



**Submission on the Proposed New Zealand  
Coastal Policy Statement 2008**

From

**Contact Energy Limited**

**7 May 2008**

**To:**  
**Board of Inquiry**  
**Proposed NZCPS**  
**C/- Department of Conservation**  
**PO Box 10 420**  
**WELLINGTON 6143**  
**By email to: [submissions.nzcps@doc.govt.nz](mailto:submissions.nzcps@doc.govt.nz)**

1. This is a submission on the Proposed New Zealand Coastal Policy Statement 2008 ("Proposed NZCPS") by Contact Energy Limited ("Contact").
2. This submission relates to all objectives and policies in the Proposed NZCPS.
3. Contact's submission is set out in Parts A, B and C of this document.
4. The changes sought by Contact are set out in Parts A, B and C of this document.
5. Contact wishes to be heard in support of its submission.
6. If others make a similar submission, Contact would **not** consider presenting a joint case with them at the hearing.

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Signed by: *Jan de Bruin*

Date: *7 May 2008*

A person authorised to sign this submission on behalf of Contact Energy Limited.

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## PART A CONTACT ENERGY LIMITED

1. By way of background, Contact is a significant electricity generator, as well as a major electricity and gas retailer, with customers across the country. Contact owns and operates a number of generation assets that could be impacted on by the proposed New Zealand Coastal Policy Statement ("NZCPS").
2. These assets include:
  - The Otahuhu Power Station, in Manukau City. The station operates within the coastal environment, with outlet pipes for cooling water dispersal, a dock, a weir (which creates the Otara Lake) and water intake structures within the coastal marine area ("CMA"); and
  - The New Plymouth Power Station, which while no longer generating electricity, is within the coastal environment and Contact still maintains a number of structures on the site in the CMA. This site remains as a potential power station site.
3. At these power stations Contact not only operates in the coastal environment but owns and uses land within the coastal marine area. The land in the CMA that Contact owns is essential to the operation of the power stations.
4. In addition, Contact has announced plans for large-scale renewable generation initiatives that will be partially within the coastal environment. This includes the planned Hauāuru mā raki wind farm, a substantial wind farm in an area stretching along the coast from Port Waikato to Te Akau South and several kilometres inland as well. We also do not rule out the possibility of wave or tidal electricity generation at some point in the future.
5. Contact also operates the Crown owned Whirinaki Power Station, which is located north of Napier. While this station is not currently within the coastal environment, we believe that it potentially could be under the proposed NZCPS, especially under Policy 1(f), because it is visible from the coast – see our comments in Part C.

## PART B GENERAL SUBMISSIONS

6. There are a number of general submissions that Contact would like to make before commenting on the objectives and policies individually.

### Introduction

7. Contact acknowledges the importance of the NZCPS and the need for national guidance in how the coastal environment is to be managed in a manner consistent with the sustainable management purpose of the Act. However, Contact considers it essential that the NZCPS accurately reflects the sustainable management purpose of the Act, and is not distorted by being too "protection" focussed and not enabling sustainable use and development of the coastal environment. Contact is particularly concerned that this is the case with the Proposed NZCPS.
8. The NZCPS has significant consequences on planning in the coastal environment on the basis that local authorities must "give effect to" the NZCPS. Contact submits that every objective and policy in the NZCPS must be tested carefully to ensure that it will not inhibit or prevent use and

development that would otherwise be sustainable in terms of the purpose of the Act. There are a significant number of policies that may have this effect if they remain in the form set out in the Proposed NZCPS.

9. Contact's concerns are pertinent when considering the Government's stated intention for 90% of electricity generation be from renewable sources by 2025. The coast has a large potential for the supply of renewable energy and unnecessary impediments to such development should not hinder the achievement of Government policy.

### **Purpose of a NZCPS**

10. Section 56 of the Resource Management Act 1991 (RMA) makes it clear that the purpose of the NZCPS is to achieve the purpose of the RMA in relation to the coastal environment of New Zealand. In Contact's submission, the NZCPS as proposed is not consistent with the sustainable management of natural and physical resource purpose of the RMA. For example, the document is very "protection" focussed and lacks any real focus on the "enabling" component of the definition of sustainable management under section 5. This over-emphasis on protection and lack of emphasis on enabling use and development of the coastal environment leads to a lack of balance in the document, and consequently this national policy statement is unlikely to lead to the sustainable management outcome contemplated by section 56 of the RMA. The lack of balance is a significant concern to Contact, particularly from the perspective of the development of renewable energy generation in New Zealand. This type of development is a significant part of a sustainable future for New Zealand, and the coastal environment is extremely important from the perspective of developing renewable energy generation.

### **Part 2 of the RMA and Other Comments**

11. Contact submits that the proposed NZCPS does not reflect accurately the overriding purpose and principles as set out in Part 2 of the RMA. In particular, the Proposed NZCPS:
  - (a) Does not provide any real guidance on how to **enable** people and communities to provide for their social, economic and cultural wellbeing" in the coastal environment;
  - (b) Focuses primarily on "natural" resources and does not focus on "physical" resources;
  - (c) Over-emphasises the use of "avoid" policies, which restrict the discretion of consent authorities and distort the section 5(2)(c) standard of "avoiding, remedying or mitigating" adverse effects;
  - (d) Does not reflect section 7(b) in terms of the "efficient use and development of natural and physical resources";
  - (e) Does not reflect section 7(i) in relation to "the effects of climate change";
  - (f) Does not reflect section 7(j) in relation to "the benefits to be derived from the use and development of renewable energy";
  - (g) Does not recognise the significance of existing infrastructure in the coastal environment (such as renewable energy development, transmission infrastructure or other important infrastructure). The very restrictive policies are likely to make the re-consenting of this

significant infrastructure very difficult and this will be inconsistent with the sustainable management purpose of the RMA;

- (h) Does not provide support or flexibility in terms of development of new renewable energy generation projects and associated infrastructure;
- (i) Does not provide support or flexibility for the development of new technologies such as wave and tidal energy;
- (j) Includes a number of ill-defined concepts (such as “public open space” or “wild or scenic”);
- (k) Includes a number of policies that are inconsistent with the statutory provisions in the Resource Management Act (such as Policies 46 and 47 which are inconsistent with section 107 of the Act);
- (l) Contains a number of absolute policies that need to be qualified by expressions such as “where this is appropriate” or “where this is consistent with the sustainable management purpose of the Act”; and
- (m) Does not reflect the reality of how the policies will operate in practice, such as the reality of seeking to enhance water quality where this may not be physically possible unless the use of the coastal environment is ceased.

### ***Changes sought***

Contact requests that the whole proposed NZCPS be reviewed carefully to ensure that it not only contains appropriate protection mechanisms, but also contains effective objectives and policies that enable the use and development of the coastal environment in a sustainable manner.

**PART C SUBMISSIONS ON INDIVIDUAL OBJECTIVES AND POLICIES**

OBJECTIVE	SUMMARY OF CONTENT	SUBMISSION	CHANGES SOUGHT BY CONTACT
		<p>As a general submission, there needs to be more balance in these objectives, as they are primarily focussed on “protection” and not “enabling use and development” of the coastal environment.</p>	
<b>Objective 1</b>	Social, Economic, Cultural Wellbeing	<p>Contact supports this objective but notes that the word “enable” should used in accordance with section 5 rather than the words “are able”.</p> <p>Contact submits, however, that there needs to be more of these enabling type objectives included to balance the very protective nature of the 10 objectives set out in the proposed NZCPS. Objective 1 is the only enabling objective of the 10 objectives.</p>	<p>Commence objective 1 with “Enable” and delete the words “are able”.</p> <p>Review the remainder of the objectives to ensure there is an overall balance between enabling and protective type objectives.</p>
<b>Objective 2</b>	Subdivision, Use and Development	No submission on this objective.	No changes sought
<b>Objective 3</b>	Natural Character	<p>This objective needs to be amended to properly reflect section 6(a) of the RMA and, in particular, the “protection from inappropriate subdivision, use and development” concept.</p> <p>Further, concepts such as “natural landscapes” and “indigenous</p>	<p>This objective should be aligned with section 6(a) of the RMA and the references to “natural landscapes” and “indigenous biological diversity” removed</p>

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		biological diversity” should not be included under the natural character objective. It is also questionable whether “restoration” of natural character should be included as an objective as it is not provided for in section 6(a).	and placed in separate objectives.
<b>Objective 4</b>	Treaty of Waitangi	No submission on this objective.	No changes sought.
<b>Objective 5</b>	Public Open Space	The concept of “public open space” has no statutory basis in the RMA, and it is inappropriate to have a discrete objective on this matter. Further, it is unclear what “public utility” means in this context. If the intention is to include an objective on amenity values then the objective should be framed as such.	Delete this objective, or reframe it so that it reflects the definition of “amenity values” under the RMA.
<b>Objective 6</b>	Public Access	This objective is appropriate but it needs to be recognised that public access is not appropriate in all circumstances.	Add the words “where this is appropriate” to Objective 6.

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<b>Objective 7</b>	Water Quality	This objective does not recognise that some activities may occur that will not result in the maintenance of water quality, and these may well be consented as sustainable activities under the RMA. Further, it is not clear what “natural state” is being referred to in terms of deteriorated water quality. This objective needs to be qualified so that it is recognised that it will not always be feasible to maintain or improve water quality over time.	Substitute the words after the word “time”..with the words “where it is consistent with sustainable management” in Objective 7.
<b>Objective 8</b>	Coastal Hazards	It is not realistic to locate or in particular relocate development away from hazard areas, particularly given the 100 year timeframe indicated in Policy 51. There are significant assets located in the coastal environment and, for example, it would not be feasible to relocate an existing power station, even if this was in a hazard area. This objective needs to be reworded to provide more flexibility in terms of how coastal hazard risks are to be addressed.	Amend this objective to encourage creative responses to coastal hazard risks through policy statements and plans.
<b>Objective 9</b>	Historic Heritage	No submission on this objective.	No changes sought.
<b>Objective 10</b>	Crown’s Ownership Interests	No submission on this objective.	No changes sought.

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<b>General Policies</b>			
Policy 1	The "Coastal Environment"	<p>Contact recognises that the coastal environment extends inland from the coastal marine area boundary. However, the definition of the coastal environment in Policy 1 is very broad. Policy 1(f) in particular has the potential to extend the coastal environment a significant way inland from the coastal marine area, and create uncertainty as to which planning instruments apply to these inland areas. It is submitted that Policy 1(f) should be tightened to ensure that it does not have too wide an application or has no greater effect than already defined by case law.</p> <p>To illustrate Contact's concern, the expanded definition is likely to include the land on which the Government's Whirinaki power station is located.</p>	Amend Policy 1(f) to state "landscapes and features that contribute <u>significantly</u> to the natural character..."
Policy 2	Treaty of Waitangi	No submission on this policy.	No changes sought.
Policy 3	Characteristics Special to Tangata Whenua	<p>This policy is unclear in terms of its intent and potential application. In particular, where Tangata Whenua have the right not to identify these characteristics, then it is unclear how the policy is to operate.</p> <p>Further, it is unclear what Policy 3(b) is intended to achieve, and in particular what "appropriate use, development and protection</p>	Amend this policy so that it more closely reflects section 6(e) of the RMA, and delete Policy 3(b).

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		<p>of these characteristics” means. It would be more appropriate to have a policy that reflects section 6(e) of the RMA, rather than this policy that appears to be imposing a “protection from inappropriate subdivision, use and development” standard to Maori characteristics, which is a standard that applies under sections 6(a) and 6(b) rather than section 6(e) of the RMA.</p>	
Policy 4	Transfers to Tangata Whenua	No submission on this policy.	No changes sought.
Policy 5	Precautionary Approach	<p>It is inappropriate to include a separate precautionary approach policy in the NZCPS. This approach is not reflected in the RMA and including a policy on it carries a risk that local authorities will adopt a variable and overly conservative approach to applications under the RMA. The RMA has been held to be inherently precautionary and there is a risk that including a separate policy of this nature will lead to a double-counting of precaution. Including this policy carries with it the risk of introducing significant uncertainty into RMA processes, particularly as it is phrased as a compulsory rather than a discretionary policy.</p>	Delete Policy 5.
Policy 6	Integrated Management	No submission on this policy.	No changes sought.
Policy 7	Conservation Land	This policy is out of place in a national policy statement under the RMA. The NZCPS is a RMA and not a “conservation”	Delete Policy 7.

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		document, and the status of this land can be considered under section 104(1)(c) of the RMA. There is no need to include a separate policy on Conservation Act related matters in this national policy statement under the RMA.	
Policy 8	Areas Proposed for Statutory Protection	Again, this is a matter that can be considered under section 104(1)(c) of the RMA and there is no need to include a separate policy on this matter. Further, it is unclear what “areas proposed for statutory protection” means, and the concerns expressed in the submission on Policy 7 above apply equally here.	Delete Policy 8.
Policy 9	Biosecurity	No submission on this policy.	No changes sought.
Policy 10	Review of the NZCPS	No submission on this policy.	No changes sought.
Policy 11	Monitoring of the NZCPS	No submission on this policy.	No changes sought.
Policy 12	Local Authority Monitoring	No submission on this policy.	No changes sought.
Policy 13	Amendment of Policy Statement and Plans	Contact understands the intention behind Policy 13, but it is not clear what it means for local authorities to “amend” statutory documents. This could have a range of meanings, and clarity is needed on what local authorities are required to do in the five year timeframe. Under Policy 10, the Minister of Conservation is required to “begin a review” of the NZCPS no later than 10 years after its gazettal. For the sake of consistency, it may be more appropriate to set a timeframe within which local authorities are	Clarify this policy.

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		<p>to commence a review of policy statements and plans. Once statutory plan processes are commenced, the timing is out of the hands of the local authority, and therefore it may be inappropriate to set a timeframe for these statutory documents to be “amended”.</p>	
<p><b>Subdivision, Use and Development Policies</b></p>			
<p>Policy 14</p>	<p>Location of Subdivision and Development</p>	<p>Contact submits that Policies 14 to 16 are inappropriate as they promote a “zoning” approach to the coastal environment which is inconsistent with the effects based approach of the RMA. The policies are unclear in terms of what is “appropriate” and what is “inappropriate” in the coastal environment and coastal marine area, and it will be difficult for local authorities to make these decisions at the planning stage. A good example is windfarms, where it will be very difficult for a local authority to zone which areas may or may not be appropriate for windfarms without having a particular proposal to consider. The question of whether something is appropriate or not is generally made in consenting processes, after having considered all of the factors and the overall sustainable management purpose under section 5 of the Act. Until a consent authority has had the opportunity to consider the extensive information accompanying a particular proposal, it will not be in a position to make a sustainable</p>	<p>Delete Policies 14 to 16.</p> <p>Alternatively, if they are to be retained, the policies need to be amended to remove the zoning approach of where activities will or will not be “appropriate”. Rather, the focus should be on important values in the coastal environment, and how these can be protected appropriately in the context of sustainable use and development of that area.</p>

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		<p>management decision. A local authority at the planning stage will not be in that position and, on that basis, the zoning approach proposed in these policies has the significant potential to prevent use and development which may well comply with the sustainable management purpose of the Act. In other words, this proposed zoning will be a very blunt instrument at a planning stage for uses such as a renewable energy development.</p> <p>Further, there are a number of statements in the policies that are unclear, such as the requirement to “generally set back subdivision, use or development” in Policy 14(d), or the meaning of a “buffer” in Policy 14(h).</p> <p>Contact submits that there should be policies included in this part of the NZCPS that actually enable subdivision, use and development of the coastal environment, rather than just applying a range of prescriptive restrictions to those activities. The enabling aspect of the RMA is completely missing in these policies. This is a very significant issue for renewable energy development, and will lead to drawn out and highly contested plan review processes.</p>	
Policy 15	Form of Development	The submission made on Policy 14 applies to Policy 15.	The changes sought are the same as for Policy 14.

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Policy 16	Use and Development in the CMA	The submission made on Policy 14 applies to Policy 16.	The changes sought are the same as for Policy 14.
Policy 17	Crown Interests in Activities on Land of the Crown in the CMA	Contact supports this policy in the sense that it makes land of the Crown available for infrastructure of national importance and renewable energy generation. However, there is a need for additional and separate policies on renewable energy generation and infrastructure that are not limited to the land of the Crown in the coastal marine area. The RMA has been amended to include references to the benefits to be derived from renewable energy (section 7(j)), the effects of climate change (section 7(i)), and the importance of renewable energy generation needs to be reflected in a separate policy in the NZCPS. It is far too restrictive to limit the support of renewable energy generation to land of the Crown in the coastal marine area, and the policy needs to cover the wider coastal environment which is very important from a renewable energy generation perspective.	Add additional policies to the NZCPS to emphasise the benefits to be derived from renewable energy generation and to ensure that there is support for this in policy statements and plans. The same applies to infrastructure associated with renewable energy generation such as transmission lines.
Policy 18	Crown Interests in Aquaculture Activities	No submission on this policy.	No changes sought.
Policy 19	Amenity Values	Contact supports the principle of a policy on amenity values reflecting section 7(c) of the RMA, but questions the reference to “open space” in this policy. The proposed NZCPS refers to “public open space” and “open space” variably throughout the	Amend Policy 19 so that it reflects section 7(c) and the definition of “amenity values” in the RMA. Delete references to

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		<p>document, but neither of these concepts have any statutory basis in the RMA or are defined. This has the potential to create uncertainty by introducing non-statutory concepts through the NZCPS.</p> <p>It is also unclear what concepts such as “enhancing natural sites” means and how this relates to the RMA.</p>	<p>“public open space”.</p>
Policy 20	Surf Breaks	<p>Contact does not have an issue with surf breaks of national significance being protected in some way through the RMA. However, Policy 20(a) is far too restrictive in that there is a requirement to ensure that activities in the coastal marine area do not adversely affect the surf breaks. It is noted that surf breaks are not identified in Part 2 of the RMA, and this policy attempts to elevate them to a status so that no other activity may even adversely affect those surf breaks. This policy needs to be amended to reflect that any effects should be avoided, remedied or mitigated. It may be that some activities in the coastal marine area will have an adverse effect on the surf breaks, but in overall terms will still be consistent with the sustainable management purpose of the RMA.</p>	Delete Policy 20(a).
Policy 21	Cumulative Effects	<p>Contact submits that this policy should be amended to reflect that plans should identify areas that are susceptible to significant adverse cumulative effects. However, the focus of the policy</p>	<p>Amend the last words in the policy statement to read “avoided, remedied or mitigated”.</p>

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		should be to assist in determining how the adverse cumulative effects of activities can be “avoided, remedied or mitigated”.	
Policy 22	Precedent Effects	Contact submits that there is no need for this policy in the NZCPS. The Courts have confirmed that precedent effects are a matter that can be considered under section 104(1)(c) of the RMA, and there is no need to include this policy in the NZCPS. Further, this policy is very broad in its application and it could apply to a very wide range of activities. The direction that the “precedent should be avoided” is far too restrictive. Again, this is a matter that should be considered by a consent authority in its overall evaluation under section 5 of the RMA.	Delete this policy.
Policy 23	Defence	No submission on this policy.	No changes sought.
Policy 24	Coastal Occupation Charging	Contact would like it noted that coastal occupation charging as provided for in section 64A relates only to land of the Crown in the coastal marine area or land in the coastal marine area vested in a regional council. The policy as written does provide for this, although it is not entirely clear.	No changes sought.
Policy 25	Structures in the CMA	Contact understands the need to discourage unnecessary proliferation of structures in the coastal marine area, but any requirement that structures be made available for public or multiple use is only appropriate where structures are on Crown	Amend this policy to add the words “on land of the Crown in the coastal marine area ...”

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		<p>land in the coastal marine area. There is privately owned land in the coastal marine area, and it would not be appropriate to require these structures to be made available for public or multiple use in those areas.</p>	
Policy 26	Abandoned or Redundant Structures	<p>Again, this policy should only apply to structures on land of the Crown in the coastal marine area. Further, while it may be “practicable” to remove such structures, it may not be consistent with sustainable management and therefore the policy is too absolute.</p>	<p>Amend this policy to refer to “on land of the Crown in the coastal marine area” and commence the policy by stating “Where practicable and consistent with sustainable management ...”</p>
Policy 27	Reclamation	<p>Contact submits that this policy confuses the activity to be carried out on a reclamation and the act of reclaiming land from the coastal marine area.</p> <p>Contact also submits that this policy is too restrictive in that the adverse effects of reclamation of the coastal marine area must be avoided unless land outside of that area is not available. Further, Policy 27(a) requires that a proposed activity can only “by nature” be located adjacent to the coastal marine area. Contact submits that these tests have no lawful basis under the RMA, and this constitutes a significant change to the current statutory tests.</p>	Delete Policy 27(a).
Policy 28	Rights Vested in Reclaimed	In terms of Policy 28(c) it is inappropriate to deal with these	Delete Policy 28(c)

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	Land	issues through the NZCPS. The uses to which a reclamation are put are matters that will be dealt with through the consenting process, but also are matters that are between the Minister and the rights holder from a contractual perspective. Contact submits that it is unnecessary and inappropriate to deal with this in the NZCPS.	
Policy 29	Financial Contributions	No submission on this policy.	No changes sought.
<b>Natural Character Policies</b>		<p>As a general submission on the natural character policies, Contact submits that the structure of this section of the document and the inclusion of a wide range of policies under the natural character heading is inappropriate. Policy 31 (Indigenous Biological Diversity) and Policy 32 (Outstanding Natural Features and Landscapes) are matters that should be addressed in their own right (in terms of section 6(c) and section 6(b) of the RMA respectively) and should not be included under a natural character category.</p> <p>Further, the “avoid” policies are far too restrictive and wide ranging in application.</p>	<p>This part of the proposed NZCPS should be restructured so that these policies are discrete and are not included under a natural character heading.</p> <p>Further, the “avoid” policies should be deleted and replaced with “avoid remedy or mitigate” policies.</p>
Policy 30	Integrity and Functioning	It is important to emphasise that section 6 focuses on protection from “inappropriate subdivision, use and development” as well as preservation of natural character.	<p>Include a reference to protection from “inappropriate subdivision, use and development” as well as preservation.</p> <p>Policy 30 should be expanded to be one</p>

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			comprehensive policy on natural character.
Policy 31	Indigenous Biological Diversity	<p>This should be a discrete policy and should not be under a natural character heading.</p> <p>The “avoid” policies are far too restrictive, and provide a good example of where “avoid, remedy or mitigate” policies are the appropriate standard. For example, it may not be possible for a renewable energy development to completely “avoid” effects on the matters listed in Policy 31(a), but it may be possible to remedy or mitigate those effects. There may be creative mitigation approaches that may result in, for example, habitats being better off in overall terms. The “avoid” policies rule out this approach, and are also in conflict with section 5(2) of the RMA.</p>	<p>This should be a discrete policy on biological diversity and should not be connected to natural character. The “avoid” policies should be replaced with “avoid, remedy or mitigate” policies.</p>
Policy 32	Outstanding Natural Features and Landscapes	<p>This should be a discrete policy and should not be under the natural character heading. The reference to “no more than minor” is inconsistent with section 6(b) and the RMA framework. The policy as worded could prevent a wide range of sustainable uses and development in the coastal environment, and in particular renewable energy development.</p>	<p>This should be a discrete policy on outstanding natural features and landscapes, and should not be connected to natural character.</p> <p>Delete the “no more than minor” test and reflect section 6(b) of the RMA.</p>
Policy 33	Appropriate Location, Density and Design	<p>The general comments on the natural character policies made above apply equally to this policy.</p>	<p>This policy should be reworded to encourage careful location, design and</p>

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		<p>Contact supports Policy 33(a) in that it refers to “avoid, remedy or mitigate” rather than a strict “avoid” standard. However, it is questionable whether this policy adds anything to the RMA framework, and it appears to reinforce the “zoning” approach advocated in Policies 14 to 16. For example, it is very unclear what it means to avoid subdivision, use and development in “inappropriate locations”.</p>	<p>density of proposals in the coastal environment, so as to avoid, remedy or mitigate adverse effects where this is practicable.</p>
Policy 34	Natural Areas and Features	<p>The general comments on the natural character policies made above apply equally to this policy.</p> <p>It is unclear how this policy relates to the other natural character policies and, in particular, how this relates to the outstanding natural features and landscapes covered in Policy 32. Again, there appears to be a range of concepts being imported into the natural character category, including tangata whenua values, scientific importance and “wild or scenic” areas and features.</p>	Combine this policy with Policy 32.

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Policy 35	Restoration of Natural Character	<p>The general comments on the natural character policies made above apply equally to this policy.</p> <p>It is unclear what the statutory basis is for this policy on the restoration of natural character. The RMA refers to the preservation and protection of natural character rather than its restoration. That is not to say that the restoration of natural character should not be a relevant matter under the RMA, but it is questionable whether it should be stated as a national priority in the NZCPS. Further, the policy is unclear in terms of what is meant by “restoration”, and it is also unclear what RMA mechanisms are to be used to achieve this restoration. The policy also includes a wide range of matters that should not be dealt with under a natural character policy, such as restoration of habitats (Policy 35(a)) and reducing or eliminating contaminants (Policy 35(d)). This is another example of structural issues within the Proposed NZCPS.</p>	Delete this policy and, if appropriate, include restoration policies in the other relevant policies such as those relating to indigenous biological diversity.
Policy 36	Assessment and Protection of Natural Character	This policy is likely to be very difficult and expensive for local authorities to implement. Natural character assessments are significant undertakings and it is unrealistic to expect that this could be undertaken for a coastal environment of the whole region or district. That is not to say that important areas of natural character should not be identified, but the policy needs to	Amend Policy 36 to refer to “protection from inappropriate subdivision, use or development”, and amend the policy to require local authorities to identify only “significant” areas of natural character.

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		<p>be qualified to reflect that this cannot be achieved for whole regions or districts. Further, the policy needs to reflect section 6(a) and refer to “protection from inappropriate subdivision, use or development” as well as “preservation”.</p>	
Policy 37	Restricted Coastal Activities	No submission on this policy.	No changes sought.
Policy 38	Maui dolphin	<p>Contact understands the intention behind the Maui dolphin policy, but is concerned that the implications of the policy’s wording could be far more wide ranging than intended. The statement that “adverse effects of activities in the habitat of Maui dolphin shall be avoided” will mean in practice that no activity can be undertaken in the whole of the Maui dolphin habitat. The map set out in Schedule 4 to the proposed NZCPS illustrates how wide an impact this policy will have. While Contact understands the need to protect this dolphin, the policy needs to be more flexible than simply a directive to avoid all effects on the habitat (as opposed to the dolphin itself).</p>	<p>This policy should be amended to require the special threatened status of this dolphin to be recognised through policy statements and plans, and that adverse effects of activities on this dolphin be avoided, remedied or mitigated.</p>
<b>Public Access Policies</b>		<p>Contact supports the concept of public access to and along the coastal marine area. The only concern is that there will be circumstances in which public access is inappropriate, and particular comment will be made on the restrictions on access</p>	

POLICY	SUMMARY OF CONTENT	SUBMISSION	CHANGES SOUGHT BY CONTACT
		set out in Policy 43.	
Policy 39	Walking Access	No submission on this policy.	No changes sought
Policy 40	Esplanade Reserves and Strips	This policy is inappropriate in that it seeks to alter the statutory framework in relation to esplanade reserves. In particular, the policy that an esplanade reserve or strip will not be waived unless there are “exceptional circumstances” is inconsistent with the provisions of section 230 of the RMA, which provides that a rule in a district plan or a resource consent may waive or reduce the width of an esplanade reserve or strip. It is inappropriate in a national policy statement to seek to fundamentally alter the statutory framework in this way.	The second sentence of Policy 40 should be deleted.
Policy 41	Access Enhancement	No submission on this policy.	No changes sought
Policy 42	Vehicle Access	No submission on this policy.	No changes sought
Policy 43	Restrictions on Access	This policy needs to reflect that in certain circumstances there will be an inherent inconsistency between uses of the coastal marine area and public access, especially on privately owned land in the CMA. Power station land in the CMA is a good example.	Amend Policy 43 to <ul style="list-style-type: none"> <li>○ Amend the first sentence to read “A restriction on public access to and along public land in the coastal marine area ...”</li> <li>○ add a new Policy 43(j) which reads: “Where public access is inherently incompatible with</li> </ul>

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			another use in the coastal marine area.”
<b>Water Quality Policies</b>			
Policy 44	Maintaining Water Quality	<p>This policy is unrealistic in that it requires adverse effects to be “avoided” after reasonable mixing. This is directly contrary to section 107 of the RMA which allows for certain adverse effects to occur after reasonable mixing, as long as they are not of the scale of the adverse effects identified in section 107(1)(c)-(g). This is another example of the proposed NZCPS seeking to alter the statutory tests, and it is submitted that this is unlawful.</p> <p>Further, it is unrealistic to expect that discharges (which are likely to have been consented under the RMA) will “not cause deterioration in the quality of either water or substrate in the coastal environment”.</p> <p>Policy 44 will have a significant and detrimental effect on existing and proposed discharges in the coastal environment and is likely to have significant unintended consequences. Section 107 of the RMA deals with this issue and there is no need to seek to alter that statutory tests through a policy of this nature.</p>	Delete Policy 44.
Policy 45	Enhancement of Water Quality	<p>Contact submits that this policy should only apply to water quality in the coastal marine area and not in the whole coastal environment. To have this apply to water bodies other than the coastal marine area will result in a lot of overlap with regional water plans when</p>	Policy 45 needs to be amended to apply only to water in the coastal marine area. This should also be amended to state that enhancement “should be

POLICY	SUMMARY OF CONTENT	SUBMISSION	CHANGES SOUGHT BY CONTACT
		<p>considering discharges to rivers or other water bodies in the coastal environment.</p> <p>Also, while Contact supports the concept that water quality should be enhanced where that is practicable and appropriate, it is essential that Policy 45 does not place too high a standard in circumstances where enhancement is simply not feasible. For example, there are a number of discharges that are lawful under the RMA that do affect water quality in the coastal environment. It is not feasible to expect that water quality can be enhanced in these areas short of ceasing the activity itself. Contact submits that there needs to be some reality introduced around these water quality policies.</p>	<p>considered” in circumstances “where this is feasible and will not interfere with lawfully established operations in the coastal environment”.</p>
Policy 46	Mixing Zones	<p>Contact submits that it is inappropriate to include this policy in the proposed NZCPS. In terms of Policy 46(a), the use of large mixing zones may in fact be appropriate for certain discharges that would meet the sustainable management purposes of the RMA. It is inappropriate in the NZCPS to include an “avoid” policy that does not give a local authority in a planning process, or a consent authority in a resource consent process, the flexibility to consider the size of the mixing zone required. It is also unclear what “large” mixing zones means.</p> <p>In terms of Policy 46(b), this is inconsistent with section 107 of the Act which recognises that certain adverse effects will take</p>	Delete Policy 46.

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		<p>place within mixing zones, and it is inconsistent to include an “avoid” policy on the life-supporting capacity of the water within a mixing zone. This means that a discharge may have an adverse effect on aquatic life outside of the mixing zone, as long as it is not significant (section 107(1)(g)), but it may not have any adverse effect on the life supporting capacity within the mixing zone itself. This is illogical and entirely inconsistent with section 107.</p> <p>Similarly, Policy 46(c) is inconsistent with section 107 of the RMA in that it seeks to impose a new statutory standard for what effects are allowed after reasonable mixing. The statement that there is a need to “avoid adverse effects that are more than minor after reasonable mixing” is directly contrary to section 107(1), which allows adverse effects that may well be more than minor as long as they are not of the scale set out in section 107(1)(c)-(g).</p>	

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Policy 47	Ecological Effects of Discharges	<p>Again, this policy is inconsistent with section 107 of the RMA. Policy 47 introduces new legal standards applying to discharges outside of mixing zones, in that the discharge “shall not have more than minor adverse effects, after reasonable mixing, on indigenous species, habitats, or ecosystems of those waters”. This is inconsistent with section 107(1)(g) which contemplates there will be adverse effects on “aquatic life” which may be acceptable as long as they are not significant. This inconsistency with the statutory framework is of particular concern and is likely to be a significant impediment to current and future discharges into these areas. This approach is entirely inconsistent with the mixing zone approach in section 107 of the Act.</p>	Delete Policy 47.
Policy 48	Discharge of Human Sewage	No submission on this policy.	No changes sought.
Policy 49	Stormwater Discharges	<p>This policy is not realistic in that for many stormwater discharges it will not be possible to reduce those discharges over time.</p> <p>Also, this should only apply to discharges to water in the coastal marine area. The only way to reduce stormwater discharges in the coastal environment is to reduce rainfall in that area. To have this apply as well to water bodies other than the coastal marine area, will result in a lot of overlap with regional water plans when considering discharges to rivers or other water bodies in the coastal</p>	Amend this policy to read: “Where practicable and feasible, adverse effects of stormwater discharges to water in the coastal marine area ...”

POLICY	SUMMARY OF CONTENT	SUBMISSION	CHANGES SOUGHT BY CONTACT
		environment.	
Policy 50	Ports and Other Marine Facilities	Again, it is not feasible to expect port areas and other marine facilities to “avoid” adverse contamination of coastal waters and substrate. This policy is far too restrictive and does not recognise the reality that existing lawful uses under the RMA do have the potential to contaminate coastal waters and substrate, particularly given the very wide definition of contaminant in the RMA.	Policy 50(a) should read: “avoid, remedy or mitigate” rather than “avoid”.
<b>Coastal Hazards Policies</b>			
Policy 51	Identification of Hazard Risks	No submission on this policy.	No changes sought.

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Policy 52	Subdivision and Development in Hazard Areas	This policy adopts a very restrictive and narrow approach to dealing with hazard risks in the coastal environment. It is submitted that it should be up to local authorities, property owners and developers to find creative solutions to hazard risks, and the “avoid” policies are far too restrictive. Further, it is unrealistic to encourage “managed retreat by relocation...” of existing infrastructure. This is particularly problematic for significant infrastructure such as a power station which simply cannot be relocated, and this should be left up to the property owner to develop creative solutions for dealing with these potential hazard risks.	This policy needs to be amended to read: “avoid, remedy or mitigate” and Policy 52(c) needs to be amended to provide far more flexibility for property owners to respond to hazard risks.
Policy 53	Natural Defences Against Hazards	No submission on this policy.	No changes sought.
Policy 54	Protection Structures	Again, this policy is too restrictive and the policies on hard protection structures do not provide flexibility in terms of responding to hazard risks. This policy should be amended so that it encourages creative solutions to protection structures, some of which by their nature may have to be located in the coastal marine area.	This policy needs to be amended to provide more flexibility in terms of responses to coastal hazards.
<b>Historic Heritage Policies</b>			
Policy 55	Identification and Protection	Again, the “avoid” policies are far too stringent and are	Combine Policies 55(a) and 55(b) under

POLICY	SUMMARY OF CONTENT	SUBMISSION	CHANGES SOUGHT BY CONTACT
	of Historic Heritage	inconsistent with section 6(f) of the RMA which refers to “the protection of historic heritage from inappropriate subdivision, use and development”. That section does not suggest that “any” adverse effects on significant historic heritage have to be “avoided”. This removes the flexibility and opportunity for creative solutions to potential adverse effects on historic heritage.	a “avoid, remedy or mitigate” standard.
Policy 56	Historic Heritage of Significance to Maori	No submission on this policy.	No changes sought.
Policy 57	Collaborative Management	No submission on this policy.	No changes sought.
<b>Schedule II</b>			
<b>Schedule II</b>	<b>Coastal Occupation Charging</b>	Consistent with section 64A, this schedule should be clear that this policy only applies to publicly owned land in the coastal marine area and not to privately owned land. To not make this clear raises expectations that coastal occupation charging could apply to all land in the coastal marine area.	Amend the wording of Schedule II section 1(a) to “as a result of occupations, the general public are excluded from areas <u>of public land</u> ...”