

Wise Response Society Inc.

Hearing Oral Submission on Coastal Environment of the Proposed Regional Policy Statement

2 March, 2023

Presented by Professor Hamish Rennie¹ and Dugald MacTavish on behalf of the Society with contributions from Dr Stephen Knight-Lenihan.

Scope of Oral Submission

1. The points we wish to highlight in this Oral submission link to two key questions
 - What is the best approach and best settings in the coastal environment anticipating a low carbon economy?
 - How does the RPS best integrate those with other planning instruments and provisions (including Tangata Whenua opportunity)?

The key points we wish to highlight

A. Precautionary principle must be reflected throughout the RPS proportionate to the risk we face

2. Given our state of environmental overshoot globally and the recognition that we must transition to a low carbon economy without delay, we submitted that the foreword to the RPS must reflect both the level of risk we face and the magnitude of the challenge.
3. To support this assertion, we pointed out that by its own methodology (pRPS, Table 8), climate change alone places us at very high risk, given that on current projections, we are headed for dangerous temperatures and potentially irreversible effects.
4. To help address this we proposed an alternative long- term vision (IM-01). It reads:

By 2035, Otago's communities are thriving within the strongest solar-driven economy in New Zealand, leading the national emissions reduction target, while embedded within well-functioning ecosystems and sustainable deployment and reuse of natural resources, mō tātou, ā, mō kā uri ā muri ake nei.

5. It seems to us, if a community are to set the aspirational goal now required, then the RPS is the place to do it.

B. NZCPS has its own standards to be met

6. The Supreme Court commented in its landmark decision on King Salmon that the NZCPS has its own wording in the act, which is slightly stronger than that of the other NPS.
7. Whereas the NZCPS covers the entire coastal environment, on the landward side, there was no terrestrial environment equivalent. The Highly Productive Land NPS and the Urban Development Act address specific issues. There needs to be an integration between

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terrestrial, freshwater/wetland/ coastal and marine systems to better realise ecological / human welfare outcomes.

8. As the RPS and RCPs must give effect to the NZCPS, the NZCPS is more than just an overlay as it drives what is to be addressed in the lower-level documents. However, this requirement has been widely ignored by councils given the “as soon as practicable” clause.
9. There has also been a past view by councils that they cannot prevent or control fishing but the courts have since made it clear that they can. The adverse effects of fishing are not well-addressed in the pRPS. There needs to be clear direction to the ORC through the RPS that it must assess the adverse effects of fishing on the natural character and biodiversity of the coastal marine area and GHG emissions.

C. Integration - how this chapter interrelates to other provisions and Maori concepts

10. The definition of the coastal environment is deliberately inclusive rather than exclusive. Treating the coast as an isolated unit was never the intention. Goals of a CPS require integration with landward and seaward policies i.e., mountains to the sea.
11. From the perspective of impacts on the coastal environment, all catchments could be seen as within the coastal environment– i.e., a mountains-to-the-sea – but also an oceans-to-the-shore – perspective. However, the courts have generally taken the approach that it is what is affected by coastal processes or in visual proximity to the sea that is the coastal environment and tools relating to freshwater management have been seen as more appropriate to the more limited freshwater management issues.
12. The tools for freshwater must be administered to harmonise with the coastal environment.
13. We consider there are many ways in which this Statement can achieve better integration with Tangata Whenua interests and will be increasingly the case as customary marine tenure and protected rights are identified. It is important though that there are sufficient checks and balances to ensure commercial interests cannot circumvent protection provisions by citing cultural rights.
14. Specifically, in the amended version, CE-01 states ...

*(6) the interconnectedness of wai Māori and wai tai, and the effects of terrestrial and freshwater uses and activities on coastal waters and ecosystems, are recognised, and understood, **and protected***

As written, this means the adverse effects of terrestrial and freshwater uses and activities would be protected. We do not believe that is what is intended

15. There is a need for clarification regarding “CE-04 –*Mana moana: The enduring cultural association of Kāi Tahu with Otago’s coastal environment is recognised and provided for, and mana whenua are able to exercise their rakatirataka role, manaakitaka and their kaitiaki duty of care within the coastal environment.*”
16. What does “and mana whenua are able to exercise their rakatirataka role” mean? If it means the right to exercise their sovereignty, that would appear to require the transfer of the decision-making roles in relation to the Coastal environment to mana whenua using s 33 of the RMA. If that is what is intended, then that should be more clearly stated as the track

record of s 33 transfers to iwi is limited to one in the entire country. Greater direction might be required.

17. The coastal environment is where much of the adverse effects of misuse of the terrestrial and freshwater environments are ultimately felt. We do not think the policy is sufficiently clear on the appropriate relationship between the terrestrial/freshwater and the coastal environment. For instance, a specific improvement could be made to the wording in CE-P1 in the integration section. After the words

“...where relevant, the provisions within the following chapters of this RPS also apply within the coastal environment, unless expressly excluded...”

Add

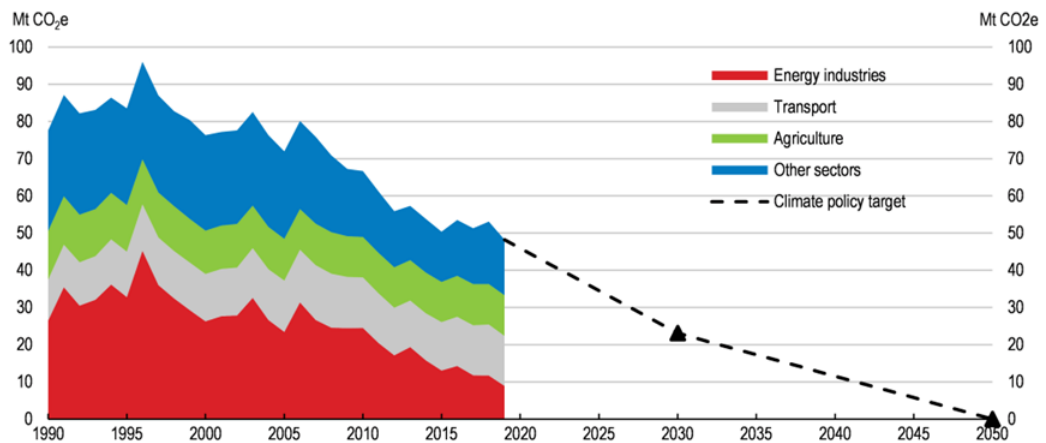
“or are having, or would be likely to have a high probability of, effects or outcomes contrary to the objectives for the Coastal Environment”.

D. Ecological gain and maintain ecological health and amenity everywhere not just in "significant" or "outstanding" locations

18. It is important to protect and enhance all ecosystems, including degraded ones, and not just those identified as significant. However, equally there needs to be a requirement to protect and enhance indigenous biodiversity, including significant habitat or sites, and the need to improve ecological integrity generally.
19. In practice this means requiring coastal development to contribute to protection, enhancement, or restoration of ecosystems. Under current planning processes, this is restricted to areas within the coastal zone. The additional component, and one that needs developing, is to identify prior to development occurring, priority habitat needing protecting, enhancing, or restoring, and requiring development contribute proportionally to those priority areas.
20. This would be in addition to avoiding, remedying, or mitigating on-site effects as is currently required, and (where applicable) ruling out development that impacts at risk species or habitat. The objective should be to generate overall or net ecological benefit.

E. All development in the Coastal Environment must be consistent with achieving national emission reduction goals and moving to renewable energy

21. Because of the close relationship between GHG emissions and use of fossil fuels, achieving the national emissions goals will not only play our part in moderating climate change but also go a long way to reducing our vulnerability to energy and economic shocks.
22. Therefore, meeting national emissions targets can be used throughout the RPS to satisfy the precautionary principle. To ensure this pathway is adhered to will require links to a set of milestones and trigger points. For example, the graph below shows the sort of progress on GHG emissions reduction that the Danes are achieving which this RPS must drive for Otago.



23. As a minimum, we request that a specific Objective could be added to CE-05 eg –

“activities in the coastal environment are allowed only within the context of achieving an overall reduction, consistent with the region’s contribution to achieving national targets, in the emission from the coastal environment of GHGs that contribute to climate change”

F. With all discharges, control of potential contaminants must be as inputs rather than outputs

24. If we are serious about controlling levels of contaminants in discharges of all types, then the outcome can be much more certain if, wherever possible, we control inputs.

25. This requires policies that identify inputs and proceeds to require these to be limited in accordance with wider national targets for the receiving environment.

G. Surf breaks

26. The NZCPS addresses surfbreaks significant at a national level. In recommending that approach the Board of Inquiry into the proposed NZCPS deliberately left it to regions to identify regionally significant surfbreaks. The pRPS does not provide sufficient direction to promote the identification of regionally significant surfbreaks and the integrated (land/sea) protection of such breaks.

27. We request the RPS include a clear directive statement that regionally significant surfbreaks be identified and appropriate provisions for their protection from adverse effects be provided for in regional and district plans.

Thank you for the opportunity to be heard.