

GUIDING POLICY

2.0 MATTERS OF NATIONAL IMPORTANCE

Section 6 of the Resource Management Act 1991 sets out 6 matters of national importance for which all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for.

These matters, with respect to this Plan, are the preservation of the natural character of the Coastal Environment, the protection of the Coastal Environment from inappropriate subdivision, use, and development, the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development, the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers in the Coastal Environment and the relationship of Maori and their culture with their ancestral lands, water, sites, waahi tapu and other taonga.

The relationship of Maori and their culture and traditions with their lands, etc. is dealt with fully in part 2.5.1 of this Chapter as the associated issues are of regional significance.

Matters of national importance are not set up in the Resource Management Act 1991 as matters apart from the purpose of the Act which is the promotion of sustainable management of natural and physical resources (the preservation of the natural character of the coast does not preclude development).

The preservation of the natural character of the coastal environment and its protection from inappropriate subdivision, use and development⁷ is one of the Part II matters that a consent authority must take account of when making a judgement in each case on how best to achieve the purpose of the Act. In some cases, therefore, activities or policies may be approved even where they are likely to cause some adverse effects on natural character, if those activities or policies better meet the purpose of the Act than other available alternatives. Similarly with other matters of national importance such as the protection of outstanding landscapes.

Each part of Section 6 will be dealt with separately within this chapter and will consist of an introduction, a statement of the principle issue arising from the matter of national importance, Objectives, Policies, Methods and rules arising from the Issue and the anticipated environmental results sought in respect of the issue. While it is convenient to address each matter separately, the context of each matter must be taken from the whole of the chapter.

⁷ Port Gisborne Consent Order 742/00

Guiding Policy

2.1 PRESERVATION OF THE NATURAL CHARACTER OF THE COASTAL ENVIRONMENT

2.1.1 Introduction

Natural Character is undefined in the Resource Management Act 1991 or the New Zealand Coastal Policy Statement and considerable uncertainty exists as to what "natural character" is. The New Zealand Coastal Policy Statement attempted a definition of natural character but this was subsequently withdrawn prior to the Department of Conservation issuing the NZCPS.

The Board of Inquiry into the New Zealand Coastal Policy Statement noted in its Report and Recommendation to the Department of Conservation that; "the terms 'Coastal Environment' and 'natural character' have already been interpreted by the Environment Court, albeit as those terms were used in previous legislation, and they could well be the subject of judicial interpretation in the future, in the context in which they are now used in the Act. No definition of those terms (and any other terms used but undefined in the Act) given in a New Zealand coastal policy statement will be binding on the Environment Court or the higher courts. Therefore it would not be appropriate for an attempt to be made to define them in the NZCPS."

If those terms are not able to be defined in a useful manner in the NZCPS then certainly an attempt to define them in the Regional Coastal Environment Plan is even less useful. Never the less an attempt to identify at least some of the elements that may be included in the concept of natural character should be made.

Some case law arising from Environment Court decisions made under different legislation provides a basis for coming to grips with the concept of natural character. In *Physical Environment Assn v. Thames-Coromandel District Council* (1982) 8 NZTPA 404 at page 408, the Environment Court stated, in the context of the term 'natural character', "What is 'natural' is that which is created by nature, as distinct from that which is constructed by man."

If this statement holds for the Resource Management Act 1991 then the 'built' environment, that is the environment consisting of structures, works, landscapes and cultural features created by humankind, is not part of the natural character of the Coastal Environment. Only those features and values derived 'of nature' form the natural character of the Coastal Environment and rivers, lakes, and their margins.

Maori, in submissions on the Coastal Plan discussion papers, have made the point that Maori do not consider themselves to be separate from nature and consider spiritual and cultural sites to be part of the natural character of the Coastal Environment. While this view is appreciated and shared by other cultures, the meaning of natural character, for the purposes of the Resource Management Act 1991, cannot accommodate this view. The New Zealand Coastal Policy Statement does refer to Cultural, Spiritual and Heritage places or areas as elements of natural character but, in the context of Chapter 1 of the NZCPS, this refers to such sites that have formed of nature rather than of human origin and have been given a cultural or heritage value.

Guiding Policy

For instance a grove of indigenous trees important for medicinal purposes may be considered an important cultural or spiritual site by Maori and this factor contributes to the degree of natural character that site has. This Plan has been prepared on the same basis.

Further elements that contribute to the coast's natural character include the landscape and landform, the vegetation, wildlife and the habitats and ecosystems present. Natural character also includes natural physical processes that occur and more intangible qualities such as the ambient air quality and background noise level and quality. Finally, the degree of Natural Character of an area may be determined by its remoteness and the presence or absence of human impacts on an area.

For example the Natural Character of a remote and unaltered area may be substantially reduced by human activity such as noise generated by gun clubs or the construction of a road and subsequent traffic influences. Natural Character is not an expression of any single quality but may be determined from the combination of all these characteristics. In some cases the Natural Character of the Coastal Environment may be distinguished by the dominance of one particular characteristic.

For example, the viable habitat of an extremely rare bird, such as the New Zealand Dotterel, may indicate that an area is high in Natural Character. In other cases no one quality of the area may, of itself, indicate a high degree of natural character but in combination with a number of qualities may combine to identify a significant area. The environs of Lottin Point is an example where no single element dominates but the environment, when taken as a whole, clearly has a very high degree of natural character.

In contrast there are permanent settlements at several locations around the coastline. In those places, the presence of buildings and other associated structures modify the natural character of the coastal environment to varying degrees dependent on the scale of the development within the coastal landform, and the extent to which coastal ecosystems and processes have been altered.

From this understanding of the elements that contribute to natural character, it can be seen that there is no part of the Gisborne coastline that has no natural character. Even extensively modified areas such as Port Gisborne have a degree of natural character in that the water contains a diverse number of marine species which exist in defined habitats and there is a degree of air quality that supports the life supporting capacity of the environment. Clearly though, the natural character of Port Gisborne has been greatly modified and must be considered to be relatively low.

The Resource Management Act 1991 requires that the natural character of the Coastal Environment, rivers, lakes, and their margins be preserved generally provided this meets the purpose of the Act. It is not a requirement of the Act to identify areas of high natural character and in fact it may not be possible to do so without distracting people from the need to preserve natural character generally.

Guiding Policy

The New Zealand Coastal Policy Statement sets out, in chapter 1, to preserve natural character generally by protecting areas, features, and processes identified as regionally or nationally significant and these mechanisms are likely to preserve natural character in areas where particular characteristics have very high significance. The New Zealand Coastal Policy Statement also sets out the desirability of restoring an areas natural character using indigenous species by preference in areas where activities have damaged or destroyed natural character.

Landscape and Natural Character ▶ A key component of the natural character of the Coastal Environment is the landscape or visual element of the coast. It is a key element because our visual perception incorporates a substantial amount of information such as the generic vegetation type, and contour and underlying geology of the underlying land. Approximately 80% of information about our environment is perceived visually. The features we see also contribute to the other elements of natural character.

There are eight common landscape areas, based on landform character, in the Gisborne District that are repeated throughout the Coastal Environment. Each area has particular sensitivities for which appropriate policies may be established.

These areas are:

- | | |
|------------|-------------------------|
| ~ Headland | Bay |
| ~ Scarp | Truncated Coastal Hills |
| ~ Duneland | Islands |
| ~ Terrace | The Sea |

Headlands are the prominent landforms which project out into the sea. An example of a headland is Young Nicks Head.

Scarps are dramatic steeply sloping, almost precipitous, landforms which face out to sea.

Dunelands and Estuaries ▶ Dunelands are areas formed from sand dunes and are associated with coastal plains. They include spits which are characterised by their lack of land backdrop. Estuarine areas have been incorporated into the generic dune land area and they occur in association with the tidal mouths of rivers. What distinguishes estuaries from simple river mouths is the fact that they are enclosed, often by a gravel or sand bar. In this semi-enclosed basin fresh water mixes with seawater. They often act as sediment traps accumulating silts brought in by the rivers and tides. The sheltered conditions, the rich sediment, and the mixing of fresh and salt water has a profound effect on the types, numbers and distribution of plants and animals in an estuary and estuaries are extremely sensitive, because of these factors, to change.

Terraces are generally long, flat plains which have been uplifted at some point in time. They generally include a characteristic escarpment which often varies in height with an angled terrace.

Bays are areas contained within the discrete visual catchment between headlands and include harbours which are a significant landscape (seascape) within themselves.

Guiding Policy

Truncated Coastal Hills are essentially hills which have been cut off by coastal processes to form an eroding cliff and steep landward edge to the coast. The original hill country landforms from which these landforms are derived were also generally steep and dissected.

Islands are the discrete landforms surrounded by the sea such as Pourewa Island, Tolaga Bay, and Motuoro Island, Anaura Bay.

The sea is the wet part of the Coastal Environment. Whilst essentially a flat plane its qualities vary to a limited degree with the weather and light and dependant on viewer location. The tidal nature of the sea introduces parts of the seabed into the visible components of the Coastal Environment. These include wave-cut platforms, rocky outcrops and reefs.

For further information on the landscape character of the Gisborne Region, it is recommended that the report prepared by Boffa Miskell Ltd for the Gisborne District Council, entitled, "An Assessment of the Landscape Character of the Coastal Environment of the Gisborne District", be viewed or purchased from any office of the Gisborne District Council.

2.1.2 Issue

2.1.2A ▶ The natural character of the Gisborne Regions Coastal Environment and the rivers, lakes, and their margins within the Coastal Environment has been and may continue to be adversely affected by some activities. Activities may adversely affect some or all of the elements that combine to form the natural character of an area.

Explanation: Examples of adverse effects of activities on natural character could include loss of landscape quality, damage to indigenous vegetation and habitats, degraded water quality, damage to culturally important sites, loss of "remoteness", noise, dust, and odours. Such effects can be caused by inappropriate roading, earthworks, housing, farming and forestry, subdivision, recreation, waste disposal, coastal protection works and many other activities.

2.1.3 Objectives

2.1.3A ▶ The natural character of the Gisborne Regions Coastal Environment and wetlands, rivers, lakes, and their margins within the Coastal Environment is preserved unless such preservation is inconsistent with the purpose of the Resource Management Act 1991.

Principal reason: *Section 6(a) of the Resource Management Act 1991 states that all persons exercising powers, functions or duties under the Act must recognise and provide for, as a matter of national importance the preservation of the natural character of the coastal environment and its protection, from inappropriate subdivision, use and development.*⁸

⁸ Port Gisborne Consent Order 742/00

Guiding Policy

Note: This should not be interpreted as being the purpose of the Act, however, and is subordinate to the promotion of the sustainable management of natural and physical resources. Where sustainable management is better achieved through some loss of natural character then that management option may be available to those people wishing to subdivide, use and develop the Coastal Environment.

2.1.3B ▶ The characteristics of the Coastal Environment that together form the natural character of the Coastal Environment of the Gisborne Region are identified.

Principal reason: It is not possible to assess the natural character of the Coastal Environment as a discrete value. It is a composite of various 'traits' that when viewed together combine to provide the distinctive character of the Gisborne Coast. The individual 'traits' are identifiable. Some of the values include matters identified in Section 6 of the Resource Management Act 1991 and these are specifically addressed further on in this chapter. Other values may include values associated with natural processes or values arising from less significant indigenous flora and fauna and landscapes.

2.1.3C ▶ Areas of the Gisborne Region Coastal Environment where natural character has been adversely affected by past activities are identified. Such specifically identified areas should, where appropriate, be restored and rehabilitated.

Principal reason: Policy 1.1.5 of the New Zealand Coastal Policy Statement states it is a national priority to restore and rehabilitate the natural character of the Coastal Environment where appropriate. In order to achieve this national priority it is important to identify appropriate areas.

2.1.4 Policies

2.1.4A ▶ Consent Authorities will, when any application for a plan change or resource consent in the Coastal Environment is being considered, recognise that all the coast has some degree of natural character which is required to be preserved.

Explanation: Natural character pervades the entire Coastal Environment. Even in areas highly modified there is some degree of natural character and the Resource Management Act 1991 sets out that the preservation of the degree of natural character present at any one site should be recognised and provided for so long as doing so meets the purpose of the Act which is to promote sustainable management of natural and physical resources.

Principal reason: Section 6(a) of the Resource Management Act 1991 states that all persons exercising powers, functions and duties under the Act shall, as a matter of national importance, recognise and provide for the preservation of the natural character of the coastal environment and its protection from inappropriate subdivision, use and development.⁹

⁹ Port Gisborne Consent Order 742/00

Guiding Policy

This policy recognises that natural character is a continuum in the Coastal Environment and directs consent authorities to appreciate the degree of natural character present in any given area.

2.1.4B ▶ The Council shall recognise that protecting outstanding natural features and landscapes, areas of significant indigenous vegetation and significant habitats of indigenous fauna also assists in preserving the natural character of the Coastal Environment.

Explanation: The natural character of the Coastal Environment, as a continuum, also includes areas where, because of the rarity or representative nature of specific features, the degree of natural character is very significant. By protecting those specific features and values, the Council will also succeed in preserving the natural character of part of the Coastal Environment while fulfilling other obligations set out in the Resource Management Act 1991.

Principal reason: *It is important for Council to recognise that areas of the coast containing special natural features constitute areas with very high natural character and by protecting those identified features, the natural character of the Coastal Environment in those areas can be preserved.*

2.1.4C ▶ The adverse effects of activities on the integrity, functioning, and resilience of natural processes and qualities should be avoided as far as practicable and where complete avoidance is not practicable, the adverse effects shall be mitigated and provision made for remedying those effects to the extent practicable. Natural processes and qualities include:

- ▶ Bio-diversity.
- ▶ Freedom of movement of biota (living organisms).
- ▶ Intrinsic values.
- ▶ Natural substrate composition.
- ▶ Natural air and water quality.
- ▶ Water quantity.
- ▶ Dynamic processes and features arising from the natural movement of sediments, water and air.

Explanation: The elements that combine to form the natural character of the Coastal Environment are not confined to visual or ecological criteria. The natural character of an area also includes the dynamic physical processes that form features or habitats and if these are damaged or destroyed then the natural character of those areas is diminished or destroyed. In fact, such processes often define the natural character of an area and activities which would have the effect of damaging those processes should in the first instance be avoided.

Guiding Policy

Principal reason: Policy 1.1.4 of the NZCPS states that it is a national priority for the preservation of natural character of the Coastal Environment to protect the integrity, functioning, and resilience of the Coastal Environment in terms of dynamic physical processes, intrinsic values, bio-diversity and natural substrates, water and air quality. Policy 3.2.2 of the NZCPS provides a hierarchy of action to be taken where the adverse effects of activities on natural character may occur. This policy is appropriate in order to implement these two policies.

2.1.4D ▶ Consent authorities will give priority to avoiding the actual or potential adverse effects of activities on the integrity and continued viability of ecological corridors important for maintaining the bio-diversity and viable gene pool flow of indigenous flora and fauna.

Explanation: In order to achieve the integration of planning necessary to meet the purpose of the Resource Management Act 1991 it is important to recognise the existence of ecological corridors within and extending through and beyond the Coastal Environment. These ecological corridors are essential in maintaining the viability of some habitats which form elements of the natural character of the Coastal Environment.

Principal reason: This policy is considered necessary to provide a degree of continuity with other regional plans and the district plan, recognising that the natural character of the Coastal Environment is dependant in part on the natural migration of plants and animals into and out of the Coastal Environment and the availability of food and genetic resources from outside the Coastal Environment.

2.1.4E ▶ Consent Authorities will, when any application for a plan change or resource consent in the Coastal Environment is being considered, recognise that all the coast has some degree of natural character which is required to be preserved.

Explanation: The natural character of the Coastal Environment of the Gisborne Region has been substantially adversely affected by activities that were undertaken prior to the enactment of the Resource Management Act 1991. In some circumstances it may be possible to restore and rehabilitate such areas and this should be encouraged.

Principal reason: Policy 1.1.5 of the NZCPS states that it is a national priority to restore and rehabilitate the natural character of the Coastal Environment where appropriate. This policy is required to be not inconsistent with the NZCPS.

2.1.4F ▶ Where the natural character of the Coastal Environment is likely to be adversely affected by the effects of activities, the restoration and rehabilitation of natural character should be provided for where appropriate. Such provision may include financial contributions sought under Section 108 of the Resource Management Act 1991 but only where such effects cannot be otherwise successfully avoided, remedied or mitigated.¹⁰

¹⁰ Port Gisborne Consent Order 742/00

Guiding Policy

Explanation: Where activities are likely to degrade the natural character of the Coastal Environment, provision should be made to remedy or mitigate that damage. The Resource Management Act 1991 enables financial contributions to be sought as a condition of a consent and this includes restoration and rehabilitation as well as financial contributions in terms of money.

Principal reason: *Policy 1.1.5 of the NZCPS states that it is a national priority to restore and rehabilitate the natural character of the Coastal Environment where appropriate. This policy is required to be not inconsistent with the NZCPS.*

2.1.4G ▶ The adverse effects of activities on areas of predominantly indigenous vegetation or the habitats of indigenous fauna in the Coastal Environment should be avoided to the extent practicable and where this is not possible, mitigated and provision made for remedying those effects, including seeking financial contributions as a condition of any consent granted.

Explanation: This policy recognises that natural character is not confined to areas with significant indigenous vegetation. Areas with predominantly indigenous vegetation and habitats of indigenous fauna are also important contributors to the natural character of the Coastal Environment and provision should be made to avoid degrading these areas to the extent practicable.

Principal reason: *Policy 1.1.2(d) of the NZCPS requires a national priority of recognising that areas of predominantly indigenous vegetation or habitats of significant indigenous fauna should be disturbed only to the extent reasonably necessary to carry out approved activities. This policy is required to implement this national priority.*

2.1.4H ▶ Ecosystems that are unique to the Coastal Environment and vulnerable to modification, such as estuaries, coastal wetlands, dune systems, and their margins should be protected from the adverse effects of activities in order to preserve the natural character of the Coastal Environment.

Explanation: The Gisborne Region has very few unique coastal features left after substantial modification of them over time. Features such as estuaries, coastal wetlands and dune systems have been reclaimed, drained and levelled in order to improve land productivity for primary industry purposes. The remaining areas are remnants that provide key elements of the natural character which should be protected in order to preserve the unique natural character of the coast that they provide.

Principal reason: *In order to preserve the natural character of the coast, unique features of the coast that have generally been damaged in the past should now be protected. This is consistent with Policy 1.1.2(c) of the NZCPS.*

2.1.4I ▶ Activities that adversely affect a series of ecological successional sequences in the coastal marine area should be avoided.

Guiding Policy

Explanation: The ecological processes that occur within the marine environment are complex and not well understood. The precautionary approach to planning set out in the NZCPS requires this fact to be recognised. It is likely that any activity that adversely affects the ecological zone sequence that exists in marine communities will seriously alter the natural character of the marine environment and this should be avoided.

Principal reason: *Significant disruption of the succession of inter-tidal and sub-tidal gross communities in the coastal marine area is likely to have serious flow on effects on the viability of those communities which will degrade the natural character of the coastal marine area.*

2.1.4J ▶ Activities that have the effect of altering or destroying the naturally occurring species assemblage over an area equal to or greater than 4 hectares or, alternatively, along the length of an entire coastal geomorphic area in the coastal marine area e.g. a bay, scarp face or headland, should be avoided.

Explanation: Activities that alter or destroy species assemblages on a large scale directly impact on the natural character of the Coastal Environment and should be avoided.

Principal reason: *Large scale adverse effects of activities must impact on the natural character of the coastal marine area. Such activities, as well as failing to preserve the natural character of the Coastal Environment are likely to fail to support the life supporting capacity of the sea.*

2.1.4K ▶ The Council will encourage the understanding of the natural character of the Coastal Environment of the Gisborne Region through the provision of environmental education and information. The education and information will:

- ▶ Take into consideration the needs of the audience.
- ▶ Provide appropriate information and advice on why activities influence natural character.
- ▶ Be integrated with other education and information provision initiatives of the Council.
- ▶ Be jointly developed, where practical, with other resource management agencies.
- ▶ Be able to be evaluated.

Explanation: Education and the provision of information are key resource management actions. Without knowledge of the effects of their actions on the environment, or the reasons why certain practices are being promoted, people may see no reason to change especially if that change has some inconvenience attached to it.

Once people are able to recognise that their actions may have an adverse effect on the environment, they need information to make informed decisions on the best ways to avoid, remedy or mitigate those adverse effects.

Principal reason: *This policy is necessary to ensure that the duty imposed by Section 32(1)(a)(iii) of the Resource Management Act 1991 is met. Education is the key means to instil a long-term appreciation of people's actions on the environment.*



Guiding Policy

Information is required to enable informed decisions to be made on how the community's natural and physical resources can be managed in a sustainable manner.

2.1.4L ► Council recognises that various landforms contribute strongly to natural character because of their appearance and their often distinct geology, vegetation, wildlife and ecology. The important features are headlands, scarps, dunes and estuaries, (including beaches), terraces, bays, truncated coastal hills, islands and the sea (these terms are explained in the introduction to this chapter). Planning and consent authorities should have regard to the following when exercising powers, functions and duties when preparing plans or considering any proposal which might affect the appearance of any of these landform features:

1. Use and development should respect the natural landform characteristics of landscape features. Subdivision, use, and development that cause strong visual contrasts with or modification of natural landforms are visually incongruous and should be avoided.
2. Buildings, aerial utilities and services and other activities should not be visually obtrusive on the skyline when viewed from open areas, including from beaches, coastal reserves and other places accessible to the public.
3. Subject to policy 4.4.4A¹¹, the visual continuity across the edge of land and sea is a sensitive aspect of all landscape features. Developments that disrupt the visual continuity should be avoided.
4. Earthworks that have an adverse visual effect on the natural landform of high features such as headlands, dunes, scarps, truncated coastal hills, terraces and islands should be avoided. Where such activities are associated with maintenance of existing roads and network utilities, then adverse effects should be mitigated.
5. The characteristic components of headland landforms (i.e. cliff, escarpment, rocks, remnant native vegetation) should be protected.
6. The natural and dynamic visual character of dunelands, wetlands, estuaries and river mouths that comes from the integrity and functioning of natural physical processes should be protected.
7. Activities that alter the landform profile of islands when viewed from the land or sea should be avoided.
8. Council will seek the protection of visual corridors and cones of vision between public viewpoints and headlands. Priority will be given to protecting such corridors and cones of vision where the headlands viewed are outstanding natural features and landscapes.

¹¹ Port Gisborne Consent Order 742/00

Guiding Policy

9. Restoration or rehabilitation of landscape features involving planting or planting which arises from development should occur in a manner that reinforces the natural pattern of the landforms.
10. Intact or regenerating native vegetation cover on landscape features should generally be kept intact.
11. Landscape features that have been modified should be replanted where appropriate. Preference should be given to using appropriate native species in any replanting program.
12. Revegetation, using indigenous species by preference and preferably of local genetic stock, should be undertaken on earthwork cuts associated with roading and access tracks.
13. Council will generally seek to protect existing wetlands, lagoons, estuaries and river mouths in the Coastal Environment as part of the duneland ecology, and landscape. Such areas are regionally rare and vulnerable to development pressure.
14. **Subject to Policy 4.4.4A¹²**, the visual natural qualities of near-shore reefs, rocky outcrops, wave-cut platforms and sub-tidal habitats in the coastal marine area should be protected against adverse effects that may arise from uses and developments that may alter those visual characteristics. Natural qualities and characteristics are those associated with the natural features and patterns created by the physical structure of the land and biota and the pattern of the inter-relationship between land and sea.
15. Lighting, glare, colour or any plume that is visually discernible as the result of any discharge to air or water, that occurs as a result of subdivision, use and development in the Coastal Environment and that is incongruous with natural levels of lighting, glare, colour, or any naturally occurring plume should as far as practicable be avoided. Where complete avoidance is not practicable, the adverse effects should be mitigated and provision made for remedying those effects, to the extent practicable.

Explanation: Headlands are by their very nature obvious components of the landscape and, therefore, the natural character of the Coastal Environment. Preservation of the natural character of headlands will contribute substantially to the perceived naturalness of the environment of which they are a part.

Scarps are highly sensitive components of the Coastal Environment. They consist of steeply sloping land, much of which has been depleted of its natural vegetative cover. Where roads or access tracks cut across scarps they tend to create highly visible scars in the landscape. This should be avoided wherever possible. Cliffs are a distinctive and dramatic component of the Gisborne Coastal Environment. They are near vertical, unregenerate, and highly visual due to the whiteness of their soil substrata.

¹² Port Gisborne Consent Order 742/00



Guiding Policy

Dunelands have a characteristic landform pattern that is a typical visual component of the natural character of the Coastal Environment. Duneland wetlands are an important sensitive element within the Duneland continuum deserving of special protection.

Guiding Policy

The flat character of Dunelands and backdunes and their typical flat plains hinterland means that there is little immediate visual backdrop and generally few opportunities for the visual integration of structures including aerial utilities.

Terrace landforms include a characteristic escarpment with an upper plain. In some cases there is a lower plain towards the coastline and in others the terrace escarpment forms a coastal cliff. This escarpment is the most sensitive component of the terrace unit. Retaining this component intact and well vegetated will contribute strongly to protecting the natural character of the Coastal Environment. Terraces often have an open character and skyline that is sensitive to the siting of structures or utilities. Siting of these elements without a visual backdrop should be avoided.

Bays are characterised by their discrete enclosed character and the generally smaller scale of their environment. They are often delineated by headlands or small promontories that separate individual bays from each other or from generic landscape areas. Generally these promontories or headlands are the more visually dominant components of the coastline. The landform and vegetation of bays generally provide opportunities for the integration of appropriately scaled development. Development of the skyline should be avoided due to its visual prominence and lack of containment within the bay itself. In addition development on the steep enclosing hills behind the bays should be avoided particularly if these are prone to erosion. Whilst large scale development unrelated to the visual character and scale of the bays should be avoided, smaller scale development designed and sited sympathetically should be considered on its merits.

Truncated coastal hills occupy a considerable proportion of the Gisborne Region's coastline. As the description implies they are essentially hills which have been cut off by coastal processes to form an eroding cliff and steep land coastal edge. The original hill country landforms were also generally steep and dissected. On the eroded faces of these hills there is generally very little opportunity for any form of land use change. Most are too steep and unstable for any human related activity. The dissected landform, valleys and infrequent small flat land areas provide some limited opportunities for the integration of appropriately scaled, designed and located change.

Some of the small valleys within this generic landscape area contain small streams, the mouths of which are an important dynamic feature of natural character and require protection. The focus of land management within this generic landscape area should be on the protection of existing land cover, healing induced erosion and acknowledging natural erosion processes. The dramatic steep coastal cliff faces associated with this generic landscape area are a highly memorable landscape feature of the Gisborne Region. Those in public view such as Te Kuri (Young Nick's Head) are significant visual features of the landscape of the Gisborne Region.

The sensitive nature of these steep coastal hill landforms and their susceptibility to erosion makes the protection of existing remnant vegetation, and rehabilitation through appropriate planting of native species important. At the same time it is important to

Guiding Policy

recognise the natural processes of erosion which occur along this coastline, and the visually dramatic and characteristic cliffs that are a result of these processes.

The Gisborne Region coastline contains numerous small rocky islets as well as larger islands. These are usually seen as part of a view across water. As a focal point of the view they tend to come under greater scrutiny than many land-based views. Distance, however, plays a part in reducing the degree to which change in the island's landscape is visible.

The sea is a constant within the Coastal Environment. Its qualities vary with weather and light. Its experience also varies in relation to the land. In some locations and from some viewpoints, it is contained or enclosed by the land, given a backdrop and context in other areas. From other viewpoints, the sea is an open expanse, devoid of any land reference, a horizontal plane on which any object is thrown into relief.

In general the sea is visually sensitive to development due to its lack of integrating elements. Any development proposed on the sea must be assessed in relation to its size, design, location, colour and visibility within the context of land and sea.

In addition, the sea includes wave-cut platforms, rocky outcrops and reefs, all of which are generally only exposed at times other than high tide. These contribute to the natural character of the coastal edge in a particularly strong visual manner. It is important that these characteristic rocky coast features are protected visually from inappropriate use and development.

Principal reason: *Certain types of activities on landscape features will have far greater adverse visual effects than others. Some activities may destroy the natural elements that make up the visual character and other activities may obscure visually interesting and attractive features. It is appropriate that such activities are carefully managed according to their likely potential adverse effects. This cluster of policies is designed to ensure that the visual element of the natural character of the Coastal Environment is preserved consistent with Section 6(a) of the Resource Management Act 1991 and Chapter 1 of the NZCPS.*

2.1.5 Methods

2.1.5A ▶ The Council will encourage agencies responsible for other methods of recognition and provision for the preservation of natural character of the Coastal Environment beyond the scope of the Resource Management Act 1991 to pursue those methods. Such agencies and methods include:

- ▶ Open space covenants, QEII National Trust.
- ▶ Maori reservations, Te Ture Whenua/Maori Land Act 1993.
- ▶ Fisheries Legislation, including Taiapure and Maataitai Reserves.
- ▶ Reserves and other protection mechanisms, under the Conservation Act 1987 and Acts listed in the 1st Schedule to the Conservation Act 1987, including Wildlife Reserves and Sanctuaries, and Marine Mammal Sanctuaries.

Guiding Policy

- ▶ Marine Reserves under the Marine Reserves Act 1971.
- ▶ DOC Covenants under the Conservation Act 1987 and the Reserves Act 1977.

The Council will also encourage other agencies to adopt policies in statutory strategic and planning documents, such as the Conservation Management Strategy and Conservation Management Plans prepared by the Department of Conservation under the Conservation Act 1987, that have the effect of preserving the natural character of the Coastal Environment.

Principal reason: *This method seeks an integrated approach with other agencies which may assist in preserving the natural character of the Coastal Environment for the Gisborne Region. This method will assist in implementing Objective 2.1.3 A.*

2.1.5B ▶ The Council may, where appropriate, provide for the rehabilitation and restoration of the natural character of the Coastal Environment where past activities have adversely affected natural character, through the provision of incentives.

Principal reason: *Incentives to rehabilitate and restore areas where the natural character has been degraded by past activities may be an appropriate non-regulatory method to achieve Objective 2.1.3 C and Policy 2.1.4 E.*

2.1.5C ▶ The Council, in conjunction with landowners, the Department of Conservation, and other interested parties, will identify significant ecological corridors in the Coastal Environment of the Gisborne Region.

Principal reason: *The identification of ecological corridors in the Coastal Environment will assist in achieving the intent of Policy 2.1.4 D.*

2.1.5D ▶ The Council will, where appropriate, identify and incorporate into the District Plan during its development and/or subsequent review, natural features and landscapes of local significance in the Coastal Environment and establish objectives, policies and methods for their protection as significant components of the natural character of the Region's Coastal Environment.

Principal reason: *The Regional Coastal Environment Plan can only address areas of regional significance but natural character is a continuum. Areas of local significance may contribute to the natural character of the Coastal Environment to a significant degree and such areas should be identified and protected accordingly in the District Plan for the Gisborne District.*

2.1.5E ▶ The Council will promote, unless otherwise appropriate, the taking of esplanade reserves or strips in the Coastal Environment for the purpose of protecting natural values in order to preserve the natural character of the Coastal Environment, where such reserves or strips are available as a result of the subdivision of land, or development or reclamation.

Guiding Policy

Principal reason: Esplanade reserves or strips may assist in preserving the natural character of the Coastal Environment by retaining important values that contribute to the natural character, including open space and amenity values, and by buffering areas sensitive to adjacent development. This method supports and implements Policy 2.1.4(G) and Policy 2.1.4(H).

2.1.5F ▶ The Council will promote the provision of, and encourage landowners to provide, appropriate protection and management of areas with significant natural values within the Coastal Environment in order to preserve the natural character of the Coastal Environment and its protection from inappropriate subdivision, use and development.

Principal reason: Regulation is not the only means by which the preservation of the natural character of the Coastal Environment and its protection from inappropriate subdivision, use and development¹³ may be achieved. The Council, recognising that areas with significant natural values contribute to the natural character of the Coastal Environment, will manage its own assets and encourage other landowners to manage theirs in a manner which protects those significant natural values. This method supports and implements Policy 2.1.4 B and Policy 2.1.4 G.

2.1.5G ▶ The Council will investigate and encourage the use of Heritage Orders and Water Conservation Orders as means to protect values that preserve the natural character, outside the Coastal Marine Area, of the Coastal Environment.

Principal reason: Heritage Orders and Water Conservation Orders are two mechanisms by which the natural character of the Coastal Environment may be preserved. This mechanism is also available to other authorities and this may be more appropriate in certain circumstances. This method supports and implements Policy 1.1.3(b) and (c) of the NZCPS and Policy 2.1.4 B.

2.1.5H ▶ The Council will promote the use of indigenous species, and in particular the use of local genetic stock, in all natural character rehabilitation strategies or other operational works within the Coastal Environment unless otherwise appropriate.

Principal reason: The use of indigenous species is appropriate when restoring and rehabilitating the natural character of the Coastal Environment. This method supports and implements Policy 3.2.10 of the NZCPS and Policies 2.1.4 E and 2.1.4 F.

2.1.5I ▶ The Council will actively involve itself by way of education and promotion in raising the awareness of the Gisborne District communities regarding the values that together define the natural character of the Coastal Environment of the Gisborne Region.

¹³ Port Gisborne Consent Order 742/00

Guiding Policy

Principal reason: *In order to better appreciate the natural character of the Coastal Environment it is important that members of the public are made more aware of the values in the Coastal Environment that contribute to its natural character so that they may participate more fully in the protection of those values. This method supports Objective 2.1.3 B.*

2.1.5J ▶ The Council will investigate the characteristics of the Coastal Environment that together form the natural character of the Coastal Environment and investigate methodologies for assessing the relative weight that should be given to the various characteristics in order to determine the degree of natural character present at any location in the Coastal Environment.

Principal reason: *Establishing a methodology for determining the degree of natural character present at any location will assist decision makers and monitoring agencies to determine appropriate courses of action when development is proposed or enforcement action is required. This Method implements Objective 2.1.3 B.*

2.1.5K ▶ Council will identify areas where previous developments which have now been abandoned have degraded or disrupted the natural character of the Coastal Environment and, where practical, seek to restore and rehabilitate them through provisions of the Annual Plan for the Gisborne District.

Principal reason: *Abandoned development can disrupt natural character for long periods of time. Such development generally occurred prior to any real appreciation of the value of the natural character of the Coastal Environment and was seldom undertaken with such values in mind. Where the natural character of the Coastal Environment can be restored by the removal of debris and replanting then this should be undertaken through the mechanism of the Annual Plan. This method assists in implementing Objective 2.1.3(C).*

2.1.5L ▶ The Council will, where possible, implement or facilitate the undertaking of works described in the Wainui Beach Coastal Management Strategy (2003) intended to enhance or rehabilitate the natural character of the Wainui Beach coastline. These works may include but are not restricted to beach nourishment, revegetation proposals, restrictions on public access across sensitive foredune areas and removal of inadequate or failed beach protection works.

Principal reason: *Refer 1.2.5.7.*

2.1.6 Anticipated Environmental Results

1. Identification of the components that together determines the degree of natural character of the Coastal Environment.
2. Greater public awareness of the need to preserve the natural character of the Coastal Environment as a continuum throughout the regions coastline and of the components that combine to create natural character.

Guiding Policy

3. Active participation by landowners in protecting the values that combine to give the Coastal Environment natural character through non-regulatory means.
4. Active advocacy by the Council to other statutory agencies which, by using methods at their disposal, may protect values that combine to give the Coastal Environment natural character.
5. The restoration and rehabilitation of identified areas where the natural character of the Coastal Environment has been degraded by past activities or may be degraded by proposed activities.
6. The preservation of the natural character of the Gisborne Region's Coastal Environment.

2.2 PROTECTING OUTSTANDING NATURAL FEATURES and LANDSCAPES FROM INAPPROPRIATE ACTIVITIES

2.2.1 Introduction

Natural features and landscapes are very similar in that landscapes are the visible component of natural features. What makes landforms special or unique can usually be seen in the context of landscape. Landform and landscape will be treated in this Plan as the same generic item. Landscapes are derived by the operation of a person's senses. The dominant sensory input in perceiving a landscape is the visual sense but other senses can play a role as well. Hearing can flavour the visual sensation as can smell and to a lesser degree the tactile sense. Landscapes are a uniquely human construct in that they have value only in so far as humans can perceive them but landscapes can consist of many different types of visual stimuli.

The Resource Management Act 1991 in Section 6(b) confines landscapes to an appreciation of sensory stimuli and physical characteristics arising from natural values and processes rather than stimuli and characteristics arising from man made structures and values. A natural landscape cannot be one dominated by buildings or some other man made object.

In 1994 Boffa Miskell were commissioned to prepare a report for the Gisborne District Council in which they were requested to make an assessment of the Landscape Character of the Coastal Environment of the Gisborne District. The assessment was completed and a report to Council prepared in May 1995 and this assessment forms the basis for this chapter. The full report is available to the public and can be purchased from any office of the Gisborne District Council.

The salient details of the report are included in the body of this chapter and site record forms are attached as Appendix 3.2 to this plan. The study conducted by Boffa Miskell has provided the first comprehensive record of the landscape character of the Coastal Environment of the Gisborne District. It is essentially a land-based study and provides a



Guiding Policy

consistent record of the character and qualities of the District's landscape as seen from the road and air.

Guiding Policy

The majority of landscapes identified as being of outstanding or regional significance are on the landward margins of the Coastal Environment. Any landscape study must, of necessity, be subjective in nature but the Gisborne District Council has relied on the long and nationally recognised expertise of Boffa Miskell in this field.

The primary means of managing activities which may have adverse effects on the identified outstanding landscapes is through provisions of district plans. This Regional Coastal Environment Plan (and other regional plans) will establish objectives and policies which will guide the district plans preparation.

The research commissioned by the Gisborne District Council in respect of landscape values has not addressed subtidal landscapes and this lack should be addressed prior to this Plans first review. The Report prepared by Boffa Miskell has suggested research that may be undertaken to address this lack.

This subchapter of the Regional Coastal Environment Plan deals exclusively with outstanding natural landscapes (features) within the Coastal Environment of the Gisborne Region.

2.2.2 Issue

2.2.2A ▶ Outstanding natural features and landscapes in the Gisborne Region's Coastal Environment have been and may continue to be adversely affected by the adverse effects of inappropriate subdivision, use and development. Inappropriate subdivision, use and development may adversely affect the physical integrity and aesthetic values of outstanding natural features and landscapes.

Explanation: Outstanding features and landscapes can be damaged and destroyed by activities which obscure or create a visual clash with them. Such activities include skyline structures, obscuring retaining walls and tall buildings, development which arrests the natural processes that form and maintain the landform/landscape, structures painted in strongly clashing colours and activities that distract from the visual elements of the outstanding landform/landscape such as noise generating or odour generating activities. These types of activities will usually be inappropriate for areas considered to be outstanding natural features and landscapes in the Coastal Environment.

2.2.3 Objectives

2.2.3A ▶ Outstanding natural features and landscapes and seascapes of the Coastal Environment of the Gisborne Region identified and documented using scientifically rigorous methodologies. Identified areas routinely incorporated into the Protection Management Area of this Plan.

Principal reason: *Not all the Coastal Environment has been assessed in order to identify outstanding natural features and landscapes. Assessment techniques are still been formulated and evaluated for areas such as the subtidal area. Research should continue so that appropriate protection can be given to newly identified areas.*

Guiding Policy

2.2.3B ▶ Outstanding natural features and landscapes/seascapes are protected from the adverse effects of inappropriate activities.

Principal reason: *The Resource Management Act 1991 requires that outstanding natural features and landscapes should be protected where appropriate. This Plan would be inconsistent with the Act and the NZCPS if it failed to do so and has set out a mechanism for providing protection for the values of such areas through the establishment of a zone called the Protection Management Area.*

2.2.3C ▶ The restoration and rehabilitation of outstanding natural features and landscapes and seascapes is undertaken, where appropriate, in areas where the adverse effects of past activities have destroyed or degraded those features and landscapes/seascapes.

Principal reason: *Where it is possible to restore outstanding natural features and landscapes damaged by activities undertaken in the past then this should be undertaken provided doing so is practicable and meets the purpose of the Resource Management Act 1991.*

2.2.3D ▶ The management of outstanding natural features and landscapes and seascapes in the Coastal Environment is integrated with other plans such as the Annual Plan and regional and district plans prepared by the Gisborne District Council.

Principal reason: *Some outstanding natural features and landscapes extend landward of the Coastal Environment. It is appropriate that a consistent approach is undertaken between the relevant plans dealing with those areas in order to manage them in a sustainable manner.*

2.2.4 Policies

2.2.4A ▶ The areas set out in table form and marked on the maps in Appendix 2A of this Plan shall be recognised by the Council and Consent Authorities as areas of outstanding natural features and landscapes and those areas shall be incorporated into the Protection Management Area established in Chapter 4 of this Plan and all Objectives, Policies and Methods, including rules, set out for the Protection Management Area shall apply to them accordingly. Parts of the areas that are outside the Coastal Marine Area will be protected by the District Plan from inappropriate subdivision, use and development.

Explanation: The known areas of outstanding natural features and landscapes should be reproduced within this plan and the District plan in order to ensure that people wishing to subdivide, use and develop the Coastal Environment can do so with certainty about the kinds of activities that may be appropriate in certain areas. This Policy is designed to incorporate specific areas within the Protection Management Area.

Principal reason: *This Policy is designed to meet the obligation imposed by Section 6(b) of the Resource Management Act 1991 and implements Objective 2.2.3 A.*

Guiding Policy

2.2.4B ▶ The Council will incorporate into the Protection Management Area further outstanding natural features and landscapes identified by further studies over time, within the Coastal Environment and ensure the protection of their values. Further areas that may be identified include the sub-tidal component of the Coastal Environment. Any additional outstanding natural features and landscapes will only be incorporated in to the Regional Coastal Environment Plan for the Gisborne Region by way of a Plan Change application pursuant to the 1st Schedule to the Resource Management Act 1991 after consultation with all affected parties has occurred.

Explanation: Additional areas that are regionally outstanding due to their landform and landscape values are likely to be identified by additional studies. This applies particularly in the coastal marine area where such studies are still being developed. Not much is known yet about marine landforms and "landscapes".

Principal reason: *This Policy is required to ensure consistency, over time, with Policy 3.1.2 of the NZCPS and Objective 2.2.3 A.*

2.2.4C ▶ The Council and consent authorities will recognise the importance of open space in appreciating outstanding natural features and landscapes and shall take into account the need to protect open space in order to preserve the visual and physical integrity of those natural features and landscapes.

Explanation: Open space may provide a strong visual and physical context within which an outstanding natural feature or landscape can be experienced. Open space can also produce a strong response within people who experience that open space.

Principal reason: *This Policy implements Policy 3.1.3 of the NZCPS.*

2.2.4D ▶ Planning and consent authorities shall have regard to the following when preparing plans or considering any proposal which might affect the appearance of any outstanding natural features and landscapes: (Note: For the avoidance of doubt, this Policy shall apply, and have precedence over Policy 2.1.4L, when applications for resource consents and plan changes are being considered for subdivision, use and development within areas identified as outstanding natural features and landscapes.)

1. Use and development shall respect the natural landform characteristics. Subdivision, use, and development that cause strong visual contrasts with or modification of natural landforms are visually incongruous and shall be avoided, remedied or mitigated so that those affects are no more than minor.¹⁴
2. Buildings, aerial utilities and services and other activities shall not be visually obtrusive on the skyline when viewed from open areas including from beaches, coastal reserves and other places accessible to the public.

¹⁴ Port Gisborne Consent Order 742/00

Guiding Policy

3. The visual continuity across the edge of land and sea is a sensitive aspect of all landscape features. Developments that disrupt the visual continuity shall be avoided.
4. Earthworks that have an adverse visual effect on the natural landform of high features such as headlands, dunes, scarps, truncated coastal hills, terraces and islands shall be avoided. Where such activities are associated with maintenance of existing roads and network utilities, then adverse effects shall be mitigated.
5. The characteristic components of headland landforms (i.e. cliff, escarpment, rocks and remnant native vegetation) shall be protected.
6. The natural and dynamic visual character of dunelands, wetlands, estuaries and river mouths that comes from the integrity and functioning of natural physical processes shall be protected.
7. Activities that alter the landform profile of islands when viewed from the land or sea shall be avoided.
8. Council will seek the protection of visual corridors and cones of vision between public viewpoints and headlands. Priority will be given to protecting such corridors and cones of vision where the headlands viewed are outstanding natural features and landscapes.
9. Restoration or rehabilitation of landscape features involving planting which arises from development shall occur in a manner that reinforces the natural pattern of the landforms.
10. Intact or regenerating native vegetation cover on landscape features shall be kept intact.
11. Landscape features that have been modified shall be replanted where appropriate. Preference shall be given to using appropriate native species in any replanting program.
12. Revegetation, using indigenous species by preference and preferably of local genetic stock, shall be undertaken on earthwork cuts associated with roading and access tracks.
13. Subject to Policy 4.4.4A, the visual natural qualities of near-shore reefs, rocky outcrops, wave-cut platforms and sub-tidal habitats in the coastal marine area shall be protected against adverse effects that may arise from uses and developments that may alter those visual characteristics. Natural qualities and characteristics are those associated with the natural features and patterns created by the physical structure of the land and biota and the pattern of the inter-relationship between the land and the sea.

Guiding Policy

14. Lighting, glare, colour and any plume that is visually discernible as the result of any discharge to air or water, that occurs as a result of subdivision, use and development in the Coastal Environment and that is incongruous with natural levels of lighting, glare, colour, or any naturally occurring plume, should as far as practicable be avoided. Where complete avoidance is not practicable, the adverse effects should be mitigated and provision made for remedying those effects, to the extent practicable.

Explanation: Certain types of activities on landscape features will have far greater adverse visual effects than others. Some activities may destroy the natural elements that make up the visual character and other activities may obscure visually interesting and attractive features. It is appropriate that such activities are carefully managed according to their likely potential adverse effects.

Principal reason: *This cluster of policies is designed to ensure that outstanding natural features and landscapes are protected consistent with Section 6(b) of the Resource Management Act 1991 and Chapter 1 of the NZCPS.*

2.2.5 Methods

2.2.5A ▶ The Council will encourage agencies responsible for other methods of recognition and provision for the protection of outstanding natural features and landscapes in the Coastal Environment beyond the scope of the Resource Management Act 1991 to pursue those methods. Such agencies and methods include:

- ▶ Open space covenants, QEII National Trust.
- ▶ Maori reservations, Te Ture Whenua/Maori Land Act 1933.
- ▶ Fisheries Legislation, including Taiapure and Maataitai Reserves.
- ▶ Reserves under the Conservation Act including wildlife reserves and Marine Mammal Sanctuaries.
- ▶ Marine Reserves under the Marine Reserves Act 1971.

The Council will also encourage other agencies to adopt policies in statutory strategic and planning documents, such as the Conservation Management Strategy and Conservation Management Plans prepared by the Department of Conservation under the Conservation Act 1987, that have the effect of protecting outstanding natural features and landscapes in the Coastal Environment.

Principal reason: *This method seeks an integrated approach with other agencies which may assist in protecting outstanding natural features and landscapes in the Coastal Environment for the Gisborne Region. This method will assist in implementing Objective 2.2.3 B and Policy 2.2.4 D.*

2.2.5B ▶ The Council will promote the provision of, and encourage landowners to provide, appropriate protection and management of areas with outstanding natural features and landscapes within the Coastal Environment.

Guiding Policy

Principal reason: Regulation is not the only means by which outstanding natural features and landscapes may be protected. The Council, recognising that areas of outstanding natural features and landscapes should be protected within the Coastal Environment, will manage its own assets and encourage other landowners to manage theirs in a manner which protects those outstanding natural values. This method supports and implements Objective 2.2.3B.

2.2.5C ▶ The Council will investigate and encourage the use of Heritage Orders and Water Conservation Orders as means to protect outstanding natural features and landscapes in the Coastal Environment.

Principal reason: Heritage Orders and Water Conservation Orders are two mechanisms by which outstanding natural features and landscapes may be protected in Coastal Environment. This mechanism is also available to other authorities and this may be more appropriate in certain circumstances. This method supports and implements Policy 3.1.2 of the NZCPS and Objective 2.2.3B and Policy 2.2.4C.

2.2.5D ▶ The Council will promote, unless otherwise appropriate, the taking of esplanade reserves or strips in the Coastal Environment for the purpose of protecting visual corridors between viewpoints and outstanding natural features and landscapes or components of outstanding natural landscapes or outstanding natural features of the Coastal Environment, where such reserves or strips are available as a result of the subdivision of land.

NB: Land in Maori Title may, in some circumstances, be taken for Esplanade Reserves or Strips pursuant to Section 303(2)(b) of the Te Ture Whenua Maori Land Act 1993.

Principal reason: Esplanade reserves or strips may assist in protecting outstanding natural features and landscapes in the Coastal Environment by retaining visual continuity between view points and outstanding natural features and protecting elements of outstanding natural landscapes, including open space, and by buffering areas sensitive to adjacent development. This method supports and implements Policy 2.2.4C and Policy 2.2.4D.

2.2.5E ▶ The Council may, where appropriate, provide for the rehabilitation and restoration of outstanding natural features and landscapes in the Coastal Environment where the effects of past activities have adversely affected such features and landscapes, through the provision of incentives.

Principal reason: Incentives to rehabilitate and restore areas where outstanding natural features and landscapes have been degraded by past activities may be an appropriate non-regulatory method to achieve Objective 2.2.3C.

Guiding Policy

2.2.5F ▶ The Council will promote the use of indigenous species, and in particular the use of local genetic stock, in all outstanding natural feature and landscape rehabilitation strategies, or other operational works, within the Coastal Environment unless otherwise appropriate.

Principal reason: *The use of indigenous species is appropriate when restoring and rehabilitating outstanding natural features and landscapes of the Coastal Environment. This method supports and implements Policy 3.2.10 of the NZCPS and all of the specific policies concerning outstanding natural landscapes within the protection management area.*

2.2.5G ▶ The Council will actively involve itself by way of education and promotion in raising the awareness of the Gisborne District communities regarding the values that together define the outstanding natural features and landscapes of the Coastal Environment of the Gisborne Region.

Principal reason: *In order to better appreciate the outstanding natural features and landscapes of the Coastal Environment it is important that members of the public are made more aware of the values in the Coastal Environment that contribute to these features and landscapes so that they may participate more fully in the protection of those values. This method supports Objective 2.2.3A.*

2.2.5H ▶ Council will encourage appropriate agencies to undertake research for the purposes of identifying the outstanding sub-tidal natural features and landscapes/seascapes.

Principal reason: *It is apparent that little research has been undertaken on characterising the sub-tidal components of landscapes and natural features. Further research may lead to the identification of areas of the sea that are outstanding in terms of their landform and visual values. This method supports Objective 2.2.3A and Policy 2.2.4B.*

2.2.6 Anticipated Environmental Results

1. Identification of additional outstanding natural features and landscapes within the Coastal Environment.
2. Greater public awareness of the need to protect outstanding natural features and landscapes in the Coastal Environment.
3. Active participation by landowners in protecting outstanding natural features and landscapes in the Coastal Environment through non-regulatory means.
4. Active advocacy by the Council to other statutory agencies which, by using methods at their disposal, may protect outstanding natural features and landscapes in the Coastal Environment.

Guiding Policy

5. The restoration and rehabilitation of identified areas where outstanding natural features and landscapes of the Coastal Environment have been degraded by past activities or may be degraded by proposed activities.
6. The protection of outstanding natural features and landscapes in the Gisborne Region.

2.3 PROTECTING AREAS OF SIGNIFICANT INDIGENOUS VEGETATION and SIGNIFICANT HABITATS OF INDIGENOUS FAUNA FROM INAPPROPRIATE ACTIVITIES

2.3.1 Introduction

The Gisborne Region has relatively few areas of significant indigenous vegetation left after major land clearance for pastoral farming occurred in the latter part of the 19th century. The remnant vegetation left is mostly found in remote locations on steep hill country in the hinterlands of the Region. There are very few coastal remnants left and these occur in areas where access has been and continues to be very difficult. By removing indigenous vegetation in the Coastal Environment, significant habitats of indigenous fauna have also largely been destroyed or rendered unviable. Ecological corridors in the Coastal Environment between significant habitats have largely been broken and indigenous fauna has been confined to diminishing home ranges.

Examples of these facts can be seen in the loss or substantial modification of dune systems throughout the Region and the drainage of coastal wetlands and estuaries both of which were brought about in order to reclaim land for pastoral farming purposes.

Due to accelerated and severe erosion as a result of the land clearance, rivers and streams in the Gisborne Region have been substantially modified. Important habitat for indigenous fresh water fish species has been highly modified and rendered unsuitable, especially at river mouths where debris and silt has tended to accumulate and where land drainage systems have prevented passage for spawning fish. Anecdotal reports of decreasing whitebait (Inanga) catches and eel (Tuna) support grounds for concern about the effects of activities on fresh water habitats, especially in the Coastal Environment.

There is little information available on indigenous vegetation or significant habitats of indigenous fauna in either the land or the sea of the Gisborne Region. Such information as there is can be found on databases. These include the WERI database (wetland sites), the Freshwater Fish database, the SSWI database (site of special wildlife importance), the Geopreservation Index and Protected Natural Areas Programme (PNAP) reports and other miscellaneous reports prepared by the Department of Conservation. Most of these databases contain relatively outdated information or have not been completed for the East Coast area. The most substantial information available is contained within PNAP reports which cover all of the Gisborne Region's Regional Ecological Districts.

Guiding Policy

There are a number of vulnerable flora and fauna species found in the Coastal Environment of the Gisborne Region. The majority of such fauna are seabirds and species that are migratory such as the New Zealand Fur Seal. Species such as the New Zealand Dotterel and White Heron are two examples. Other bird species include the North Island Weka, fernbird, banded rail, spotless crane, bittern, reef heron, variable oyster catcher, Caspian tern and royal spoonbill. The Gisborne Region's Coastal Environment also contains some sites that are important bird breeding sites, such as Moutara Rock (Gannet Rock) for the Australasian Gannet and Whangaokeno Island (East Island). Other species that are rare or endangered include species of lizards and skinks and some invertebrate fauna such as the Katipo spider.

Vulnerable plant species include the duneland plants, Pingao, *Austrofestuca littoralis* and *Rorippa divaricata*, *Plantago spathulata* subsp. *Picta*, and the shrub daisy *Brachyglottis perdicioides*.

These last two species are endemic to the Gisborne Region. Other significant indigenous flora species include the pohutakawa, karaka, tawa, puriri, kohekohe, wharangi and tawapou. These take the form of remnant forests and tree lands in the Coastal Environment. Secondary forest and scrub (kanuka/manuka dominated) are locally extensive to the north and in the south of the Gisborne Region.

Both flora and fauna described above is vulnerable to inappropriate subdivision, use, and development. These include the drainage of wetlands, the felling of remnant vegetation for forestry planting or agricultural developments and the increasing populations of noxious plants, and animal pests such as goats, cats, possums and rats. The Gisborne District Council is obliged under the Biosecurity Act to prepare pest management plans. Reference should be made to that plan in conjunction with this plan.

Marine Flora and Fauna may be addressed through the provisions of this Chapter. It is, however, important to understand the relationship this Plan has with New Zealand's Fisheries Legislation. Section 30(2) of the Resource Management Act 1991 states:

"s30(2) The functions of the regional council and the Minister of Conservation ... do not apply to the control of the harvesting or enhancement of populations of aquatic organisms, where the purpose of that control is to conserve, use, enhance, or develop any fisheries resources controlled under the Fisheries Act 1996."

2.3.2 Issue

2.3.2A ▶ Areas of significant indigenous vegetation and significant habitats of indigenous fauna have been reduced to remnants by activities undertaken in the past. This has had severe adverse effects on such areas. Increasing development pressures on the coast and increasing use of the Coastal Environment for recreation will put pressure on those remnants.

Guiding Policy

It will expose them to the adverse effects of development, such as greater numbers of people seeking to utilise resources and increased risk of the introduction and establishment of pests.

2.3.3 Objectives

2.3.3A ▶ Areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment of the Gisborne Region are identified and documented using scientifically rigorous methodologies. Identified areas are incorporated into the Protection Management Area of this Plan.

Principal reason: *Not all the Coastal Environment has been assessed in order to identify areas of significant indigenous vegetation and significant habitats of indigenous fauna and research should continue so that appropriate protection can be given to newly identified areas.*

2.3.3B ▶ Areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected from the adverse effects of inappropriate activities where protection of them better meets the purpose of the Resource Management Act 1991.

Principal reason: *The Resource Management Act 1991 requires areas of significant indigenous vegetation and significant habitats of indigenous fauna should be protected where appropriate. This Plan would be inconsistent with the Act and the NZCPS if it failed to do so and has set out a mechanism for providing protection for the values of such areas through the establishment of a zone called the Protection Management Area.*

2.3.3C ▶ The restoration and rehabilitation of areas of significant indigenous vegetation and significant habitats of indigenous fauna is undertaken, where appropriate, in areas where the adverse effects of past activities have destroyed or degraded them.

Principal reason: *Where it is possible to restore areas of significant indigenous vegetation and significant habitats of indigenous fauna damaged by activities undertaken in the past then this should be undertaken provided doing so is practicable and meets the purpose of the Resource Management Act 1991.*

2.3.3D ▶ The management of areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment is integrated through the preparation of consistent objectives, policies and methods, including rules, in other statutory and non-statutory plans. Such plans include:

- ▶ The Annual Plan.
- ▶ Oil Spill Contingency Plans.
- ▶ Reserve Management Plans prepared by the Gisborne District Council.
- ▶ Plans prepared under the Biosecurity Act.
- ▶ Conservation Management Strategy and Conservation Management Plans prepared by the Department of Conservation.

Guiding Policy

- ▶ Regional and district plans prepared by the Gisborne District Council.

Principal reason: *Some areas of significant indigenous vegetation and significant habitats of indigenous fauna extend landward of the Coastal Environment. It is appropriate that a consistent approach is undertaken between the relevant plans dealing with those areas in order to manage them in a sustainable manner.*

2.3.3E ▶ Private landowners actively participate in protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna by covenanting such areas and managing their activities in ways that avoid or remedy adverse effects on such areas.

Principal reason: *Landowners with significant areas on their properties have an opportunity to foster those values but this means an active intervention in how their properties are administered. No amount of regulation can achieve protection of these areas without the co-operation and support of landowners.*

2.3.4 Policies

2.3.4A ▶ The areas set out in table form and marked on the maps in Appendix (2.2) of this Plan shall be recognised by the Council and Consent Authorities as areas of significant indigenous vegetation and significant habitats of indigenous fauna and those areas shall be incorporated into the Protection Management Area established in Chapter 4 of this Plan and all Objectives, Policies and methods, including rules, set out for the Protection Management Area shall apply to them accordingly.

Explanation: The known areas of significant indigenous vegetation and significant habitats of indigenous fauna should be recorded in this plan in order to ensure that people wishing to subdivide, use and develop the Coastal Environment can do so with certainty about the kinds of activities that may be appropriate in certain areas. This Policy is designed to incorporate specific areas within the Protection Management Area.

Principal reason: *This Policy is designed to meet the obligation imposed by Section 6(c) of the Resource Management Act 1991 and implements Objective 2.3.3A.*

2.3.4B ▶ The Council and Consent Authorities will give priority to avoiding the adverse effects of activities on areas of significant indigenous vegetation and significant habitats of indigenous fauna and in particular adverse effects such as the removal or poisoning of vegetation or the introduction of pest or adventive species.

Explanation: The areas of significant indigenous vegetation and significant habitats of indigenous fauna identified are at least regionally significant and should be protected where such protection better meets the purpose of the Act. There are also areas with similar values that may be identified when resource consents are sought for activities. The protection sought is for the values that make these areas significant. If the vegetation is removed or destroyed or plants and animals that out-compete or predate

Guiding Policy

on the indigenous flora and fauna are introduced either by accident or design, then the values that give an area its significance may be reduced or lost altogether.

Principal reason: *This Policy is required to implement Policy 1.1.2 (in part) and Policy 3.1.2 of the NZCPS and Objective 2.3.3B.*

2.3.4C ▶ The Council will, by way of a Variation or a Plan Change made pursuant to the 1st Schedule to the Resource Management Act 1991, incorporate into the Protection Management Area further areas of significant indigenous vegetation and significant habitats of indigenous fauna, identified by further studies over time, within the Coastal Environment and ensure the protection of their values. Further areas that may be identified include the sub-tidal component and unsurveyed ecological districts of the Coastal Environment.

Explanation: Additional areas that are regionally significant due to their indigenous vegetation or habitats of indigenous fauna are likely to be identified by additional studies. This applies particularly in the coastal marine area and ecological districts where such studies are still being developed. Not much is known yet about marine indigenous flora and fauna.

Principal reason: *This Policy is required to ensure consistency, over time, with Policy 3.1.2 of the NZCPS and Objective 2.3.3A.*

2.3.4D ▶ Council and consent authorities shall give priority to protecting the integrity, functioning and resilience of natural processes and ecosystems that support areas of significant indigenous vegetation and significant habitats of indigenous fauna within the Coastal Environment. Natural processes and components of ecosystems that are crucial to the viability of such areas include:

- ▶ Substrate composition.
- ▶ Natural air and water quality.
- ▶ Water quantity.
- ▶ Freedom of movement of biota (living organisms).
- ▶ Dynamic processes arising from the natural movement of sediments, water and air.
- ▶ Access of fauna to food sources.
- ▶ Breeding and nursery areas.
- ▶ Biodiversity.

Explanation: In order to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna, it is necessary to ensure that the ecosystems which support them are viable. Protecting the primary areas of vegetation or habitat is not sufficient to ensure their continuation. Food sources, breeding grounds and corridors to other populations are essential components of providing protection for such areas. If activities to be undertaken adversely affect any or all of these factors, then the viability of these areas may be threatened and the activity may be considered inappropriate.



Guiding Policy

Principal reason: *This policy is necessary to protect the viability of areas of significant indigenous vegetation and significant habitats of indigenous fauna by ensuring that the surrounding ecosystems continue to support the integrity of the species present.*

Guiding Policy

This policy implements section 6(c) of the Resource Management Act 1991 and Objective 2.3.3B.

2.3.4E ▶ Council will, in appropriate circumstances, encourage the restoration and rehabilitation of areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment adversely affected by the effects of past activities.

Explanation: Areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment of the Gisborne Region have been substantially degraded by activities that were undertaken prior to the enactment of the Resource Management Act 1991. In some circumstances it may be possible to restore and rehabilitate such areas and this should be encouraged.

Principal reason: Policy 1.1.5 of the NZCPS states that it is a national priority to restore and rehabilitate the natural character of the Coastal Environment where appropriate. This can in part be achieved through the restoration of areas of significant indigenous vegetation and significant habitats of indigenous fauna damaged or destroyed by activities undertaken prior to the enactment of the Resource Management Act 1991. This policy is required to be not inconsistent with the NZCPS.

2.3.4F ▶ Where areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment are likely to be damaged or degraded by the adverse effects of activities, the restoration and rehabilitation of those areas should be provided for. Such provision may include financial contributions sought under Section 108 of the Resource Management Act 1991.

Explanation: Where activities are likely to degrade areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment then provision should be made to remedy or mitigate that damage. The Resource Management Act 1991 enables financial contributions to be sought as a condition of a consent and this includes restoration and rehabilitation as well as financial contributions in terms of money.

Principal reason: Policy 1.1.5 of the NZCPS states that it is a national priority to restore and rehabilitate the natural character of the Coastal Environment where appropriate. This can in part be achieved through the restoration of areas of significant indigenous vegetation and significant habitats of indigenous fauna likely to be damaged or destroyed by activities for which resource consents are sought. This policy is required to be not inconsistent with the NZCPS.

2.3.4G ▶ Consent authorities will give priority to avoiding the actual or potential adverse effects of activities on the integrity and continued viability of ecological corridors important for maintaining the bio-diversity and viable gene pool flow of areas of significant indigenous vegetation and significant habitats of indigenous fauna.

Guiding Policy

Explanation: In order to achieve the integration of planning necessary to meet the purpose of the Resource Management Act 1991 it is important to recognise the existence of ecological corridors within and extending through and beyond the Coastal Environment. These ecological corridors are essential in maintaining the viability of habitats which form elements of areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment.

Principal reason: *This policy is considered necessary to provide a degree of continuity with other regional plans and the district plan, recognising that areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment are dependant in part on the natural migration of plants and animals into and out of the Coastal Environment and the availability of food and genetic resources from outside the Coastal Environment.*

2.3.5 Methods

2.3.5A ▶ The Council will encourage agencies responsible for other methods of recognition and provision for areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment beyond the scope of the Resource Management Act 1991 to pursue those methods. Such agencies and methods include:

- ▶ Open space covenants, QEII National Trust.
- ▶ Maori Reservations, Te Ture Whenua/Maori Land Act 1993.
- ▶ Fisheries Legislation, including Taiapure and Maataitai Reserves.
- ▶ Reserves under the Conservation Act including wildlife reserves and Marine Mammal Sanctuaries.
- ▶ Marine Reserves under the Marine Reserves Act 1971.

The Council will also encourage other agencies to adopt policies in statutory strategic and planning documents, such as the Conservation Management Strategy and Conservation Management Plans prepared by the Department of Conservation under the Conservation Act 1987, that have the effect of protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment.

Principal reason: *This method seeks an integrated approach with other agencies which may assist in protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment for the Gisborne Region. This method will assist in implementing Objective 2.3.3A.*

2.3.5B ▶ The Council may, where appropriate, provide for the rehabilitation and restoration of areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment where past activities have adversely affected them through the provision of incentives.

Guiding Policy

Principal reason: *Incentives to rehabilitate and restore areas of significant indigenous vegetation and significant habitats of indigenous fauna which have been degraded by past activities may be an appropriate non-regulatory method to achieve Objective 2.3.3C and Policy 2.3.4E.*

2.3.5C ▶ The Council will promote, unless otherwise appropriate, the taking of esplanade reserves or strips in the Coastal Environment for the purpose of protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment, where such reserves or strips are available as a result of the subdivision of land.

Principal reason: *Esplanade reserves or strips may assist in protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment directly or by buffering areas sensitive to adjacent development. This method supports and implements Policy 2.1.4H.*

2.3.5D ▶ The Council, as a landowner, will provide appropriate protection and management of areas of significant indigenous vegetation and significant habitats of indigenous fauna on its land within the Coastal Environment, and will encourage other landowners to do so.

Principal reason: *Regulation is not the only means by which the preservation of the natural character of the coastal environment and its protection from inappropriate subdivision, use and development¹⁵ may be achieved. The Council, recognising that it owns and manages land with areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment, will manage its own assets and encourage other landowners to manage theirs in a manner which protects those areas. This method supports and implements Policy 2.1.4B and Policy 2.1.4G.*

2.3.5E ▶ The Council will investigate and encourage the use of Heritage Orders and Water Conservation Orders as means to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment.
Principal reason: Heritage Orders and Water Conservation Orders are two mechanisms by which areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment may be protected. This mechanism is also available to other authorities and this may be more appropriate in certain circumstances. This method supports and implements Policy 1.1.3(b) and (c) of the NZCPS and Policy 2.1.4B.

2.3.5F ▶ The Council will actively involve itself by way of education and promotion in raising the awareness of the Gisborne District communities regarding the values of areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment of the Gisborne Region.

Guiding Policy

Principal reason: *In order to better appreciate the Coastal Environment it is important that members of the public are made more aware of areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment so that they may participate more fully in the protection of those values. This method supports Objective 2.3.3D.*

2.3.6 Anticipated Environmental Results

1. General public acceptance within 10 years that all of the Coastal Environment of the Gisborne Region has natural character and that it is a matter of national importance to recognise and provide for its preservation.
2. Identification of additional areas of significant indigenous vegetation and significant habitats of indigenous fauna within the Coastal Environment.
3. Greater public awareness of the need to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment.
4. Active participation by landowners in protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment through non-regulatory means.
5. Active advocacy by the Council to other statutory agencies which, by using methods at their disposal, may protect areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Coastal Environment.
6. The restoration and rehabilitation of identified areas where significant indigenous vegetation and significant habitats of indigenous fauna of the Coastal Environment have been degraded by past activities or may be degraded by proposed activities.

2.4 MAINTAINING and ENHANCING PUBLIC ACCESS TO and ALONG THE COASTAL MARINE AREA and LAKES and RIVERS IN THE COASTAL ENVIRONMENT

2.4.1 Introduction

Access to the coastline and sea is a long-standing tradition throughout New Zealand and the Gisborne District. Access is important for a variety of activities and is an especially important component of many recreational pursuits.

There are several modes of public access. The principal means of access is pedestrian as the coastal marine area and lakes and rivers in the Coastal Environment are relatively inaccessible by other means. However, vehicles, such as motorcycles, boats, jetskis and mountain bikes, and other forms of transport, such as horses and hang-gliders, can reach the coast in many places. There are a number of unformed legal roads that can be used where this is physically possible.

¹⁵ Port Gisborne Consent Order 742/00



Guiding Policy

Public access can have adverse effects on the environment. These adverse effects vary depending on the values, either cultural or natural, or both, of the area being accessed and the mode of transport being used by the public to access the area.

Guiding Policy

For instance, access by motorised vehicles can have a more significant adverse effect on, wildlife than access achieved on foot due to noise levels, the compaction of soils and loss of vegetation. Similarly, access to very sensitive ecological sites on foot can have significant adverse effects on bird breeding colonies or rare indigenous vegetation.

Access of any type may be totally inappropriate in areas where there are sensitive wahi tapu sites or urupa. Similarly access may be inappropriate at some times such as during lambing on farms or during the breeding season of some birds such as the New Zealand Dotterel. Access may also be inappropriate where health and safety are put at risk or the lawful operation of an industry or development requires privacy or security as an operational necessity. For example at the Port of Gisborne public access must be restricted for customs purposes and for the health and safety of the public generally.

There are several mechanisms available for securing or enhancing public access to and along the coastal marine area and rivers and lakes in the Coastal Environment. The Resource Management Act 1991 sets out that Esplanade Reserves and Strips can be taken when land is subdivided or as a condition of a resource consent. Alternatively financial contributions can be sought in money or land that can then be used to provide for, or enhance, public access in some other way.

Other agencies can also provide for public access in the Coastal Environment. The Department of Conservation has the ability, under the Conservation Act 1987 and the Reserves Act 1977, to establish reserves. It can also establish walkways and covenants over private land that makes provision for public access. Other agencies able to make provision for public access in the Coastal Environment include the QEII National Trust, the Ministry of Fisheries through Taiapure regulations under the Fisheries Act, the Maori Land Court under Te Ture Whenua Act 1993 and the Historic Places Trust or heritage protection authority.

Landowners in the Gisborne Region have traditionally been generous to the public in allowing public access across their land provided the proper courtesy of requesting permission and leaving gates and property undisturbed has been observed. The Council is keen to ensure that landowners continue to feel able to extend this courtesy to responsible members of the public.

There is a close linkage with the issue of the Occupation of Space in the coastal marine area. Exclusive Occupation of space in the coastal marine area will restrict public access along the coastal marine area. The issue of Occupation of Space is dealt with in chapter 7 and should be read in conjunction with this chapter.

Integration with the District Plan

Public access is an issue that crosses the interface between land and water. It also crosses the administrative boundaries of the District and Regional Coastal Environment Plans. Careful integration of rules in the District Plan with Policies in the Regional Coastal Environment Plan will be required to ensure adequate provision is made for access over land to the sea, rivers and lakes in the Coastal Environment.

Guiding Policy

2.4.2 Issue

2.4.2A ▶ Public access to and along the Coastal Marine Area and lakes and rivers in the Coastal Environment of the Gisborne Region is inadequate in some locations. It could be improved by upgrading existing legal access or by acquiring additional legal public access. While public access is being maintained or enhanced it may adversely affect cultural values, conservation values, public safety and the values of private property owners.

2.4.3 Objectives

2.4.3A ▶ Maintenance and enhancement of existing legal public access to and along the coastal marine area and lakes and rivers in the Coastal Environment unless conservation values, cultural values, the rights of private property owners or public safety are significantly compromised.

Principal reason: *It is a requirement of both the Resource Management Act 1991 and the NZCPS that public access to and along the coastal marine area and rivers and lakes within the Coastal Environment be maintained and enhanced unless not doing so better meets the purpose of the Act. Policy 3.5.1 of the NZCPS sets out restrictions on public access that may be validly imposed.*

2.4.3B ▶ Subject to Objective 4.4.3A,¹⁶ avoidance, remediation or mitigation of adverse effects on public access opportunities arising from subdivision, use, and development in the Coastal Marine Area and rivers and lakes in the Coastal Environment.

Principal reason: *Activities which require occupation of areas within the coastal marine area or along lakes and rivers in the Coastal Environment should not be undertaken in such a way so as to adversely affect public access opportunities. For instance, a jetty should not be made exclusive unless doing so satisfies a restriction on access pursuant to Policy 3.5.1 of the NZCPS or better meets the purpose of the Act.*

2.4.3C ▶ Avoidance, remediation or mitigation of the adverse effects of public access to and along the Coastal Marine Area and lakes and rivers in the Coastal Environment.

Principal reason: *This is a requirement of Policy 3.5.1 and 3.5.2 of the NZCPS.*

2.4.3D ▶ Areas in the Coastal Environment are identified where the formation of new public access opportunities is considered desirable.

Principal reason: *Enhancing public access in the Coastal Environment, especially for those who are less able to enjoy it because of physical constraints, is considered a matter of national priority. This is reflected in Policy 3.5.2 of the NZCPS.*

¹⁶ Port Gisborne Consent Order 742/00

Guiding Policy

2.4.3E ▶ Recognition by the public that private landowners have the right to prevent access over their land but may when appropriate courtesies are adopted and observed, be inclined to permit public access on an informal basis.

Principal reason: *Concerns have been raised by landowners in the course of preparing this plan about unauthorised public use of private lands. It is important that people understand there is no automatic right of access over private land to and along the coastal marine area and rivers and lakes in the Coastal Environment. Common courtesy requires that, prior to walking over private land, the landowner or agent acting on behalf of the landowner be contacted and permission sought to cross their land. Generally, landowners and their agents have been obliging when permission has been sought and this should not be abused.*

2.4.4 Policies

2.4.4A ▶ To ensure that existing legal public access to and along the foreshore and along lakes and rivers in the Coastal Environment for which the Council is responsible, is maintained or enhanced.

Explanation: The Resource Management Act 1991 anticipates that there should not be a reduction in opportunities for people to gain access to the sea, lakes or rivers. Where such access is already provided then that access should not become restricted and, where possible, access should be further enhanced by additional acquisition of legal access, man made physical impediments to access should be removed, and structures that facilitate access without destroying natural values should be provided.

Principal reason: *This Policy is required to implement Objective 2.4.3 A of this Plan and Policy 3.5.1 and 3.5.2 of the NZCPS.*

2.4.4B ▶ To encourage and support the maintenance of existing legal public access to and along the coastal marine area and rivers and lakes in the Coastal Environment which is not within the Council's jurisdiction.

Explanation: As Council is not the only owner of legal access to and along the coastal marine area or rivers and lakes within the Coastal Environment it is important that a consistent approach regarding its maintenance and enhancement is adopted by all agencies. Council must advocate for consistent outcomes, principally to the Department of Survey and Land Information and the Department of Conservation. Transit New Zealand also controls some legal access.

Principal reason: *This Policy is required in order to ensure consistency of approach by different agencies and implements Objective 2.4.5(A).*

2.4.4C ▶ To oppose the sale or other disposal to private ownership of publicly owned or Crown land adjacent to the Coastal Marine Area and lakes and rivers in the Coastal Environment, unless public access is adequately provided for in reserves, covenants or other legal agreements.

Guiding Policy

Explanation: The sale of public or Crown land alienates land from options and opportunities for the maintenance or enhancement of public access to and along the coastal marine area and lakes and rivers in the Coastal Environment. Since Council has a statutory duty to maintain and enhance public access it must oppose such alienation of land which offers access to these areas unless the sale makes legal provision for continued access or the land is being returned to Maori as a result of a claim lodged with the Waitangi Tribunal.

Principal reason: *This Policy is required to support Objective 2.4.3A.*

2.4.4D ▶ Council will generally oppose any application, made under the Reserves Act 1977, to change the existing purpose of any reserve which is primarily for public access and/or the conservation of natural resources, where any proposed change would have the effect of restricting or removing public access to and along the coastal marine area and lakes and rivers in the Coastal Environment.

Explanation: Reserves administered under the Reserves Act 1977 have two primary purposes; protection of conservation values and the maintenance of public access. Many of these reserves can be found along the coastal margin and the margins of rivers and lakes in the Coastal Environment. The Reserves Act 1977 sets out a process where the purpose of reserves can be changed and it is possible that the purpose of public access can be removed. This has the potential to seriously reduce or remove public access to and along the coastal marine area and rivers and lakes in the Coastal Environment and this would compromise Council's obligations under Section 6(d) of the Resource Management Act 1991. Council should generally support the retention of public access as a purpose of all such reserves unless that purpose abrogates restrictions set out in Policy 3.5.1 of the NZCPS.

Principal reason: *This Policy is necessary in order to implement Objective 2.4.3A.*

2.4.4E ▶ Council and consent authorities should generally oppose applications for coastal permits to occupy space in the coastal marine area which have the effect of alienating all or part of the coastal marine area unless such applications can be demonstrated to:

- ▶ be essential for an activity that requires a location in the coastal marine area; or
- ▶ have benefits outweighing the adverse effects of the exclusion of public access to or across that area of the coastal marine area.

Explanation: Exclusive occupation in the coastal marine area is sometimes required to ensure the security of an activity or development. By definition, however, exclusive occupation precludes public access to and along the coastal marine area which is generally undesirable. Such exclusive occupation should be avoided unless it can be demonstrated that exclusive occupation is essential for that activity to be undertaken and there are no alternative means of achieving the outcomes sought or protecting public access in some other way.

Principal reason: *This Policy is required to implement Objective 2.4.3D.*

Guiding Policy

2.4.4F ▶ To ensure consultation occurs with landowners, tangata whenua, the public and DOC regarding proposals for new public access ways in the Coastal Environment.

Explanation: In order to ensure that new public access ways are placed in appropriate locations in the Coastal Environment it is important to ensure communities and special interest groups are consulted in the early stages of establishing them.

Principal reason: *This Policy is required to implement Objective 2.4.3C.*

2.4.4G ▶ To ensure that adverse effects on cultural values, conservation values, safety, and private property arising from public access are avoided, remedied or mitigated.

Explanation: The NZCPS provides for certain exceptions where public access may be inappropriate due to the sensitivity of the environment to disturbances arising from the presence of people. In other cases where these exceptions may not be required to be made, it is still necessary to avoid, remedy or mitigate the adverse effects on the environment that may arise from public access.

Principal reason: *This Policy is required to give effect to Objective 2.4.3C.*

2.4.4H ▶ The Council will require esplanade reserves on all new subdivisions, developments and reclamations approved adjacent to the coastal marine area except:

- a) Where alternative means of providing for public access such as esplanade strips or covenants, would be more appropriate.
- b) For minor boundary adjustments.
- c) Where the provision of esplanade reserves, esplanade strips or covenants would not promote the sustainable management of natural and physical resources.¹⁷

Explanation: New subdivisions adjacent to the coastal marine area provide an opportunity to increase public access to beaches with the Gisborne Region while, at the same time, providing a buffer between private property and natural hazards associated with the coast.

Principal reason: *This Policy is required to implement Objective 2.4.3A.*

2.4.4I ▶ Council may consider the purchase of coastal land for public access purposes, provided that:

- a) The purchase is on a willing seller basis.
- b) It is economically feasible to purchase the land.
- c) All other alternatives to purchase have been investigated.
- d) The land in question is a high priority site in terms of public access.

¹⁷ Port Gisborne Consent Order 742/00

Guiding Policy

Explanation: There may, in special circumstances, be a need to provide for public access in the Coastal Environment over private land where statutory mechanisms for ensuring public access are not appropriate or available. Under these circumstances Councils policy will be to consider the merits of individual cases with a view to purchasing or encouraging other agencies to purchase land for access purposes.

Principal reason: *This Policy is necessary to implement Objective 2.4.3A.*

2.4.4J ▶ To, as far as practicable, avoid the adverse effects on public access arising from the erection of structures or occupation of space in the Coastal Environment. Where complete avoidance of these adverse effects is not practicable, the adverse effects will be mitigated and provision made for remedying them, to the extent practicable.

Explanation: Physical or legal constraint to access to and along the coastal marine area, rivers and lakes in the Coastal Environment most frequently arises from the construction of structures that straddle or run parallel to those features, blocking legal public access or reducing the quality of it. Unless there is clear reason why legal public access should be blocked, such as health and safety reasons, such blockages should be prevented. Council and consent authorities should avoid these adverse effects when considering applications for activities which may cause them. *Ref: Policy 2.7.2(1) of the RPS for the Gisborne District.*

Principal reason: *This Policy is required to implement Policy 2.7.2 (1) of the RPS for the Gisborne District and to ensure that subdivision, use and development in the Coastal Environment does not unreasonably restrict legal public access by effectively occupying land and space in an exclusive manner.*

2.4.4K ▶ To permit restrictions to public access to and along the Coastal Marine Area and lakes and rivers in the Coastal Environment only where these are necessary:

- a) To protect areas of significant indigenous vegetation and/or significant habitats of significant fauna.
- b) To protect Maori cultural values.
- c) To protect public health or safety.
- d) To ensure a level of security consistent with the purpose of a resource consent; or
- e) In other exceptional circumstances sufficient to justify the restriction notwithstanding the national importance of maintaining that access.

Explanation: There are some circumstances where public access can cause adverse environmental effects or increase personal danger to people using the access way. There may also be occasions where public access has the potential to disrupt a landowners lawful use of his or her property such as the disruption to farm stock during sensitive seasons, for example lambing in spring. In cases like this, it may be necessary to impose short-term access restrictions in order not to disrupt sensitive situations.

Guiding Policy

Principal reason: *This Policy is required to safeguard sensitive sites and lawful operations from the adverse environmental effects that may arise from unrestricted public access. While public access should be protected it must be established in such a way that it avoids causing adverse effects on other environments and the lawful exercise of landowners rights. This Policy supports Policy 2.7.2(1) of the RPS for the Gisborne District.*

2.4.4L ▶ Council will treat all proposals to open, enhance, restrict or close public access in the Coastal Environment which require resource consents as publicly notifiable.

Explanation: Public access is a matter of national importance which must be recognised and provided for. In submissions received by Council on its draft discussion papers for the Regional Coastal Environment Plan, a number of submitters emphasised the importance public access to and along the coastal marine area and rivers and lakes in the Coastal Environment has in the public mind. It is considered important to ensure that the public have the maximum opportunity afforded by the Resource Management Act 1991 to participate in decision making on proposals that may have a detrimental effect on public access.

Principal reason: *To enable the public to have maximum opportunity to advocate to Council the retention and provision of public access within the Coastal Environment when activities that affect public access are proposed.*

2.4.4M ▶ Where public access to and along the coastal marine area and rivers and lakes in the Coastal Environment is likely to be restricted or removed by the effects of subdivision, use, and development, the maintenance or enhancement of public access should be provided for. Such provision may include financial contributions sought under Section 108 of the Resource Management Act 1991.

Explanation: Where activities do not provide for, restrict or remove public access within the Coastal Environment provision should be made to remedy or mitigate that restriction on, or lack of, public access provision. The Resource Management Act 1991 enables financial contributions to be sought as a condition of a consent and this includes the taking of land and establishing esplanade reserves or strips as well as financial contributions, in terms of money, that may be used to establish alternative means or areas of access.

Principal reason: *Policy 3.5.3 of the NZCPS states that plans should make provision for the creation of esplanade reserves, strips or other forms of access in the Coastal Environment where they do not already exist. If an activity to be undertaken in the Coastal Environment does not provide for, or restricts public access to and along the coastal marine area and rivers and lakes in the Coastal Environment then provision can be made to ensure no loss of public access or a gain in public access. This policy is required to be not inconsistent with the NZCPS.*

Guiding Policy

2.4.4N ▶ The District Plan for the Gisborne District shall ensure that Esplanade Reserves or Esplanade Strips should generally be taken on new subdivisions, developments and reclamations formed adjacent to the coastal marine area unless there are specific reasons for not doing so.

Explanation: Public access to and along the coastal marine area in the Gisborne District is constrained by the fact that much of the adjoining land is held in private ownership. There are very few points of access to the coast. Any opportunity to gain additional access to the coast with the development of subdivisions will enhance the amenity values of the Coastal Environment and present an opportunity to promote the sustainable management of the sensitive coastal margin.

Principal reason: *This Policy is required to achieve integrated management of public access between this plan and the District Plan and provides for the enhancement of public access to and along the coastal marine area.*

2.4.4O ▶ Public access by motorised vehicles to and along the coastal marine area should generally be allowed. Exceptions where restrictions on motorised vehicle access should occur include:

1. The use of motorised vehicles in areas where there is significant indigenous flora such as the sand binding native grass, Pingao, and the habitats of significant indigenous fauna such as breeding grounds for New Zealand Dotteral.¹⁸
2. In circumstances where the health and safety of people and communities could be jeopardised by the use of vehicles.
3. For events occurring within the Protection Management Area such as beach races or military exercises where large numbers of motorised vehicles are likely to be operated within the coastal marine area at any one time.
4. In areas where vehicles will adversely affect the enjoyment by the public of recreational activities and amenity values in certain popular areas such as swimming beaches.

Explanation: Motorised vehicles used to gain access to and along the coastal marine area may cause adverse effects but also create important recreational opportunities such as diving in remote locations. The adverse effects which may arise from vehicle access to and along the coastal marine area include the destruction of sensitive dune and inter-tidal vegetation, disturbance of significant bird nesting habitat, accelerated erosion caused by the removal of sand binding vegetation, disruption of the natural character of the Coastal Environment by noise pollution, health and safety issues and loss of amenity by restricting other forms of recreation.

¹⁸ For additional species of vegetation and wildlife that may be adversely affected by motorised vehicles. In areas described on the Maps in Appendix 2 of the Proposed Regional Coastal Environment Plan, refer to Appendix 3.1 of the Proposed Regional Coastal Environment Plan.

Guiding Policy

Generally speaking, one or two vehicles driving along the beach cause only minor adverse effects and should be allowed. It is extremely difficult to enforce a general restriction in any case.

There are some areas, particularly in the Protection Management Area, where very sensitive sites should be protected from the adverse effects of vehicles travelling to and along the coastal marine area. Areas where human health and safety may also be put at risk should generally be restricted areas for motorised vehicle transport.

Principal reason: *This Policy is required to ensure that motorised vehicle access can continue to and along the coastal marine area except in particular circumstances where there may be very sensitive areas prone to disturbance and disruption arising from the adverse effects of motorised vehicle access to and along it. Similarly in areas where motorised vehicular access may threaten the health and safety of people and communities. It supports Objective 2.4.3C and should be read in conjunction with Policy 2.3.4C.*

2.4.5 Methods

Public Participation/Information/Education

2.4.5A ▶ The Council will develop, in conjunction with representatives of interest groups, a priority list of localities in the Coastal Environment where additional public access is appropriate. The document will be used to identify the potential for enhanced levels of access to and along the Coastal Marine Area and rivers and lakes in the Coastal Environment. Interest groups include:

- ▶ Tangata Whenua.
- ▶ The Department of Conservation.
- ▶ The Eastland Fish and Game Council.
- ▶ Organisations which represent people with disabilities.
- ▶ Public Access New Zealand (PANZ).
- ▶ Royal Forest and Bird Society of New Zealand.
- ▶ Canoe and Tramping Clubs in the Gisborne Region.
- ▶ Landowners adjoining potential new public access sites.
- ▶ Transit New Zealand.
- ▶ Relevant recreational organisations
- ▶ Recreational and Commercial Fishing Organisations.

Principal reason: *This method implements Policy 3.5.2 of the NZCPS and Objective 2.4.3E of this Plan.*

2.4.5B ▶ Council will develop and maintain a register of public access-ways to and along the coastal marine area and rivers and lakes in the Coastal Environment to assist in developing priorities for access-way improvements.

Guiding Policy

Principal reason: *This method is required to implement Policy 3.5.2 of the NZCPS and Policy 2.4.4A of this Plan.*

2.4.5C ▶ Council will consider preparing and erecting signs and interpretation boards marking public access points to and along the coastal marine area and rivers and lakes in the Coastal Environment where such information will benefit the public by warning of danger or describing sensitive cultural or ecological values that may be adversely affected by inappropriate behaviour:

- ▶ Interpretation boards describing sensitive cultural values will be prepared only after consultation with and approval from the relevant Iwi/Hapu and will be erected in accordance with Tikanga Maori.
- ▶ Interpretation boards describing sensitive ecological values will be prepared only after consultation with the Department of Conservation.

Principal reason: *Public access can be enhanced both quantitatively and qualitatively. Information about the values associated with areas where there is public access can enhance the amenity associated with public access.*

2.4.5D ▶ Council will encourage private landowners in the Gisborne Region to make voluntary provision of public access to and along the Coastal Marine Area and rivers and lakes in the Coastal Environment and will maintain a register of voluntary access agreements.

Principal reason: *Landowners enjoy the lawful use of their land and should be able to do so without fear of trespassers interfering with their property rights. However, provided members of the public seek permission from landowners and obey instructions from those landowners, most landowners are willing to allow passage across their land. The Gisborne District Council wishes to encourage such practises, recognising that such access is entirely at the discretion of landowners and fosters goodwill and a greater sense of community well-being.*

Note: *The monitoring section of Chapter 14 of this plan contains additional information related to information gathering and assessment that will be used in conjunction with these methods.*

Advocacy

2.4.5E ▶ Council will discuss the issue of public access with Crown agencies and seek an agreement to ensure that land in the Coastal Environment will not be disposed of without providing for covenants ensuring the continuation of public access.

Principal reason: *The Gisborne District Council is not the only agency capable of maintaining or enhancing public access in the Coastal Environment. It is essential that the Gisborne District Council opens and improves dialogue with other agencies in order to ensure consistent approaches to maintaining and enhancing public access in the Coastal Environment are adopted. This method implements Policy 2.4.4B.*



Guiding Policy

Provision of Services

2.4.5F ▶ Council will ensure that access-ways are kept free of any obstructions or hindrance to use and will make, where appropriate, funds available in its annual plan, for the construction or improvement of access-ways.

Principal reason: *In order to maintain, and in appropriate circumstances enhance public access in the Coastal Environment, Council must set aside funding and provision for works in its Annual Plan for the maintenance of public access-ways by clearing debris, maintaining fences and board walks, providing interpretation and signage and monitoring the effects of public access on the environment.*

2.4.5G ▶ Council will design and construct access ways to facilitate pedestrian access to and protect the natural values of the coastal marine area and rivers and lakes in the Coastal Environment and, where possible, will encourage other providers of access ways to do the same. Design should take into account the needs of disabled people.

Principal reason: *Policy 3.5.2 of the NZCPS states, "...provision should be made to identify, as far as practicable, (iii) those places where it is desirable that access to the coastal marine area useable by people with disabilities be provided." In order to implement this policy it is necessary for the Council to ensure that suitable access way construction techniques are used to ensure access for those with disabilities and other providers must be reminded of this obligation.*

2.4.5H ▶ Council will, where possible, implement or facilitate works described in the Wainui Beach Management Strategy (2003) intended to restrict public access across sensitive foredune areas.

Principal reason: *Refer 1.2.5.7.*

2.4.6 Anticipated Environmental Results

1. Community enjoyment of the Coastal Environment is maintained or enhanced.
2. Cultural values are protected.
3. Conservation values are protected.
4. Adverse effects on private property are minimised.
5. Public safety is protected.

2.5 TANGATA WHENUA

2.5.1 Introduction

The Gisborne District is rich in Maori history and culture. It has always been a significant area of settlement for Maori and contains a greater proportion of Maori people in relation to the total population than any other part of New Zealand. In particular, the



Guiding Policy

coast of the Gisborne District has played a prominent part in everyday life, culture and economy of the Maori.

Guiding Policy

Many marae and papakainga (settlements) are located on the coast and the associated tauranga waka (canoe landing sites), urupa (burial sites), and other waahi tapu (sacred sites), mahinga maataitai (the areas from which food resources from the sea are gathered), taonga raranga (plants which produce material which is highly prized for use in weaving) e.g. Pingao and other resources are also important factors which contribute to the importance of the coast to Maori.

The importance of the coast in traditional and present day Maori life is reflected in customs such as rahui and tapu which regulate the use of the coast. People living near the coast derive mana (prestige) from the coast and from its abundant resources of kaimoana (seafood).

The Tangata Whenua of the Gisborne Region include:

- | | |
|-----------------------|------------------------------------|
| ~ Ngati Porou | Ngati Kahungunu (Wairoa Taiwhenua) |
| ~ Paieka | Whakatohea |
| ~ Te Aitangi-A-Mahaki | Ngai Tai |
| ~ Rongowhakaata | Te Whanau A Apanui |
| ~ Ngai Tamanuhiri | Te Whanau a Te Ehutu |
| ~ Nga Ariki O Mangatu | Ngati Ruapani |

Many of these Iwi express Mana Moana in the Coastal Environment of the Gisborne Region. For further information on the Tangata Whenua of the Gisborne Region please read Part I, Chapter 4 of the Proposed Regional Policy Statement for the Gisborne District.

Maori and their culture are given special recognition in the Resource Management Act 1991. Section 6 (Matters of National Importance) requires that the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga is recognised and provided for. Section 7 (Other Matters) of the Act states that Kaitiakitanga shall be given particular regard and section 8 (Treaty of Waitangi) states that the Treaty of Waitangi shall be taken into account by all persons exercising powers, duties and functions under the Act. This Chapter's relevance and importance is highlighted when viewed in the context of these statutory provisions and this is further underlined by the provisions concerning Maori in the New Zealand Coastal Policy Statement.

The Maori are the tangata whenua (original inhabitants) and have rights which are guaranteed by the Treaty of Waitangi (Te Tiriti O Waitangi).

The Treaty been interpreted as embodying four principles¹⁹ which must be taken into account by persons exercising functions and powers under the Resource Management Act 1991. The first is the essential bargain between the Crown and the Maori.

¹⁹ A fuller explanation of these four principles can be found in a paper titled "Taking into Account the Principles of the Treaty of Waitangi". Produced for the Ministry for the Environment in January 1993 by Diane Crengle.

Guiding Policy

This has been interpreted by the Court of Appeal to mean the cession of Maori sovereignty to the Crown in exchange for tino rangitiratanga (tribal authority or self management). The second principle is tribal self regulation i.e. the Crown has an obligation to legally recognise tribal rangitiratanga. The third principle is the Treaty relationship. This implies a partnership and a duty to act reasonably and in good faith. Inherent in it is the notion of reciprocity - the exchange of the right to govern for the right of Maori to retain their full tribal authority and control over their lands and all other valued possessions. The fourth principle is one of active protection. The Court of Appeal stated that this duty is not merely passive but extends to active protection of Maori people in the use of their resources and other guaranteed taonga to the fullest extent practicable. It carries also the obligation for the Crown to grant at least some form of redress for grievances where these are established.

The New Zealand Coastal Policy Statement, prepared under Section 57 of the Act and gazetted on 5 May 1994, reinforces the Act by stating General Principles for the Sustainable Management Of New Zealand's Coastal Environment, including Principle 9:

"9. The tangata whenua are the kaitiaki of the Coastal Environment."

Chapter 2 of the New Zealand Coastal Policy Statement is entitled, "The Protection of the Characteristics of the Coastal Environment of Special Value to the Tangata Whenua including Waahi Tapu, Tauranga Waka, Mahinga Mataitai, and Taonga Raranga."

Three Policies are listed as follows:

"Policy 2.1.1

Provision should be made for the identification of the characteristics of the Coastal Environment of special value to the tangata whenua in accordance with tikanga Maori. This includes the right of the tangata whenua to choose not to identify all or any of them."

"Policy 2.1.2

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

"Policy 2.1.3

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

- (a) *The transfer of its functions, powers and duties to iwi authorities in relation to the management of those characteristics of the Coastal Environment in terms of Section 33 of the Resource Management Act 1991; and/or*

Guiding Policy

- (b) *The delegation of its functions, powers and duties to a committee of the local authority representing and comprising representatives of the relevant tangata whenua, in relation to the management of those characteristics of the Coastal Environment in terms of Section 34 of the Resource Management Act 1991."*

Chapter 3, Policy 3.2.6 states:

"Policy statements and plans should make provision for papakainga housing and marae developments in appropriate places in the Coastal Environment. 'Papakainga housing' means residential occupancy on any ancestral land owned by Maori."

Chapter 4, "4.2: Taking Into Account the Principles of the Treaty of Waitangi (Te Tiriti O Waitangi) in Land of the Crown in the Coastal Marine Area", sets out two policies:

"Policy 4.2.1

All persons exercising functions and powers under the Act in relation to land of the Crown in the Coastal Marine Area shall recognise and facilitate the special relationship between the Crown and the tangata whenua as established by the Treaty of Waitangi (Te Tiriti O Waitangi)."

"Policy 4.2.2

All persons exercising functions and powers under the Act in relation to land of the Crown in the Coastal Marine Area should follow these general guidelines:

- (a) *Take into account the principles of the Treaty of Waitangi;*
- (b) *Make provision for consultation with tangata whenua which is early, meaningful and on-going, and which is as far as practicable in accordance with tikanga Maori;*
- (c) *Have regard to any relevant planning document recognised by the appropriate iwi authority;*
- (d) *Where appropriate, involve iwi authorities and tangata whenua in the preparation of plans and policy statements, in recognition of the relationship of Maori and their culture and traditions with their ancestral lands; and*
- (e) *Where practicable, and with the consent of the tangata whenua, incorporate in policy statements and plans and in the consideration of applications for resource consents, Maori customary knowledge about the Coastal Environment, in accordance with tikanga Maori.*

The Regional Coastal Environment Plan can not be inconsistent with the New Zealand Coastal Policy Statement."

Similarly the Plan cannot be inconsistent with the Proposed Regional Policy Statement for the Gisborne District which provides an overview of the significant resource management issues of the Gisborne District and the means of addressing these issues.

Guiding Policy

The Proposed Regional Policy Statement discusses the involvement of tangata whenua in resource management in Part I, Chapter 4 and specifically deals with consultation with tangata whenua in Part II, Chapter 9: 9.4 and this plan should be read in conjunction with the Proposed Regional Policy Statement.

Many of the sites of special value to Maori within the Coastal Environment will be outside the Coastal Marine Area. Therefore the specific means of protection may not be formalised until the new District Plan is prepared. This process will require significant discussion amongst the involved parties and it is appropriate consultation on these matters starts as soon as possible.

Areas of Concern for the Regional Coastal Environment Plan

From the RMA, the Treaty, and the NZCPS, a number of areas in which the Regional Coastal Environment Plan should be active become clear as follows:

- ▶ The plan should provide opportunities for early participation by, and effective working relationships with, Maori in promoting sustainable management of coastal resources. This includes direct involvement in the making of resource allocation decisions and the development of coastal permit conditions which serve the purpose of the Act by avoiding, remedying or mitigating adverse effects.
- ▶ The plan should provide for resources of significance to tangata whenua to be protected from any adverse environmental effects, including adverse effects arising from the activities of people who are not the kaitiaki of those resources.
- ▶ The plan should only regulate the management and use of resources by tangata whenua to the minimum extent necessary to achieve the purpose of the Act in promoting sustainable management. Furthermore, such control should be implemented in a way that recognises and provides for taonga, has particular regard for kaitiakitanga, and takes into account rangitiratanga.
- ▶ Consultation structures set up by the Council need to be acceptable to tangata whenua.

The foregoing comments pre-suppose a level of knowledge about sites and values of significance to Maori which has not yet been fully developed. They also recognise that in Maori terms, tangata whenua are also kaitiaki of coastal resources within their tribal territories.

Important Concepts in Maoridom

Kaitiakitanga ▶ Kaitiakitanga is based on spiritual, social, and economic associations with coastal resources. The value placed by Maori on the Coastal Environment is reflected in traditional management practices. Traditional management practices include sanctions to protect waahi tapu or self imposed iwi management techniques such as rotational seafood harvesting, preservation of coastal seafood habitat areas, prohibitions on gutting and shelling seafood on the beach and avoidance of all forms of despoliation and animal wastes to protect social and economic relationships. As Kaitiaki

Guiding Policy

of coastal resources tangata whenua have the ultimate responsibility to ensure that these relationships are maintained and that coastal resources are managed wisely.

The Kaitiaki approach to environmental management is holistic. It was described by the Whanau A Pokai/Pohatu Tikapa spokesperson at a Hui with the Gisborne District Council at Ruatoria in the following terms which seem to embody the beliefs of the Tangata Whenua O Tairāwhiti:

'The function and role of Kaitiaki is not only of guardianship, custodianship and protector but of accountability to its hapu. Functions in terms of resource management may be so defined as:

- ▶ to administer resource legislation in partnership with existing local authorities;
- ▶ to develop and implement programmes to restore damaged ecological systems, to restore balance and harmony;
- ▶ to declare TAPU (this must be done in consultation with tribal elders);
- ▶ to apply, lift or remove RAHUI where necessary e.g. drownings at sea or the river mouth;
- ▶ to develop guidelines for fisheries wherever stocks may be plentiful to ensure conservation;
- ▶ to establish guidelines and policies for commercial endeavours e.g. the removal of aggregate from our foreshore by commercial users with total disregard for tangata whenua;
- ▶ to develop education programmes, which explore the harmonious relationship of all taonga e.g. land, fisheries, forest, water, air, animals, life and people.'

Only tangata whenua can be kaitiaki of their coastal resources. It is their responsibility to ensure that the mauri (life force or life principle) of these resources is protected.

Mauri ▶ All living things possess mauri. Mauri binds the physical and spiritual essence of a resource together. It can be likened to the concept of intrinsic value which is provided in the RMA, but it is more, in that it denotes not only the physical essence of a resource but its spiritual essence as well. It is possible to damage resources to the point that they can lose their mauri. Conversely, it is possible to restore the mauri, e.g. by allowing the resource to regenerate, removing sources of pollution or carrying out appropriate Maori ritual.

Protecting the mauri of coastal resources is therefore necessary in terms of the RMA and the Treaty of Waitangi and is also effective as a resource management technique.

Waahi Tapu ▶ Protection of Waahi Tapu is particularly important. Waahi tapu are a particular category of ancestral land or water which are held in the highest regard by tangata whenua. They can include places, sites, areas or objects which are tapu, sacred or special to an iwi. They include:

- ▶ Battle fields
- ▶ Burial places of placenta

Guiding Policy

- ▶ Tribal tuahu (alters)
- ▶ Sources of water for healing and death rites
- ▶ Ara purahoura - sacred pathways for messengers
- ▶ Mauri stones and trees
- ▶ Carved poupou representing ancestors
- ▶ Coastal pa sites and papakainga
- ▶ Tauranga waka
- ▶ Sacred rivers
- ▶ Toko taunga ika (rocks which identify fishing grounds)
- ▶ Wahi taonga mahi a ringa (resource sites for materials such as kiekie, flax, pingao, pounamu etc)
- ▶ Ara - pathways connecting tribal areas and resource sites
- ▶ Coastal landscape features
- ▶ Mythological sites
- ▶ Historic Sites

Mahinga Maataitai ▶ Mahinga Maataitai are areas from which seafood (Kaimoana) is obtained. Kaimoana has cultural as well as practical food value. A tribe gains mana from its ability to provide an abundance of kaimoana at tribal gatherings. Each iwi has clearly defined "territory" and it is still common for adjoining iwi to seek the permission of the resident iwi before entering "foreign territory" to collect kaimoana. The legal responsibility for controlling the "harvesting" of any plant or animal rests with the Ministry of Agriculture and Fisheries.

Taonga Raranga ▶ Taonga Raranga are those "treasures" which are highly prized for weaving and for other arts and crafts. It is important that the habitats of such areas are identified and protected.

Marae and Papakainga ▶ Marae and papakainga are important in that if they are situated on or near the coast it is easier for iwi to protect and enhance their relationship with their coastal land and marine areas. Similarly, kaitiaki responsibilities can be attended to more easily by living, working and recreating on the coast.

The provision of marae and papakainga is an important issue for the Regional Coastal Environment Plan to address because it is important that there is integrated management across the land/sea interface.

Water Quality ▶ One of the most important issues for tangata whenua is the protection of water quality. Water has spiritual as well as physical properties. It is also regarded as having different states, according to its degree of pollution or alteration from its more pure form (rainwater) which is waiora. Water also has Mauri²⁰ which must be protected in order for the water to remain wholesome and pure. Failure to protect the Mauri of water is a failure to preserve the resource for the enjoyment of future generations.

Guiding Policy

Specific areas of water have their own mana, tapu, taniwha, and waahi tapu, which must be respected. Tangata whenua are opposed to the discharge of human wastes directly into water and are particularly concerned by rural discharges, industrial and urban runoff, leachate, and disposal of dredgings directly into water. Tangata whenua seek to have sewage disposed to land rather than discharged into water so that, by passing through land, the Mauri of the water is restored.

It is generally of concern to tangata whenua that they have effectively lost control of their water areas without selling them, gifting them or having them confiscated. It is therefore important that activities which will have an adverse impact on the spiritual and physical quality of water are at least ameliorated to the satisfaction of tangata whenua. Tangata whenua, as kaitiaki of the region's coastal water have concern and responsibility for protecting the mauri of the water.

Consultation with Tangata Whenua ▶ Several Hapu of the Gisborne District have stressed to the Council that consultation with tangata whenua of the Gisborne District should commence at the whanau hapu level.

The Maori text of the Treaty of Waitangi refers to hapu, recognising that the local hapu group was a primary social and economic unit in Maori society. It is the hapu that has the authority to exercise rangatiratanga. The means by which rangatiratanga should be exercised in respect of a particular resource can only be determined by the tangata whenua having mana over that resource.

Some of the matters that could be discussed with the various hapu in the formulation of an appropriate planning strategy are set out below:

(1) The Rohe of Whanau Hapu

That area to which the hapu can claim mana whenua and mana moana. It would help to establish a map of the various whanau hapu and their respective rohe. The map does not need to have definitive boundaries. There may be an overlap in some areas. This would ensure that for a particular area or a resource issue, all the appropriate people are consulted.

(2) The Identification and/or Protection of Sites of Special Value

For example, waahi tapu, tauranga waka, taonga raranga, sites of spiritual, historical or cultural significance. Waahi tapu are cultural sites of spiritual value. While urupa (burial grounds) are obvious examples of waahi tapu there is a wide range of sites which can include tupapaku (burial caves), pa where battles have occurred, tauranga waka (sites where ancestral canoes have been landed) and some mountains e.g. Hikurangi. Each whanau hapu has its own definition for their waahi tapu. Sometimes the existence and/or location is known only to the local people and to a few kaumatua.

²⁰ For an explanation of "Mauri" refer to pages 78 and 310.

Guiding Policy

Mahinga maataitai, areas where food resources from the sea are gathered, and taonga raranga, plants which produce material highly prized for use in weaving are characteristics of the Coastal Environment of special value to whanau hapu.

Tangata whenua may wish these sites to be publicly identified, or they may prefer to retain the private recording of these sites amongst their own people. There are various means of identifying and protecting sites that need to be discussed with the whanau/hapu so that they can choose the most appropriate method for them.

(3) Iwi Planning Documents

The RMA requires Council to have regard to any planning document recognised by an iwi authority. Tangata whenua may have prepared, or be preparing a planning document they wish the Council to consider. The Council need to be aware of any such documents or whether it can assist in their preparation.

Neighbouring iwi, Ngati Kahungunu through the Wairoa Taiwhenua, have made available their draft iwi resource management planning document, Draft Kaitiakitangi Mo Nga Taonga Tuku Iho. This document sets out Ngati Kahungunu perspectives to iwi resource management and is to be the foundation for their Tribal Development Plan. While more directly associated with the Hawkes Bay Region it illustrates how such a document can assist in discussion in a spirit of co-operation and good faith leading to the practical implementation of policies.

(4) Use of Traditional Lands

Maori occupancy of land held in traditional multiple ownership should not be unnecessarily constrained through RMA planning documents. Living and working on their land is held as paramount to many Maori. This message was strongly conveyed to the Council that Maori did not want to be restricted in seeking their aspirations of maintaining the ability of their families to occupy and use their traditional lands.

The Transitional District Plan presently recognises and makes special provision for Marae and housing on traditional lands in each of the former areas, viz. the Waiapu, Waikohu, Cook Counties and Gisborne City.

The Council needs to consult with the respective hapu as to how their aspirations can be recognised and provided for while ensuring any adverse effects on the environment are avoided, remedied or mitigated. Such discussion can address whether the existing provisions are still appropriate.

(5) Provision for, or Restriction of, Access

In order to protect Maori cultural values it may be that general public access is not always appropriate and that there is a need for some restrictions to protect particular sites. If access over public land enables tangata whenua to visit sites of special value it should be provided or enhanced. The various hapu may wish access to be provided or



Guiding Policy

restricted in accordance with their cultural values, where appropriate. This will be worked through on a site specific basis with the Council.

Guiding Policy**(6) Coastal Permits**

The administration of the Regional Coastal Environment Plan, once it is approved, should also have involvement from tangata whenua. Consultation with the tangata whenua for the area in which subdivision, use, or development is proposed, will generally be required as part of the resource consent process for applications for activities with potential to affect the relationship of Maori with their ancestral lands or Kaitiakitanga. Because of the statutory time constraints involved and the need for liaison with the local hapu, proposers of resource consent applications in the Coastal Environment are strongly advised to consult with the tangata whenua for the area in question before any application is lodged with the Council. The application should include details of the consultation in accordance with the fourth schedule of the Act and should include evidence that tangata whenua have been consulted.

It is Council's intention, if approval is sought by an applicant for a Resource Consent in the Coastal Environment to have the application treated as non-notified according to Section 94 of the Resource Management Act 1991, to consider the Tangata Whenua an adversely affected party in all circumstances. This means that the approval of the relevant Hapu to waive notification would need to be obtained.

These procedures would require the Council to be able to advise potential applicants of the appropriate hapu they should contact. The procedure for consultation on consent applications should also include an acceptance by the Council that in cases where applicants can provide evidence to demonstrate that they have not been able to contact the appropriate hapu, or have not obtained any comment from them within what Council, in consultation with Iwi Authorities, considers to be a reasonable length of time, the Council may hear the application.

(7) Protection of Sensitive Information

Sites of cultural and spiritual importance to Maori are commonly recorded through the Oral Tradition and passed down to future generations in this manner. The information is frequently extremely sensitive and involves knowledge of Tapu concerning the sites. Maori are concerned that recorded information held by authorities other than their own opens these important sites to abuse and insensitive handling and fear that there are people who may hold Maori custom up for ridicule. The ownership and recording of this information is a major issue under the Resource Management Act 1991. If Councils hold this information then it could become available to the public, yet Councils, if they are to fulfil the requirements of the Act concerning the protection of sites and values significant to Maori, must have access to information concerning the location of such sites.

The Resource Management Act 1991 does set out some protection of such sensitive information but only in the context of Hearings held under the Act. Section 42 of the Act enables a local authority to make an order to prohibit or restrict the publishing or communication of any information supplied or obtained, in order to avoid serious offence to tikanga Maori or to avoid the disclosure of the location of waahi tapu.

Guiding Policy

It is the Gisborne District Council's intention to ensure that this provision of the Resource Management Act 1991 is utilised when dealing with such sensitive information.

2.5.2 Issue

2.5.2A ▶ How to recognise, have regard to, and provide for tangata whenua values, customs, rights and interests in the Coastal Environment and in particular in the Coastal Marine Area.

2.5.3 Objectives

2.5.3A ▶ To protect the special value sites of tangata whenua.

Principal reason: *Section 6(e) of the Resource Management Act 1991 states that it is a matter of national importance to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. This objective ensures that such recognition is given to protecting sites for their cultural values.*

2.5.3B ▶ To rehabilitate, where practicable, sites of value to Maori degraded by human activities.

Principal reason: *This objective recognises that some culturally important sites have been damaged by inappropriate activities in the past and these should be restored where this is possible and in good faith.*

2.5.3C ▶ To maintain the integrity of the relationship of Maori with their culture, traditions, ancestral lands, and other resources.

Principal reason: *Maori are the Kaitiaki of the Coastal Environment and this concept includes the need to preserve systems as much as distinct resources. It recognises that Maori are an integral part of natural systems and cannot be separated from the well being of the system. If Maori are separated then the function of Kaitiaki cannot be exercised and the integrity of the relationship between Maori and natural and physical resources falters. Section 6(e) of the Resource Management Act 1991 requires that this integrity be maintained.*

2.5.3D ▶ To achieve occupancy and use of ancestral lands owned by Maori that is in accordance with hapu aspirations provided such use is consistent with the purpose and principles of the Resource Management Act 1991.

Principal reason: *Policy 3.2.6 of the NZCPS states that plans should make provision for papakainga housing and marae developments in appropriate places in the Coastal Environment. This objective is designed to facilitate this policy.*

Guiding Policy

2.5.4 Policies

2.5.4A ▶ The Council and consent authorities will take into account the guarantees of rangitiratanga and its relationship with kawanatanga in resource management planning and decision-making.

Explanation: Section 8 of the Resource Management Act 1991 requires everyone who exercises powers, duties and functions under the Act to take into account the principles of the Treaty of Waitangi. At the heart of the Treaty are the principles of Rangatiratanga and Kawanatanga. This Policy directs the Gisborne District Council and Consent Authorities to take these principles into account. This Policy supports Objectives 2.5.3A and 2.5.3C.

Principal reason: *This Policy is required to give effect to Section 8 of the Resource Management Act 1991 when Council and Consent Authorities within the Gisborne Region exercise powers, duties and functions under the Act.*

2.5.4B ▶ People exercising powers, duties and functions under the Resource Management Act 1991 will recognise that each hapu has its own priorities and preference for the management of coastal resources and will respect those priorities and preferences.

Explanation: The basic unit of decision making within Maoridom rests with the Whanau Hapu. Each Hapu may express its priorities and needs independently of any other Hapu and give emphasis to particular resource management needs quite independently of other Hapu. One means of identifying the priority and needs of Hapu may be through Iwi or Hapu Management Plans. This Policy is designed to recognise this fact. This Policy supports Objective 2.5.3(C).

Principal reason: *To ensure that the Hapu is recognised as the base unit of decision making in Maoridom so that appropriate emphasis is given to the views of Hapu when considering the relationship of Maori and their culture.*

2.5.4C ▶ The Council will encourage applicants for resource consents in the Coastal Environment to demonstrate that the tangata whenua have been consulted in respect of applications.

Explanation: Council has an obligation to consult with the Tangata Whenua of the Gisborne Region. Applicants for resource consents in Section 88(4) and the Fourth Schedule of the Resource Management Act 1991 are encouraged to consult generally, including consultations with Tangata Whenua. The purpose of this Policy is to encourage applicants for resource consents to provide evidence of genuine attempts to consult with Tangata Whenua in good faith, in a manner suggested by High Court Judgements. This Policy supports Objectives 2.5.3(A) and 2.5.3(C).

Principal reason: *It is important for all applicants seeking resource consents to be encouraged to consult with Tangata Whenua and those applicants should be able to satisfy Council that appropriate consultation has been undertaken.*

Guiding Policy

2.5.4D ▶ The Council will recognise, and where appropriate enhance, the kaitiaki responsibilities of tangata whenua with respect to the Coastal Environment and will endeavour, by its actions in respect of management of the Coastal Marine Area, to maintain or enhance that responsibility.

Explanation: The New Zealand Coastal Policy Statement states, in General Principle 7, that the Tangata Whenua are the Kaitiaki of the Coastal Environment. This Policy recognises this Principle and in order to give effect to Section 6(e) of the Resource Management Act 1991, which states that it is a matter of national importance to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga, provides for this important relationship between Maori and the Coastal Environment. This Policy supports Objective 2.5.3(C).

Principal reason: *This Policy is necessary to conform with General Principle 7 of the NZCPS and Section 6(e) of the Resource Management Act 1991 because Kaitiakitanga is a central tenant of Maori Culture, especially in the Coastal Environment.*

2.5.4E ▶ The Council and consent authorities shall have regard to the need to protect the mauri²¹ of coastal resources and, where necessary and appropriate, will encourage the restoration of the mauri of coastal resources.

Explanation: "Mauri" is an important component of Maori Tradition, dealing with both physical and spiritual properties, particularly of, but not restricted to, water. If, as a matter of national importance, the relationship of Maori and their culture and traditions is to be recognised and provided for, then Council and Consent Authorities must consider the Mauri of a resource in the same way as it considers the sustainability of a resource and whether it is able to be renewed or is a finite resource.²² This Policy supports Objectives 2.5.3B and 2.5.3C.

Principal reason: *This policy is necessary to give effect to Section 6(e) of the Resource Management Act 1991 and Policy 2.1.2, Policy 5.1.1 and Policy 5.1.2 of the NZCPS.*

2.5.4F ▶ The Council will, in conjunction with tangata whenua, recognise and provide for the protection of waahi tapu, other taonga and other sites/areas of special value to tangata whenua in the Coastal Environment, where these are known, and consent authorities will have particular regard for the integrity of those waahi tapu and other sites of special value to tangata whenua, in respect of proposed developments and activities that would have an adverse effect on them.²³

Explanation: Section 6(e) of the Resource Management Act 1991 requires Council to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.

²¹ For an explanation of "Mauri" refer to page 310 of the plan.

²² Refer to page 78 for a detailed description of the concept of "Mauri".

²³ Kara Mackey Consent Order 977/03

Guiding Policy

The protection of these values is a matter of national importance. This Policy is designed to implement this requirement and supports Objective 2.5.2A.

Principal reason: *This Policy meets the requirements of Section 6(e) of the Resource Management Act 1991.*

2.5.4G ▶ The Council will, in conjunction with hapu, encourage the identification and protection of mahinga maataitai habitats in accordance with tikanga Maori and will support continued tangata whenua access to these areas.

Explanation: The Resource Management Act 1991 does not address Fisheries issues which are dealt with under the Fisheries Act or the Marine Reserves Act. Council may, however, advocate for the protection of special areas in the Coastal Marine Area that support traditional fishing or food gathering areas to the responsible agencies on behalf of or in conjunction with Iwi or Hapu authorities. This Policy is designed to recognise this advocacy role and supports Objective 2.5.3C.

Principal reason: *In order for the Council to assist in the maintenance of the integrity of the relationship of Maori and their traditional marine food gathering and fishing sites, the Council may advocate to other agencies such as MFish and DOC.*

2.5.4H ▶ The Council will encourage the provision of marae, papakainga housing and other Maori cultural activities on appropriate sites in coastal locations, provided adverse effects on the environment are avoided, remedied or mitigated.

Explanation: Policy 3.2.6 of the New Zealand Coastal Policy Statement requires [Plans to] make provision for papakainga housing and marae developments in appropriate places in the Coastal Environment. This Policy is designed to implement this requirement of the NZCPS in a manner that achieves the purpose of the Act, and supports Objective 2.5.3D.

Principal reason: *This Policy is a requirement of Policy 3.2.6 of the New Zealand Coastal Policy Statement.*

2.5.4I ▶ Consent authorities will, in respect of activities or developments which involve the discharge of contaminants into the Coastal Marine Area, have particular regard to Maori spiritual and cultural values and physical use of the Coastal Marine Area.

Explanation: Maori are particularly concerned at discharges of effluent into the marine environment due to the spiritual importance of the sea in the Maori culture and this must be carefully considered by consent authorities when considering applications for the discharge of contaminants into the marine environment. This Policy supports Objective 2.5.2C.

Principal reason: *This Policy is required to give effect to Policy 5.1.2 and Policy 5.1.5 of the New Zealand Coastal Policy Statement recognising the relationship Maori have with the Coastal Marine Area.*

Guiding Policy

2.5.4J ▶ The Council will, in the exercise of any of its functions, powers or duties under the Act, in respect of the Coastal Environment, have regard to any relevant planning document recognised by the appropriate Iwi/Hapu authority.

Explanation: Policy 2.5.3B states that each Hapu has its own priorities and preferences for the management of coastal resources. An issue that arises from this statement is how should these preferences be identified. This Policy identifies one mechanism Council may use to assist in this. This Policy requires Council to examine relevant planning documents when exercising its powers, duties and functions with a view to understanding the issues of concern to Hapu affected and providing for those concerns to be met where appropriate. This Policy supports Objectives 2.5.2C and 2.5.2D.

Principal reason: *This Policy is a requirement of Policy 4.2.2 of the NZCPS with respect to the Coastal Marine Area and is an extension of Policy 2.5.3B stated above and provides a means by which Council may be able to identify the distinctive management needs of Hapu and take these into account when exercising any power, function or duty under the Resource Management Act 1991 without removing the need to meet the purpose of the Act.*

2.5.4K ▶ The Council will give consideration to appointing to a hearing committee considering a resource management issue where values important to Maori are being considered, a commissioner or commissioners with expertise in Maoritanga including Kawa (protocol) and Kaitiakitanga. Any commissioner so appointed should have sufficient mana to address issues of sensitivity to Maori but must not be affiliated with any hapu affected by the resource consent issue or plan change under consideration.

Explanation: There may be issues under consideration arising from resource consent applications where values of cultural and traditional importance to Maori are involved. It may be advisable for the Council to ensure experts on the culture and traditions of the tangata whenua concerned are in a position to assess the likely impacts of any proposal by appointing them to the hearing committee convened to consider the application. Such an appointment will assist in achieving Policy 2.5.3A above. This Policy supports Objective 2.5.2C.

Principal reason: *This Policy assists Council to give effect to the principles of the Treaty of Waitangi by recognising Rangatiratanga when considering local issues of importance to Maori.*

2.5.4L ▶ The Council shall ensure that the Maori language and Maori place names are recognised in the exercise of any of its functions, powers and duties under the Act.

Explanation: The Maori language is a Taonga of great importance to Maori and, in itself should be protected as a resource. It is also an official language of New Zealand. If Council is to recognise and provide for, as a matter of national importance, the relationship of Maori and their culture and traditions with their Taonga, then it is important

Guiding Policy

that the Maori language is accepted and cherished. This Policy supports Objective 2.5.2C.

Principal reason: *This Policy is a requirement of Section 6(e) of the Act and recognises that Maori is an official language of New Zealand/Aotearoa.*

2.5.4M ▶ The Council will establish a consultation network acceptable to tangata whenua with the constituent hapu of the Gisborne District who have mana whenua or mana moana in the Coastal Environment. This is for the purpose of determining hapu preferences for appropriate coastal management measures and to provide for those hapu or iwi to effectively participate in the resource management process.

Explanation: The Regional Policy Statement for the Gisborne Region provides that Council must establish a consultation mechanism with Hapu of the Gisborne Region. This Policy provides for this requirement in the context of the Coastal Environment. This Policy implements Objectives 2.5.2A, 2.5.2B, 2.5.2C and 2.5.2D. It also assists in the implementation of Policy 2.5.3A.

Principal reason: *In order for Council to implement all its Objectives in relation to Maori, it is essential that Council develops a mechanism which facilitates direct communication with Hapu that are affected by issues. This is a requirement of the Regional Policy Statement for the Gisborne Region.*

2.5.4N ▶ The Council, in conjunction with hapu, will facilitate the research, recording, storage, and management of information on waahi tapu and other sites/areas of special value to tangata whenua in the Coastal Environment in accordance with tikanga Maori, for the purpose of providing the appropriate level of protection for such sites.

Explanation: Section 6(e) of the Resource Management Act 1991 provides for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. In order to achieve this, it is necessary first to be able to identify those sites and values. Maori may not be comfortable with identifying these sites and means must be developed to identify them with the approval of Maori who own the information. This Policy supports Objective 2.5.2A.

Principal reason: *In order to meet the requirements of the Resource Management Act 1991 it is necessary to be able to identify site of significance to Maori and recognise, at the same time that this information is sensitive and wholly owned by Maori. It should be gathered and stored in a way that accords with Maori custom and respects the value of the information.*

2.5.5 Methods

2.5.5A ▶ The Council shall assist Hapu/Iwi Authorities to develop methods of recording sites and resources of significance to Maori within the Gisborne District Coastal Environment and in accordance with Tikanga Maori.

Guiding Policy

Principal reason: *This Method implements Policy 2.5.3N by investigating with Maori the appropriate means of recording sensitive information for the Councils use, without removing the information from the owners of it.*

2.5.5B ▶ The Council will, in conjunction with Hapu, identify sites of special value to Maori for inclusion in this Plan as either Protection Management Areas or Sites of Cultural Sensitivity if desired by Hapu.

Principal reason: *Maori may consider that the most appropriate means of providing protection for special value sites is to have them incorporated into Protection Management Areas or otherwise recognised as sites of Cultural Sensitivity in Appendices 2 and 3 of this Plan. Sites of special value to Maori can only be incorporated into this Plan if they are identified by Maori as the experts on these sites. This Method implements Policy 2.5.3F.*

2.5.5C ▶ The Council will ensure that resource management documents and processes where appropriate, recognise the Maori language and Maori place names.

Principal reason: *The Maori language is a Taonga of Maori and an official language of New Zealand/Aotearoa. This method implements Policy 2.5.3L and is necessary to give effect to Section 6(e) of the Resource Management Act 1991.*

2.5.5D ▶ The Council will identify effects that could detrimentally affect special value sites in the Coastal Environment and adopt rules for the protection of such sites in the Coastal Marine Area, and in District Plans for areas landward of the Coastal Marine Area, which include:

- (i) Setting standards for permitted activities (where possible) to ensure that any environmental effects of the activities are not culturally insensitive.
- (ii) Consideration of Maori values in the assessment of controlled, discretionary and non-complying activities.
- (iii) Prohibiting activities which are clearly inappropriate in terms of their environmental effects on special value sites.

Principal reason: *The Resource Management Act 1991 requires decisions to be made based on the effects of activities on the environment. While it may not be possible to identify all sites that have cultural significance to Maori in order to afford them some measure of protection, it may be possible to identify the kinds of effects of activities that could harm or destroy sites. This Method requires Council to identify what types of effects will be adverse on culturally sensitive sites and establish mechanisms for preventing those effects from occurring in the appropriate Plans. This Method implements Policy 2.5.3F.*

2.5.5E ▶ The Council may adopt methods, including rules, in the Coastal Marine Area and in District Plans that provide for the customary use and development of ancestral resources while avoiding any adverse environmental effects e.g. by:



Guiding Policy

- (i) Providing for marae and other customary uses in accordance with hapu aspirations.
- (ii) Facilitating access by Maori to ancestral resources.

Guiding Policy

Principal reason: *Maori have been guaranteed, under the Treaty of Waitangi, the right to their resources but this can be hindered if they are prevented from developing them or gaining access to them. This Method seeks to ensure Maori are not alienated from their resources provided any development occurs according to the principles of sustainable management which is the purpose of this Act. This Method is designed to take into account the principles of the Treaty of Waitangi and implements Policies 2.5.3A, 2.5.3D and 2.5.3H and Policy 3.2.6 of the New Zealand Coastal Policy Statement.*

2.5.5F ▶ The Council will investigate, in conjunction with tangata whenua, the appropriateness of Heritage Orders and Water Conservation Orders for protection of sites of special value to Maori.

Principal reason: *Heritage Orders and Water Conservation Orders are mechanisms provided in the Resource Management Act 1991 that may assist Maori to provide protection over areas and values of significance to Maori. This Method is designed to ensure these mechanisms are considered among the range of measures that may be adopted to ensure adequate protection is given to these sites and areas while ensuring Maori understand and support their use. This Method implements Policies 2.5.3D and 2.5.3E.*

2.5.5G ▶ The Council will encourage and support other methods of recognition and/or protection beyond the scope of Resource Management Act including:

- ▶ Open space covenants
- ▶ Maori Reservations
- ▶ Fisheries Legislation
- ▶ Marine Reserves

Principal reason: *This Method recognises that there are other means that may be more appropriate in some circumstances to achieve protection of sites and values of cultural significance to Maori and these methods should be supported where they are the preferred option of Maori. This Method implements Objective 2.5.2A.*

2.5.5H ▶ The Council will support and may provide appropriate services to facilitate better public appreciation of special value sites in a manner acceptable to tangata whenua.

Principal reason: *This Method recognises that an educative approach to the identification of sites of special cultural significance to Maori may create greater understanding of Maori Culture which may lead to a better appreciation of the need to protect sites. This Method implements Policy 2.5.3F.*

2.5.5I ▶ The Council may consider the transfer of its functions, power and duties, in accordance with section 33 of the Act, where it is satisfied that the transfer is desirable on all of the following grounds:

Guiding Policy

- (i) The authority to which the transfer is made represents the appropriate community of interest relating to the exercise or performance of the function, power or duty;
- (ii) Efficiency;
- (iii) Technical or special capability or expertise.

Principal reason: Policy 2.1.3 of the New Zealand Coastal Policy Statement states that where characteristics have been identified as being of special value to tangata whenua, the local authority should consider the transfer of its functions, powers and duties to Iwi/Hapu authorities. This Method is a requirement of the NZCPS and implements Policies 2.5.3A and 2.5.3D.

2.5.5J ▶ The Council shall invite hapu in the Coastal Environment to compile a list of commissioners for possible appointment to hearing committees where applications for resource consents affect Hapu.

Principal reason: In order for Maori to fulfil their Kaitiaki responsibilities and to recognise Rangatiratanga, it may be appropriate for Maori representatives to act as commissioners for some hearings in order to assist the hearing committee to arrive at decisions that take into account the perspectives of the Maori culture. It would assist the Council if a list of suitable people was drawn up prior to the need arising. This Method is designed to achieve this and implements Policy 2.5.3K.

2.5.5K ▶ The Council shall, in accordance with Tikanga Maori and pursuant to the Maori Language Act 1987 (Te Reo Maori), provide for the use of the Maori Language before any hearing committee considering resource management issues in the Coastal Environment. Early indication by people of the intention to use the Maori language will facilitate the provision of a translator for the benefit of those people who cannot speak Maori.

Principal reason: The Maori language is a Taonga of Maori and an official language of New Zealand. Section 39(2) of the Resource Management Act 1991 provides for the Maori language to be used when giving evidence in accordance with the Maori Language Act 1987. While it is not necessary to repeat the Act, in this case it is useful to do so in order to ensure that those who wish to use the Maori language at hearings understand that they may do so. This Method implements Policy 2.5.3L.

2.5.5L ▶ The Council shall compile a register of people in the Gisborne District who are competent interpreters of the Maori Language, holding a certificate of competency pursuant to the Maori Language Act 1987 (Te Reo Maori).

Principal reason: In order to ensure that Method 2.5.4L above is utilised to the fullest extent and other needs for translation and interpretation of Te Reo Maori are met, it is necessary to have on hand information on who is competent to interpret Te Reo Maori.

Guiding Policy

The Maori Language Act 1987 provides for the establishment of a National Certificate of Competency for interpreters that may be used on official business and a register of those people in the Gisborne District who hold such a certificate would enable Council to respond quickly to any need for such services. This Method implements Policy 2.5.3L.

2.5.5M ▶ The Council may provide for hearings under the Resource Management Act 1991 to be held, where appropriate, on Marae.

Principal reason: *A concern expressed frequently by Maori and Council is the fact that Maori find the process and trappings of Hearings uncomfortable and foreign. This may inhibit Maori participation in the Resource Consent process which places at risk values and perspectives important to Maori. This Method recognises that there may be circumstances where hearings should be held on Marae, where Maori would feel more able to express their views. While this may inhibit other people attending, the net benefit may override the discomfort when Maori feel they can participate more fully in the Resource Management process. It is relevant to note that the Environment Court has sat on Marae to conduct its business. This Method implements Policy 2.5.3A.*

2.5.6 Environmental Results Anticipated

- A. Special value sites within the Coastal Environment will be protected in accordance with tangata whenua aspirations.
- B. Subdivision, use and development within the Coastal Environment will not adversely affect those sites of special value to tangata whenua.
- C. The cultural well-being of the District's coastal communities will be enhanced.
- D. Greater amenity value associated with the District's Coastal Environment.
- E. Greater involvement of tangata whenua in the management of the Coastal Marine Area as kaitiaki of the coast of the Gisborne District.

2.5.7 Monitoring

Periodic hui will be held with tangata whenua groups to see whether and to what extent progress is being made towards furthering Maori interests and alleviating their concerns, in regard to management of coastal resources. A periodic monitoring report will be prepared based on the outcome from the hui and audits of Council activities in relation to policies and methods detailed in the Regional Coastal Environment Plan, which sets out the progress which has been made and considers whether changes to rules or procedures are necessary.