



# Regulatory Impact Statement: New Zealand Coastal Policy Statement amendments to Policies 6 and 8

<b>Decision sought</b>	<i>Final Cabinet decision to amend the New Zealand Coastal Policy Statement.</i>
<b>Agency responsible</b>	<i>Department of Conservation (DOC)</i>
<b>Proposing Ministers</b>	<i>Minister of Conservation</i>
<b>Date finalised</b>	<i>14 November 2025</i>

The Minister proposes to make changes to Policies 6 (Activities in the coastal environment) and 8 (Aquaculture) of the New Zealand Coastal Policy Statement 2010 to better enable a range of the Government's priority activities (infrastructure, renewable electricity generation, electricity transmission, aquaculture, and resource extraction) that need to be located in the coastal environment or coastal marine area.

This Regulatory Impact Statement builds from the Interim Impact Statement (Regulatory Impact Statement: New Zealand Coastal Policy Statement amendments to Policies 6 and 8, issues on 8 April 2025). This version has been updated to include the submissions from consultation and subsequent decisions by Ministers.

## Summary: Problem definition and options

### What is the policy problem?

Development interests are concerned that the New Zealand Coastal Policy Statement 2010 (NZCPS) is a barrier to coastal development because:

- some of the policies require certain adverse effects on nationally important values to be avoided. These are referred to as the "protection policies"<sup>1</sup>. Some developers think these protection policies are too strict because in some instances they will require the avoidance of adverse effects. The values –being protected are sometimes not mapped so the policies create high uncertainty for developers such as the aquaculture industry, infrastructure and electricity providers;
- larger scale infrastructure cannot easily avoid adverse effects on nationally important values and may have fewer options as to where they can locate;

<sup>1</sup> Policies 11, 13, 15

- it does not recognise that some activities have an operational need (rather than functional need) to be in the coastal marine area (CMA); and
- it has no provisions that recognise the cultural or environmental benefits of aquaculture, and areas identified for aquaculture under Māori commercial aquaculture settlement legislation.

The degree to which these aspects of the NZCPS affect the approval of projects that are important to New Zealand is not clear, and the Department of Conservation (DOC) considers that there is a risk that important economic developments may be impeded if less important priority activities are approved. For example, a perception that seabed mining would be approved in Taranaki caused wind farm investors to cease developing proposals for the same location, and new structures in sensitive sites could damage the value of nationally important tourism destinations.

### **What is the policy objective?**

The overall objective is to better enable the Government's priority activities – infrastructure, renewable electricity generation, electricity transmission, aquaculture, and resource extraction – while protecting the environment.

A successful result would be that priority activities are able to get consents for appropriate locations, while important public values and uses (such as navigation and recreational boating, environmental protections, public access, natural character of the coast, natural features and landscapes) continue to be protected. As the NZCPS will be replaced in the RM reforms when the RMA is replaced, only changes that will have immediate effect are being considered.

### **What policy options have been considered, including any alternatives to regulation?**

The amendments covered in this Regulatory Impact Statement (RIS) were among a range of options considered as part of a targeted review undertaken by the Minister of Conservation. The range of options to be further considered was reduced by Ministers to fit with the intent that short term national direction work be limited to changes that would have immediate effect.

The specific options in this RIS were selected because they would:

- Help achieve government objectives for priority activities
- Have immediate effect (they do not rely on plans being changed)
- Use policy approaches that are straightforward and well tested
- Not risk unintended effects on other parts of the NZCPS or the creation of new legal risks for developers
- Be likely to easily transition to the new resource management system.

### **Policy 6: Activities in the coastal environment – general strengthening for priority activities**

The Port Otago court decision clarified that the policies in the NZCPS that identify the importance of certain types of activities in the coastal environment must be read alongside the protection policies. This can result in activities being able to proceed even if not all the specified effects can be avoided. Therefore, strengthening those activity policies could better enable priority activities, without needing to make complex changes to the protection policies.

In addition, some policies refer to activities that have a “functional need” to be in the coastal marine area (CMA). Some newer National Policy Statements (NPSs) refer to both “functional

or operational need”, and similar provisions are proposed for the NPS for Infrastructure, the amended NPS Renewable Electricity Generation and the NPS Electricity Transmission. The national planning standards define these two concepts. The change from functional need to functional or operational need, would broaden the range of activities that could occur in the CMA.

#### Policy 8: Aquaculture

Two potential adjustments to Policy 8 are identified. The first is to include recognition of the potential environmental benefits of aquaculture, alongside economic, social and cultural benefits. The second is to provide direction in relation to how plans should address areas set aside under Māori commercial aquaculture settlement legislation.

#### Alternatives to regulation

Only changes to the NZCPS can adjust the existing policies and provide binding national direction. Regulatory changes do not preclude other useful work, such as mapping of nationally important values and spatial planning.

#### **What consultation has been undertaken?**

Targeted consultation was undertaken prior to the issuing of a discussion document. A discussion document was released, and the public consultation was from May – July 2025 and submissions were sought. Those involved in targeted and public consultation included Māori, industry, local government, professional organisations, environmental NGOs and aquaculture and energy companies. Feedback on the discussion document was considered. The process and nature of the feedback are outlined in the consultation section later in this RIS.

#### **Is the preferred option in the Cabinet paper the same as preferred option in the RIS?**

The Minister of Conservation is the decision-maker for these policy changes. These changes were put forward in the Cabinet Paper and agreed to. The options in the RIS were those that were considered feasible and met the tests in terms of the scope of Phase 2. Those were the options included in the discussion document. They were the Minister’s preferred options for the changes to NZCPS. As a result of consultation those have been refined, but no new options put forward.

## **Summary: Minister’s preferred option in the Cabinet paper**

### **Costs (Core information)**

**Outline the key monetised and non-monetised costs, where those costs fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)**

A possible effect of implementing the main changes would be that more activities may be consented in the coastal environment. That may have some negative effects on important coastal values (e.g. natural character, recreational attributes, biodiversity) and therefore also natural capital – but those effects are not expected to be significant, as the protection policies will still be applied.

There could also be impacts on cultural values (such as the exercise of kaitiakitanga), including on the ability of future customary rights holders to achieve their desired outcomes –

for example, if new activities are permitted in areas where the local iwi would wish to undertake alternative activities or manage the activities.

The changes to Policy 6 will also mean that more activities (those with an operational need) would be recognised as warranting coastal space, and needing to be protected from the adverse effects of other activities.<sup>2</sup> That could result in more activities in the coastal marine area, with effects on other activities (e.g. navigation, tourism and public recreation). That was a specific concern of some submitters, such as some fishing industry submissions.

Giving priority activities a more lenient consenting pathway may reduce the development opportunities, including for Māori, of non-priority activities that may be more appropriate in a particular location.

Ports and other coastal activities that involve noise, vehicle movements, emissions, and other unpopular effects can suffer from reverse sensitivity – demands that they modify their operations or restrictions on their expansion to protect the interests of surrounding land uses. Stronger direction that results in restrictions on adjacent activities to protect the interests of the coastal activities will benefit those priority activities. However, this may result in other activities (e.g. housing) not being able to proceed or having stronger conditions imposed in the future in the coastal environment.

One change to Policy 8 will be to ensure that councils appropriately provide for aquaculture in areas set aside under Māori commercial aquaculture settlement legislation. That may have adverse effects on other activities that others may wish to locate in those areas (e.g. renewable energy generation), or that would be adversely affected by aquaculture (e.g. aquaculture structures in areas with high naturalness will affect tourism operations that rely on that for example in Milford or the Bay of Islands. They can also impede activities such as movement of vessels through areas, and activities such as diving). The planning work would need to balance those competing interests.

There have been no economic assessments of these proposals, so no monetised costs can be provided.

### **Benefits (Core information)**

**Outline the key monetised and non-monetised benefits, where those benefits fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)**

A likely benefit of the changes to Policy 6 is that relevant applicants will have greater confidence that they will be able to gain consents if they can adequately manage their effects on nationally important values, and they will therefore be more willing to invest in consent processes. Iwi with development interests are likely to receive benefits from these proposed policy changes.

Activities that have an operational need but not a functional need to be in the coastal environment will benefit from the proposed changes to Policy 6. This is because they are more likely to be provided for in plans and granted consents. Also because other activities are more likely to be controlled for their benefit.

The proposed changes to Policy 8 are intended to strengthen that policy, so it will have more influence in decisions where aquaculture proposals are in conflict with other interests (e.g.

<sup>2</sup> Policy 6(e) is “consider where and how built development on land should be controlled so that it does not compromise activities of national or regional importance that have a functional need to locate and operate in the coastal marine area”.

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an important public value or a competing activity). That would benefit aquaculture. Because the proposal includes direct reference to the settlement legislation the changes will have particular benefits for aquaculture undertaken by iwi-owned companies. Iwi that are ready to carry out aquaculture developments are therefore likely to receive benefits from these proposed policy changes.

There would be a benefit to the public if essential infrastructure – which is a government priority activity (e.g. windfarms) can gain consents more efficiently, have greater certainty (to encourage investment), and have more options for managing their environmental effects. This would be determined on a case-by-case basis in relation to the specific proposed location. The changes could reduce the costs of provision of infrastructure and renewable electricity services and allow the services to be delivered more quickly in some cases. It is likely that infrastructure would still be able to proceed without these changes, but the costs may be higher if an alternative location is used to reduce legal risks or stronger conditions are imposed.

There have been no economic assessments of these proposals for targeted amendments to the NZCPS, so no monetised benefits can be provided. Submissions made general comments and did not provide information that would fill that gap.

### **Balance of benefits and costs (Core information)**

#### **Does the RIS indicate that the benefits of the Minister's preferred options are likely to outweigh the costs?**

The benefits of these changes are expected to outweigh the costs because:

- while there could be some impacts on iwi because of a stronger development focus or loss of future opportunities, there would also be benefits in terms of iwi economic and development aspirations;
- where they will have some negative effects on other activities/uses, either priority activities will be favoured, or the plan can manage that risk to achieve an appropriate balance between activities (e.g. between aquaculture and tourism);
- the proposed changes do not mean that the protection policies will no longer apply, so the intended protection of those values can still be (largely) achieved;
- the changes will allow the balance between uses and values to be determined for each case at the consent stage. That will allow the specific situation for that case, including the needs of other sectors (e.g. navigation and tourism) and public values that are present to be assessed, and an appropriate balance determined. The consent process itself (e.g. who makes the decisions, and who can provide input) would not be affected; and
- costs and benefits will vary from region to region, i.e. some will have greater benefit, some will have greater cost, depending on degradation and ability to realise aquaculture aspirations.

### **Implementation**

#### **How will the proposal be implemented, who will implement it, and what are the risks?**

The proposed changes would affect how consent applications are assessed and would influence any future amendments to regional coastal plans. It is not intended that councils would need to undertake changes to plans in response to the amendments unless they are reviewing plans for other reasons. Frequent changes to plans prior to the new legislation coming into force (and NZCPS being replaced by new national direction) is not expected given new legal restrictions on making plan changes.

Given that, no funding or specific provision for implementation is required.

## **Limitations and Constraints on Analysis**

### *Limited scope and consultation*

While there was consultation with the public through a discussion document, the low number of submissions from some sectors (e.g. tourism) and incomplete coverage of all uses of the coast in submissions may indicate that potentially affected parties did not necessarily recognise the relevance to their industry.

The focus in design of the proposals was the Government's specified priority activities. These do not include all important coastal uses (e.g. navigation, tourism, international sporting competitions), so targeted consultation in preparation of the discussion document also did not cover all sectors.

### *Evidence of problems*

A difficulty in the work has been poor evidence of the causes of experienced problems, and whether the issues can be addressed through changes to an NPS. For example, a declined consent may be because the location was inappropriate, or because NZCPS provided insufficient or inappropriate direction on how that issue should be managed.

Any changes to national direction have a flow-on effect on planning and consent processes and may therefore increase costs and create new risks for developers. The changes proposed in this document were designed to minimise that risk, by strengthening provisions in the NZCPS that have been the focus of court attention (rather than creating new provisions) and using terms that are well understood. It was hoped that the discussion document process would provide an opportunity for relevant sectors to provide further evidence on the issues they would like addressed. However, most submissions provided little concrete detail about the primary cause of the issues raised.

### *Knowledge gaps*

Other options were considered and would have delivered greater benefits (notably identifying the locations of important values to help inform the appropriate location of developments), but these were not feasible within the relevant timeframes.

### *Interaction with other national direction proposals*

This proposal is part of a suite of national directions proposals including in the national direction work programme. The cumulative impact of the full suite of proposals has not been assessed.

## Quality Assurance Statement

Comments on: Regulatory Impact Statement: Proposed Amendments to the New Zealand Coastal Policy Statement

Date:	13/11/2025
Comment prepared by:	David Falconer (MfE – Chair)  Melita Foster (MfE)  Laura Baroni (MfE)  Bella Middleton (DOC)
Comment signed-off by:	David Falconer – Principal Advisor

### Quality assurance review

The Regulatory Impact Analysis Team (RIAT) has reviewed the Regulatory Impact Statement for the above regulatory proposal in accordance with the [quality assurance criteria](#) set out on the Treasury's website.

“A quality assurance panel with members from the Ministry for the Environment and Department of Conservation has reviewed the Regulatory Impact Statement. The panel considers that it **partially meets** the Quality Assurance criteria.

The panel acknowledges significant improvements that have been made to the RIS to make it clearer, more complete, and responsive to public consultation and the panel's comments. The RIS is comprehensive and outlines the policy problems and objectives. However, the proposal's ability to fully resolve these issues is less convincing because the options considered were limited by scope and previous decisions. Despite these challenges the authors have done well to acknowledge the limitations.”

The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this policy proposal, as the emissions impact is indirect.

**I have read this Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits, and impact of the preferred option.**

**Responsible Manager(s) signature:**



**Guy Kerrison; Manager RM Policy**

**14 November 2025**

## Section 1: Diagnosing the policy problem

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### What is the context behind the policy problem and how is the status quo expected to develop?

#### *The New Zealand Coastal Policy Statement 2010*

1. Section 57 of the Resource Management Act 1991 (RMA) provides that there must always be at least one New Zealand Coastal Policy Statement (NZCPS), the purpose of which is to state objectives and policies to achieve the purpose of the RMA in relation to the coastal environment (section 56 of the RMA). An NZCPS is prepared and recommended in the same way as an NPS (following the process in section 46A of the RMA), except that the Minister of Conservation is responsible for its preparation and recommendation (section 57 of the RMA).
2. An NZCPS may state objectives and policies on any one or more of the matters contained in section 58 of the RMA.
3. The NZCPS 2010 contains seven objectives and 29 policies spanning a wide range of coastal matters.
4. Some policies, including Policy 6 (Activities in the coastal environment), Policy 8 (Aquaculture), and Policy 9 (Ports) aim to encourage the appropriate use and development of the coastal environment.
5. Other policies, including Policies 11 (indigenous biodiversity), 13 (natural character), and 15 (natural features and natural landscapes), require that adverse effects on areas with specific nationally important values identified in the Act be “avoided” in some circumstances. The courts have considered how this requirement should be implemented in light of the Supreme Court’s decision in *Environmental Defence Society Inc v New Zealand King Salmon Co Ltd* [2014] NZSC 38.
6. *Port Otago Ltd v Environmental Defence Society Inc* [2023] NZSC 112 involved appeals on the proposed Otago Regional Policy Statement. The Supreme Court concluded that the directive enabling ports policy in the NZCPS (Policy 9) should be considered alongside the NZCPS protection policies in Policies 11, 13, and 15, and where there is a conflict between those enabling and protection policies, it may be appropriate for a project to proceed, where the project is required to ensure the safe and efficient operation of ports.

#### *Status quo for priority activities*

7. The term ‘priority activities’ is used throughout this document to refer to the list of activities that Government Ministers have identified as the priority for this work – specified infrastructure, renewable electricity generation, electricity transmission, aquaculture, and resource extraction.
8. The NZCPS relates to the coastal environment. That is primarily the coastal marine area (CMA) – the area between mean high-water springs and the edge of the territorial sea (12 nautical miles), but it also includes terrestrial land adjoining the sea where coastal values or processes are present.
9. There is almost no private land in the CMA, with most foreshore and seabed being land not owned by anyone and held under the Marine and Coastal Area (Takutai Moana) Act 2011. Rights to use that land are issued under the RMA. Regional coastal plans are compulsory

and bound by the NZCPS. Rights to use foreshore and seabed are provided by plans or coastal resource consents.

10. The process of gaining a resource consent for an activity that requires exclusive occupation of coastal space and modification of the environment can be expensive. Under the status quo it can be difficult for an applicant to predict whether that investment will result in a consent being granted. This is largely due to uncertainty about where nationally important values (those identified in section 6 of the RMA and in the protection policies) are, and how the decision-makers will determine whether the benefits of the activity justify the effects on those values.
11. Despite that, most priority activities will still gain consents if they need to be in the CMA, are in an appropriate location, and are well designed. The uncertainties for developers may, however, discourage some investments because the developer feels that the cost of the application process is too high given the uncertainty that it will deliver a consent.

### **What is the policy problem or opportunity?**

12. The Government wishes to better enable priority activities (infrastructure, renewable electricity generation, electricity transmission, aquaculture and resource extraction), while maintaining protection for the environment. The NZCPS is considered a barrier to the efficient development of priority activities because:
  13. the protection policies require that certain effects on section 6 (of the RMA) values must be avoided and some developers consider that this is a constraint on development;
    - a. uncertainty about where those values are can mean that consent applications are not even lodged because of concern that no consent will be granted; and
    - b. the test in Policy 6, which helps to determine whether activities should occur in the CMA, is considered by some to be too narrow, meaning that some activities that could be more efficiently undertaken in the CMA would have to occur on dry land.
14. A targeted review of specific NZCPS policies in relation to that objective (of enabling priority activities) was undertaken. Some changes were identified in that review that could be quickly implemented, would not require plan changes to have effect, and would carry very low legal risks. The Minister is proposing to progress those changes, with other findings of the review being progressed through the broader reform of the RMA.
15. The changes to the NZCPS would benefit the priority activities by making it easier for them to get consents and ensuring that they are optimally located to deliver the benefits of the activities while minimising effects on other activities and public values. Section 6 of the RMA requires the protection of values from inappropriate development, so the amended policies need to continue to provide direction that will ensure developments are appropriate in design and location.
16. The priority activities were identified by the Government. They reflect current priorities that the Government wished to explicitly address, but do not cover all important activities (e.g. tourism, fishing). There is a risk that a priority activity could negatively affect another important activity (e.g. mining will negatively affect fishing in the area, structures can impact tourism). Integrated consideration of all uses and ensuring each activity is in the optimal location, taking into account their needs and the needs of other activities, is necessary to address conflicts between activities. A simple focus on some activities rather than all important activities could have unintended negative effects on economic growth. It

is difficult to assess public benefits because there is a poor evidence base about the types of activities that might seek consents once the stronger activity policies are in place. As was seen in offshore Taranaki, better enablement of one activity (e.g. seabed mining) can impede another (e.g. windfarms).

### **What objectives are sought in relation to the policy problem?**

17. The NZCPS targeted review was responding to two key Government objectives.
  - a. First, commitments to amend the RMA to make it easier to consent infrastructure (including renewable electricity generation and transmission), aquaculture, and resource extraction. This is aimed at making it easier to get things done by unlocking development capacity for housing and business growth, enabling delivery of high-quality infrastructure for the future (including doubling renewable energy), and enabling primary and resource sector growth and development (including aquaculture and resource extraction).
  - b. Second, commitments to safeguard the environment and human health, adapt to the effects of climate change, improve regulatory quality in the resource management system, and uphold Treaty of Waitangi settlements and other related arrangements.
18. Both objectives underpin the proposed changes. The changes seek to make consenting for priority activities easier (including where the protection policies apply) while still maintaining the overall balance in the NZCPS between recognising the value of appropriate development and avoiding negative effects on section 6 values.
19. The NZCPS must be consistent with the RMA, so potential conflicts between the two key objectives would be resolved largely through reference to the legislation. It is also important that the overall set of RMA national directions remain coherent and conflicts between NPSs are avoided where possible. In the time allowed DOC has worked with officials responsible for the NPSs for Infrastructure, Renewable Electricity Generation and Electricity Networks, Natural Hazards, and Papakāinga in relation to how these national direction instruments interact. We have aimed to avoid any conflicts between the instruments. The cumulative impacts of the changes to the NZCPS in relation to other national direction instruments are important considerations.
20. The NZCPS cannot address all matters relevant to these objectives, and the national direction reforms are to focus on changes that will have immediate effect without requiring councils to review their plans. A more precise objective for this part of the reform is therefore to better enable priority activities to be consented and/or consented with less onerous conditions, realising the potential benefits for New Zealanders.

### **Context – The role of national direction**

#### **Relationship across all national direction**

21. The NZCPS is required to be read alongside all other national direction instruments. There is no inherent hierarchy across national direction in the RMA, and one instrument only prevails if that primacy is stated explicitly. There is no statement to that effect in the NZCPS. In that regard, decision-makers are required to determine in the context of the application (or plan etc.) which provisions are to be afforded the greatest weight.

22. Some national direction includes highly directive language that makes that relationship clear. For example, the 'avoid significant adverse effects' policies of the NZCPS have been determined to require decision-makers to apply those policies over other less directive policies.
23. This approach reflects the status quo. The proposals in the package do not alter the fundamental relationship between national instruments either collectively or individually (i.e. between particular instruments); rather, all the proposals are more enabling of development than previously, and there is no 'tension' between instruments that was not already inherent in the decision-making framework.

### **What consultation has been undertaken?**

#### **Engagement 2024 (prior to public consultation)**

24. Targeted engagement was undertaken as part of the proposals to amend national direction in 2024. Potential participants were emailed information informing them of the targeted review of the NZCPS and inviting them to participate in targeted pre-engagement on the proposed changes to the NZCPS in online meetings in August and September 2024.
25. Groups who participated in pre-engagement included:
- Regional and district councils/Local government special interest groups
  - Professional organisations
  - Iwi aquaculture organisations
  - Iwi and hapū
  - Aquaculture research providers
  - Aquaculture industry
  - Environmental NGOs.
26. We do not have authorisation to cite the positions taken by specific parties in this process. In general, representatives of developers were interested in how the amendments would assist their sector, local government and some other groups were concerned about implementation issues and sequencing of reform, and many groups expressed concerns about whether this would weaken protection of values important to them. The views have been considered when refining the proposals.
27. Note that, as required under section 77 of the Marine and Coastal Area (Takutai Moana) Act 2011, all holders of customary marine title were invited to participate in pre-engagement. DOC did not receive a response from the Supervisors of Tamaitemioka and Pohowaitai Islands, and was not able to make a connection through DOC Operations at place. Therefore, this group did not participate in this pre-engagement.

#### **Consultation 2025**

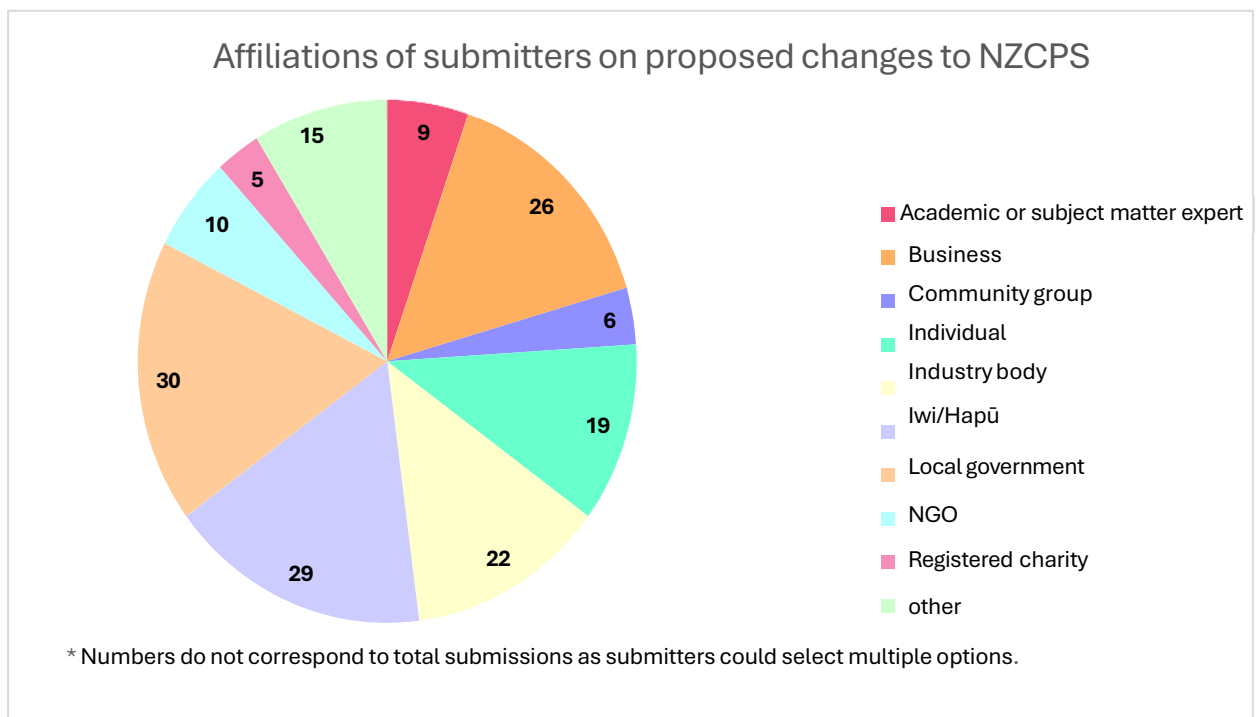
28. This was a joint consultation process led by the Ministry for the Environment (MfE) to consult on 17 national direction instruments including the NZCPS from May to July 2025, in accordance with s46A of the RMA. The NZCPS was included in Package 2: the Primary Production package.
29. MfE sent pre-notification letters on 5 May to all Post Settlement Governance Entities (PSGEs) and other Māori groups with which MfE holds arrangements related to the RMA.

These letters provided detailed information on the intended national direction proposals for infrastructure and development, the primary sector, and freshwater. An invitation was extended to all groups to discuss the proposals.

30. DOC gave Customary Marine Title groups on the Land Information New Zealand register<sup>7</sup> early notice of the proposed targeted amendments to the NZCPS and they were invited to attend hui to discuss the proposal during both the pre-statutory and statutory consultation periods.
31. MfE led public consultation for the entire National Direction Programme. This involved hosting four webinars, and seven themed forums with an opportunity for discussion. PSGEs were also invited to attend two online hui. For the NZCPS, DOC presented at two webinars and the coastal marine themed forum. DOC also attended other fora involving infrastructure, renewable electricity generation and transmission and quarrying and mining.
32. Around 20 additional meetings were held jointly by DOC and Ministry for Primary Industries on the NZCPS and the National Environmental Standard for Marine Aquaculture (NESMA) with Māori, local government, professional associations, environmental NGOs, Industry and business groups, and aquaculture organisations. DOC and MfE also met with the Electricity Sector Environmental Group.

### Submissions on the NZCPS

33. A discussion document on a number of national direction changes, including those relating to the NZCPS, was released on 27 May 2025. The public and iwi submission period was open from 29 May 2025 to 27 July 2025.
34. A total of 726 submitters provided feedback on packages 1 and 2 of the National Direction Programme. Of these submissions, 120 were organisational submissions that addressed the NZCPS proposals and there were around 20 individual submissions about the NZCPS.
35. Submitters can be broadly categorised into the following groups:



32. Key topics from submissions on the NZCPS included:

- whether changes to the NZCPS should be progressed now or at all given the Resource Management Act 1991 (RMA) is to be replaced shortly with new legislation;
- how directive the language in Policy 6 should be, and which activities should be treated as priority activities;
- whether to expand the ‘functional needs’ test in Policy 6 to include ‘operational needs’, and if so, which activities this should apply to;
- whether to require consideration of the potential of renewable energy resources in the coastal environment, and the potential contribution of renewable marine energy in the coastal marine area to meet the reasonably foreseeable needs of both current and future generations;
- how directive the language in Policy 8 should be in relation to providing for aquaculture activities in Aquaculture Settlement Areas (ASAs);
- whether to change the language in Policy 8 to require the cultural and environmental benefits of aquaculture to be considered; and
- whether the proposed changes to Policies 6 and 8 uphold environmental protections and cultural values, including the exercise of kaitiakitanga and customary marine title rights.

33. There were mixed views about strengthening the language in Policy 6 especially as it relates to resource extraction. Most iwi submitters opposed the expansion of the functional needs test in the CMA, particularly for resource extraction. Most submitters (including councils, some ENGOs and some iwi) supported the proposal to amend Policy 8 to direct decision makers to provide for aquaculture activities in ASAs. The Policy 8(b) wording changes were generally supported if the policy included “ecological benefits” (rather than environmental benefits) and cultural benefits.

34. A number of comments were outside the scope of the current review, and will be considered as part of the work on replacing the RMA with a new planning and natural environment system rather than through this work on national direction. There is a planned programme of work to replace the RMA with new legislation.

35. Most of the proposed changes consulted on were adopted except:

- ‘resource extraction’ was changed to ‘the extraction of minerals’ to be consistent with current wording in the NZCPS and proposed changes to other national direction instruments;
- the operational needs test in Policy 6 relating to the extraction of minerals was restricted to extraction that supported public infrastructure; and
- the word ‘environment’ was changed to ‘ecological’ in Policy 8(b) relating to aquaculture.

## Section 2: Assessing options to address the policy problem

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### What criteria will be used to compare options to the status quo?

36. A consistent set of criteria is being used to assess all national direction projects:

Criteria	Questions to guide application of criteria
Effectiveness	<p>Does the option achieve the objectives?</p> <p>Does the option provide a solution to the identified problem?</p> <p>Have trade-offs between the objectives been factored into the assessment of the proposal's overall effectiveness?</p>
Efficiency	<p>To what extent does the proposal achieve the intended outcomes/objectives at the least cost to applicants, the regulator and, where appropriate, the courts.</p> <p>Is the regulatory burden (cost) proportionate to the anticipated benefits?</p> <p>Is the option cost-effective?</p>
System alignment	<p>Does the option integrate well with other proposals and the wider statutory framework?</p> <p>What is the impact on existing objectives in current national direction instruments?</p> <p>Does the option reduce complexity and provide clarity for local government to address tensions/conflicts between National Direction instruments?</p>
Implementation complexity	<p>Is the option clear about what is required for implementation by local government, and can it be easily implemented?</p> <p>Does the option provide enough flexibility to allow local circumstances to be adequately taken into account / addressed at the local level?</p> <p>To what extent does the proposal present implementation risks that are low or within acceptable parameters? (e.g. Is the proposal a new or novel solution or is it a tried and tested approach that has been successfully applied elsewhere?).</p> <p>To what extent can the proposal be successfully implemented within reasonable timeframes?</p>

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Do regulated parties have the flexibility to adopt efficient and innovative approaches to meeting their regulatory obligations?

(NB: A regulatory system is flexible if the underlying regulatory approach is principles or performance based).

To what extent does the proposal ensure regulated parties have certainty about their legal obligations, and does the regulatory system provides predictability over time?

Are legislative requirements clear and able to be applied consistently and fairly by regulators?

Do all participants in the regulatory system understand their roles, responsibilities and legal obligations?

Te Tiriti o Waitangi  
outcomes

Does the option take into account the principles of Te Tiriti o Waitangi and Māori rights and interests?

Does the option align with the Treaty Impact Analysis (TIA)?

### **What scope will options be considered within?**

37. The amendments covered in this RIS were among a range of options considered as part of a targeted review undertaken by the Minister. The range of options to be further considered was reduced by Ministers to fit with the intent that short term national direction work be limited to changes that would have immediate effect. Ministers set the scope of the original review process, restricting it to specific policies in the NZCPS.
38. The specific options in the RIS were selected because they are likely to:
- help achieve Government objectives for priority activities;
  - have immediate effect (they do not rely on plans being changed);
  - use policy approaches that are straight forward and well tested;
  - not risk unintended effects on other parts of the NZCPS or the creation of new legal risks for developers; and
  - be easy to transition to the new resource management system.
39. Given these requirements for this part of the RM reform process (on national direction), the options being consulted on were changes to two activity policies – Policies 6 and 8. Submissions that raised matters related to other policies were treated as out-of-scope, as any changes to other policies would need to be further consulted on.
40. In terms of the activity policies, Policy 9 (on ports) was not identified as needing strengthening, as it is specific and directive. Policy 6 contains comparatively weaker language and could be strengthened. Policy 8 could also be strengthened by ensuring decision makers appropriately provide for cultural and environmental values, and ASAs.
41. The proposed changes are largely to make NZCPS activity policies more effective in light of recent court cases that considered how the NZCPS policies should be read as a package. Strengthening the activity policies for priority activities would shift the way that the protection policies are applied for those activities, meaning that the concerns industry has about the protection policies being too rigid would be addressed to at least some extent.
42. That would not remove all uncertainty for applicants, but it would make a positive difference and carries low environmental risk.
43. Some options have been deferred for further consideration when the RMA is replaced, including possible changes to the protection policies. Other options do not need policy or legislative change (although that may assist), but those are additional measures rather than alternatives. Examples are the mapping of nationally important values and non-statutory spatial planning.
44. These proposals, particularly those relating to Policy 6, will apply together with other proposed national direction changes. The proposed changes would be supported by the enabling provisions in the NPS for Renewable Electricity Generation, the proposed NPS for Electricity Networks, and the proposed NPS for Infrastructure. The combined increase in directive and enabling policies should elevate the importance of these developments in decision-making. It would soften how the ‘avoid’ requirements in the NZCPS protection policies are applied.

## What options are being considered?

45. A wide range of possible approaches to the issue were explored, but only those that were consistent with the scope of the work and that were considered feasible and potentially useful were developed as full options. These were packaged into two options – a regulatory and a non-regulatory option.

### Option One – Retain NZCPS unchanged

46. Retain the NZCPS as it is currently worded. The focus of enabling work would be just on non-regulatory options such as mapping of nationally important values and spatial planning.

### Option Two – Strengthen activity policies

47. Strengthen Policy 6 in relation to priority activities by:

- amending Policy 6(1)(a) and (g) in relation to the Government’s priority activities to make the wording more directive (i.e. more like the wording of Policy 9 Ports<sup>3</sup>); and
- recognising that the renewable energy needs of both current and future generations is necessary to support decarbonisation of the economy.

48. These changes (together with the changes proposed for other national direction), should elevate the importance of priority activities in decision making and could soften how the ‘avoid’ requirements in the protection policies are applied, in a similar way to the Port Otago decision.

49. Including “operational need” in Policy 6(1) and (2) to recognise that priority activities may have a functional need or an operational need to locate in the CMA. Currently activities must satisfy a ‘functional needs test’ to locate in the CMA.<sup>4</sup> “Functional need” means a proposal or activity must traverse, locate or operate in the CMA because that is the only place the activity can occur. Expanding this to a “functional or operational need” would enable decision makers to also consider any technical, logistical or operational characteristics or constraints (e.g. time, cost, safety and so on) that make locating in the CMA desirable. Similar provisions are proposed in the NPS for Infrastructure, amended NPS Renewable Electricity Generation and NPS Electricity Transmission, and already exist in the NPS Highly Productive Land.

50. Better enabling Aquaculture in Policy 8 by:

- Amending Policy 8(b) to specifically require consideration of the cultural and environmental benefits of aquaculture in consent decisions. Currently the policy only refers to the “social and economic benefits”; and

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<sup>3</sup> “Policy 9: Ports. Recognise that a sustainable national transport system requires an efficient national network of safe ports, servicing national and international shipping, with efficient connection with other transport modes, ...”

<sup>4</sup> ‘Functional needs test’:

Policy 6(1)(e) requires that decision-makers “consider where and how built development on land should be controlled so that it does not compromise activities of national or regional importance that have a functional need to locate and operate in the coastal marine area”.

Policy 6(2)(c) recognises “that there are activities that have a functional need to be located in the coastal marine area”.

Policy 6(2)(d) recognises “that activities that do not have a functional need for location in the coastal marine area generally should not be located there”.

- directing decision makers to provide for aquaculture activities within ASAs made under the Māori Commercial Aquaculture Claims Settlement Act 2004. The change aims to support Māori to realise the potential of ASAs, which is an objective of the NZ Aquaculture Development Plan. ASAs are a tool which the Crown can use to preserve space in the CMA as a settlement asset for Māori. While gazettal of an ASA prevents incompatible uses from occurring within it, a resource consent would still be required for aquaculture activities to occur.

### **Option Three – Non-regulatory actions to improve certainty**

51. Under this option, there would be investment to map the section 6 values that are the subject of the “avoid” protection policies (e.g. outstanding natural landscapes), either generally or in regions where uncertainty is a specific issue. That would provide greater certainty to applicants as to whether the policies would apply in that location, and allow refinement of regional coastal plans.
52. There could also be sector planning to allow the relative importance of particular proposals for the use of coastal space to be better assessed by councils, when applying Policy 6.

## How do the options compare to the status quo/counterfactual?

	Option One – Retain NZCPS unchanged	Option Two – Strengthen activity policies	Option Three – Non-regulatory actions to improve certainty
<b>Effectiveness</b>	0	<p>+</p> <p>Will make the activity policies stronger and apply to more activities.</p>	<p>+</p> <p>Would improve certainty, but would not change the functional needs test or change policy 6 so activities are more likely to be allowed to proceed despite the avoid policy being breached.</p>
<b>Efficiency</b>	0	<p>++</p> <p>Retains current general approach in NZCPS so efficient to apply.</p>	<p>+</p> <p>Does not require regulatory change, and it is more efficient to map and assess values at a national scale than rely on individual plans</p>
<b>Alignment</b>	0	<p>-</p> <p>Retains current alignment with protection policies, but some risk of poor alignment with terrestrial activity policies (e.g. Housing).</p>	<p>0</p> <p>Can be done at the same time as any regulatory change, and would help with implementation of the Act.</p>
<b>Implementation</b>	0	<p>0</p> <p>Implemented through existing processes</p>	<p>0</p> <p>No implementation risks as outcome of any work would be implemented through existing processes.</p>
<b>Treaty</b>	0	<p>+</p> <p>Benefits for iwi-led development without major impacts on values of significance to iwi.</p>	<p>+</p> <p>Clarifying the location of values of significance to iwi would improve protection</p>

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			of them. Greater certainty would assist iwi developments.
<b>Overall assessment</b>	0	<p>+</p> <p>A low cost/low risk way to achieve the enablement objective.</p>	<p>+</p> <p>A high value option that will deliver significant benefits, but won't address all matters being considered. Can be done at the same time as regulatory change.</p>

Key to table:

++ Much better than the status quo

+ Somewhat better than the status quo

0 similar to the status quo

- somewhat worse than the status quo

-- significantly worse than the status quo

**What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?**

53. Option 2 – making changes to Policies 6 and 8 – is the preferred option. The status quo will not deliver the Government’s objectives. Option 3 will not address all issues, and can proceed alongside the preferred option.
54. Other possible options for amending the NZCPS that were explored were ruled out because they would require complex design and implementation work while the RMA is being reformed, and would be unlikely to have effect before the main reforms were completed. Some other actions that would assist development, such as mapping of nationally important values, do not need changes to NZCPS and can be undertaken at any time.
55. Submissions generally supported option 2, but changes in details of how it should be designed have been agreed in light of the submissions. The details of the feedback is provided in the summary of submissions, and the detailed proposals set out in the submissions and recommendations report.
56. The decision included two substantive changes to details of the notified proposal:
- amending the proposal as it relates to an operational need test to locate in the CMA for all priority activities by restricting mineral extraction to those activities that support infrastructure, similar to the approach in the NPS for Infrastructure. Many mineral extraction activities will already satisfy the functional need test and so do not rely on an operational needs test. Broader application of the operational need test to extraction of minerals is not recommended ahead of wider work on replacing the RMA due to the potential impacts on other activities, and the environmental and cultural values in the coastal marine area; and
  - amending the proposal for changes to Policy 8 aquaculture to refer to ‘ecological benefits’. This would better represent the policy intent to consider any benefit on biodiversity and ecosystems, and makes the drafting more consistent with the RMA definition of environment.

**Does this option align with the Treaty Impact Analysis (TIA)?**

57. The CMA is largely commonly managed, but is important to Māori both in terms of ecosystem services and their kaitiaki role, and to support many economic interests.
58. The options do not undermine Treaty settlements or other arrangements that provide for participation in the consenting system. Policy proposals are to enable more priority activities and development in the CMA. This will be beneficial for Māori groups with interests in development such as Iwi Aquaculture Organisations. However, this may create more strain on resourcing for Māori who participate in consenting processes by other parties with a potential increase in resource consent applications.
59. The proposals to better enable mineral extraction may have potential impacts on kaitiaki responsibilities of Māori groups, with the potential that these activities will cause environmental degradation and impact the mauri of the CMA. It could also negatively affect fishing. Limiting the operational needs test for mineral extraction to those mineral extraction activities that support public infrastructure would reduce that risk, by reducing impacts in extent and removing the risk in some locations.
60. The impacts on Māori groups are lessened by not including all mining as they may be more accepting if the mining provides infrastructure benefits to Māori. It will also mean there are

less mining activities allowed to rely on operational need to support their application potentially resulting in less impact on the environment and mauri.

**Is the Minister's preferred option in the Cabinet paper the same as the agency's (DOCs) preferred option in the RIS?**

61. Yes.

**What are the marginal costs/benefits of the preferred option in the Cabinet paper?**

<b>Affected groups</b> (identify)	<b>Comment</b> <i>nature of cost or benefit (e.g. ongoing, one-off), evidence and assumption (e.g. compliance rates), risks.</i>	<b>Impact</b> <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	<b>Evidence Certainty</b> <i>High, medium, or low, and explain reasoning in comment column.</i>
<b>Additional costs of the preferred option compared to taking no action</b>			
Regulated groups	No additional costs.	Low	High
Regulators	There will be some additional planning costs if any regional coastal plans in regions with aquaculture management areas are reviewed before the Phase RM reforms are undertaken. Changes to consent process costs are minimal.	Low	High
<b>Total monetised costs</b>	No Data	No Data	No Data
<b>Non-monetised costs</b>	Key costs arise from a shift in balance between uses (and non-uses) of the coast. For example, resource extraction would have more favourable treatment than tourism, navigation or public recreation.	Medium	Medium
<b>Additional benefits of the preferred option compared to taking no action</b>			
Regulated groups	More certainty that applications for appropriate priority	Medium	Low

	activities will be successful.		
Regulators	None		
Others (e.g. wider govt, consumers, etc.)	Some activities with public benefits may be better enabled.	Low	Low
<b>Total monetised benefits</b>	No Data	No Data	No Data
<b>Non-monetised benefits</b>	Likely to better enable beneficial projects.	Medium	Low

62. It is difficult to assess public benefits because there is a poor evidence base about the types of activities that might seek consents once the stronger activity policies are in place. As was seen in offshore Taranaki, better enablement of one activity (e.g. mining) can impede future development of another (e.g. windfarms). In the absence of spatial planning or allocation provisions in plans to ensure that the right activities are approved, general enabling provisions may not deliver the Government's desired outcomes.
63. A number of submissions raised concerns about the effect that increases in other activities would have on their sector (e.g. in relation to fishing). There was specific opposition in submissions to providing a more enabling environment for mineral extraction, while there was generally support in relation to public infrastructure (provided environmental protection remained in place).
64. Activities that are important to the public and economy (e.g. tourism, international sporting competitions) and are sensitive to the location of structures and may be negatively impacted. In the case of aquaculture, areas identified under settlement legislation have not been subject to full assessment of potential alternative uses or environmental effects, so effects of use of those areas on wider public benefits are difficult to predict.
65. Because the preferred option relies on adjusting the existing provisions of NZCPS rather than altering the structure, implementation risks for those activities that would benefit are considered low.

## Section 3: Delivering an option

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### How will the proposal be implemented?

66. Changes to the NZCPS require iwi and public consultation, and then a decision by the Minister of Conservation. Once that process is complete, they become part of the existing coastal regime, implemented largely by regional councils through regional coastal plans and consent processes.
67. In general, these changes will have effect in consent processes and therefore do not rely on plans being changed.

### How will the proposal be monitored, evaluated, and reviewed?

68. The changes will become part of the existing NZCPS. Implementation and effectiveness are monitored formally in accordance with the requirements in NZCPS (Policy 28), and less

formally through the Minister of Conservation's role in approving regional coastal plans and DOC's involvement in consent processes.

69. The NZCPS will need to be reviewed as part of the changes to the broader resource management system.