considered to be an appropriate area for future marina expansion without an assessment of environmental effects. Any extension to the existing footprint should be addressed as a discretionary activity.

Provide for new marinas as a discretionary activity with clear policy on appropriate locations. This approach acknowledges that should there be future demand for marina activities, that the site location and activity would be considered on its merits,

and in accordance with all other provisions. The need for suitable land and marine areas adjacent to each other is also recognised.

Recommended approach

Option 2: Zone the existing marinas and provide for the ongoing use of the area for marina activities.

Remove the zone 2 area relating to the Tairua marina.

Provide for new marinas as a discretionary activity.

9 Moorings

In most of the region's harbours there are defined mooring areas. Outside of these areas moorings are ad hoc and cumulative effects of such expansion is difficult to manage. Many of the permanent moorings have been in place well before the Resource Management Act was introduced in 1991.

Moorings utilise public space to the exclusion of most other activities. They are either pole moorings (vessels moored in lines) or swing moorings (vessel requiring a circular area to swing with the tide). A new approach is to moor vessels in lines (but without the poles). This may be an option in the future to make for more efficient use of space in some areas.

There is an increasing demand for permanent moorings, and in some areas demand exceeds space available. Moorings needs to be managed carefully to protect other public values such as natural character and landscapes (seascapes).

9.1 Statutory context

Resource Management Act 1991 (RMA)

Under the RMA council is responsible for managing structures and the allocation of space.

Section 12 states that no person may erect, reconstruct, place, alter, extend, remove, or demolish any structure that is fixed on the foreshore or seabed unless it is allowed by a rule in the coastal plan.

Maritime Transport Act 1994 (MTA)

Council's responsibility relates to navigation safety matters. The MTA in Rule 91 covers matters that are nationally applicable in relation to managing navigation safety. The WRC Navigation Safety Bylaw has been prepared in accordance with this rule, and reflects regional and local matters. Moorings are addressed in this bylaw (sections 4.5 and 5.9) from the aspect of ensuring the structure is built, maintained and managed appropriately.

New Zealand Coastal Policy Statement (NZCPS)

Policy 7 requires strategic planning to be undertaken. Policy 6 recognises recreational qualities and values, functional need and efficient use of space. The management of moorings is also subject to other directive policies in the NZCPS relating to matters such as natural character, landscapes and public access.

Waikato Regional Policy Statement (RPS)

Policy 4.1 recognises the importance of integrated management and strategic planning for resource pressures.

Policy 6.3 addresses growth and infrastructure and identifies the need to establish a strategic framework for moorings, including the connectivity with land (method 6.3.9).

Policy 6.10 covers the implementation of the Coromandel Peninsula Blueprint which recognised existing mooring zones.

Policy 7.1 recognises that the marine area is public space and that the allocation of space needs to recognise different activities or different purposes.

Policy 7.2 addresses marine water quality. (NB: Vessel sewage is managed in accordance with the RMA Marine Pollution Regulations).

9.2 What we have heard

Feedback received:

- promotion of shared moorings
- protecting boat anchoring areas (especially sheltered areas)
- protecting the naturalness of harbours from cumulative effects
- remove swing moorings and get the boats into marinas, (i.e. to better manage sewage/ waste/ fuel spills)
- better spatial planning of surface water activities to avoid conflicts between moorings and other activities such as ski lanes.

Staff also met with Auckland Yacht and Boating Association and heard that the Auckland approach (as per the policy shift) was supported.

9.3 What we have found to date on the topic

Moorings are required to have resource consents and the Harbourmasters manage compliance within the moorings zones. This system raises some difficulties for the Harbourmasters, as a resource consent is issued for a specific site. If the vessel size changes or the substrate builds up and the Harbourmaster wants to maximise space within the mooring zone, there is no opportunity for flexibly shifting moorings, as a change to the resource consent is required.

9.4 Policy shift

The operative Coastal Plan

The operative Plan does not provide strong policy guidance for locational decisions outside mooring areas. Within moorings zones (mapped) it establishes a threshold for mooring numbers. Swing moorings within the zoned areas is a controlled activity, outside a zone but within a harbour or estuary is prohibited and elsewhere is a discretionary activity. There is no flexibility with the zones for adjusting locations of individual moorings (without getting a resource consent changed).

Due to the existing provisions in the operative Coastal Plan it is difficult to manage moorings proposed outside of the mooring zones and there is the potential for sprawl of moorings to occur.

Options:

- | | |
|----------|---|
| Option 1 | Do nothing - status quo: retaining existing provisions in the Coastal Plan as is. |
| Option 2 | Bylaw Only: The Navigation Safety Bylaw could be used to manage moorings through a licence regime set up under the maritime Transport Act. This option does not address the RMA issues associated with locations outside mooring zones, and could potentially lead to a conflict between moorings and other values associated with the coast. |
| Option 3 | Moorings in zoned areas: structures become permitted activities subject to holding a licence under the Navigation Safety Bylaw and subject to biosecurity requirements. This would provide flexibility to manage space efficiently and more easily (than currently) within the zones, and the licensing regime is expected to be a cheaper and quicker process. There would need to be a transition period for those holding consents (which is a much stronger property right than a licence) and how this is addressed would need to be legally reviewed. A change to the Navigation Safety Bylaw to introduce this new regime would also be required and the timing would need |

to mesh with the RMA schedule 1 process for the RCP. If the Council decides to introduce an occupation charge, the implications of this would need to be further considered (i.e. whether such charges could be applied to a permitted activity).

Moorings outside zoned areas: This would require a resource consent. New policy is proposed to define criteria for appropriate locations. The impact of this policy approach is to manage sprawl and potentially to increase the focus of boat storage on land or in marinas. It may be a more difficult resource consent process (than status quo), if areas are subjected to overlays for natural character, seascape and biodiversity matters.

Recommended approach

Option 3: Moorings in zoned areas: structures become permitted activities subject to holding a licence under the Navigation Safety Bylaw and subject to biosecurity requirements.

Moorings outside zoned areas: This would require a resource consent. New policy is proposed to define criteria for appropriate locations.

10 Natural character

Natural character is the term used to describe the degree of naturalness in an area, and includes the natural elements, patterns and processes, and the experiential attributes of the coastal environment. These combine to create an overall natural character that is highest where there is least human induced modification.

The most exceptional areas of natural character have been identified as outstanding, and these require protection. However, even in areas with low overall natural character, components of high natural character may remain, and the protection of this from inappropriate development is important.

The preservation of the natural character of the coastal environment is a matter of national importance. The coastal plan only addresses this in the coastal marine area.

10.1 Statutory context

Resource Management Act 1991 (RMA)

Section 6(a) requires the preservation of the natural character of the coastal marine area, and its protection from inappropriate subdivision, use and development.

New Zealand Coastal Policy Statement (NZCPS)

Objective 2 directs the preservation of natural character of the coastal environment and the protection of natural features and landscape values through recognising the matters that make up natural character, and identifying and protecting areas where subdivision, use and development would be inappropriate.

In order to achieve this, Policy 13 requires that:

- adverse effects of activities on natural character in areas in the coastal marine area with outstanding natural character are avoided
- significant adverse effects are avoided, and other adverse effects avoided, remedied or mitigated in all other areas of the coastal marine area
- natural character is assessed in plan reviews, and areas of at least high natural character are mapped or identified.

Policy 14 requires the promotion of restoration or rehabilitation of natural character in the coastal environment.

Waikato Regional Policy Statement (RPS)

Policy 12.2 requires, that activities within the coastal environment, wetlands, and lakes and rivers, and their margins are appropriate to the level of natural character, and that where natural character is pristine or outstanding, adverse effects are avoided.

10.2 What we have heard

Much of our feedback has combined natural features and landscapes (seascapes) with natural character, as they were combined in the same consultation topic (feedback is the same for both topics).

Aquaculture interests, including Coromandel Marine Farmers Association, have told us they want clear and consistent identification of high values areas, including natural character, and guidance on activities, including consenting of aquaculture activities.

Several parties requested that the plan give effect to the NZCPS in relation to natural character and other values. The New Zealand Defence Force seek provision for the operation, maintenance and upgrading of infrastructure in high natural character areas, and activities that have very minor or negligible adverse effects.

10.3 What we have found to date on the topic

The Natural Character Study of the Waikato Coastal Environment (Boffa Miskell Ltd, 2017) identified 11 areas of Outstanding Natural Character. An additional area was identified during the Mercury Bay Spat Farm resource consent application.

This Study is currently being updated by Boffa Miskell Ltd to:

- include the additional area
- undertake refined mapping of Outstanding Natural Character areas in Aotea and Kawhia Harbours
- develop a detailed attributes table (with threats to the identified attributes) to identify the characteristics and values that make each area outstanding.

10.4 Policy shift

The operative Coastal Plan

The exiting objective is appropriate for natural character, but the policies require the protection of representative features, and remote and isolated areas, combining natural character and natural features and landscapes, including seascapes.

The 'Coastal Landscape Assessment' maps and the Areas of Significant Conservation Values (ASCV) layer provide no explanation of the values associated with these mapped areas and no link to the Plan provisions. The Plan does not identify what values should be protected.

This requires a case-by-case assessment of natural character values and potential effects on them through resource consent applications.

Options:

- | | |
|----------|--|
| Option 1 | Do nothing – Status quo: retaining existing provisions in the plan as it is. This approach will not give effect to the NZCPS or RPS and will not provide certainty for consent applicants. |
| Option 2 | Draft plan provisions that give guidance on natural character management and ensure it can be addressed in activity rules, but do not map areas of high or outstanding natural character. This will not give effect to the NZCPS or RPS and will not provide certainty for resource consent applicants. |
| Option 3 | Map identified areas of high and outstanding natural character as an overlay, and include a schedule of the characteristics and qualities that contribute to this outstanding natural character. Policy will require activity rules in other topics to avoid adverse effects on these characteristics and qualities. Aside from activities with 'minor or transient' adverse effects, most activities requiring resource consent will be discretionary, non-complying or prohibited depending on expected effects. |

This will direct new activities away from Outstanding Natural Character areas if they are expected to have adverse effects on the values. Existing activities will be accommodated but any alteration or expansion must demonstrate that it will not have adverse effects on the values of the overlay.

Recommended approach:

Option 3: Map identified areas of high and outstanding natural character as an overlay, and include a schedule of the characteristics and qualities that contribute to this outstanding natural character. Include provisions, including rules to protect these characteristics and qualities. This is a significant policy shift but is consistent with national direction in the NZCPS and the RPS.

11 Natural features and landscapes (Seascapes)

Landscape is defined as the cumulative expression of natural and cultural features, patterns and processes in a geographical area, including human perceptions and associations¹. It includes natural science, heritage, cultural, aesthetic, and associative values. Tāngata whenua values are a key component of the associative values.

Landscapes are larger areas that are perceived as a whole, which can include a number of features within them. Landscapes can be either experienced from within or seen as the whole of the outlook.

Landscape features are discrete elements within a landscape, which are generally experienced from outside the features' boundaries. Features display integrity as a whole element and can often be clearly distinguished from the surrounding landscape, which forms the context around them. Small landscapes can nest within larger landscapes. Both landscape and feature are scale dependent.

The coastal plan is restricted to the coastal marine area and this topic addresses the landscape values seaward of mean high water springs, including estuaries and harbours, river mouths and coastal waters. The values recognised in this topic are described as Seascapes to differentiate them from landward landscape values. Seascapes are specifically mentioned in the NZCPS.

11.1 Statutory context

Resource Management Act 1991 (RMA)

Section 6(b) requires the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development.

New Zealand Coastal Policy Statement (NZCPS)

Objective 2 directs the preservation of natural character of the coastal environment and the protection of natural features and landscape values through recognising the matters that make up natural character, and identifying and protecting areas where subdivision, use and development would be inappropriate.

In order to achieve this, Policy 15 requires that;

- Adverse effects of activities on outstanding natural features and outstanding natural landscapes (including seascapes) in the coastal marine area are avoided;
- Significant adverse effects are avoided, and other adverse effects avoided, remedied or mitigated on other natural features and natural landscapes in the coastal marine area
- Natural features and natural landscapes are assessed in plan reviews, and plans map or otherwise identify where the protection of natural features and natural landscapes is required.

Waikato Regional Policy Statement (RPS)

Policy 12.1 states that identified values and characteristics of outstanding natural features and landscapes (including seascapes) are protected from adverse effects, including cumulative effects, from inappropriate activities, and regional plans are directed to identify and provide for the protection of these values and characteristics by avoiding adverse effects of activities on them.

¹ New Zealand Institute of Landscape Architects Best Practice Note 10.1, 2010

11.2 What we have heard

Much of our feedback has combined natural features and landscapes (seascapes) with natural character, as they were combined in the same consultation topic (the feedback is the same for both topics).

Aquaculture interests, including Coromandel Marine Farmers Association, want clear and consistent identification of high values areas, including natural character, and guidance on activities, including consenting of aquaculture activities.

Several parties have requested that the coastal plan give effect to the NZCPS in relation to natural character and other values. The New Zealand Defence Force seek provision for the operation, maintenance and upgrading of infrastructure in high natural character areas, and activities that have very minor or negligible adverse effects.

11.3 What we have found to date on the topic

Boffa Miskell Ltd are completing the Waikato Regional Seascape Study which will determine significant areas of the coastal marine area not appropriate for use and development, such as aquaculture. This has established a methodology for landscape (seascape) significance determination.

The iwi engagement on natural features and landscapes (seascapes) is to follow.

11.4 Policy shift

The operative Coastal Plan

The operative Coastal Plan requires the protection of representative features, and remote and isolated areas, but combines natural character and natural features and landscapes in policy, and does not map or otherwise identify what values should be protected other than through the Areas of Significant Conservation Value (ASCV) layer.

This requires a case-by-case assessment of natural feature and landscape values and potential effects through resource consent applications.

Options:

Option 1 Do nothing – status quo: retain existing provisions in the plan as it is. This approach will not give effect to the NZCPS or RPS and will not provide certainty for resource consent applicants.

Option 2 Draft plan provisions that give guidance on natural feature and landscape (seascape) management and ensure it can be addressed in activity rules, but do not map outstanding natural features and landscapes (seascapes). This will not give effect to the NZCPS or RPS and will not provide certainty for resource consent applicants.

Option 3 Map identified outstanding natural features and landscapes (seascapes), and include a schedule of the characteristics and qualities that contribute to outstanding natural features and landscapes (seascapes). Policy will require activities to avoid adverse effects on these characteristics and qualities, and aside from activities with ‘minor or transient’ adverse effects, most activities require resource consents that could be declined.

This will direct new activities away from outstanding features and landscapes (seascapes) if they will have adverse effects on the values. Existing activities will be

accommodated but any alteration or expansion must demonstrate that it will not have adverse effects on the values of the natural features and landscapes (seascapes).

Recommended approach:

Option 3: Map outstanding natural features and landscapes (seascapes) as an overlay, and include a schedule of the characteristics and qualities that contribute to outstanding natural features and landscapes (seascapes). This schedule will link to rules for activities within this overlay. This is a significant policy shift but is consistent with national direction in the NZCPS and the RPS.

12 Natural Hazards

Coastal hazards pose a serious risk in New Zealand due to the many erosion-prone and low-lying coastal areas that have been intensively developed along the coastline. This includes areas adjacent to beaches, unstable cliffs, harbours, estuaries and river mouths.

Activities in the coastal marine area can be adversely affected by coastal hazard risk, and can also create or worsen coastal hazard risks to adjoining land, property, or infrastructure, either directly or indirectly by altering natural coastal processes.

Sea level rise and increasing storminess may place structures and activities in the coastal marine area at increased risk to natural events. Existing structures must be able to adapt over time while new structures must be designed to avoid increasing the risk of adverse effects.

Hard protection structures can also cause erosion of the adjacent shoreline. These structures can create a sense of security and encourage further development, increasing the potential risk should sea level continue to rise. The balance between allowing hard protection structures as part of community adaptive management plans and reducing long term risk will be of considerable interest to affected communities.

The NZCPS and the RPS promote reducing coastal hazard risks and restoring natural protection while discouraging hard protection structures except for the protection of significant infrastructure.

12.1 Statutory context

Resource Management Act 1991 (RMA)

Section 6 was amended in 2017 to include the management of significant risks from natural hazards to be recognised and provided for as a matter of national importance.

Section 30(1)(d)(v) requires the Council to control the use, development and/or protection of land for the purpose of 'the avoidance or mitigation of natural hazards' in the coastal marine area.

New Zealand Coastal Policy Statement (NZCPS)

The overarching goal of the coastal hazard objective and policies is to manage coastal hazard risks so that the likelihood of them causing social, cultural, environmental and economic harm is not increased. This includes harm arising from responses to those coastal hazards, such as the addition of hard protection structures. The adoption of long-term risk-reduction approaches is strongly encouraged.

Objective 5 reflects the coastal hazard challenges and issues described in the Preamble to the NZCPS, and gives rise to Policies 24, 25, 26 and 27. Objective 5 is the dedicated coastal hazard objective. It seeks to ensure that the management of coastal hazards is risk based and takes account of climate change. It requires proactive management: locating new development away from hazard prone areas; considering managed retreat for existing hazard-prone development; and protecting and restoring natural defences. It is the objective that primarily gives rise to Policies 24, 25, 26 and 27.

Policy 24 lays the foundation for risk-based coastal hazard management. Areas that will potentially be affected by coastal hazards are to be identified (giving priority to high-risk areas). Hazard risks over at least the next 100 years are to be assessed for those areas (having regard to a range of factors that affect hazard risks and the effects of climate change on each of those factors). The identification of these risks is to take into account national guidance and the best available information on the likely effects of climate change on the region or district.

Policy 25 is the overarching policy for managing the risk of social, environmental and economic harm from coastal hazards. It applies to all areas in the coastal environment that are potentially affected by coastal hazards. It specifically seeks to discourage the use of hard protection structures and promote use of natural defences.

Policy 26 addresses the management of the large range of natural coastal landforms/features that provide natural defences, including beaches, estuaries, wetlands, intertidal areas, coastal vegetation, dunes and barrier islands.

Policy 27 specifically addresses areas with significant existing development. The opportunity to avoid the risks from coastal hazards has already passed for such areas. Under this policy, local authorities are encouraged to develop sustainable risk-reduction strategies in a way that includes assessing the range of strategic options as set out in Policy 27(1) and evaluating strategic options as set out in Policy 27(2). Policies 27(3) and (4) address the use of hard protection structures.

Policies 26 and 27 contribute to the management of hazard risks in all affected areas and to the overall goal of risk reduction (Policy 25) by providing additional policies that are specific to situations involving natural defences against coastal hazards (Policy 26) and significant existing development (Policy 27).

There are important interactions between NZCPS policies that are concerned with the precautionary approach, integration and strategic planning, as well as with Objective 7, which is concerned with international obligations (e.g. the Sendai Framework for Disaster Risk Reduction 2015).

Waikato Regional Policy Statement (RPS)

Objective 3.24 directs that the effects of natural hazards are managed by increasing community resilience, reducing risks and enabling response and recovery from events.

Policies 13.1 and 13.2 also directly affect activities in the coastal marine area by seeking that activities be managed to reduce risks from natural hazards, by promoting the use of natural features over man-made structures as defences against natural hazards, and discouraging the use of hard protection structures.

The RPS requires district plans to identify coastal hazards, and to restrict subdivision, use and development within areas subject to coastal hazards over a 100 year timeframe, including increased hazards from climate change. Method 13.1.3 states that long term strategies for communities at risk (Community Adaptive Management Plans) will be developed to identify risks, hazard zones and options (including costs and benefits) to reduce risk while taking into account the wider environments values.

12.2 What we have heard

The responses received about natural hazards were related to coastal erosion and the consequent effects on land use. As these themes relate to activities landward of MHWS, the feedback has been received and will inform the future Regional Plan review. Within the TCDC shoreline management plan work the prevailing request from rate payers is to armour their coast to protect public roads, reserves and property.

There is also confusion about what coastal hazard activities are covered by the Coastal Plan and which functions fall to District Councils, such as infrastructure and service provision.

12.3 What we have found to date on the topic

The Coastal Inundation Tool ([Coastal inundation tool | Waikato Regional Council](#)) gives some indication of what various increases in sea level rise might look like but does not consider storm surge

or wave runup effects which could increase the area affected by sea level rise. The inundation tool can be used to indicate potential areas that may become CMA within the next 100 years(100cm+).

Several district councils in the region have commenced work on long term community adaptive management plans or shoreline management plans that include coastal erosion and inundation and may address options in the future for managed retreat.

An emerging issue is the potential use of structures within the coastal marine area (such as boat sheds, wharves, fixed location houseboats) for residential activities. Other regions have found it necessary to have specific rules to address risk management and environmental concerns.

12.4 Policy Shift

The operative Coastal Plan

The operative Coastal Plan contains one objective and four policies. The objective is to avoid or mitigate coastal hazard risk, and the policies seek to identify hazard areas, use a precautionary approach, promote the protection of natural features that provide a buffer against natural hazards, and manage erosion structures. These provisions do not fully reflect the national direction in respect of risk management and adaptation that have been developed since the Coastal Plan became operative. Consent applications for hard protection structures have primarily been through District Councils seeking to protect infrastructure.

Policy shift

The Coastal Plan review needs to give effect to the objectives and policies of the NZCPS and RPS. These will seek to avoid increasing risk, addressing the potential effects of climate change, and preferring natural defences over hard structures. The plan will also need to address adaptation to sea level rise of structures in the coastal marine area and avoiding increasing the risk of adverse effects of natural hazards.

Options: Risk Management and Adaptation

- Option 1 Do nothing – status quo: retaining existing provisions in the plan as it is. This approach does not address risk management, potential effects of climate change, and so does not give effect to the NZCPS or RPS.
- Option 2 Have specific provisions requiring all structures in the CMA to obtain a resource consent that address risk management and adaptation.
- Option 3 Incorporate risk management and adaptation as a matter to consider when assessing resource consents for structures and activities by applying appropriate objectives and policies.

Recommended approach: Risk Management and Adaptation

- Option 3** Incorporate risk management and adaptation as a matter to consider when assessing resource consents for structures and activities by applying appropriate objectives and policies.

Options: Hard protection structures

- Option 1 Do nothing – status quo: retaining existing provisions in the plan.

This approach does not address risk management, potential effects of climate change, or the adaptive management approach and will not give effect to the NZCPS or RPS.

Option 2 Require hard protection structures to initially apply and then reapply for resource consent in the event that climate change/ sea level rise results in substantial damage to the structure or adjacent environment. This would enable a review of the appropriateness of hard protective structures as the environment changes in response to sea level rise.

Option 3 Require hard protection structures to initially apply and then reapply for resource consent in the event that climate change/ sea level rise results in repairs to substantial damage being required but provide specific policies for those structures associated with a long term community adaptive management plan, including protection of significant infrastructure.

Recommended approach: Hard protection structures

Option 3 Require hard protection structures to initially apply and then reapply for resource consent in the event that climate change/ sea level rise results in repairs to substantial damage being required but provide specific policies for those structures associated with a community long term adaptive management plan, including protection of significant infrastructure.

Options: Residential activities on structures and fixed location houseboats

Option 1 Do nothing – status quo: retaining existing provisions in the plan. This approach does not address risk management, potential effects of climate change, or the adaptive management approach and so will not give effect to the NZCPS or RPS.

Option 2 Develop specific rules discouraging the use of structures within the CMA for residential activities, supported by natural hazard risk management objectives and policies.

Option 3 Develop objectives and policies discouraging the use of structures for residential activities and apply to activities requiring resource consents for structures.

Recommended approach: Residential activities on structures and fixed location houseboats

Option 2 Develop specific rules discouraging the use of structures within the CMA for residential activities, supported by natural hazard risk management objectives and policies.

13 Noise

Noise generating activities include the use of motorised vehicles (including watercraft), recreational activities on the foreshore and in the water, marine farms, marinas, operation of commercial machinery, temporary military training and seismic surveying.

As considerable noise is generated from activities above mean high water springs (adjacent roads, residential areas) it is important to manage noise in an integrated manner with adjoining territorial authorities. Coastal plan chapter 10 has five non-regulatory methods that promote working with adjoining territorial authorities. There are no provisions to manage the effects of seismic surveying.

13.1 Statutory context

Resource Management Act 1991 (RMA)

Section 16 requires every occupier of land to adopt the best practicable option to ensure the emission of noise does not exceed a reasonable level.

Section 30((1)(d)(vi) and (vii)) identifies the function of a regional council, in conjunction with the Minister of Conservation to control noise and the mitigation of noise and activities on the surface of the water.

Hauraki Gulf Marine Park Act 2000 (HGMPA)

States that the interrelationship between the Hauraki Gulf and the ability to sustain the life supporting capacity and to maintain the ecosystems is a matter of national significance.

New Zealand Coastal Policy Statement (NZCPS)

There are no specific requirements relating to noise effects but policy 11 requires the protection of indigenous biodiversity. Oil and gas exploration use seismic survey potentially disturbs the behaviour of marine mammals.

Waikato Regional Policy Statement (RPS)

The RPS requires plans to recognise adverse effects (including cumulative) on indigenous biodiversity from noise (11.1.2).

Waikato Navigational Safety Bylaw 2020

The bylaw defines a 'jetski' as a personal water craft or other noisy water craft events and it is also included in the definition of a vessel. The use of personal water craft are controlled, including through allocating zones, but the bylaw does not have any controls for noise.

Marine Mammals Protection Act 1978 (MMP)

The entire coastal marine area of the Waikato west coast is included in the West Coast North Island Marine Mammal Sanctuary. Established as part of protecting the Hector's and Maui dolphin where most seabed mining and any seismic surveying must comply with the 2013 Code of Conduct for Minimising Acoustic Disturbance to Marine mammals from Seismic Survey Operations (including the 2020 amendment).

13.2 What we have heard

Feedback received:

- consider the effect of noise on marine mammals and seabirds when processing resource consents. This should be undertaken through noise level tests (above and under water) at marine farms during periods such as harvest.
For example Mercury Bay spat farm is in an area where dolphins, orcas and whales are often seen in spring, when harvesting spat, boats and winches are operating 12 hour days. It is also the time of the year when marine mammals breed or have their young with them with potential for these animals to suffer adverse effects from noise. Sand blasting or water blasting of boats in marinas or slipways along with diesel powered generators have noise effects.
- noise pollution from jetski's, drones and motorbikes.

13.3 What we have found to date on the topic

The emission of noise from within the coastal marine area can adversely affect recreational amenity values and the health and well-being of humans, and impact of coastal fauna.

Public feedback identified above (jetski's, orcas and whales) the other noise issue received through our website was associated with boat propeller noise in Coromandel Harbour.

As boating activities do not require a resource consent, noise from boats fall under the general RMA section 16 duty to avoid unreasonable noise. Permitted activities in the coastal marine area do not have to comply with any specific noise standards, for example military training activities. Maritime Services have applications for temporary marine events for:

- Thundercats, Whangamata, Pauanui, Matarangi, Raglan
- Off-shore power boats, Whitianga *
- Water ski racing, Firth of Thames *
- Pyrotechnics, Tairua harbour

The current plan relies on individuals to manage their activities to comply with RMA section 16 and council could issue abatement notice to control excessive noise.

13.4 Policy Shift

The operative Coastal Plan

There are no rules in Chapter 10 to control noise leaving the management of noise to individuals undertaking an activity to adopt the most practicable option to ensure that sound does not exceed a reasonable level (RMA s16).

Policy shift

New provisions could be included to control seismic survey for the entire coastal marine area. These could require compliance with the 2013 Code of Conduct for Minimising Acoustic Disturbance to Marine mammals from Seismic Survey Operations (including the 2020 amendment). For activities on the foreshore rules could be included that require compliance with adjoining territorial authority noise levels.

Options:

- Option 1 Do nothing – Retain existing provisions in the plan as it is. This approach relies on individual’s adoption of best practicable option to ensure that noise does not exceed a reasonable level and a resource consent application triggering a non-complying activity status.
- Option 2 Retain the existing objective and policy and draft new rules for seismic survey on the east coast. Add new rules to manage noise levels on the foreshore, the surface of water to require compliance with the adjoining territorial authority rules. Include a new rule for seismic surveying on the east coast.
- Option 3 Evaluate the merit of having specific rules for activities in the coastal marine area.

Recommended approach:

- Option 2:** While there are currently few excessive noise issues, new policies and rules will ensure that any new activities will be managed across the coastal marine area in a more specific way in the future, including for marine mammals.

14 Public access and recreation

Access to and along the coast is a matter of national importance, and an important value for many New Zealanders. There is public expectation of having free, safe walking access to and along the coast and the ability to undertake recreational activities in the coastal marine area.

Subdivision, use and development of land in or adjacent to the coastal marine area can result in the reduction or loss of opportunities for public walking access to, along and through the coast. Public access can also be threatened by coastal erosion and sea level rise, creating 'coastal squeeze'.

A restriction on public walking access will only be considered in exceptional circumstances when it is necessary to protect specific values or address conflicts, but alternative linking access should be provided in these situations.

Access within the CMA relies on access to the coast. The provision of access to the coast, and on the landward side of the coastline is primarily the responsibility of territorial authorities. There is a need for integrated management between these agencies and communities when determining appropriate routes or levels of public access.

14.1 Statutory context

Resource Management Act 1991 (RMA)

Section 6(d) requires the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers.

Marine and Coastal Area (Takutai Moana) Act 2011

Section 26 states that the common marine and coastal area is open to public access and recreation, except where authorised prohibitions or restrictions have been imposed.

New Zealand Coastal Policy Statement (NZCPS)

Objective 4 seeks to maintain and enhance the public open space qualities and recreation opportunities of the coastal environment by:

- recognising the coastal marine area is public space for the public to use and enjoy
- maintaining and enhancing free public walking access to and along the coastal marine area, and where there are exceptional reasons why this is not practicable providing alternative linking access close to the coastal marine area
- recognising that coastal processes, including those affected by climate change, may restrict access to the coastal environment, and ensuring public access is maintained if the coastal marine area advances inland.

Policy 18 recognises the need for public open space within and adjacent to the coastal marine area for public use and appreciation including active and passive recreation. This involves maintaining and enhancing walking access linkages between public open space areas in the coastal environment; and considering the likely impact of coastal processes and climate change so as not to compromise the ability of future generations to access public open space. These matters are closely related to the implementation of Policy 19.

Policy 19 requires that:

- walking access to and along the coast is practical, free of charge and safe for pedestrian use.

- public walking access to, along and adjacent to the coastal marine area is maintained and enhanced by avoiding, remedying or mitigating any loss of public walking access, making information on public walking access available, and identifying opportunities to enhance or restore public walking access.
- restrictions on public access are only imposed where it is necessary for listed purposes.

Waikato Regional Policy Statement (RPS)

The RPS is consistent with the NZCPS, and also provides for offsite mitigation of loss of public access, and coastal development setbacks to maintain and enhance public access.

14.2 What we have heard

Much of the feedback relates to horse or vehicle access, which is being addressed in the disturbances topic.

For public walking access, feedback received:

- structures e.g. wharves and jetties can block public access along the coast
- the need to protect some areas of cultural or conservation value from public access and recreation
- making provision for disabled access
- public access to surf breaks
- temporary military training activities need to be provided for, and this can require temporary public exclusion
- providing guidance on how potential conflicts between aquaculture and public open space will be addressed
- public access to the coastal marine area causing erosion of beaches
- the need to integrate management of access with district councils.

For recreation and open space, feedback received:

- recognising the importance of harbours for recreation activities
- the need to manage different recreational activities to avoid conflicts, such as swimming and jet skis. However, this is addressed under the Navigation Safety Bylaw.

14.3 What we have found to date on the topic

That open space and public access is important to the coastal marine area, both the NZCPS and RPS seeks to maintain and enhance these.

14.4 Policy Shift

The operative Coastal Plan

The operative Coastal Plan contains one objective requiring the maintenance and enhancement of public access, and three policies that provide direction on:

- when restrictions on access may be appropriate. This is not consistent with the NZCPS.
- supporting reserves identifying where public access should be enhanced, and supporting landward provision of access.
- requiring mitigation where development adversely affects public access.

Public access is a matter of assessment in a number of rules. This topic needs to be updated to reflect the NZCPS and RPS direction, and recognise the importance of public open space in the coastal marine area for public recreation.

Options:

- Option 1 Do nothing – status quo; retain existing provisions in the operative Coastal Plan. The provisions require updating to reflect the NZCPS and RPS direction.
- Option 2 Contain no specific direction on public access or recreational values. This is not consistent with the NZCPS or RPS, and creates uncertainty for the public and applicants in the assessment of resource consents.
- Option 3 New provisions to give effect to the NZCPS and RPS, providing guidance on priorities for the provision of public access, and clarifying the situations where public access may be restricted. The importance of public open space in the coastal marine area for public recreation will also be recognised. Public access will be a matter of assessment on all rules covering activities that have the potential to restrict walking access.

Recommended approach:

- Option 3:** New provisions to incorporate the NZCPS and RPS direction on maintaining and enhancing public access and providing for public recreation, and clarify the situations where public access may be restricted e.g. jetties and seawalls.

15 Structures

Some structures in the coastal marine area are important and appropriate in enabling people and communities to provide for their social, economic and cultural well-being, and may have historical/archaeological significance.

Structures can, however, have significant adverse or cumulative effects on the environment. These can include adverse effects on natural character, amenity values, loss of public access, changes to the nature of benthic communities, interference with sediment transport processes, surfbreaks, changes in wave energy and tidal flows and cause loss of habitat.

Reclamation and de-reclamation can enable greater access to the coast. The most common structures in the coastal marine area include, infrastructure (public and private) pipes, navigation aids, bridges, culverts, seawalls, maimai, whitebait stands, wharves, jetties, boat ramps and research and monitoring equipment.

The Operative Coastal Plan chapter (5) includes provisions for structures that are associated with moorings and marinas which have now been separated into an individual chapters.

15.1 Statutory context

Resource Management Act 1991 (RMA)

Section 12 states that no person may erect, reconstruct, place, alter, extend, remove, or demolish any structure that is fixed on the foreshore or seabed unless it is allowed by a rule in the coastal plan.

Marine and Coastal Area (Takutai Moana) Act 2011 (MACCA)

The Takutai Moana Act established the common marine and coastal area and section 19 specifically states the crown is the owner of abandoned structures. It sets out the process to follow to determine if the structure is abandoned to ascertain the identity of the owner. It also provides for removing structures if it is likely to have no, or minimal, value to any owner or to the community and efforts to locate the owner have not been successful.

New Zealand Coastal Policy Statement (NZCPS)

The NZCPS requires the efficient use of occupied space by requiring structures to be available for public or multiple use wherever practicable, and for structures to be free of harmful aquatic organisms, the removal of structures that have minimal heritage or amenity values. There is also a requirement to promote the redesign of structures that interfere with ecosystem processes. In terms of natural hazards and coastal hazard risk to consider the removal or relocation of structures and discourage the establishment of hard protection structures.

National Policy Statement for Renewable Energy Generation 2011 (NPS-REG)

The NPS-REG requires the inclusion of objectives, policies and methods to provide for the development, operation, maintenance, and upgrading of new and existing renewable electricity generation activities using solar, biomass, tidal, wave, ocean current energy and wind resources to the extent applicable to the region.

National Policy Statement for Electricity Transmission 2008 (NPS-ET)

The NPS-ET regional councils must include objectives, policies and methods to facilitate long-term planning for investment in transmission infrastructure and its integration with land uses.

Waikato Regional Policy Statement (RPS)

The RPS allocates responsibility to the regional council to control structures in primary hazard zones for the purpose of avoiding or mitigating natural hazards. Regional plans are required to ensure that the amenity values of the coastal environment are maintained or enhanced by recognising that a predominance of structures contribute to character and amenity value of a particular area and encourages the removal of derelict structures.

The RPS also requires regional plans to avoid the placement of structures in areas of high coastal hazard risk.

15.2 What we have heard

Feedback received:

- many coastal structures cross or are on the border of the mean high water springs boundary and cross the jurisdictional boundary between regional council and territorial authorities
- allow for maintenance of significant infrastructure
- provide more boat launching space
- control the proliferation of private wharfs
- Multi-Agency cooperation and integration is required to ensure consistency across MHWS (WRC/TCDC/DOC/IWI/Coast Forum)
- permit structures that mitigate coastal erosion, in particular armouring of the coast at Whitianga and the Coromandel Peninsula.
- Plant dunes to mitigate coastal erosion.
- remove stormwater and wastewater outlets on the sandy shore
- control rock structures that do not permit landward ecosystem migration
- manage maintenance and removal of abandoned maimai
- have no further structures in the Tairua estuary
- protect wāhi tapu, marae and mana whenua land from rising sea level
- ensure the protection of natural coastal processes
- recognise stormwater, land drainage pipes and outfall structures
- since fuel tanks and pumps were removed due to compliance costs, multiple containers and tanks are used with higher risk of spillages. There is high demand for fuel supply at Kawhia wharf.

15.3 What we have found to date on the topic

The current rules that provide for the storage of petroleum products and contaminants were inserted in compliance with the NZCPS 1994. The Coastal Plan is now out of date and does not reflect new and amended legislation and national policy statement guidance, especially the NZCPS, and the RPS.

The Coastal Plan does not give provide sufficient guidance on the appropriateness of structures located in the coastal marine area. There have also been environmental changes, emerging issues and increased intensity of recreational and commercial use since the Plan was first drafted.

The Resource Management (Marine Pollution) Regulations 1998 manage oil spill in the coastal marine area related to a discharge from a ship or offshore installation. A structure to store petroleum products may straddle land, sea or foreshore areas. An accidental spill from the storage of more than 50,000 litres of petroleum products could have devastating effects on the coastal marine area.

Most of the current structure provisions can be retained without any major changes to bring them in line with current statutory requirements.

15.4 Policy Shift

The operative Coastal Plan

It is recommended to update provisions to bring them in line with the statutory requirements of the amended and new legislation and the higher order policies. Amendments are required to bring the provisions for maimai and whitebait stands in line with the regional plan.

Policy shift

The current rules for structures allow the storage of 50,000 litres or more of petroleum, petroleum products or contaminants in the coastal marine area as a discretionary activity. There is also a rule to prohibit storage in the Firth of Thames (area of significant conservation value) of 50,000 litres or more of petroleum, petroleum products or contaminants and the prohibited status is recommended to be retained.

The discretionary rule does not have any requirement to manage accidental spills of petroleum or petroleum products and conditions could be added to manage this.

Options:

- Option 1 Do nothing – status quo: retain existing provisions unamended. However this will not comply with statutory requirements
- Option 2 Amend the discretionary rule to require an applicant to have an accidental spill plan.
- Option 3 Delete the existing discretionary rule and add an objective, policy and a non-complying rule to require an applicant to have an accidental spill plan.

Recommended approach:

- Option 2:** This will provide for the storage of petroleum, petroleum products, or contaminants and require an accidental spill plan.

16 Surf breaks

Surfing is recognised as a significant recreational activity and contributes to and depends on significant amenity values. Surfing makes a significant contribution to the local economy of the Waikato Region e.g. Raglan and Whangamata, and supports a variety of commercial and tourism activities.

Surf Breaks are finite and valuable natural features that depend on particular combinations of natural coastal processes to produce surfable waves. They provide cultural, recreational, spiritual and sporting value to the over 200,000 people in New Zealand who surf on a regular basis. These values depend on the integrity of natural processes including accessibility and environmental health which influence surf break environments, and are important to surf break users.

The New Zealand Coastal Policy Statement (NZCPS) identifies 17 surf breaks as nationally significant, with four located in the region, being the Whangamata Bar, and Manu Bay, Whale Bay and Indicators at Raglan. 34 surf breaks of regional significance in the Region have also been identified.

16.1 Statutory context

Resource Management Act 1991 (RMA)

Sections 6(a), 6(b), 6(d), 7(c) are all relevant to the protection, use and enjoyment of surf breaks, as surf breaks being components of natural character and natural features, public access to the surf breaks and the maintenance of amenity values are all important.

New Zealand Coastal Policy Statement (NZCPS)

Objective 1 requires the maintenance and enhancement of natural physical processes in the coastal environment and recognising their dynamic, complex and interdependent nature, which is important for forming surfable waves.

Objective 2 requires the preservation of natural character and protecting natural features of the coastal environment by recognising the characteristics and qualities that contribute to natural character and natural features, and their location and distribution, and identifying areas where these characteristics and qualities need to be protected from inappropriate activities.

Objective 4 requires the maintenance and enhancement of the public space qualities and recreational opportunities of the coastal environment, recognising that the coastal marine area is an extensive area of public space for public use and enjoyment, and maintaining and enhancing public access to and along the coastal marine area.

Policy 16 requires the protection of surf breaks of national significance, by ensuring activities do not adversely affect the surf breaks, and avoiding adverse effects of other activities on access to, and use and enjoyment of the surf breaks.

Policies 13(1)(b) requires significant adverse effects to be avoided, and other adverse effects to be avoided, remedied or mitigated on the values of other natural character, and natural features and landscapes, which includes surf breaks.

Waikato Regional Policy Statement (RPS)

Policy 12.2 requires protecting surf breaks of national significance. Policy 12.4 seeks to avoid adverse effects of activities on access to, use and enjoyment of surf breaks of national significance.

16.2 What we have heard

All feedback received on surfing and surf breaks came from the West Coast, centred around Raglan.

Feedback received:

- the protection of the nationally significant surf breaks consistent with Policy 16 NZCPS
- insertion of the regionally significant surf breaks identified in the Surf breaks of regional significance in the Waikato region Technical Report into the coastal plan
- support for public access to the coastal environment
- recognition of surfing as contributing to cultural identity and wellbeing, including physical and mental health
- improvement of water quality, including no direct discharges of wastewater to coastal water, and the removal of chemical pollutants from the waste stream.

16.3 What we have found to date on the topic

Surf breaks of regional significance in the Waikato region (Ed Atkin and Shaw Mead, eCoast, TR2017/19) identified 38 surf breaks (including the four of national significance) of regional significance, comprising of those surf breaks that are high quality, have a dependant population, high frequency of use, and/or are of outstanding natural character, using available surf guides, public consultation and expert opinion.

The report describes and maps the surf breaks, models the swell corridors that provide the surf waves, and provided a preliminary assessment of potential risks to surf breaks at a regional scale. This shows that activities near the surf break or in the swell corridor require assessment to determine if they will have adverse effects on the physical topography of the seafloor, the wave swell corridor, or use and enjoyment of the surf break.

There is concern amongst surfers that there are currently consented activities at both Manu Bay and Whangamata that may be having adverse effects on the nationally significant surf breaks at those locations.

16.4 Policy shift

The operative Coastal Plan

The operative Coastal Plan does not address surf breaks and assessment is only through reference to the NZCPS when considering resource consent applications.

Options:

- Option 1 Do nothing – status quo, do not include recognition of nationally or regionally significant surf breaks. This will not give effect to the NZCPS or RPS for nationally significant surf breaks, and will not incorporate community feedback for regionally significant surf breaks.
- Option 2 Map the surf breaks and swell corridors for the nationally significant surf breaks and draft provisions to protect them from adverse effects. This will give effect to the NZCPS and RPS, but will not incorporate community feedback for regionally significant surf breaks. This will involve a resource consent being required for any activity that may have a direct impact on the mapped nationally significant surf breaks, and any activity in the swell corridor will need to demonstrate it will not have adverse effects on these surf breaks.

Option 3 Map the surf breaks and swell corridors for both nationally and regionally significant surf breaks and draft provisions requiring the protection of nationally significant surf breaks from adverse effects, and the protection of regionally significant surf breaks from significant adverse effects. This will give effect to the NZCPS and RPS, and also recognises the importance of regionally significant surf breaks of the surfing community of the region.

This will require resource consents for certain activities such as structures, dredging and discharges within all mapped surf breaks, and the effects on the surf break will be required to be assessed as part of resource consent applications for structures and disturbances in the swell corridor. Activities of a scale to affect surf breaks require resource consent, and assessment of effects on surf breaks can be included in this.

This is a significant policy shift to reflect community feedback. The protection of regionally significant surf breaks is consistent with the approaches by regional councils in Northland, Auckland, Taranaki and Bay of Plenty.

Recommended approach:

Option 3: That the coastal plan map and protect both nationally and regionally significant surf breaks, with policies creating a tiered approach:

- avoiding adverse effects on the nationally significant surf breaks
- avoiding significant adverse effects, and avoiding, remedying or mitigating other adverse effects, on the regionally significant surf breaks.

These will be supported by requiring a resource consent for any activity that may have a direct impact on the mapped significant surf breaks, and any activity requiring resource consent in the swell corridor will need to demonstrate it will not have adverse effects on these surf breaks.

This approach gives effect to the NZCPS and RPS, is consistent with community feedback on surf breaks, and implements the recommendations of WRC's technical report on surf breaks in the region.

17 Surface water activities

The management of surface water activities is necessary to enable areas to be used efficiently and in a way that avoids conflicting uses and ensures that navigation and safety requirements are met. In managing surface water activities, there is a need to recognise the links between resource management issues and matters controlled under the Maritime Transport Act 1994.

17.1 Statutory context

Resource Management Act 1991 (RMA)

Section 30(1)(d)(vii) requires regional councils to control activities in relation to the surface of water.

Maritime Transport Act 1994

The Maritime Transport Act stipulates broad principles of maritime law, the rules contain detailed technical standards and procedures. Part 3A sets out the requirements for local regulation of maritime activity including the appointment of harbour masters, setting the functions of harbour masters and the ability to make bylaws.

Regional bylaws exist to ensure the safety of all water users and to reduce conflicts between the different water-based activities in an area.

New Zealand Coastal Policy Statement (NZCPS)

Objective 4 seeks to maintain and enhance the public open space qualities and recreation opportunities of the coastal environment by recognising the coastal marine area is public space for the public to use and enjoy.

Waikato Regional Policy Statement (RPS)

Policy 7.1 recognises that the coastal marine area is a public space and seeks to ensure its efficient use is ensured by allocating space.

Method 4.1.12 seeks to ensure consistency with the objectives and policies of the RPS with other plans and strategies including navigation safety bylaws.

17.2 What we have heard

Feedback received:

- mitigate adverse effects of motorised boats or other surface water users
- have dedicated jet ski lanes.

17.3 What we have found to date on the topic

The Navigation Safety Bylaw covers all navigable waterways in the Waikato region (with the exception of Lake Taupō) and is aimed at ensuring the safety of users on these waterways. The bylaw was updated in 2020 following a review, including public consultation and hearing.

The bylaw sets out safe practices for people using the lakes, rivers and harbours for water skiing, swimming, boating, kayaking or other water activities safely, by seeking to reduce the conflicts between different activities.

17.4 Policy shift

The operative Coastal Plan

The operative Coastal Plan contains one objective and two policies, which provide direction on managing conflicts between different surface water users and between surface water activities. There are no rules for surface water activities.

The Plan controls structures which define different spaces for different uses (e.g. ski lanes), the way activities are undertaken is controlled by the Maritime Transport Act and the Navigation Safety Bylaws.

Options:

- Option 1 Do nothing – status quo: retain existing provisions with minor amendments in line with the statutory requirements in an easy to apply format.
- Option 2 Include objectives, policies and rules to manage surface water activities. This would introduce duplication and cause confusion with the Navigation Safety Bylaw.

Recommended approach:

- Option 1:** Do nothing – status quo: retain existing provisions with minor amendments in line with the statutory requirements in an easy to apply format.

18 Tangata whenua/ mana whenua

Tangata whenua have perspectives, obligations and values that approach environmental management in a different way and can also be specific to their tribal group. These perspectives need to be considered and incorporated into the resource management policy development and decision-making to give effect to the principles of the Treaty of Waitangi and recognise tangata whenua status as kaitiaki.

18.1 Statutory context

The Resource Management Act 1991 (RMA) is general in terms of its provisions for tāngata whenua engagement and Māori values, whereas the New Zealand Coastal Policy Statement (NZCPS), and the Waikato Regional Policy Statement (RPS) provide very specific requirements for council and planning documents to give effect to. These plans give special status to tāngata whenua and set out principles and mechanisms through which their interests are provided for. These include, but are not limited to:

- The requirements to take account of iwi management plans when developing policy
- The requirements to consult with tāngata whenua when developing policy
- The requirement for consent applications to identify and document, within an assessment of environmental effects, tāngata whenua interested in or affected by consent proposals, the consultation undertaken, and any response to the views of those consulted
- The requirement to take into account the principles of the Treaty of Waitangi
- Recognition of customary interests in the common marine and coastal area
- The requirement to incorporate mātauranga Māori into sustainable management practices

Resource Management Act 1991 (RMA)

The RMA explicitly provides for tāngata whenua to participate in RMA processes and this requires WRC to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

In achieving the purpose of the RMA, outlined in Part 2, ‘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:

Section 6(e) ‘the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga’.

Section 6(f) ‘the protection of historic heritage from inappropriate subdivision, use and development’.

Section 6(g)—‘the protection of protected customary rights’.

- Have particular regard to:

Section 7(a) ‘kaitiakitanga’.

- Take into account:

Section 8 ‘the principles of the Treaty of Waitangi (Te Tiriti o Waitangi)’.

Section 66(2A) requires that WRC when preparing or changing a regional plan, it must deal with the following documents, if they are lodged with the council, in the manner specified, to the extent that their content has a bearing on the resource management issues of the region:

- (a) the council must take into account any relevant planning document recognised by an iwi authority
- (b) in relation to a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, the council must, in accordance with section 93 of that Act
 - (i) recognise and provide for the matters in that document, to the extent that they relate to the relevant customary marine title area;
 - (ii) take into account the matters in that document, to the extent that they relate to a part of the common marine and coastal area outside the customary marine title area of the relevant group.

Section 66(2A)(a) requires that any relevant planning document lodged by an iwi authority to the extent that the content has a bearing on the resource management issues of the region must be taken into account.

Section 66(2A)(b) requires WRC to take into account a planning document prepared by a customary marine title group under s 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, where WRC must recognise and provide for the matters in the document to the extent that they relate to the relevant customary marine title area, or if it relates to area outside other customary marine title area, the part of the common marine and coastal area where the group exercises kaitiakitanga (s 85 (4)(b)). To ensure correct interpretation of these plans it is beneficial to have direct input by iwi.

National Planning Standards (2019)

The national planning standards require a tāngata whenua chapter to be included in plans.

The chapter will provide a location for provisions that detail processes and context relating to tāngata whenua. It is intended that more specific tāngata whenua provisions will be integrated throughout the plan as each topic is developed.

New Zealand Coastal Policy Statement (NZCPS)

Objective 3 focuses on taking account of the principles of the Treaty of Waitangi, recognising the role of tāngata whenua as kaitiaki and providing for tāngata whenua involvement in managing the coastal environment.

Policy 2 requires that the principles of the Treaty of Waitangi and kaitiakitanga are taken into account. This includes the connection and relationships that tangata whenua have with the coastal environment, promoting tāngata whenua involvement in coastal decision-making, and recognising the importance of Māori cultural and heritage values.

Waikato Regional Policy Statement (RPS)

The RPS states that WRC will work proactively with tāngata whenua in the early stages of preparing plans and strategies (4.2.1.) Chapter 4 (Integrated management) states WRC will develop partnerships with iwi authorities in regional plan development (4.3.1.) Other important references are tāngata involvement in resource management processes (4.3.2), kaitiakitanga (4.3.3) and to provide the wellbeing of tāngata whenua by enabling access, use and enjoyment of their resources (4.3.4.)

Chapter 7 (Coastal Marine Area) states that WRC will collaborate with tāngata whenua in the development of a Coastal Marine Strategy (7.1.5). There is an opportunity for collaboration with

tāngata whenua in the context of developing this marine strategy and combining this with the engagement of the regional coastal plan.

Marine and Coastal Area (Takutai Moana) Act 2011 (MACA)

The MACA acknowledges the importance of the marine and coastal area to all New Zealanders and provides for the recognition of the customary rights and coastal area to all New Zealanders and provides for the recognition of whanau, hapu and iwi customary rights in the common marine and coastal area under the Act.

There are currently 30 applications that have been made under the Act that are within the Waikato region. If a group has a customary marine title over an area, it will hold rights that include the ability to prepare a planning document with objectives and policies for the management of resources in the area and this planning document needs to be recognised and provided for in the coastal plan.

Local Government Act 2002 (LGA)

The LGA recognises the importance of the Crown's responsibility to take into account the principles of the Treaty of Waitangi requiring the councils to actively provide opportunities for tangata whenua to contribute to decision making (s 4). The LGA goes further than providing opportunities to participate and includes the requirement to build capacity to contribute to decision making.

18.2 What we have heard

Pre-engagement feedback from iwi has indicated that iwi capacity is limited given the various plan reviews and projects iwi are involved with. Iwi management plans submitted to WRC have been reviewed to identify the key environmental issues in their rohe (area.) This analysis is required and will help to inform the next iwi engagement phase.

18.3 What we have found to date on the topic

To date there has been limited involvement of tāngata whenua in coastal management decision-making and in the practical expression of kaitiakitanga. This lack of involvement has the potential to lead to conflict about the management of the coastal marine area under the RMA. There have been methods implemented to fulfil this policy such as consultation on consent applications, establishing a working relationship and the recognition of iwi management plans.

It is considered the involvement of tāngata whenua in decision-making has been increasing and with the addition of Mana Whakahono ā Rohe (Iwi Participation Agreements) this will only continue as parties have to agree how tāngata whenua will be involved in decision making processes.

18.4 Policy Shift

The operative Coastal Plan

The operative Coastal Plan has an objective, policies and methods for tāngata whenua participation in management of the coastal marine area. It includes an objective and policy to establish a partnership with tāngata whenua (2.3, 2.3.2) for decision making and management of the CMA. This approach is formalised in chapter 17 which includes consideration of the transfer of functions, power of duties with respect to the characteristics that are identified as having special value to tāngata whenua (17.1.2) and the promotion of kaitiakitanga. Apart from Sea Change (Tai Timu Tai Pari) for the Hauraki Gulf there are no formal partnership with tangata whenua with respect to the management of resources in the coastal marine as yet.

Policy shift

Since the operative plan came into effect, WRC has increased its internal capacity and capabilities to engage better with tāngata whenua and recognise Maori values and aspirations. The establishment of co-governance relationships with iwi has increased iwi participation in natural resource management and decision making for freshwater management. The NZCPS provides further direction on how WRC can enhance these relationships. It is recommended that the new plan is updated to reflect these progressions:

- to increase iwi views and mātauranga Māori of coastal management, not just the two iwi named in the operative plan.
- to add the new values which have been defined by tāngata whenua and the council such as mauri; access, use and enjoyment of resources and places, involvement in decision-making; and the ability to exercise and provide for kaitiakitanga.

Options:

Option 1 Do nothing – status quo: retain current provisions without alteration. This would not give full effect to the NZCPS or RPS.

Option 2 Include a tāngata whenua chapter which will provide a location for provisions that detail processes and context relating to tāngata whenua. More specific tāngata whenua objectives, policies and rules will be integrated throughout the Coastal Plan.

This would give effect to the NZCPS and RPS and would be developed in partnership with tāngata whenua. This will also allow for further involvement of tāngata whenua in decision making via Mana Whakahono ā Rohe (Iwi Participation Agreements) or extended through joint management agreements as a result of future settlement deals that may cover the coastal marine area.

Recommended approach:

Option 2: Include a tāngata whenua chapter which will provide a location for provisions that detail processes and context relating to tāngata whenua. More specific tāngata whenua objectives, policies and rules will be integrated throughout the Coastal Plan.