

# Final Report

## Stage 2 of TRPS Efficiency and Effectiveness Review: Statutory Obligations

Please note that since this report was prepared there have been further legislative changes and new national directives which Council staff will consider, alongside this report, in developing the Tasman Environment Plan.

Report by:  
Greg Mason,  
Inform Planning Ltd

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# 1. Review of the Tasman Regional Policy Statement

## 1.1 Purpose of the TRPS Review

The Tasman Regional Policy Statement (TRPS) was made operative in 2001. The Resource Management Act (RMA) sets out the purpose of regional policy statements, as well as the matters to be considered and content requirements<sup>1</sup>. The purpose is to provide an overview of the key resource management issues within Tasman District as well as a policy framework to achieve integrated management of the District's natural and physical resources.

The TRPS has been in effect for 18 years and it has remained unchanged over that time. Pursuant to s79 of the RMA, Tasman District Council (TDC) is required to formally review the TRPS provisions. In addition, s35 of the RMA requires TDC to monitor the efficiency and effectiveness of the policies and methods of the TRPS. Such monitoring is mandatory.

As a consequence, TDC has embarked on a review of the TRPS to evaluate the extent to which its provisions:

- have achieved integrated management of natural and physical resources;
- continue to meet statutory obligations by responding to amendments to the RMA and giving effect to national directives;
- continue to identify and respond to the significant resource management issues of Tasman; and
- have contributed to the direction of environmental change that is broadly in line with national and community expectations.

The early stages of the TRPS review are largely backward-looking exercises; they seek to determine how effective and efficient its provisions have been in achieving its purpose under the RMA and highlights where changes are needed. Forward looking exercises will be undertaken to better understand new key issues for the region. The results and recommendations from each stage will inform the development of the second generation TRPS.

At the same time that the TRPS review is being carried out, the effectiveness and efficiency of the Tasman Resource Management Plan (TRMP) is also being evaluated. The two reviews are closely interlinked.

## 1.2 Stages in the TRPS Review

To determine the effectiveness and efficiency of the TRPS in meeting its purpose under the RMA, the following four stages are being followed:

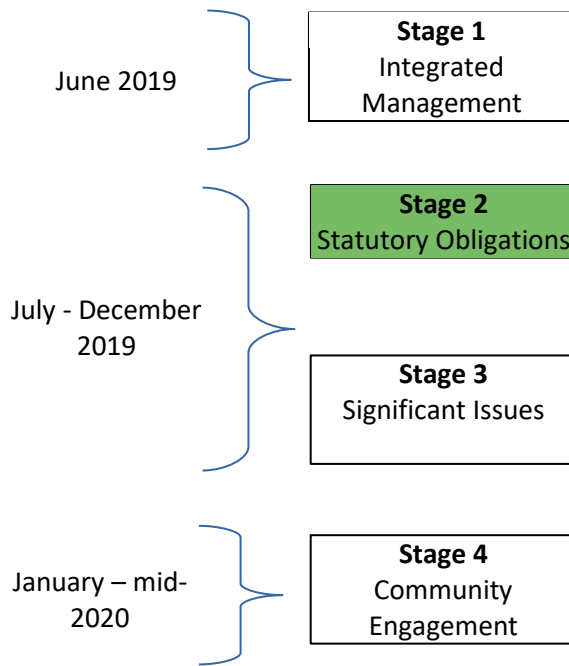
- Evaluating the extent to which the TRPS has achieved **integrated management** by determining how fully the issues, objectives and policies in the TRPS have been integrated (or 'given effect to') in the TRMP.
- Ensuring the TRPS is meeting its **statutory obligations** by reviewing relevant changes to the RMA, national-level policies and standards, and any other relevant plans and strategies that may need to be incorporated.

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<sup>1</sup> The provisions of ss59-62 of the RMA are set out in Appendix 1

- Assessing whether the issues identified in the TRPS continue to be **significant issues** or whether changes are required, by responding to shifts in legislative priorities, identifying significant issues in relevant iwi planning documents, reviewing environmental trend data, and undertaking rapid assessment workshops with council staff.
- Canvassing **political, iwi and community views** on the District’s significant issues by identifying new or changes to significant issues through council, iwi and community workshops and hui.

As shown below, Stage 1 has been completed, Stage 2 is the focus of the current report, Stage 3 is addressed in a separate report, and Stage 4 will be carried out over the first half of next year and reported on mid-2020.



### 1.3 Statutory Obligations

The purpose of this report, then, is to identify relevant changes to legislation (predominantly the RMA) and the requirements of national directives, including National Policy Statements (NPS) and National Environmental Standards (NES), that need to be incorporated in the second generation TRPS.<sup>2</sup>

Given that the current TRPS has not been reviewed or updated since it was made operative in 2001 a considerable number of changes are required. Specifically, there have been at least 12 relevant amendments to the RMA and 11 national directives have been developed (five NPSs and six NESs).

In addition to considering legislative changes and national directives, preparation of this report has involved identifying:

- Any inconsistencies with the regulations made under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (as required by RMA s61 (2c)); and

<sup>2</sup> Regional policy statements, regional plans and district plans are required to “give effect to” NPSs and NES; “give effect to” means ‘to implement’.

- If and where any planning documents have been prepared by a customary marine title group (as required by RMA s61 (2A)).

## 1.4 Structure of Report

The report findings are presented as follows:

- A summary of the recommendations made in the report starts on the following page;
- A description of RMA amendments and their implications for the TRPS is set out on pages 11-29;
- A description of all current National Policy Statements and their implications for the TRPS is set out on pages 30-41;
- A description of all current National Environmental Standards and their implications for the TRPS is set out on pages 42–45; and
- The assessment of consistency between the TRPS and regulations made under the EEZA is set out on pages 46–48.

## 2. Summary of Recommendations

The following is a summary of the recommendations to amend the TRPS made in each section of this report. Please refer to the individual sections for the full recommendations.

### Resource Management Act (and Related) Amendments

#### **Resource Legislation Amendment Act 2017**

Review the natural hazard provisions to ensure they 'recognise and provide for' the new s6 matter of national importance regarding "The management of significant risks from natural hazards". The provisions need to apply a consistent risk-based approach and factor in the increasing frequency and severity of hazard events due to climate change.

Review the hazardous substances provisions and remove those that are now covered under the Hazardous Substances and New Organisms Act and the Health and Safety at Work Act.

Include provisions to ensure there is sufficient housing and business development capacity to meet expected short, medium and long-term demand. Refer also to the recommendations for the NPS on Urban Development Capacity 2016 (p.36).

Provide clear guidance on when subdivision is suitable as a permitted activity, for instance in areas designated for future residential development, and where rules in the TRMP are required in order to achieve relevant objectives.

Where available, include the use of Mana Whakahono a Rohe (iwi participation agreements); and the appointment of commissioners with an understanding of Tikanga Māori as methods to ensure an understanding of Te Ao Māori is reflected in decision-making, and to promote good environmental outcomes.

#### **Resource Management Amendment Act 2013**

Include a method stating that trees to be protected on 'urban environment allotments' will be identified in a schedule to the TRMP.

#### **Māori Commercial Aquaculture Claims Settlement Act 2004 (and Amendment Act 2011) and the Resource Management Amendment Act (No 2) 2011**

Update provisions relating to marine farming to reflect the new RMA provisions, relevant NZCPS 2010 objectives and policies, Environment Court decisions, and the outcome of private Plan Change 61 (Wainui Bay).

#### **Marine and Coastal Area (Takutai Moana) Act 2011**

Identify and consider the relevant resource management matters included in a planning document lodged under this Act (when they are available) and determine whether the matters should result in amendments to the TRPS.

#### **Resource Management (Simplifying and Streamlining) Amendment Act 2009**

Refer to the existence of the Environmental Protection Authority and its role in hearing applications of national significance.

#### **Resource Management Amendment Act 2005**

Include provisions to address the new functions for managing contaminated land. Refer also to the recommendations for the NES on Managing Contaminants in Soils 2011 (p.44).

### **Resource Management (Energy and Climate Change) Amendment Act 2004**

Update the TRPS to 'have particular regard to' new s7(ba) "the efficiency of the end use of energy" and new s7(j) "the benefits to be derived from the use and development of renewable energy". Refer also to the recommendations for the NPSs on Electricity Transmission 2008 (p.30) and Renewable Energy Generation 2011 (p.35).

Clearly identify and respond to the effects of climate change, as required by the new s7(i). Having a 'Climate Change Effects' section in the TRPS would be one way of integrating provisions that are aimed towards climate change adaptation.

### **Resource Management Amendment Act 2003**

Update the provisions (and definition) to 'recognise and provide for' historic heritage protection as a s6 matter of national importance. This will necessitate stronger provisions within the TRPS to identify and protect historic heritage.

Update the TRPS to explicitly implement the new regional and district council functions to address the "maintenance of biological diversity".

### **Resource Management Amendment Act 1997**

Update the TRPS provisions (and definition) in conjunction with iwi to recognise kaitiakitanga as a significant resource management matter.

### **General**

Update new definitions (as shown) and ensure consistency with the definitions standard set out in the national planning standards.

Update references to legislation where required, e.g. the Forests Act 1949 (significantly amended in 2004), Harbours Act 1950 (repealed by the Local Government Amendment Act (No 2) 1999), and the Historic Places Act (now the Heritage New Zealand Pouhere Taonga Act 2014).

## **National Policy Statements**

### **Recommendations for 'Giving Effect to' the NPS on Electricity Transmission 2008 (NPS-ET):**

- Include an Energy section in the TRPS that deals with the matters required by NPS-ET and NPS-Renewable Energy Generation (see below). The existing TRPS section should largely be rewritten.
- Explicitly recognise and provide for the 'electricity transmission network', and identify the national and regional benefits of electricity transmission.
- Include objectives, policies and methods to 'recognise and provide for' the full range of matters of national importance specified in the NPS-ET, i.e. the need to 'operate, maintain, develop and upgrade' the electricity transmission network.
- Include the TRMP planning maps as a method for identifying both designated and undesignated parts of the network in Tasman District.
- Include a policy to facilitate long-term planning for investment in transmission infrastructure and its integration with land uses, notably the designation process.

## **Recommendations for 'Giving Effect to' the NZ Coastal Policy Statement 2010 (NZCPS):**

- Recognise the need to identify the extent of the coastal environment (i.e. the inland boundary), and use the TRMP planning maps as a means of delineating the coastal environment boundaries.
- Include mātauranga Māori in TRPS provisions; provide opportunities for tangata whenua to fulfil their kaitiakitanga role in accordance with tikanga Māori; address issues and incorporate relevant provisions from iwi resource management plans.
- Ensure the TRPS adopts a precautionary approach that covers use and management of coastal resources, particularly vulnerable to the effects from climate change.
- Update the TRPS to implement the Future Development Strategy aims of consolidating future development in existing settlements while avoiding development in sensitive environments; include provisions promoting potential for renewable marine energy.
- Identify and avoid / protect / preserve coastal areas that are unsuitable for subdivision, use or development, including outstanding natural landscapes and features, areas of natural character, areas of significant indigenous vegetation and significant habitats of indigenous fauna, and areas subject to coastal hazards; identify and manage adverse cumulative effects that threaten or place at significant risk coastal processes, resources or values.
- Update the TRPS to take account of changes in aquaculture practices following amendments to the RMA, court decisions, and TRMP plan changes.
- Provide for the control of activities in or near the CMA that could cause harmful aquatic organisms to be released or spread and make reference to the Nelson-Tasman Pest Management Plan 2019-2029.
- Emphasise the need for restoration / rehabilitation of natural character of the coastal environment, including identification of areas and opportunities for doing so and setting out methods to enable restoration to occur.
- Update the TRPS provisions to recognise and provide for historic heritage protection as a matter of national importance (s6(e) & (f)); ensure the TRPS identifies the range of coastal heritage resources and qualities provided for in the RMA definition; include provisions for the identification and protection of Māori historic heritage in collaboration with mana whenua.
- Ensure provision of public open space that takes account of the likely impact of coastal processes and climate change.
- Update TRPS provisions to more effectively identify and control activities that cause or exacerbate sedimentation in and contamination of waterways (refer to TRMP land disturbance review); prioritise improvement of coastal water quality in locations having evidence of poor quality.
- Update TRPS to reflect work done on addressing coastal inundation in the District; ensure coastal hazards are identified using a 100 year hazard-risk timeframe and having regard to the effects of climate change; ensure subdivision, use and development avoids increasing the risk of coastal hazard effects or harm; encourage redevelopment or change in land use where that would reduce the risk of effects from coastal hazards; consider showing hazard risk areas on TRMP planning maps.
- Promote natural defences to coastal hazards (beaches, estuaries, wetlands etc) over hard protection structures such as seawalls.

### **Recommendations for ‘Giving Effect to’ the NPS on Renewable Energy Generation 2011 (NPS-REG):**

- Ensure objectives, policies and methods ‘recognise and provide for’ the full range of matters of national importance specified in the NPS-REG, i.e. the need to ‘develop, operate, maintain and upgrade’ REG activities.
- Acknowledge the need to protect existing REG activities, including the structures and infrastructure that support it, as well as the need to increase new REG activities in order to provide for the country’s energy needs and to meet the national target.
- Provide for offset and environmental compensation measures to be considered where the effects of an REG activity cannot be avoided, remedied or mitigated.
- Identify sensitive receiving environments where REG activities should be avoided or subject to a higher threshold.
- Include objectives, policies and methods that provide for small and community-scale distributed renewable electricity generation from any renewable energy source.
- Include objectives, policies and methods that provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for renewable electricity generation by existing and prospective generators.

### **Recommendations for ‘Giving Effect to’ the NPS on Urban Development Capacity 2016 (NPS-UDC):**

- Establish new objectives that introduce the 2019 Future Development Strategy (FDS) growth concept (intensification and expansion areas) and give statutory support to the overall settlement pattern.
- Establish new objectives and policies to enable centres-based intensification of the existing urban area, noting that the character of those places will be subject to change over the medium to long term.
- Afford greater policy support for well-designed intensification in appropriate locations within existing urban areas, and discourage poorly-designed or located intensification proposals.
- Provide policy support for urban expansion areas that are consistent with the first stages of the 2019 NTFDS (2028–2038).
- Establish staging ‘triggers’ that manage the release of the larger urban expansion areas identified in the second stage of the 2019 FDS (2038–2048) (or subsequent reviews), based on factors such as overall population growth rates, percentage of new housing located in intensification areas, housing preferences and adequate forward supply of development opportunities.
- Achieve coordinated and logical urban growth, including efficient integration of land use and necessary infrastructure.

### **Recommendations for ‘Giving Effect to’ the NPS on Freshwater Management 2017 (NPS-FM):**

Update objectives, policies and methods in the TRPS to ensure they:

- ‘Consider and recognise’ Te Mana o Te Wai, including the connection between the health of water, the broader environment, and people.
- Engage with tangata whenua and the wider community to consider and recognise Te Mana o te Wai in decision making for freshwater, e.g. by identifying freshwater values and setting objectives and limits.
- Safeguard fresh water’s life-supporting capacity, ecosystem processes and indigenous species, and protect the significant values of wetlands and outstanding freshwater bodies.



- Safeguard the health of people who come into contact with the water and improve water quality so it is suitable for primary contact more often.
- Establish freshwater management units (FMU) covering all waterbodies in the District; establish objectives and set of freshwater quality limits for all FMUs, and maintain or improve the overall quality of fresh water within a FMU.
- Follow a specific process (the national objectives framework) for identifying the values that tangata whenua and communities have for water, and using a specified set of water quality measures (called attributes) to set objectives.
- Set limits on resource use (e.g. how much water can be taken or how much of a contaminant can be discharged) to meet limits over time and ensure they continue to be met.
- Take an integrated approach to managing land use, fresh water and coastal water (ki uta ki tai – ‘from the mountains to the sea’).
- Establish and operate a freshwater accounting system to improve information on freshwater takes and sources of freshwater contaminants.

## National Environmental Standards

### **Recommendations for ‘Giving Effect to’ the NES for Air Quality 2004:**

- Review the TRPS objectives, policies and methods to ensure they recognise and respond to the seven activities banned by the NES and the five ambient standards for outdoor air quality.
- Identify Richmond as an airshed that is known to exceed air quality standard for PM<sub>10</sub>.
- Consider the use of air shed action plans as a method to assist with compliance with the Air Quality NES.
- Provide any necessary direction with regards to management of the District’s landfills to address emissions.

### **Recommendations for ‘Giving Effect to’ the NES for Sources of Drinking Water:**

Review TRPS objectives, policies and methods to ensure they require:

- The declining of discharge or water permits that are likely to result in community drinking water becoming unsafe for human consumption following treatment.
- Permitted activities in regional plans to not result in community water supplies being unsafe for human consumption following existing treatment.
- Conditions are placed on relevant resource consents that require notification of drinking water suppliers if significant unintended events occur (eg spills) that may adversely affect sources of human drinking water.

### **Recommendations for ‘Giving Effect to’ the NES for Electricity Transmission Activities (2009):**

See recommendations above for the NPS on Electricity Transmission 2008 (p.6).

### **Recommendations for 'Giving Effect to' the NES for Assessing and Managing Contaminants in Soil to Protect Human Health (2011):**

Review the TRPS objectives, policies and methods to ensure they enable the safe use of affected land by:

- Applying the regulations for the specified activities where there is a potential that soil is contaminated in such a way as to be a risk to human health activities.
- Ensuring the planning controls relevant to assessing and managing public health risks from contaminants in soil are appropriate and nationally consistent.
- Establishing soil contaminant standards protective of human health and requiring their use when decisions are made under the NES.
- Updating references to the public register to instead refer to the Hail list.
- Ensuring best practice and consistent reporting on land affected or potentially affected by contaminants is applied to enable efficient information gathering and consistent decision-making.

### **Recommendations for 'Giving Effect to' the NES for Telecommunication Facilities (2016):**

Review the TRPS objectives, policies and methods to ensure they require:

- Identification of the regulated activities to which the NES relates.
- Application of appropriate standards in determining whether the regulated activities require consent.
- Identification of when plan provisions may be more stringent (e.g. to protect historic heritage values, outstanding natural features etc).

### **Recommendations for 'Giving Effect to' the NES for Plantation Forestry (2017):**

Review the TRPS objectives, policies and methods to ensure they require:

- Identification of the regulated activities to which the NES relates.
- Application of appropriate standards in determining whether the regulated activities require consent.
- Identification of when plan provisions may be more stringent than the NES (e.g. for soils susceptible to erosion such as Separation Point granites and karst systems).

### [Regulations made under the EEZA](#)

There have been four regulations made under the EEZA. For the reasons outlined in Table 6.1 (starting p.46), the provisions in the TRPS are not inconsistent with any of these regulations and consequently no recommendations for change have been made. When the TRPS is updated, new or amended provisions should be assessed against the EEZA regulations to ensure consistency where relevant.

### [Planning Documents Prepared by a Customary Marine Title Group](#)

To date no planning documents have been prepared by a customary marine title group, although a number of applications relating to the Tasman District have been made and are currently being assessed. Further details about this process is given on p.19.

### 3. Amendments to the Resource Management Act and Implications for the TRPS

The amendments set out in Table 3.1 below are those that may affect the substantive matters dealt with in the TRPS, i.e. issues, objectives, policies and methods. It does not cover amendments to the processes for developing or implementing the TRPS (e.g. consultation requirements), or to amendments that relate to regional and district plan implementation (including the resource consent process).

RMA AMENDMENT	IMPLICATIONS FOR TRPS
<b>Resource Legislation Amendment Act 2017<sup>3</sup></b>	
<p><b>The RMA has been amended to introduce new sections 58B to 58J</b>, to create a new type of national direction called national planning standards. These form a standardised national framework for RMA plans and policy statements.</p> <p>Previously there has been no national direction for how councils should structure or format their district and regional plans and regional policy statements under the RMA. The intent of this change is to:</p> <ul style="list-style-type: none"> <li>• provide greater national consistency in plans and policy statements</li> <li>• reduce the complexity and cost of creating plans and policy statements</li> <li>• improve user-friendliness of plans and policy statements.</li> </ul> <p>The first set of national planning standards must be gazetted within two years of Royal Assent of the Bill. These standards may be reviewed and updated as needed, but must cover the following topics:</p> <ul style="list-style-type: none"> <li>• a standard structure and form for policy statements and plans, including references to National Policy Statements (NPS), National Environmental Standards (NES and regulations;</li> <li>• standardised definitions;</li> <li>• requirements for electronic functionality and accessibility of plans and policy statements.</li> </ul> <p>Different timeframes apply to the implementation of the first set of standards.</p>	<p>TDC has decided to combine the TRPS and TRMP into a single Tasman Environment Plan.<sup>4</sup> The national planning standards<sup>5</sup> prescribe what such a combined plan must contain; it must have six parts:</p> <ol style="list-style-type: none"> <li>1. Introduction and General Provisions;</li> <li>2. Resource Management Overview;</li> <li>3. Domains and Topics;</li> <li>4. Area Specific Matters;</li> <li>5. Evaluation and Monitoring; and</li> <li>6. Appendices and Maps.</li> </ol> <p>Part 2 above must contain the RPS provisions under the following three chapter headings: ‘Significant resource management issues for the region’, ‘Resource management issues of significance to iwi authorities’, and ‘Integrated management’. MfE Guidance on implementing the national planning standards<sup>6</sup> describes Part 2 as:</p> <p style="padding-left: 40px;"><i>...the ‘engine room’ of the RPS where significant issues are discussed, priorities weighed, and decisions made to resolve conflicts. It is important for an RPS to enable integrated treatment of significant resource management issues, so the structure allows for one set of significant issues, and issues significant to iwi, to be expressed broadly in Part 2.</i></p>

<sup>3</sup> See also <https://www.mfe.govt.nz/rma/previous-rma-amendments/about-resource-legislation-amendment-act-2017>

<sup>4</sup> See <https://intranet.tasman.govt.nz/my-council/projects/tasman-environment-plan/>

<sup>5</sup> See <https://www.mfe.govt.nz/publications/rma/national-planning-standards>

<sup>6</sup> p.5, <https://www.mfe.govt.nz/Node/24908>

RMA AMENDMENT	IMPLICATIONS FOR TRPS
	<p><i>The structure does not predetermine what these issues might be; it's up to each group of councils and iwi to decide what is significant in the regional context.</i></p> <p><i>The integrated management chapter is where cross-cutting issues can be discussed and any necessary trade-offs made. We expect the objectives in this chapter to be broad and multi-faceted, with policies and methods that reach into multiple domains and topics. This chapter could also be a location for any process matters which are not 'cross-boundary issues', to ensure that integrated management is achieved across the councils within a region.</i></p> <p>MfE note that there are different approaches to determining what constitutes a 'significant' resource management issue. They recommend prioritising the top three or four issues (which are generally broadly expressed and cover multiple resources), rather than considering all issues 'significant'.</p>
<p><b>New s6(h) added: “The management of significant risks from natural hazards”.</b></p> <p>The intent is to provide an explicit mandate for decision-makers to manage significant risks from all natural hazards (as defined in section 2 of the RMA) at national, regional or local level as part of any Part 2 assessment.</p> <p>This matter supports:</p> <ul style="list-style-type: none"> <li>• regional councils functions under s30 &amp; 31 to ‘avoid or mitigate natural hazards’.</li> <li>• an amendment to section 106 of the RMA, which requires consideration of all risks from natural hazards in subdivision consent applications.</li> <li>• an amendment to section 220 of the RMA, which replaces reference to specific natural hazards with the more general “natural hazards” in relation to conditions of subdivision consents.</li> </ul> <p>Section 106 emphasises a risk-based approach, taking into account both the likelihood and consequences of natural hazards.</p>	<p>The TRPS has a number of provisions aimed at managing natural hazard risks:</p> <ul style="list-style-type: none"> <li>• Issue 5.2, Objective 5.2 and Policy 5.2 regarding natural hazards risks to urban development;</li> <li>• Issue 6.2, Policy 6.2 regarding risks to rural subdivision and land use;</li> <li>• All of section 11 (excluding reference to hazardous substances).</li> </ul> <p>The TRPS now needs to “recognise and provide for” this new s6 matter as a matter of national importance, taking a risk-based approach. At present, the language in some TRPS provisions emphasise risk (particularly those in Section 11), whereas others focus on effects.</p>

RMA AMENDMENT	IMPLICATIONS FOR TRPS
	<p>Examples of provisions that emphasis risk management are:</p> <p><i>O11.1: Reduced risks arising from flooding, erosion, inundation and instability and earthquake hazards.</i></p> <p><i>P11.1 The Council will seek to reduce risks to communities in relation to land use and development on floodplains that are subject to flooding.</i></p> <p>Examples of provisions that instead focus on avoiding, remedying or mitigating effects are:</p> <p><i>O5.2 Avoidance, remedying or mitigation of the adverse effects arising from urban development locating or expanding in:</i></p> <p><i>(i) hazard-prone areas;...</i></p> <p><i>P5.2 The Council will avoid locating new urban development in areas subject to natural hazards...</i></p> <p>Consequently the provisions should be reviewed to ensure they consistently take a risk-based approach. More work may be required to identify and categorise known hazards in the Tasman District by the degree of risk they pose.</p> <p>Additionally, the elevation of natural hazards to a matter of national importance may necessitate provisions restricting subdivision, use and development to a greater extent than is currently the case, particularly where significant risks are identified. The risk of increasingly frequent and severe natural hazards due to climate change will also need to be a central consideration (discussed in more detail on pp.23-24 below).</p> <p>Evidence from recent natural hazard events should be taken into account in reviewing the natural hazard provisions, particularly regarding how land uses have exacerbated the risks and how this can be avoided or minimised in the future. Examples of recent events include ex-tropical cyclones Fehi and Gita (Feb 2018), and the Pigeon Valley fire (Feb 2019).</p>

RMA AMENDMENT	IMPLICATIONS FOR TRPS
<p><b>New s18A added requiring decision-makers to implement new procedural principles, notably:</b></p> <ul style="list-style-type: none"> <li>• Plans and policy statements are only to address matters relevant to the RMA;</li> <li>• Plans and policy statements are to use clear and concise wording;</li> <li>• Councils should collaborate on common resource management issues.</li> </ul>	<p><b>Addressing RMA Matters Only</b></p> <p>By and large the TRPS includes matters that are relevant to the RMA, with two exceptions. Firstly, a number of provisions relate to out-of-date legislation (e.g. those governing fisheries management (Policy 9.5) and hazardous substances (Section 10)), which means that TDC now has a reduced role to play under the RMA. Consequently these provisions can either be removed or scaled back.</p> <p>Secondly, a number of TRPS provisions deal with council process in implementing the RMA (notably Section 13) and do not necessarily need to be included in the TRPS.</p> <p><b>Clear and Concise Wording</b></p> <p>A review of integration between the TRPS and TRMP<sup>7</sup> found that some provisions in the TRPS are overly detailed and long, and include multiple matters that would be clearer if they were dealt with separately. Similarly, there was considerable repetition between some TRPS sections and therefore room for consolidation. The following recommendations were made in the report to address these findings:</p> <ul style="list-style-type: none"> <li>• Remove repetition within and between sections.</li> <li>• Clarify the intent of provisions where the meaning of words is unclear or where they could be interpreted in different ways.</li> <li>• Avoid wordy objectives and policies that cover a wide range of issues and end up as a long list.</li> </ul> <p><b>Collaboration between Councils</b></p> <p>There is already collaboration between TDC and adjoining councils, particularly Nelson City Council, on common resource management issues. For instance, the Future Development Strategy 2019 was prepared between Nelson City and Tasman District</p>

<sup>7</sup> Mason (2019). *Stage 1 of Tasman Regional Policy Statement Efficiency and Effectiveness Review: Integrated Management*; p.7.

RMA AMENDMENT	IMPLICATIONS FOR TRPS
	councils to address demand for housing and business land. This type of joint effort should and no doubt will continue.
<p><b>Ss30 &amp; 31 amended to add a new function for all councils</b> to establish, implement and review objectives, policy and methods to ensure that there is 'sufficient housing and business development capacity' to meet expected short, medium and long-term demand.</p> <p>The intent of this change is to enable better provision of residential and business development capacity in decision-making by councils under the RMA, and to contribute to improved housing affordability.</p> <p>The new functions are further supported by the National Policy Statement on Urban Development Capacity.</p>	See discussion under 'National Policy Statement on Urban Development Capacity' starting on p.36 below.
<p><b>The explicit function for councils to control hazardous substances has been removed from ss30 &amp; 31.</b></p> <p>Some existing RMA controls on hazardous substances duplicate or increase those in place under the <i>Hazardous Substances and New Organisms Act 1996</i> (HSNO), which regulates the management, disposal, classification, packaging and transport of hazardous substances, and the <i>Health and Safety at Work Act 2015</i> (HSW), which establishes workplace controls for hazardous substances, and is the principal enforcement and guidance agency in workplaces.</p> <p>Sections 30 &amp; 31 of the RMA have been amended to remove the control of hazardous substances as a function of councils. This means councils no longer have an explicit obligation to regulate hazardous substances in RMA plans, or policy statements.</p> <p>The intention is that in most cases HSNO and HSW controls will be adequate to avoid, remedy or mitigate adverse environmental effects (including potential effects) of hazardous substances.</p> <p>However, Councils still have a broad function of achieving integrated management, and may use this function to place extra controls on hazardous substance use under the RMA, if existing HSNO or HSW controls are not adequate to address the environmental effects of hazardous substances in any particular case (including managing the risk of potential effects on the local environment).</p>	<p>The TRPS deals with hazardous substances in Sections 10 and 11. These provisions need to be reviewed and where they address matters covered under the HSNO and HSW Acts they may need to be removed.</p> <p>Areas where the RMA may still be applied to hazardous substances include:<sup>8</sup></p> <ul style="list-style-type: none"> <li>• Managing the establishment of hazardous substances/facilities adjacent to and within sensitive environments to ensure acceptable levels of risk of off-site adverse effects.</li> <li>• Preventing sensitive or incompatible activities establishing in areas where hazardous facilities/activities are located where these activities have the potential to constrain or curtail the operation of a lawfully established hazardous facility.</li> <li>• Addressing cumulative risks of hazardous facilities, particularly for larger facilities to ensure risks are acceptable.</li> <li>• Avoiding location of activities which use hazardous substances in areas subject to natural hazards.</li> <li>• Managing discharges of hazardous</li> </ul>

<sup>8</sup> From the Quality Planning website. 2019. *Hazardous Substances Under the RMA*. <https://www.qualityplanning.org.nz/node/695>

RMA AMENDMENT	IMPLICATIONS FOR TRPS
	<p>substances/contaminants to land, water and air.</p> <ul style="list-style-type: none"> <li>Controlling hazardous substances that are not covered by HSNO (as the RMA definition is broader and encompasses a wider range of substances and hazardous properties, than under HSNO).</li> </ul> <p>The Quality Planning guidance suggests the following first steps when reviewing hazardous substances provisions:</p> <ol style="list-style-type: none"> <li>Identifying specific hazardous substance related activities that are occurring within the District that might pose a risk off site (such as Major Hazard Facilities);</li> <li>Identifying the probability of a particular risk event (such as a fire or explosion); and</li> <li>Identifying specific sensitive land uses that may require additional protection (e.g. sites of ecological significance and areas prone to natural hazards).</li> </ol> <p>TDC may then include controls on hazardous substances to address effects not appropriately addressed by compliance with the HSNO Act and HSW Act through the use of location specific risk overlays or separation distances.</p> <p>It is possible that following the review of TRPS provisions, hazardous substances will be removed from the TRPS as a regionally significant issue.</p>
<p><b>Section 11 of the RMA has been amended so that subdivision is now permitted unless expressly restricted by rules</b> in a district plan or a national environmental standard. This aligns with the presumption that land use is permitted unless restricted under section 9 of the RMA.</p>	<p>This change is more relevant to the TRMP than the TRPS. However, the TRPS could provide clear guidance on when subdivision controls are required in order to achieve relevant objectives.</p> <p>Equally, the TRPS may signal where subdivision has priority over other values and indicate that a permitted activity status is appropriate – e.g. areas designated for future residential development.</p>
<p><b>New Mana Whakahono a Rohe: Iwi participation provisions</b> (ss58L - 58U). The purpose of a Mana Whakahono a Rohe is to provide a mechanism for councils and iwi to come to agreement on ways tangata whenua may</p>	<p>The use of a Mana Whakahono a Rohe could be included as a new method in the TRPS, to ensure</p>



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<p>participate in RMA decision-making, and to assist councils with their statutory obligations to tangata whenua under the RMA.</p> <p>Once a Mana Whakahono a Rohe has been finalised, councils must review their internal policies and processes to ensure they are consistent with the Mana Whakahono a Rohe. This requirement ensures any Mana Whakahono a Rohe arrangements are properly implemented in council practice.</p>	<p>Māori involvement in decision-making on significant issues, and to promote good environmental outcomes.</p> <p>Currently, TDC does not have any Mana Whakahono a Rohe.</p>
<p><b>New provisions for appointing commissioner(s) with an understanding of tikanga Māori.</b></p> <p>New s34A(1A) requires councils, when appointing commissioners for plan or policy statement hearings, to consult iwi authorities about whether it is appropriate to appoint a commissioner who understands tikanga Māori and the perspectives of local iwi and hapū.</p> <p>If the council considers it appropriate, it can appoint at least one commissioner who understands these matters, in consultation with the relevant iwi authority.</p>	<p>The appointment of commissioners with an understanding of Tikanga Māori could be included as a new method in the TRPS, to ensure an understand of Te Ao Māori is reflected in decision-making and to promote good environmental outcomes.</p>
<p><b>Section 69 has been amended so that Schedule 3 no longer applies to fresh water.</b></p> <p>The intent of this change is to clarify that the national objectives framework introduced in the NPS for Freshwater Management applies instead of Schedule 3.</p> <p>Schedule 3 of the RMA contains water quality classes and standards that a council may use to set rules in a regional plan. The use of Schedule 3 is directed through s69. This allows a council to set rules based on the standards, unless the council considers those standards are inadequate (in which case they can set more stringent or specific standards).</p> <p>In 2014, the ‘national objectives framework’ was introduced into freshwater management through the National Policy Statement for Freshwater Management (NPS-FM). This established a process to guide council decision-making on fresh water. It includes updated water quality standards that councils can use in planning decisions, which supersede those set in Schedule 3 of the RMA.</p> <p>Note that councils are still able to apply Schedule 3 to manage geothermal and coastal water (as defined in section 2 of the RMA).</p>	<p>A number of TRPS freshwater provisions (e.g. Policies 10.1 &amp; 10.2) refer to water quality classes that are based on Schedule 3 of the RMA. Consequently, they need to be amended to implement the compulsory and other national values set out in Appendix 1 of the NPS-FM.</p> <p>Provisions for the Coastal Environment that refer to the Schedule 3 classification (e.g. Policy 9.8) do not need to be amended in this way.</p> <p>For further details, see discussion under ‘National Policy Statement on Freshwater Management’ starting on p.38 below.</p>
<b>Resource Management Amendment Act 2013<sup>9</sup></b>	
<p><b>Amendments to ss76(4)A &amp; B and new ss76(4)C &amp; D restrict the use of District rules to protect urban trees</b></p> <p>A district rule under the RMA can only restrict the felling, trimming, damaging or removal of trees on “urban environment allotments” if the trees and the allotments are specifically identified by street address, legal description, or both, in a schedule to the district plan.</p> <p>An “urban environment allotment” is defined as having an area of 4000 m<sup>2</sup> or less; is connected to reticulated sewerage and water supply services; has a building used for industrial, commercial or dwelling purposes; and is not a reserve or subject to a conservation management plan or strategy under the Conservation Act 1987 or Reserves Act 1977.</p> <p>Trees can be identified in a schedule as a group on two or more adjacent urban environment allotments, if the trees together form a “cluster, line or grove”. If</p>	<p>TRPS objective 5.5 and Policy 5.7 seek to maintain and enhance urban environmental quality, amenity values and character, including through the protection of vegetation and heritage values.</p> <p>The TRMP complies with this RMA amendment as protected trees are listed in schedule 16.13B and heritage rules control their pruning, destruction or removal.</p> <p>However, it may be prudent to include a method in the TRPS</p>

<sup>9</sup> See also <https://www.mfe.govt.nz/rma/previous-rma-amendments/about-resource-management-amendment-act-2013>

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<p>multiple trees are identified in a schedule on a single urban environment allotment, they do not need to form a “cluster, line or grove”.</p>	<p>stating that trees to be protected on ‘urban environment allotments’ will be identified in a schedule to the TRMP.</p>
<b>Resource Management Amendment Act (No 2) 2011<sup>10</sup></b>	
<p><b>Changes to aquaculture legislation 2011.</b></p> <p>The 2011 changes simplified the approval process by removing the need for Aquaculture Management Areas (AMAs) and removing the ability for regional coastal plans to authorise aquaculture activities in the coastal marine area as permitted activities.</p> <p>S12A was repealed and consequential amendments throughout the RMA removed references to AMAs. Applications for new aquaculture activities can now be made, subject to the provisions of the relevant regional coastal plan.</p> <p>New s68A ensures that a resource consent application is always made before new aquaculture activities are established.</p> <p>Councils can still identify areas where aquaculture activities cannot occur, and include provisions in their regional coastal plans to manage aquaculture.</p> <p>Part 7A amendments provide new tools for managing demand in the coastal marine area, including situations of high and competing demand.</p> <p>Note also that aquaculture management is achieved under a range of legislation, including the provisions of the RMA, Aquaculture Reform (Repeals and Transitional Provisions) Act 2004, Fisheries Act 1996 and the Maori Commercial Aquaculture Claims Settlement Act 2004, as amended by the provisions of the 2011 amendments. These amendments include the Resource Management Amendment Act (No. 2) 2011, Aquaculture Reform (Repeals and Transitional Provisions) Amendment Act 2011, Fisheries Amendment Act 2011, and the Māori Commercial Aquaculture Claims Settlement Amendment Act 2011.<sup>11</sup></p>	<p>This is the most recent amendment to the aquaculture provisions in the RMA and follows a number of previous amendments (see pps.19, 25 &amp; 28).</p> <p>As a result, the TRPS needs to be updated to reflect the new RMA (and broader statutory) regime for aquaculture management. It also needs to take account of national and local aquaculture case law that has had an influence on aquaculture management.<sup>12</sup></p> <p>In many respects the TRPS needs to catch up with the TRMP, which has been updated to reflect the new RMA provisions, Environment Court decisions, and the outcome of private Plan Change 61 (Wainui Bay). Of importance is the finding of the Environment Court in hearing an appeal to the Wainui Bay Plan Change (<i>Friends of Nelson Haven and Tasman Bay Inc v Tasman District Council</i>), regarding allocation of space in Wainui Bay for spat catching farms.</p> <p>The Court found a policy gap in the overall strategic approach to</p>

<sup>10</sup> See also MPI. 2011. *Aquaculture Legislative Reforms 2011 Guidance Note 1 Aquaculture Planning and Consenting*. <https://www.fisheries.govt.nz/dmsdocument/15940/direct>; other relevant guidance notes are available at <https://www.fisheries.govt.nz/growing-and-harvesting/aquaculture/resources/#councilguidance>

<sup>11</sup> p.8, Department of Conservation (no date). *NZCPS 2010 Guidance note Policy 8: Aquaculture*. [See footnote 12 below for a link]

<sup>12</sup> *Golden Bay Marine Farmers & Ors v Tasman District Council W42/2001* (First Interim Report); W19/2003 (Second Interim Report); W10/20004 (Third Interim Report); and W89/2004 (Final Report); collectively the Golden Bay Marine Farmers reports (Kenderdine J presiding); and *Friends of Nelson Haven and Tasman Bay Inc v Tasman District Council* [2018] NZEnvC 130 (Final Decision) and 047 (Interim Decision) (Kirkpatrick J presiding); and *Environmental Defence Society Inc v New Zealand King Salmon Company Ltd* [2014] NZSC 38. For details see TDC commissioned report: *Tasman Law* (June 2019). *Legal Report for Section 35 TRMP Review*.

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	<p>aquaculture in the TRPS and TRMP that did not satisfy directives of the NZ Coastal Policy Statement (NZCPS) Policy 7 'Strategic Planning'. In particular, the Court was faced with an area within the CMA of Golden Bay that had not been zoned either AMA or Aquaculture Exclusion Area (AEA), but, as the site of a long established and strategically important aquaculture activity of mussel spat catching and spat holding, had no strategic policy base against which an application for the activity to continue could be evaluated. The Court noted that TDC needs to provide more guidance in the TRPS on matters to be considered when granting marine farming consents.</p> <p>In addition, the 2010 NZCPS contains a number of policies relevant to aquaculture, which seek to balance the provision of aquaculture activities with protecting important natural resources and community and cultural values. According to guidance provided by DoC,<sup>13</sup> the key NZCPS aquaculture policies that the TRPS must give effect to include: 3 ('precautionary approach'), 4 ('integration'), 6 ('activities in the coastal environment'), 7 ('strategic planning'), 8 ('aquaculture'); 12 ('harmful aquatic organisms'); and 21 &amp; 23 ('protecting coastal water quality').</p> <p>NZCPS Policies 13-15, relating to the protection of natural character, and outstanding natural features and landscapes, are also relevant given the significant natural values associated with much of Golden and Tasman Bays. The King Salmon case is important here, as the Supreme Court found that the NZCPS directs councils to avoid (i.e. to not allow) activities that would cause adverse affects on coastal</p>

<sup>13</sup> <https://www.doc.govt.nz/globalassets/documents/conservation/marine-and-coastal/coastal-management/guidance/policy-8.pdf>

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	<p>natural character, features and landscapes. Consequently, the TRPS will need to include objectives, policies and methods to ensure aquaculture activities are not allowed where they may cause such effects.<sup>14</sup></p> <p>Also of note, the Ministry of Primary Industries is working on a proposed NES for Marine Aquaculture<sup>15</sup>. The proposed NES seeks to:</p> <ul style="list-style-type: none"> <li>• provide a more efficient and certain consent process for managing existing marine farms within environmental limits; and</li> <li>• implement a nationally-consistent framework for biosecurity management on all marine farms.</li> </ul> <p>The TRPS will need to give effect to the NES Marine Aquaculture if and when it is made operative.</p> <p><b>Current TRPS Aquaculture Provisions</b></p> <p>There are specific references to aquaculture in a number of TRPS Issues, which need to be updated to reflect the NZCPS provisions, successive RMA and other legislative amendments, and the evolving nature of aquaculture / marine farming in the District:</p> <p><b>Issue 4.3 'Commercial Interests of Iwi'</b>, p.25 - update to give effect to NZCPS policies and to reflect RMA amendments, including the requirement to allocate 20% of aquaculture space to Iwi (see p.19);</p> <p><b>Issue 9.3 'Adverse Effects of Activities in the Coastal Marine Area'</b>, p.97 - update to give effect to NZCPS policies and to reflect known environmental effects based on monitoring data gained through resource consent conditions;</p>

<sup>14</sup> For a summary of the King Salmon (and subsequent) Court decisions, see Atkins, H. (2019). *Review of implications for planning practice of the Supreme Court King Salmon decision and its impact on the interpretation of the New Zealand Coastal Policy Statement*: <https://www.doc.govt.nz/globalassets/documents/conservation/marine-and-coastal/coastal-management/guidance/king-salmon-guidance-note-full.pdf>

<sup>15</sup> For details see <https://www.mpi.govt.nz/news-and-resources/consultations/proposed-national-environmental-standard-for-marine-aquaculture/>

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	<p><b>Issue 9.4 ‘Private and Public Rights of Access to Coastal Space’</b> - update to give effect to NZCPS policies, and to reflect council and court decisions since the TRPS was made operative, including the need to address the ‘strategic gap’ identified by the Environment Court, and to provide for the new RMA tools for managing demand in the CMA;</p> <p><b>Issue 9.5 ‘Legal Constraints on the Management of Adverse Effects of Aquaculture and Fisheries’</b>, p.98-99 - update to take account of case law enabling councils to restrict fisheries activities for the purpose of protecting marine biodiversity (discussed next); and</p> <p><b>Issue 9.8 ‘Maintenance and Enhancement of Coastal Water Quality’</b>, p.100-101 - update to give effect to NZCPS and NPS Freshwater Management policies (both discussed in detail on pp.33 &amp; 38 respectively).</p> <p><b>Policy 9.4 “The Council will establish procedures for the allocation of sea space between competing applicants that are fair and efficient”</b> - update to give effect to NZCPS and to reflect successive TDC and Court decisions (as above).</p>
<p><b>Functions of regional councils under this Act</b></p> <p>s30(2) was replaced to state that a regional council and the Minister of Conservation must not perform the functions specified in subsection (1)(d)(i), (ii), and (vii) to control the taking, allocation or enhancement of fisheries resources for the purpose of managing fishing or fisheries resources controlled under the Fisheries Act 1996.</p> <p>s30(3) was replaced to state that a regional council and the Minister of Conservation may perform the functions specified in subsection (1)(d) to control aquaculture activities for the purpose of avoiding, remedying, or mitigating the effects of aquaculture activities on fishing and fisheries resources.</p>	<p>Issue 9.5 of the TRPS discusses the parallel process for managing fisheries activities under both the RMA and Fisheries Act.</p> <p>However, recent case law has determined that regional councils are able to control fisheries activities for the purpose of protecting marine biodiversity.<sup>16</sup> The objectives and policies in the TRPS should therefore be updated to reflect this ruling (assuming there is no successful appeal against the decision).</p> <p>In addition, the wording in ss30(2) &amp; (3) has changed over time and this needs to be reflected in the</p>

<sup>16</sup> Attorney-General v The Trustees of the Motiti Rohe Moana Trust & Ors [2019] NZCA 532 [4 November 2019]

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	wording used in the TRPS. For example, s30(3) used to prohibit councils from controlling “ <i>the harvesting or enhancement of aquatic organisms for the purpose of conserving, using, enhancing, or developing any fisheries resources controlled under the Fisheries Act 1996</i> ”, whereas now the wording in s30(2) prohibits “ <i>the taking, allocation or enhancement of fisheries resources for the purpose of managing fishing or fisheries resources controlled under the Fisheries Act 1996</i> ”.
<p><b>Amendments to Definitions:</b></p> <p><b>Aquaculture activities</b> paragraph (a): amended</p> <p><b>Aquaculture activities</b> paragraph (c): amended</p> <p><b>Aquaculture activities</b> paragraph (d): inserted</p> <p><b>Aquaculture management area:</b> repealed</p> <p>“<b>Minister of Aquaculture</b> means the Minister who, under the authority of any warrant or under the authority of the Prime Minister, has overall responsibility for aquaculture</p> <p>“<b>Minister of Fisheries</b> has the same meaning as Minister in the Fisheries Act 1996”.</p>	Update definitions in the TRPS as appropriate and ensure consistency with the definitions standard set out in the national planning standards.
<b>Māori Commercial Aquaculture Claims Settlement Act 2004 (and Amendment Act 2011)<sup>17</sup></b>	
<p>Allowed for settlement of Māori claims to commercial aquaculture by allocating 20% of AMAs. Since the need for AMAs was removed in 2011, settlement has instead been done through regional agreements. For the Tasman region the Crown must endeavor to negotiate and enter into regional agreements within 2 years after the commencement of the 2011 Amendment Act.</p> <p>Regional councils need to consider the 20 percent allocation during their marine spatial planning. When developing any ‘go zones’ for aquaculture, regional councils should consider and plan for which 20 percent of the zone will be used for the settlement. The selected space must be representative.</p> <p>Within aquaculture settlement areas, authorisations will be created giving iwi the exclusive right to apply for consent for aquaculture activities in that space.</p>	The requirement to allocate 20% of aquaculture space to Iwi, and the resulting exclusive right to apply for consent for aquaculture activities, needs to be acknowledged and provided for in TRPS provisions.
<b>Marine and Coastal Area (Takutai Moana) Act 2011<sup>18</sup></b>	
The Marine and Coastal Area (Takutai Moana) Act (MACA) <b>repealed the Foreshore and Seabed Act 2004</b> and restored the customary interests extinguished by that Act. It applies to the marine and coastal area which	Nine applications in the Tasman District have been made under

<sup>17</sup> See also MPI. 2011. *Aquaculture Legislative Reforms 2011 Guidance Note 6 Delivering on the Māori Commercial Aquaculture Settlement*. <https://www.fisheries.govt.nz/dmsdocument/8437/direct>

<sup>18</sup> See also <https://tearawhiti.govt.nz/te-kaui-takutai-moana-marine-and-coastal-area/information-for-local-authorities-on-the-marine-and-coastal-area-act/>

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<p>equates in most respects with the ‘coastal marine area’ as defined in the RMA.<sup>19</sup></p> <p><b>s6(g) substituted</b> to require local authorities to recognise and provide for “<i>the protection of protected customary rights</i>”.</p> <p>Under s51 a protected customary right is an activity, use or practice that:</p> <p>(a) has been exercised since 1840; and</p> <p>(b) continues to be exercised in a particular part of the common marine and coastal area in accordance with tikanga by the applicant group, whether it continues to be exercised in exactly the same or a similar way, or evolves over time; and</p> <p>(c) is not extinguished as a matter of law;</p> <p>and has been recognised by a protected customary right order or agreement.</p> <p>Groups had until 3 April 2017 to apply for recognition of their customary interests.</p>	<p>MACA to the Office of Maori Crown Relations:<sup>20</sup></p> <ul style="list-style-type: none"> <li>• Ngāi-Tū-āhu-riri hapū</li> <li>• Ngāti Koata</li> <li>• Ngāti Tama ki Te Tau Ihu</li> <li>• Ngāti Toa Rangatira</li> <li>• Te Atiawa o Te Waka-a-Maui Trust (Mapua)</li> <li>• Te Atiawa o Te Waka-a-Maui Trust (Mohua/Golden Bay)</li> <li>• Te Atiawa o Te Waka-a-Maui Trust (Whakatu/Hoiere)</li> <li>• Te Huria Matenga Trust</li> <li>• Te Runanga o Ngāti Rarua</li> </ul> <p>Three applications relating to the Tasman District have been made to the High Court:<sup>21</sup></p> <ul style="list-style-type: none"> <li>• Henare Tahuāroa-Watson Whanau</li> <li>• Rangitane O Wairau</li> <li>• Te Atiawa o Te Waka-a-Maui</li> </ul> <p>Two applications have been made adjacent to TDC:</p> <ul style="list-style-type: none"> <li>• Te Runganga o Rangitane o Kaituna</li> <li>• Ngāti Koata</li> </ul> <p>There are also two applications covering all of the NZ coastline.</p> <p>To date no applications for protected customary rights have been approved in the Tasman District and therefore no orders or agreements have been entered into.</p>
<p><b>s61(2A)(b) substituted</b> to require regional councils, in relation to regional policy statements to:</p> <ul style="list-style-type: none"> <li>- ‘recognise and provide’ for relevant matters that relate to the customary marine title (CMT) area; and</li> <li>- ‘take into account’ relevant matters that relate to areas outside the CMT area that are included in a planning document prepared by a CMT group under section 85 of the Marine and Coastal Area (Takutai Moana) Act (MACA) 2011.</li> </ul>	<p>When an approved CMT lodges a planning document under the MACA, TDC will need to identify and consider the relevant resource management matters included in it and determine whether the matters should result in amendments to the TRPS.</p>

<sup>19</sup> The marine and coastal area extends from MHWS on the landward side to the outer limits of the territorial sea. Where the line of MHWS crosses a river, the landward boundary of the marine and coastal area is the same as the boundary of the coastal marine area under the RMA.

<sup>20</sup> For South Island applications see <https://tearawhiti.govt.nz/te-kahui-takutai-moana-marine-and-coastal-area/applications-made-under-the-marine-and-coastal-area-act/>.

<sup>21</sup> For details about applications to the High Court see <https://www.courtsofnz.govt.nz/the-courts/high-court/high-court-lists/marine-and-coastal-area-takutai-moana-act-2011-applications-for-recognition-orders>

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<p><b>s66(2A) is also substituted</b> so the same applies for regional plans.</p> <p>Under MACA s85(2) a planning document may:</p> <ul style="list-style-type: none"> <li>• identify issues relevant to the CMT area;</li> <li>• set out the regulatory and management objectives of the CMT group; and</li> <li>• set out policies for achieving those objectives.</li> </ul> <p>The obligation to “recognise and provide for” matters in a planning document does not require councils to give effect to the provisions.</p> <p>A council may decide not to alter a regional document but only on the grounds that the matters:</p> <ul style="list-style-type: none"> <li>• are already provided for in a regional document; or</li> <li>• would not achieve the purpose of the RMA; or</li> <li>• would be more effectively and efficiently addressed in another way (MACA s93 (10)).</li> </ul>	<p>Decisions on amendments to the TRPS must follow the process set out in Schedule 1 of the RMA and meet the requirements of Part 5 of the RMA (sustainable management of natural and physical resources).<sup>22</sup></p>
<p><b>s64A(4A) substituted</b> to state that a coastal occupation charge must not be imposed on a protected customary rights group or customary marine title group exercising a right under Part 3 of MACA.</p>	<p>Regional councils are required to include a statement in the Regional Coastal Plan outlining whether or not a coastal occupation charging regime is being imposed and, if so, the details of the regime (for further details see p.28). An amendment to the TRMP to comply with this requirement is forthcoming.</p> <p>If TDC chooses to adopt a coastal occupation charging regime it needs to specify that it does not apply to a protected customary rights group or customary marine title group, e.g. if the use of a charging regime is included in the TRPS as a method for achieving positive outcomes in the coastal environment.</p>
<p><b>s85A amended</b> so that plans must not permit activities that would have a ‘more than minor’ adverse effect on a recognised customary activity (it was previously a ‘significant adverse effect’).</p> <p><b>s104(3)(c) amended</b> to state that councils must not grant a resource consent that is contrary to any wāhi tapu conditions included in a customary marine title order or agreement, or if the activity will, or is likely to, have adverse effects that are more than minor on the exercise of a protected customary right (unless written approval has been given by the customary rights group).</p> <p><b>Note:</b> some activities (called ‘accommodated activities’) are excluded from this.<sup>23</sup></p>	<p>The TRPS should be updated to reflect these requirements, i.e. directing the TRMP to ensure activities having more than minor adverse effects on a recognised customary activity require consent, and that resource consent decisions must not be contrary to the matters listed in s104(3)(c).</p>

<sup>22</sup> Office of Treaty Settlements. 2011. *Marine and Coastal Area (Takutai Moana) Act 2011: Customary Marine Title Group Planning Document*. <https://tearawhiti.govt.nz/assets/MACA-docs/513e45ab3f/MACA-customary-marine-title-group-planning-document.pdf>.

<sup>23</sup> The accommodated activities are set out in s64 of the Marine and Coastal Area (Takutai Moana) Act - <http://www.legislation.govt.nz/act/public/2011/0003/latest/DLM3213131.html>.



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<p><b>New definitions added:</b> for details see <a href="http://www.legislation.govt.nz/act/public/2011/0003/latest/DLM3213146.html">http://www.legislation.govt.nz/act/public/2011/0003/latest/DLM3213146.html</a></p> <ul style="list-style-type: none"> <li>• <i>customary marine title area</i></li> <li>• <i>customary marine title group</i></li> <li>• <i>customary marine title order</i></li> <li>• <i>marine and coastal area</i></li> <li>• <i>protected customary right</i></li> <li>• <i>protected customary rights area</i></li> <li>• <i>protected customary rights group</i></li> <li>• <i>protected customary rights order</i></li> </ul>	<p>Update TRPS to include these definitions as appropriate and ensure consistency with the definitions standard set out in the national planning standards.</p>
<b>Resource Management (Simplifying and Streamlining) Amendment Act 2009<sup>24</sup></b>	
<p><b>New Part 4A</b> establishes the <b>Environmental Protection Authority (EPA)</b> as a statutory office within the Ministry for the Environment. The EPA’s role is primarily to receive and process proposals of national significance.</p> <p>Amendments address concerns about the efficient and robust consideration of projects of national significance, including:</p> <ul style="list-style-type: none"> <li>• enabling matters of national significance to be lodged directly to the EPA;</li> <li>• introducing a timeline for decisions on proposals of national significance;</li> <li>• providing timely administration and support to boards of inquiry that consider proposals of national significance.</li> </ul>	<p>The role of the EPA may need to be referenced in the TRPS if it includes a section describing the broader resource management context in NZ.</p> <p>It may also be useful to note in the appropriate method(s) section of the TRPS that lodgement of applications of national significance to the EPA is an option available to council.</p>
<b>Resource Management Amendment Act 2005</b>	
<p><b>New s30(1)(ca) added</b> a function for regional councils: <i>“the investigation of land for the purposes of identifying and monitoring contaminated land”</i>.</p> <p><b>New s31(1)(iia) added</b> a function of territorial authorities: <i>“the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land”</i>.</p>	<p>The matters addressed in this amendment are covered broadly by existing TRPS provisions. Issue 10.4 recognises the legacy of contaminated sites in urban and rural settings, and Policy 10.7 states that <i>“The Council will manage the legacy of contaminated sites in the District”</i>. The TRPS identifies investigations of land as a method available to it.</p> <p>If contaminated land is included in the revised RPS as a significant issue, a clearer statement about development, subdivision or use of contaminated land could be included in line with s31(1)(iia).</p> <p>For further recommendations see the discussion below on implementing the NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (p.44).</p>

<sup>24</sup> See also <https://www.mfe.govt.nz/rma/previous-rma-amendments/about-rmaa-simplifying-and-streamlining-act-2009>

RMA AMENDMENT	IMPLICATIONS FOR TRPS
<p><b>New s30(1)(fa) added</b> a function for regional councils: <i>“if appropriate, the establishment of rules in a regional plan to allocate: the taking or use of water (other than open coastal water); the taking or use of heat or energy from water (other than open coastal water) and from the material surrounding geothermal water; the capacity of air or water to assimilate a discharge of a contaminant”</i>.</p> <p><b>New s30(1)(fb) added</b> a function for regional councils: <i>“if appropriate and in conjunction with the Minister of Conservation, the establishment of rules in a regional coastal plan to allocate taking or use of heat or energy from open coastal water; and the establishment of a rule in a regional coastal plan to allocate space in the CMA under part 7A”</i>.</p>	<p>While these changes are more relevant to the TRMP, the TRPS does include a section dealing with energy.</p> <p>Recommendations for amending the TRPS to better address renewable energy are discussed below under the NPS for Electricity Transmission and the NPS for Renewable Energy Generation (pp.30 and 35 respectively). It may be that the taking of heat or energy from water is a relevant consideration in implementing these NPSs.</p>
<p><b>New s30(1)(gb) added</b> a function for regional councils: <i>“the strategic integration of infrastructure with land use through objectives, policies and methods”</i>.</p>	<p>Recommendations for amending the TRPS to address the NPS for Urban Development Capacity (see p.36) covers the need to provide integrated infrastructure within Tasman and between neighbouring councils.</p>
Resource Management (Foreshore and Seabed) Amendment Act 2004	
<p>Provides the means for Māori to claim and exercise customary rights in relation to the foreshore and seabed, including:</p> <ul style="list-style-type: none"> <li>• <b>New s6(g) added</b> requiring local authorities to recognise and provide for <i>“the protection of recognised customary activities”</i>.</li> <li>• Under s66 matters to be considered by a regional council when preparing or changing a regional plan;</li> <li>• Matters to be considered by a territorial authority when prepared or changing a district plan under s74.</li> <li>• New s85A also requires that Plans must not allow activities that would have a significant adverse effect on a recognised customary activity recognised customary activities.</li> </ul> <p><b>New definitions added</b></p>	<p>This Act was repealed by the Marine and Coastal Area (Takutai Moana) Act 2011 (discussed at p.19 above).</p>
Resource Management (Energy and Climate Change) Amendment Act 2004	
<p><b>New s7(ba) added</b> to require local authorities to have particular regard to <i>“the efficiency of the end use of energy”</i>.</p>	<p>Currently, the TRPS has one objective and two policies addressing energy efficiency (O12.1, P5.1 &amp; 12.2).</p> <p>Provisions to promote energy efficiency should be made clearer, including the benefit of a compact urban form in reducing fossil fuel use and greenhouse gas emissions from vehicles. For instance, the Nelson-Tasman Future Development Strategy (developed under the NPS for Urban</p>

RMA AMENDMENT	IMPLICATIONS FOR TRPS
	<p>Development Capacity, discussed below starting on p.36) promotes urban intensification across the District and greater availability of public transport. The energy efficiency gains of this kind of development should be made clear in the TRPS a positive outcome from compact urban development.</p> <p>Additional recommendations for amending the TRPS to better address energy efficiency and use are discussed under the NPS for Electricity Transmission and the NPS for Renewable Energy Generation (pp.30 and 35 respectively).</p>
<p><b>New s7(j) added</b> to require local authorities to have particular regard to “<i>the benefits to be derived from the use and development of renewable energy</i>”</p> <p><b>New ss70A &amp; 104E added</b> to specify that councils <b>are not</b> to consider the effects of greenhouse gas discharges on climate change, “<i>except to the extent that the use and development of renewable energy enables a reduction in the discharge into air of greenhouse gases</i>”.</p>	<p>The effect of this new s7 matters, alongside new ss70A and 104E, is to promote the development and use of renewable energy.</p> <p>The Supreme Court has ruled that councils can only consider the effects of greenhouse gas emissions on climate change when assessing an application for the development of renewable energy. The effects of greenhouse gas discharges from applications to develop non-renewable energy (such as coal or gas fired power stations) cannot be considered. Councils will only be able to regulate greenhouse gas emissions if a NES directs them to do so (and currently there is not one that does).<sup>25</sup></p> <p>The TRPS has one objective that seeks to reduce dependence on non-renewable energy (O12.2), but no provisions that promote the development and use of renewable energy.</p> <p>Recommendations for amending the TRPS to better address renewable energy are discussed below under the NPS for Electricity</p>

<sup>25</sup> **Note:** the Minister for the Environment is proposing amendments to the RMA that would allow councils “*to fully consider both the effects of climate change on development (adaptation), and the effects of development on climate change (mitigation)*”. For details see Paper to Cabinet Environment, Energy and Climate Committee. 2018. *Proposed Resource Management Amendment Bill: Stage 1 of a resource management system review.* <https://www.mfe.govt.nz/sites/default/files/media/RMA/Cabinet%20Paper%20-%20Proposed%20Resource%20Management%20Amendment%20Bill.pdf>.

RMA AMENDMENT	IMPLICATIONS FOR TRPS
	Transmission and the NPS for Renewable Energy Generation (pp.30 and 35 respectively).
<p><b>New s7(i) added</b> to require local authorities to have particular regard to “<i>the effects of climate change</i>”.</p> <p>The amendment makes explicit that councils have a role in anticipating and adapting to the effects of climate change, such as increased risk and severity of natural hazards. In deciding on the amendment Cabinet noted that:</p> <p><i>...climate change will affect natural resources in New Zealand, could create new hazards or exacerbate existing ones, and some infrastructure, developments and land uses could become unsustainable due to the effects of climate change where those effects have not been considered.</i><sup>26</sup></p>	<p>The TRPS provisions need to more clearly identify and respond to the effects of climate change, as required by the new s7(i). Having a ‘Climate Change Effects’ section in the TRPS would be one way of integrating provisions that are aimed towards climate change adaptation.</p> <p>‘Climate change’ is mentioned only once in the TRPS, in relation to its impact on sea level rise (Issue 11.3). Greenhouse gas emissions are referred to twice with respect to vehicle emissions (Issue 12.4).</p> <p>The TRPS has a section addressing environment hazards (s11) and related provisions are included in other sections, e.g. Urban Development and Land Resources. However the relationship between natural hazards and the effects of climate change is not clearly stated.</p> <p>Water availability and allocation is another significant issue addressed in the TRPS (particularly in the Fresh Water Resources section). As a largely rural district there are many land uses that depend on a reliable source of water for plant and animal production. But again, the effects of climate change on water quantity and quality are not explicitly identified and planned for.</p> <p>Guidance from the Quality Planning website states that wherever current climate is significant to an activity or hazard, expected future climate should also be assessed for its impact, and both opportunities and risks should be considered.<sup>27</sup></p>

<sup>26</sup> p.9, Cabinet Policy Committee Paper. No Date. *Planning for the Effects of Climate Change: The Role Of The Resource Management Act*. <https://www.mfe.govt.nz/sites/default/files/pol-02-221.pdf>.

<sup>27</sup> Quality Planning. 2013. *Climate Change*. <https://qualityplanning.org.nz/node/722>.

RMA AMENDMENT	IMPLICATIONS FOR TRPS
	<p>The TRPS should explicitly consider the effects of climate change on:<sup>28</sup></p> <ul style="list-style-type: none"> <li>• Natural hazard management;</li> <li>• Land-use planning;</li> <li>• Water allocation and irrigation in areas prone to drought.</li> <li>• The design and location of new infrastructure/assets with a lifetime of more than 30 years, particularly: <ul style="list-style-type: none"> <li>- housing and infrastructure development in areas prone to natural hazards such as river and sea flooding, erosion, slippage and inundation;</li> <li>- stormwater system capacity and design.</li> </ul> </li> </ul> <p>Consequently, TRPS provisions should be reviewed to ensure they:</p> <ul style="list-style-type: none"> <li>• Identify climate change and its effects as a regionally significant issue requiring a response;</li> <li>• Explain the national policy context for climate change;</li> <li>• Include objectives, policies and methods that reflect and respond to the anticipated effects of climate change in the Tasman District;</li> <li>• Promote methods that integrate TDC’s climate change response across council functions;</li> <li>• Specify the time horizon for different types of decisions on climate change and its effects;</li> <li>• Promote consistency of approach towards climate change within the District and across council boundaries;</li> <li>• Promote public education as a method of response to climate change and its effects;</li> <li>• Include provisions for monitoring the effects of climate change, and any relevant statements of environmental outcomes.</li> </ul>
<p><b>The following definitions added:</b></p>	<p>Update the TRPS to include these three definitions and ensure</p>

<sup>28</sup> The Ministry for the Environment publishes information on climate change impacts by region as a basis for assessing the effects of climate change – <https://www.mfe.govt.nz/climate-change/climate-change-guidance/guidance-local-government-preparing-climate-change>.

RMA AMENDMENT	IMPLICATIONS FOR TRPS
<p><i>“climate change means a change of climate that is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and that is in addition to natural climate variability observed over comparable time periods”.</i></p> <p><i>“greenhouse gas has the meaning given to it in section 4(1) of the Climate Change Response Act 2002”.</i></p> <p><i>“renewable energy means energy produced from solar, wind, hydro, geothermal, biomass, tidal, wave, and ocean current sources”.</i></p>	<p>consistency with the definitions standard set out in the national planning standards.</p>
Resource Management Amendment Act (No 2) 2004	
<p>Created a single process for aquaculture planning and consents, through the RMA. Regional and unitary councils have clearer direction and responsibilities for managing all environmental effects of aquaculture, including effects on fisheries and other marine resources. Marine farms can only occur in zoned areas, known as Aquaculture Management Areas (AMAs).</p> <p>A regional council and the Minister of Conservation may perform the functions specified in s30(1)(d) to control the harvesting or enhancement of aquatic organisms to avoid, remedy, or mitigate—</p> <p>(a) the effects on fishing and fisheries resources of occupying a coastal marine area for the purpose of aquaculture activities:</p> <p>(b) the effects on fishing and fisheries resources of aquaculture activities.</p> <p>However, a regional council and the Minister of Conservation must not perform the functions specified in subsection (1)(d)(i), (ii), or (vii) to control the harvesting or enhancement of aquatic organisms for the purpose of conserving, using, enhancing, or developing any fisheries resources controlled under the Fisheries Act 1996.</p>	<p>This amendment act was superseded by the Resource Management Amendment Act (No 2) 2011 (discussed at p.16 above).</p>
Resource Management Amendment Act 2003	
<p><b>s55 substituted</b> to state that policy statements and plans must ‘give effect to’ NPSs and NESs rather than the previous lesser requirement to ‘take into account’.</p>	<p>Five NPSs have been prepared since 2008 and the TRPS needs to be updated to implement their provisions.</p> <p>See section below (starting on p.30) for discussion and recommendations on actions required to ‘give effect’ to the NPSs and NESs.</p>
<p><b>New s66(2A) and s74(2A) added</b>, so that councils must <i>“when preparing or changing a regional plan, take into account any relevant planning document recognised by an iwi authority, and lodged with the council, to the extent that its content has a bearing on resource management issues of the region”.</i></p>	<p>The intention of this amendment is to create greater consistency by councils when addressing matters of significance to Māori in policy statements and plans.</p> <p>There are three Iwi Management Plans (IMPs) lodged with TDC<sup>29</sup> and another three lodged with Nelson City Council by iwi with interests in</p>

<sup>29</sup> <https://www.tasman.govt.nz/my-region/iwi/iwi-management-plans/>

RMA AMENDMENT	IMPLICATIONS FOR TRPS
	<p>the Tasman District.<sup>30</sup> All of the IMPs were published after the TRPS was notified and therefore the issues they identify may not be (sufficiently) addressed in the TRPS.</p> <p>In reviewing the TRPS the relevant resource management provisions in the IMPs need to be taken into account when identifying matters of significant to iwi.</p>
<p><b>New s6(f) added</b> requiring local authorities to ‘recognise and provide for’ <i>“the protection of historic heritage from inappropriate subdivision, use, and development”</i>.</p> <p><b>New 12(1)(g) added:</b> <i>“No person may, in the coastal marine area destroy, damage, or disturb any foreshore or seabed (other than for the purpose of lawfully harvesting any plant or animal) in a manner that has or is likely to have an adverse effect on historic heritage”</i> unless allowed by an NES, a rule in a regional coastal plan or a resource consent.</p>	<p>The TRPS now needs to “recognise and provide for” this new s6 matter, as opposed to the previous s7 requirement to “have particular regard”. This will necessitate stronger provisions within the TRPS to identify and protect historic heritage.</p> <p>Heritage NZ and Quality Planning guidance recommend that historic heritage be addressed in a separate section,<sup>31 32</sup> whereas it is currently referenced in objectives and policies throughout the TRPS as one of a number of matters to be considered.</p> <p>Heritage NZ states that <i>“Regional policy statements should identify historic heritage as a nationally and regionally significant resource management issue and outline objectives, policies and methods”</i>. It further suggests that the TRPS should include:</p> <ul style="list-style-type: none"> <li>• An overview of heritage agency roles and responsibilities.</li> <li>• A discussion of significant historic heritage issues for the region.</li> <li>• Objectives and policies for the management of effects that may impact on historic heritage.</li> <li>• A range of methods for historic heritage identification and protection.</li> </ul>

<sup>30</sup> <http://www.nelson.govt.nz/council/plans-strategies-policies/strategies-plans-policies-reports-and-studies-a-z/iwi-management-plans>

<sup>31</sup> pp.5-6, Heritage NZ. 2007. *Sustainable Management Of Historic Heritage Guide No. 1 Regional Policy Statements*. <https://www.heritage.org.nz/resources/sustainable-management-guides>; a range of guides on historic heritage management under the RMA are available on the website.

<sup>32</sup> p.15, Quality Planning. 2014. *Historic Heritage*. <https://qualityplanning.org.nz/node/746>.

RMA AMENDMENT	IMPLICATIONS FOR TRPS
	<ul style="list-style-type: none"> <li>• Principal reasons for adopting objectives, policies and methods.</li> <li>• Key definitions associated with historic heritage.</li> </ul> <p>RMA s6(f) alongside ss6(e), 7(a) and 8 require the TRPS to comprehensively address Māori historic heritage identification and protection, including promoting the role of mana whenua as kaitiaki and enabling care and management of Māori heritage sites in accordance with tikanga.</p> <p>New s12(1)(g) emphasises the need to identify and protect historic heritage in the CMA, not only on land.</p>
<p><b>New definition for ‘historic heritage’ added:</b></p> <p>(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand’s history and cultures, deriving from any of the following qualities:</p> <p>(i) archaeological:</p> <p>(ii) architectural:</p> <p>(iii) cultural:</p> <p>(iv) historic:</p> <p>(v) scientific:</p> <p>(vi) technological; and</p> <p>includes—</p> <p>(i) historic sites, structures, places, and areas; and</p> <p>(ii) archaeological sites; and</p> <p>(iii) sites of significance to Māori, including wāhi tapu; and</p> <p>(iv) surroundings associated with the natural and physical resources</p>	<p>The TRPS does not currently include a definition for historic heritage and the RMA definition should be added. Additionally, the criteria used in TRPS Policy 6.3 to assess heritage significance should be reviewed in light of the RMA definition.</p> <p>This definition is comprehensive and includes heritage qualities (e.g. architectural, cultural), as well as specific types of heritage (e.g. archaeological sites, wahi tapu). The inclusion of ‘surroundings’ means that TDC needs to also consider the broader environment within which historic heritage resources are located.</p> <p>This new definition, coupled with historic heritage protection being elevated to a matter of national importance is likely to require identification of a greater number and range of heritage resources for protection.</p> <p>Quality Planning guidance (see link above) states that “<i>An identification process is essential to ensure heritage schedules are updated and include the most significant heritage places. Conversely, identification will ensure places of low significance or destroyed places are removed from the heritage schedule</i>”.</p>



RMA AMENDMENT	IMPLICATIONS FOR TRPS
<p><b>New s30(1)(c)(iia) added</b> a function for regional councils to control the use of land for the purpose of: <i>“the maintenance and enhancement of ecosystems in water bodies and coastal water”</i>.</p> <p><b>New s31(1)(ga) added</b> a function for regional councils regarding <i>“the establishment, implementation, and review of objectives, policies, and methods for maintaining indigenous biological diversity”</i>.</p> <p><b>New s31(1)(b) added</b> a function for territorial authorities regarding <i>“the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of the maintenance of indigenous biological diversity”</i>.</p> <p><b>Definition for biological diversity added:</b> <i>“the variability among living organisms, and the ecological complexes of which they are a part, including diversity within species, between species, and of ecosystems”</i>.</p>	<p>Even though the word ‘biodiversity’ is not mentioned in the TRPS, there are a number of relevant provisions relating to the maintenance and enhancement of terrestrial and aquatic ecosystems and habitats, and indigenous flora and fauna, notably objectives 5.2, 6.2, 7.1 8.2, 9.6, 9.7 &amp; 10.1, and policies 5.5, 6.3, 7.4, 8.2, 9.3, 9.6, 9.7 &amp; 10.1.</p> <p>A recent TDC report on biodiversity provides a stocktake of the TRPS and TRMP provisions for biodiversity.<sup>33</sup> It concludes that:</p> <p><i>TRPS and/or TRMP umbrella provisions for biodiversity are no longer fit for purpose and need to be re-developed in response to the proposed changes in national context.</i></p> <p><i>It is recommended that the TRPS/TRMP are amended to provide for biodiversity as a core function in its own right with linking objectives and policies across the terrestrial, freshwater and coastal marine domains. More specifically:</i></p> <ul style="list-style-type: none"> <li>• <i>TRPS general objectives are updated to align with new proposed strategic and legislative contexts - the final National Policy Statement for Indigenous Biodiversity (NPS-IB), National Biodiversity Strategy (NBS) and Tasman Biodiversity Strategy, and</i></li> <li>• <i>The TRPS and TRMP are restructured to comply with the National Planning Standards by including a distinct section or chapter on “ecosystems and indigenous biodiversity”.</i></li> <li>• <i>Systematic ‘connector’ biodiversity objectives or policies are inserted in other sections or chapters of the</i></li> </ul>

<sup>33</sup> Tasman District Council. 2019. *Tasman Regional Policy Statement and Resource Management Plan biodiversity provisions in context of the upcoming plan reviews.*

RMA AMENDMENT	IMPLICATIONS FOR TRPS
	<p><i>Plans that contain provisions relevant to biodiversity.</i></p> <p>The TRPS therefore needs to be updated to explicitly address the RMA requirement to address 'maintenance of biological diversity', as well as implement the NPS-IB and TDC Biodiversity Strategy when completed.</p> <p>Refer to the TDC report for background and supporting information, and further recommendations for amending the TRPS.</p>
<p><b>Section 35(2)(b) substituted</b> as follows: <i>“the efficiency and effectiveness of policies, rules, or other methods in its policy statement or its plan”</i>.</p> <p>ss62(2)(j) now requires Regional Policy Statement to include <i>“the procedures used to monitor the efficiency and effectiveness of the policies or methods contained in the statement”</i>.</p>	<p>Part 4 of the TRPS 'Monitoring and Review' needs to be updated to include reference to efficiency and effectiveness monitoring.</p>
Resource Management (Aquaculture Moratorium) Amendment Act 2002	
<p>Imposed a two year moratorium on the granting of coastal permits, with certain existing applications being exempted.</p> <p>Enabled regional councils during the moratorium to establish 'Aquaculture Management Areas' (AMAs) where they were satisfied the provisions would "avoid, remedy or mitigate the adverse effects (including the cumulative effects) of aquaculture activities on the environment, including fishing and other uses of the coastal marine area".</p> <p>Regional Councils could also identify other areas in which aquaculture would be prohibited.</p>	<p>The amendment is no longer relevant: the moratorium has ended and subsequent RMA amendments have taken precedence (see RMA Amendment Act (No.2) 2011 on p.16 above).</p>
Resource Management Amendment Act 1997	
<p><b>New s7(aa) added:</b> <i>“The ethic of stewardship”</i></p> <p><b>Substituted definition for kaitiakitanga</b> as underlined: <i>“The exercise of guardianship by the tangata whenua of an area in accordance with tikanga Māori in relation to natural and physical resources; and includes the ethic of stewardship”</i>.</p>	<p>TDC must have particular regard to kaitiakitanga as a s7 matter. However, it is not referenced in any of the TRPS objectives or policies.</p> <p>The TRPS provisions (and definition) therefore need to be updated in conjunction with iwi to recognise kaitiakitanga as a significant resource management matter.</p>
<p><b>New s64A</b> set out requirements for regional councils in considering whether to impose a coastal occupation charge and, if so, the circumstances when a coastal occupation charge will be imposed, when it might be waived (in whole or in part); the level of charges to be paid; and the way the money received will be used.</p> <p>A statement must be included in the Regional Coastal Plan outlining whether or not a coastal occupation charging regime is being imposed.</p>	<p>Coastal occupation charges could be specified as a method in the TRPS to enhance outcomes, given the Act directs that: <i>“Any money received by the regional council from a coastal occupation charge must be used only for the purpose of promoting the sustainable</i></p>

RMA AMENDMENT	IMPLICATIONS FOR TRPS
	<p><i>management of the coastal marine area” (s64A(5)).</i></p> <p>The TRMP needs to be updated to include details about TDC’s coastal occupation charge regime, or to state that no regime will be imposed.</p>

## 4. National Directives: National Policy Statements

National policy statements (NPS) are instruments issued under the RMA. They state objectives and policies for matters of national significance, which the TRPS is required to give effect to. There is only one mandatory NPS (the NZ Coastal Policy Statement) with is prepared by the Minister of Conservation; any others are optional.

The requirements of the following current NPSs are discussed in Table 4.1 below:

1. Statement on Electricity Transmission 2008
2. New Zealand Coastal Policy Statement 2010
3. National Policy Statement for Renewable Electricity Generation 2011
4. National Policy Statement on Urban Development Capacity 2016
5. National Policy Statement for Freshwater Management 2017

There are also a number of proposed NPSs that are at various stages of development.<sup>34</sup> The implications of these will need to be considered if and when they are made operative.

NPS REQUIREMENTS	IMPLICATIONS FOR TRPS
<b>NPS on Electricity Transmission 2008</b>	
<p>The NPS-ET took effect on 10 April 2008. It provides guidance to local authorities on how to recognise the national significance of the national grid in planning documents. It is subject to Part II of the RMA and “<i>is intended to be a relevant consideration to be weighed along with other considerations in achieving the sustainable management purpose of the Act</i>”.</p> <p>The NPS-ET does not refer to any individual transmission network projects but forms part of the overall policy framework and contains policies that need to be taken into account when individual projects are considered under the RMA.</p> <p>The overall objective is:</p> <p><i>To recognise the national significance of the electricity transmission network by facilitating the operation, maintenance and upgrade of the existing transmission network and the establishment of new transmission resources to meet the needs of present and future generations, while:</i></p> <ul style="list-style-type: none"> <li>• <i>managing the adverse environmental effects of the network; and</i></li> <li>• <i>managing the adverse effects of other activities on the network.</i></li> </ul> <p>Policies are concerned with recognising the benefits of energy transmission, managing the environmental effects of transmission, managing the adverse effects of activities on the transmission network, identify the</p>	<p><b>What the TRPS Says:</b></p> <p>Two TRPS objectives and two policies deal with energy transmission:</p> <p><i>O5.6 Avoidance, remedying or mitigation of the adverse effects of the form and location of urban development on efficient transmission and use of all forms of energy.</i></p> <p><i>O12.1 The use and development of natural and physical resources for the generation and distribution of energy, in a manner which is efficient and which avoids, remedies or mitigates any adverse effects on the environment.</i></p> <p><i>P12.1 The Council will seek to provide for the continuation of energy generation, transmission, or use opportunities, while avoiding, remedying or mitigating the adverse effects of such actions on natural, heritage and amenity values of resources.</i></p> <p>In addition, one AER is relevant:</p> <p><i>Continuity of energy supply including electricity from either national or local sources.</i></p> <p>The explanatory text in the TRPS notes that:</p> <p><i>Energy use and development is a necessary part of community wellbeing. There are opportunities for energy production, transmission, and use that are both efficient and able to be continued without significant adverse effects on natural and physical</i></p>

<sup>34</sup> For details see <https://www.mfe.govt.nz/rma/rma-legislative-tools/national-policy-statements>

NPS REQUIREMENTS	IMPLICATIONS FOR TRPS
<p>electricity transmission network on relevant planning maps, and the long-term strategic planning for transmission assets.</p>	<p><i>resources. The Council wishes to maximise uptake of such opportunities (p.144).</i></p> <p>Objective 5.6 goes some way to addressing the NPS-ET objective and policies re managing adverse effects of activities on the network. However, it is limited to urban development and other activities that might potentially affect the network are not identified. Policy 10 in the NPS talks broadly of ‘third party effects’ on the transmission network and the need to avoid ‘reserve sensitivity effects’. Policy 11 requires councils to consult with the national grid operator to identify a buffer corridor in which ‘sensitive activities’ should be avoided. These points are not explicitly covered in the TRPS</p> <p>Objective 12.1 and Policy 12.1 are relevant to the NPS-ET objective and related policies of recognising the benefit of electricity transmission managing adverse effects of the network on the environment, specifically ‘natural, heritage and amenity values of resources’. NPS-ET Policies 7 &amp; 8 are more encompassing and state that effects should be avoided on urban amenity, town centres, outstanding natural landscapes, areas of high natural character, areas of high recreational or amenity value, and existing sensitive activities.</p> <p>The explanatory text notes that energy use and development are important, and it also promotes energy production and transmission within environmental limits, although Policy 1 of the NPS-ET calls for a fuller acknowledgment of the benefits of energy transmission.</p> <p>The TRPS provisions discuss ‘energy transmission’ in general terms (i.e. covering a range of energy sources), whereas the NPS-ET is specifically about electricity transmission via the national grid.</p> <p><b>Recommendations for ‘Giving Effect to’ the NPS-ET in the TRPS:<sup>35</sup></b></p> <ul style="list-style-type: none"> <li>• Include an Energy section in the TRPS that deals with the matters required by NPS-ET and NPS-REG (discussed below). The existing TRPS section should largely be rewritten.</li> <li>• Explicitly recognise and provide for the ‘electricity transmission network’, as this is the focus of the NPS-ET;</li> <li>• Identify the national and regional benefits of electricity transmission, using NPS-ET Policy 1 as a reference;</li> <li>• Include objectives, policies and methods to ‘recognise and provide for’ the full range of matters of national importance specified in the NPS-ET, i.e.</li> </ul>

<sup>35</sup> See also Ministry for the Environment. 2010. *National Policy Statement on Electricity Transmission: Implementation Guidance for Local Authorities*. Wellington: Ministry for the Environment. <https://www.mfe.govt.nz/publications/rma/nps-electricity-transmission-implementation-guidance-jan2010>

NPS REQUIREMENTS	IMPLICATIONS FOR TRPS
	<p>the need to ‘operate, maintain, develop and upgrade’ the electricity transmission network (NPS-ET Policy 2). The NPS-ET Guide recommends having provisions to:</p> <ul style="list-style-type: none"> <li>◦ protect the grid from the adverse effects of third parties putting constraints on the effective operation, maintenance, upgrading and development of the network;</li> <li>◦ promote the corridor management approach,<sup>36</sup> providing for the ongoing operation, maintenance and minor upgrading of the transmission network;</li> <li>◦ provide direction on the need for the development of the transmission network within a region, using the consent process to ensure a robust assessment of a proposed new line or major upgrading;</li> <li>◦ provide explicit direction on dealing with a new line or major upgrading, taking a ‘whole of line’ approach to considering how to avoid, remedy or mitigate adverse effects;<sup>37</sup></li> <li>◦ specify appropriate locations for future transmission assets, in accordance with the FDC Future Development Strategy and in any regional policies to protect urban amenity and sensitive areas and activities;</li> <li>◦ achieve strategic integration of infrastructure (including transmission lines) with land use, particularly urban growth.</li> </ul> <ul style="list-style-type: none"> <li>• Include the TRMP planning maps as a method for identifying both designated and undesignated parts of the network in Tasman District (NPS-ET Policy 12);</li> <li>• Include a policy to facilitate long-term planning for investment in transmission infrastructure and its integration with land uses, notably the designation process (NPS-ET Policies 13 &amp; 14).</li> </ul> <p><b>Matters More Relevant to the TRMP:</b></p> <ul style="list-style-type: none"> <li>• Make provision for the matters outlined in NPS-ET Policies 3-6 when assessing the environment effects of the electricity transmission network (constraints imposed by the technical and operational requirements of the network; extent to which effects have been avoided, remedied or mitigated by the route, site and method selection; providing for reasonable operational, maintenance and minor</li> </ul>

<sup>36</sup> ‘Transmission corridor’ refers to the area of land on either side of a transmission line within which reverse sensitivity issues may arise (NPS-ET Guide, p.5).

<sup>37</sup> A ‘whole-of-line’ approach involves recognising the differing values of alternative methods to avoid, remedy or mitigate adverse effects at differing scales. For example, the benefits of imposing any route changes, or of requiring the provision of offsets, should be measured against the entire route (NPS-ET Guide, p.10).

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	<p>upgrade requirements; and reducing existing adverse effects during substantial upgrades).</p> <ul style="list-style-type: none"> <li>• Basing provisions dealing with electric and magnetic fields associated with the electricity transmission network on the International Commission on Non-ionising Radiation Protection guidelines (NPS-ET Policy 9).</li> </ul>
NZ Coastal Policy Statement 2010 <sup>38</sup>	
<p>The NZCPS took effect on 3 December 2010 when the NZCPS 1994 was revoked. It states policies in order to achieve the purpose of the RMA in relation to the coastal environment of New Zealand.</p> <p>Many policies in the NZCPS 2010 build on and are similar to those that were in the NZCPS 1994. However the NZCPS 2010 also contains some new policy topics that were not specifically included in the NZCPS 1994, such as:</p> <ul style="list-style-type: none"> <li>• Extent and characteristics of the coastal environment (Policy 1)</li> <li>• Aquaculture (Policy 8)</li> <li>• Ports (Policy 9)</li> <li>• Harmful aquatic organisms (Policy 12)</li> <li>• Surf breaks of national significance (Policy 16)</li> <li>• Vehicle access (Policy 20)</li> <li>• Sedimentation (Policy 22).</li> </ul> <p>Another difference between the two policy statements is that there were no objectives in the NZCPS 1994. The NZCPS 2010 identifies 7 objectives as national priorities and 29 related policies. Most policies relate to one or more objectives (although they are not referenced to a particular objective).</p> <p>The 7 objectives are:</p> <ol style="list-style-type: none"> <li>1. <i>To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land.</i></li> <li>2. <i>To preserve the natural character of the coastal environment and protect natural features and landscape values.</i></li> <li>3. <i>To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment.</i></li> <li>4. <i>To maintain and enhance the public open space qualities and recreation opportunities of the coastal environment.</i></li> <li>5. <i>To ensure that coastal hazard risks taking account of climate change, are managed.</i></li> </ol>	<p><b>What the TRPS says</b></p> <p>The TRPS includes a section on the Coastal Environment that identifies 9 broad issues and includes 8 objectives and 9 policies to address them. There are also provisions in other sections of the TRPS related to the coastal environment. Consequently many of the matters covered in the NZCPS are addressed in the TRPS, including:</p> <ul style="list-style-type: none"> <li>- Preservation of natural character, including coastal habitats and ecosystems, natural coastal features and landscapes, and natural coastal processes;</li> <li>- Controls on subdivision, use and development (including discharges) in the coastal environment;</li> <li>- Management of coastal hazard risk;</li> <li>- Public access to and along the coast; and</li> <li>- Maintenance and enhancement of coastal water quality.</li> </ul> <p>However, the TRPS was written when the 1994 NZCPS was in force. It therefore addresses the requirements at that time and now needs to be updated to 'give effect to' the provisions in the 2010 NZCPS.</p> <p><b>Recommendations for 'Giving Effect to' the NZCPS 2010 in the TRPS</b></p> <ul style="list-style-type: none"> <li>• Recognise the need to identify the extent of the coastal environment (i.e. the inland boundary) using the characteristics and qualities set out in NZCPS Policy 1, and consider using the TRMP planning maps as a means of delineating the coastal environment boundaries.</li> <li>• Include mātauranga Māori in TRPS provisions; provide opportunities for tangata whenua to fulfil their kaitiakitanga role in accordance with tikanga Māori; address issues and incorporate relevant provisions from Iwi resource management plans (Policy 2).</li> <li>• Ensure the TRPS adopts a precautionary approach that covers use and management of coastal resources, particularly vulnerable to the effects from climate change (Policy 3).</li> </ul>

<sup>38</sup> Based on recommendations in: 1. TDC Memorandum to Environment and Planning Managers Group: Re NZCPS, by Neil Jackson and Ros Squire, 30<sup>th</sup> Nov 2010; 2. Regional Coastal Plan – Scoping Report: NZCPS 2010 Workload Implications (no name or date); and 3. NZCPS Effectiveness Review Local Government Survey, Tania Bray, Nov 2016.

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<p>6. <i>To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development.</i></p> <p>7. <i>To ensure that management of the coastal environment recognises and provides for NZ's international obligations regarding the coastal environment, including the coastal marine area.</i></p>	<ul style="list-style-type: none"> <li>• Update the TRPS to implement the Future Development Strategy aims of consolidating future development in existing settlements while avoiding development in sensitive environments (see p.36); include provisions promoting potential for renewable marine energy (Policy 6).</li> <li>• Identify and avoid / protect / preserve coastal areas that are unsuitable for subdivision, use or development, including outstanding natural landscapes &amp; features, areas of natural character, areas of significant indigenous vegetation and significant habitats of indigenous fauna, and areas subject to coastal hazards; identify &amp; manage adverse cumulative effects that threaten or place at significant risk coastal processes, resources or values (Policies 7, 11, 13, &amp; 15).</li> <li>• Update the TRPS to take account of change in aquaculture practices following RMA amendments, court decisions, TRMP plan change (Policy 8).</li> <li>• Provide for the control of activities in or near the CMA that could cause harmful aquatic organisms to be released or spread (currently the TRPS largely focuses on land-based plant and animal pests); also make reference to the Nelson-Tasman Pest Management Plan 2019-2029 (Policy 12).</li> <li>• Emphasise the need for restoration / rehabilitation of natural character of the coastal environment, including identification of areas and opportunities for doing so and setting out methods to enable restoration to occur (Policy 14).</li> <li>• Update the TRPS provisions to recognise and provide for historic heritage protection as a matter of national importance (s6(e) &amp; (f)); ensure the TRPS identifies the range of coastal heritage resources and qualities provided for in the RMA definition; include provisions for the identification and protection of Māori historic heritage in collaboration with mana whenua (Policies 2 &amp; 17).</li> <li>• Ensure provision of public open space that takes account of the likely impact of coastal processes and climate change (Policy 18).</li> <li>• Update TRPS provisions to more effectively identify and control activities that cause or exacerbate sedimentation in and contamination of waterways (refer to TRMP land disturbance review); prioritise improvement of coastal water quality in locations having evidence of poor quality (Policy 21, 22 &amp; 23). [Note: Implementation of the NPS for Freshwater Management will assist (see p.38)]</li> <li>• Update TRPS to reflect work done on addressing coastal inundation in the District; ensure coastal hazards are identified using a 100 year hazard-risk timeframe and having regard to the effects of climate change; ensure subdivision, use and development</li> </ul>



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	<p>avoids increasing the risk of coastal hazard effects or harm; encourage redevelopment or change in land use where that would reduce the risk of effects from coastal hazards; consider showing hazard risk areas on TRMP planning maps (Policies 24 &amp; 25).</p> <ul style="list-style-type: none"> <li>Promote natural defences to coastal hazards (beaches, estuaries, wetlands etc) over hard protection structures such as seawalls (Policies 26 &amp; 27).</li> </ul>
NPS for Renewable Electricity Generation 2011 (NPS-REG)	
<p>The NPS-REG took effect on 13 May 2011. It recognises the contribution REG makes in addressing two major energy challenges faced by NZ: 1) responding to the risks of climate change by reducing greenhouse gas emissions caused by the production and use of energy; 2) delivering clean, secure, affordable energy while treating the environment responsibly.</p> <p>The matters of national significance that apply are:</p> <p>a) the need to develop, operate, maintain and upgrade renewable electricity generation activities throughout New Zealand; and</p> <p>b) the benefits of renewable electricity generation.</p> <p>The objective of the NPS-REG is:</p> <p><i>To recognise the national significance of renewable electricity generation activities by providing for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities, such that the proportion of New Zealand's electricity generated from renewable energy sources increases to a level that meets or exceeds the New Zealand Government's national target for renewable electricity generation.</i></p> <p>Policies are concerned with:</p> <ul style="list-style-type: none"> <li>Recognising the benefits of REG activities.</li> <li>Acknowledging the practical implications of achieving New Zealand's target for electricity generation from renewable resources.</li> <li>Acknowledging the practical constraints associated with the development, operation, maintenance and upgrading of new and existing REG activities.</li> <li>Managing reverse sensitivity effects on REG activities.</li> </ul>	<p><b>What the TRPS Says:</b></p> <p>TRPS Objective 12.2 promotes <i>“Conservative and efficient use of energy, and reduced dependence on non-renewable energy resources”</i>. In addition TRPS Objective 12.1 seeks to avoid, remedy or mitigate any adverse effects on the environment from energy generation and distribution (discussed in NPS-ET above).</p> <p>However, no TRPS objectives or policies explicitly promote or require the development of renewable electricity activities.</p> <p>The TRPS does acknowledge the District's potential for hydro, solar and wind generation in its introductory text (at pp. 63 &amp; 141), and the following method is included: <i>The Council will develop policies and rules in its regional and district plans and make decisions on resource consent applications to provide for appropriate energy production, transmission, or use activities, including hydropower electricity, that do not adversely affect natural, heritage and amenity resource values of resources, including instream values of water bodies and the natural character of the coastal environment.</i></p> <p>A review of the TRMP<sup>39</sup> found that renewable energy is not promoted in any objective or policy. Consequently, there needs to be a much greater focus on providing for renewable forms of energy in the TRMP.</p> <p><b>Recommendations for ‘Giving Effect to’ the NPS-REG in the TRPS:<sup>40</sup></b></p> <ul style="list-style-type: none"> <li>Include an Energy section in the TRPS that deals with the matters required by NPS-REG and NPS-ET (discussed above). The existing TRPS section 12 should largely be rewritten.</li> <li>Explicitly refer to the ‘renewable electricity generation’ in relevant TRPS provisions, rather than the more generic term ‘energy generation’;</li> </ul>

<sup>39</sup> Mason (2019). *Stage 1 of Tasman Regional Policy Statement Efficiency and Effectiveness Review: Integrated Management*; p.18.

<sup>40</sup> See also Ministry for the Environment. 2011. *National Policy Statement for Renewable Electricity Generation 2011: Implementation Guide*. Wellington: Ministry for the Environment. <https://www.mfe.govt.nz/publications/rma/nps-renewable-electricity-generation-2011>

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	<ul style="list-style-type: none"> <li>• Ensure objectives, policies and methods ‘recognise and provide for’ the full range of matters of national importance specified in the NPS-REG, i.e. the need to ‘develop, operate, maintain and upgrade’ REG activities;</li> <li>• Identify the benefits of REG, using NPS-REG Policy A as a reference;</li> <li>• Acknowledge the need to protect existing REG activities, including the structures and infrastructure that support it, as well as the need to increase new REG activities in order to provide for the countries energy needs and to meet the national target (NPS-REG Policies B, C &amp; D), including by: <ul style="list-style-type: none"> <li>◦ taking into account the effects of activities on existing REG activities;</li> <li>◦ considering the effect of any proposed policy and plan changes on REG;</li> <li>◦ identifying threats to REG activities &amp; assets (e.g. minimum flow levels);</li> <li>◦ understanding the nature &amp; extent of potential renewable energy in Tasman;</li> <li>◦ recognising and addressing potential reverse sensitivity effects, including cross-boundary effects.</li> </ul> </li> <li>• Provide for offset and environmental compensation measures to be considered where the effects of an REG activity cannot be avoided, remedied or mitigated.</li> <li>• Include objectives, policies and methods that provide for the development, operation, maintenance, and upgrading of a range of REG activities applicable to Tasman, including: <ul style="list-style-type: none"> <li>◦ new and existing REG activities using solar, biomass, tidal, wave and ocean current energy resources;</li> <li>◦ new and existing hydro-electricity generation activities;</li> <li>◦ new and existing wind energy generation activities;</li> <li>◦ new and existing geothermal resources (NPS-REG Policy E).</li> </ul> </li> <li>• Identify sensitive receiving environments where REG activities should be avoided or subject to a higher threshold.</li> <li>• Include objectives, policies and methods that provide for small and community-scale distributed renewable electricity generation from any renewable energy source (NPS-REG Policy F).</li> <li>• Include objectives, policies and methods that provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for renewable electricity generation</li> </ul>

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	by existing and prospective generators (NPS-REG Policy G).
NPS on Urban Development Capacity 2016 (NPS-UDC)	
<p>The NPS-UDC came into effect on 1<sup>st</sup> December 2016. It directs local authorities to provide sufficient development capacity in their resource management plans, supported by infrastructure, to meet demand for housing and business space.</p> <p>The NPS recognises the national significance of:</p> <p>a) urban environments and the need to enable such environments to develop and change; and</p> <p>b) providing sufficient development capacity to meet the needs of people and communities and future generations in urban environments.</p> <p>NPS-UDC contains objectives and policies that local authorities must give effect to in their resource management decisions. Tasman (Nelson) is identified as a medium-growth urban area with specific policies applying.</p> <p>Medium-growth areas have a resident population of over 30,000 people and the population is projected to grow by between 5% and 10% between 2013 to 2023 (as defined by Statistics New Zealand in 2016).</p> <p>Overall objectives aim to ensure:</p> <ul style="list-style-type: none"> <li>• <i>Effective and efficient urban environments that enable people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing.</i></li> <li>• <i>Urban environments that have sufficient opportunities for the development of housing and business land to meet demand, and which provide choices that will meet the needs of people and communities and future generations for a range of dwelling types and locations, working environments and places to locate businesses.</i></li> <li>• <i>Urban environments that, over time, develop and change in response to the changing needs of people and communities and future generations.</i></li> <li>• <i>A robustly developed, comprehensive and frequently updated evidence base to inform planning decisions in urban environments.</i></li> <li>• <i>Planning decisions, practices and methods that enable urban development which provides for the social, economic, cultural and environmental wellbeing of people and communities and future generations in the short, medium and long-term.</i></li> <li>• <i>Local authorities adapt and respond to evidence about urban development, market activity and the social, economic, cultural and environmental wellbeing of people and communities and future generations, in a timely way.</i></li> </ul>	<p><b>What the TRPS says:</b></p> <p>The TRPS does not currently include an issue(s) promoting the availability of housing or business land in the District. Issue 5.7 maintenance and enhancement of the urban quality of the environment. It acknowledges that urban growth will occur, but the focus is more on the visual, amenity and encroachment effects of development.</p> <p>Consequently objectives and policies are concerned with managing urban development to avoid or minimise the loss of productive land, indigenous vegetation and habitats, outstanding natural landscapes, the natural qualities of the coast, water availability, the character of small settlements, amenity values etc.</p> <p>The most relevant TRPS objective and policy are:</p> <p><i>O5.5 Maintenance and enhancement of urban environmental quality, including amenity values and the character of small towns.</i></p> <p><i>P5.7 Council will seek to enhance urban environmental quality, having regard to:</i></p> <p><i>(i) the design and appearance of buildings and spaces;</i></p> <p><i>(ii) vegetation and open space;</i></p> <p><i>(iii) heritage sites and values;</i></p> <p><i>(iv) pedestrian facilities and traffic management;</i></p> <p><i>(v) noise levels and air quality;</i></p> <p><i>(vi) the relationship between the urban area and the values of its adjoining landscapes.</i></p> <p>Given the steadily declining rates of housing affordability and increasing rate of growth in house prices in the District, the TRPS will need to include objectives, policies and methods aimed at enabling housing development and related infrastructure to meet demand whilst managing effects on the environment.</p> <p>As identified in council’s Future Development Strategy, there is less pressure for business and industrial land with existing zoned land being forecast to meet future needs.</p> <p>Many of the NPS-UDC policies will need to be implemented using methods other than the TRPS and TRMP, for instance the considerable monitoring requirements under NPS-UDC Policies PB1 – PB7, to provide the information necessary for the housing and business capacity assessments.</p>

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<ul style="list-style-type: none"> <li>• <i>Urban environments where land use, development, development infrastructure and other infrastructure are integrated with each other.</i></li> <li>• <i>Coordinated and aligned planning decisions within and across local authority boundaries.</i></li> </ul> <p>Specific policies set out the actions for councils to take in achieving these objectives. The policies that are relevant to Tasman District are:</p> <p>PA1: Sufficient development capacity in the short, medium and long term;</p> <p>PA2: Other infrastructure required to support urban development;</p> <p>PA3: Provide choice; promote efficient use of land and infrastructure; limit adverse effects on competition;</p> <p>PA4: Take into account the benefits and costs of urban development at a national, interregional, regional, district and local scale;</p> <p>PC1–2: Provide an additional margin of feasible development capacity;</p> <p>PC3: Respond when development capacity is insufficient;</p> <p>PC4: Use all practicable options to provide development capacity;</p> <p>PD1–2: Work with other local authorities and infrastructure providers on housing and business assessment and to agree development capacity;</p> <p>PB6: Monitor market indicators;</p> <p>PB7: Use price efficiency indicators;</p> <p>PB1–5: Produce a housing and business development capacity assessment.</p> <p>A key action is the development of a future development strategy to demonstrate there will be sufficient development capacity in the medium and long term, and that the minimum targets for sufficient development capacity will be met.</p> <p>The need to gather data to inform decision-making is another strong requirement of the NPS-UDC, including regularly monitor market indicators, including price signals, to ensure there is sufficient development capacity to meet demand. Three-yearly housing and business capacity assessments form a key part of this monitoring.</p>	<p><b>Recommendations for ‘Giving Effect to’ the NPS-UDC in the TRPS:<sup>41</sup></b></p> <p><i>Implementing the Future Development Strategy<sup>42</sup></i></p> <p>TDC and NCC have prepared a joint Future Development Strategy (FDC) in accordance with the NPS-UDC. The FDC directs council to amend the TRPS to:</p> <ul style="list-style-type: none"> <li>• Establish new objectives that introduce the 2019 FDS growth concept (intensification and expansion areas) and give statutory support to the overall settlement pattern.</li> <li>• Establish new objectives and policies to enable centres-based intensification of the existing urban area, noting that the character of those places will be subject to change over the medium to long term.</li> <li>• Afford greater policy support for well-designed intensification in appropriate locations within existing urban areas, and discourage poorly-designed or located intensification proposals.</li> <li>• Provide policy support for urban expansion areas that are consistent with the first stages of the 2019 NTFDS (2028 – 2038).</li> <li>• Establish staging ‘triggers’ that manage the release of the larger urban expansion areas identified in the second stage of the 2019 FDS (2038 – 2048) (or subsequent reviews), based on factors such as overall population growth rates, percentage of new housing located in intensification areas, housing preferences and adequate forward supply of development opportunities.</li> <li>• Achieve coordinated and logical urban growth, including efficient integration of land use and necessary infrastructure.</li> </ul>
<p><b>NPS for Freshwater Management 2014 (updated August 2017)</b></p>	

<sup>41</sup> Ministry for the Environment and Ministry of Business, Innovation and Employment. 2016. *Introductory Guide to the National Policy Statement on Urban Development Capacity 2016*. Wellington: Ministry for the Environment and Ministry of Business, Innovation and Employment. <https://www.mfe.govt.nz/more/towns-and-cities/implementing-national-policy-statement-urban-development-capacity>

<sup>42</sup> Nelson City & Tasman District Councils. 2019. *Nelson Tasman Future Development Strategy*. <https://tasman.govt.nz/my-council/key-documents/more/growth/future-development-strategy/>

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<p>The NPS-FM came into effect on 1<sup>st</sup> August 2014 and amendments made in August 2017 took effect on 7<sup>th</sup> September 2017.</p> <p>It directs regional councils, in conjunction with tangata whenua and communities, to set objectives for the state of fresh water bodies in their regions and to set limits on resource use to meet these objectives.</p> <p>The matter of national significance that the NPS-FM applies is <i>“the management of fresh water through a framework that considers and recognises Te Mana o te Wai as an integral part of freshwater management”</i>.</p> <p><b>Freshwater Management Units</b></p> <p>The NPS requires the identification of freshwater management units (FMUs) that include all freshwater bodies in the District. An FMU is defined as <i>“the water body, multiple water bodies or any part of a water body determined as the appropriate spatial scale for setting freshwater objectives and limits and for freshwater accounting and management purposes”</i>.</p> <p><b>Setting Freshwater Objectives &amp; Limits</b></p> <p>For each FMU, TDC is required to set freshwater objectives and quality limits, and to establish methods to avoid over-allocation. A freshwater objective describes the desired state of the water in relation to a particular characteristic (e.g. nitrate or phosphorus levels), while a limit describes the maximum use of the resource that is possible while still achieving the objective.</p> <p>In setting limits TDC must have regard to:</p> <ul style="list-style-type: none"> <li>• the reasonably foreseeable impacts of climate change;</li> <li>• the connection between water bodies; and</li> <li>• the connections between freshwater bodies and coastal water.</li> </ul> <p><b>National Values</b></p> <p>Two compulsory national values must be applied to all FMUs and freshwater objectives, namely:</p> <ol style="list-style-type: none"> <li>1. Ecosystem health; and</li> <li>2. Human health for recreation.</li> </ol> <p>In addition, ‘Other National Values’ may be included in an FMU where relevant, including:</p> <ul style="list-style-type: none"> <li>• Natural form and character</li> <li>• Mahinga kai</li> <li>• Fishing</li> <li>• Irrigation, cultivation &amp; food production</li> <li>• Animal drinking water</li> <li>• Wai tapu</li> <li>• Water supply</li> <li>• Commercial &amp; industrial use</li> </ul>	<p><b>What the TRPS says:</b></p> <p>Part 2 of the RMA (‘Purposes and Principles’) places a strong emphasis on the sustainable management of water. It is therefore a significant matter addressed in the TRPS, predominantly in sections 7 ‘Freshwater Resources’, 8 ‘River &amp; Lake Resources’ and 10 ‘Contamination &amp; Waste’, but also in ‘Tangata Whenua Interests’ (section 4), ‘Urban Development’ (5), ‘Land Resources’ (6) &amp; ‘Coastal Environment’ (9).</p> <p>Section 7 deals with maintenance and enhancement of freshwater values, fair and efficient allocation and use of water (including the setting of limits for abstractive purposes), control of land uses that can reduce water availability, and the management of water during dry periods.</p> <p>Section 8 addresses the maintenance and enhancement of natural, recreational and cultural values of the District’s water bodies.</p> <p>Section 10 identifies values and sets criteria for classifying significant water bodies and manages the effects of contaminant discharges on water quality.</p> <p>In support, sections 4, 5, 6 &amp; 9 aim to protect water from disturbance or contamination in a manner consistent with tangata whenua kaupapa and tikanga, ensure opportunities are available to tangata whenua for commercial uses of water, minimise the effects of urban and rural land uses on water quality and quantity, including downstream impacts on the coastal environment, and to protect life-supporting values of water bodies and their margins.</p> <p><b>Recommendations for ‘Giving Effect to’ the NPS-FM in the TRPS:<sup>43</sup></b></p> <p>Te Mana o te Wai is a fundamental shift in the way water is to be managed; it places the emphasis of freshwater management on the health and wellbeing of freshwater itself, not simply for human benefit, but in recognition of the intrinsic values of water.</p> <p>The objectives, policies and methods in the TRPS need to be revised in light of the NPS-FM to give effect to Te Mana o te Wai, to implement the water management framework introduced by the NPS, and to ensure the language used is consistent with the NPS.</p> <p>In particular, the revised objectives, policies and methods in the TRPS need to:</p>

<sup>43</sup> See also Ministry for the Environment. 2017. *A Guide to the National Policy Statement for Freshwater Management 2014 (as amended 2017)*. Wellington: Ministry for the Environment. <https://www.mfe.govt.nz/fresh-water/freshwater-guidance-and-guidelines/guidance-national-policy-statement-freshwater>

NPS REQUIREMENTS	IMPLICATIONS FOR TRPS
<ul style="list-style-type: none"> <li>• Hydro-electric power generation</li> <li>• Transport &amp; tauranga waka</li> </ul> <p>TDC can also consider any other locally specific values or uses of fresh water not identified in the NPS but that are considered appropriate.</p> <p><b>Monitoring and Accounting</b></p> <p>The NPS requires appropriate monitoring systems to measure progress towards and achievement of the values and freshwater objectives. Existing monitoring programmes can be used provided there are sufficient representative site(s) for each FMU. Long-term data and trend analysis will be essential in setting freshwater objectives and limits.</p> <p>A freshwater <i>quality</i> accounting system is required to keep account of the type and amount of relevant contaminants affecting an FMU, where those contaminants are coming from by source, and the amount generated by each source (including both point and diffuse discharges).</p> <p>A freshwater <i>quantity</i> accounting system is also required to keep account of how much water is allocated, how much is being taken from freshwater bodies, and broadly what that water is being used for (eg, municipal, irrigation, hydroelectric power). It also needs to keep account of how much of the limit is being used in each FMU.</p>	<ul style="list-style-type: none"> <li>• ‘Consider and recognise’ Te Mana o Te Wai, including the connection between the health of water, the broader environment, and people.<sup>44</sup></li> <li>• Engage with tangata whenua and the wider community to consider and recognise Te Mana o te Wai in decision making for freshwater, e.g. by identifying freshwater values and setting objectives and limits.</li> <li>• Safeguard fresh water’s life-supporting capacity, ecosystem processes and indigenous species.</li> <li>• Safeguard the health of people who come into contact with the water.</li> <li>• Establish FMUs covering all waterbodies in the District.</li> <li>• Establish objectives and set of freshwater quality limits for all FMUs.</li> <li>• Maintain or improve the overall quality of fresh water within a freshwater management unit.</li> <li>• Improve water quality so it is suitable for primary contact more often.</li> <li>• Protect the significant values of wetlands and outstanding freshwater bodies.</li> <li>• Follow a specific process (the national objectives framework) for identifying the values that tangata whenua and communities have for water, and using a specified set of water quality measures (called attributes) to set objectives.</li> <li>• Set limits on resource use (e.g. how much water can be taken or how much of a contaminant can be discharged) to meet limits over time and ensure they continue to be met.</li> <li>• Determine the appropriate set of methods to meet the objectives and limits.</li> <li>• Take an integrated approach to managing land use, fresh water and coastal water (ki uta ki tai – ‘from the mountains to the sea’).</li> <li>• Involve iwi and hapū in decision making and management of fresh water.</li> <li>• Develop a plan for monitoring progress towards achievement of freshwater objectives and values.</li> <li>• Respond to monitoring that indicates objectives will not be met or values will not provided for.</li> <li>• Establish and operate a freshwater accounting system to improve information on freshwater takes and sources of freshwater contaminants.</li> </ul> <p><b>Other Considerations:</b></p>

<sup>44</sup> According to a MFE fact sheet on Te Mana o Te Wai, “When Te Mana o te Wai is given effect, the water body will sustain the full range of environmental, social, cultural and economic values held by iwi and the community. All decisions about freshwater management should be made by putting the health and well-being of the water at the forefront of their discussions” (p.1). <https://www.mfe.govt.nz/sites/default/files/media/Te%20Mana%20o%20te%20Wai.pdf>

NPS REQUIREMENTS	IMPLICATIONS FOR TRPS
	<p><i>Integration with the NZCPS</i></p> <p>Both the NPS-FM and the NZCPS provide direction on the management of freshwater in the coastal environment. Freshwater objectives and limits for freshwater bodies in the coastal environment must give effect to both policy statements.</p> <p>TDC will need to recognise the effects on receiving coastal waters when making decisions about freshwater in other FMUs, not just those in the coastal environment. Coastal water quality will be affected by the quality of freshwater that flows into it</p> <p><i>Water Conservation Orders (WCOs)</i></p> <p>There are two operative WCOs in Tasman, for the Motueka and Buller Rivers, and an application for a WCO over Te Waikoropupu Springs is under consideration. TDC must give effect to the NPS-FM by setting objectives and limits for all identified values, even where an existing WCO applies. Council will need to ensure the freshwater objectives that are set, and the limits and methods that are established to achieve them, do not contravene the requirements of the WCOs.</p> <p><i>Treaty Settlements</i></p> <p>All of the te tau ihu iwi have Treaty of Waitangi settlements in place. These settlements place obligations on TDC and how it exercises the relevant functions under the RMA. When implementing the revised RPS, TDC will need to give effect to the NPS and to any relevant Treaty settlement obligations. Meeting obligations under the NPS won't necessarily fulfil the requirements of Treaty settlement legislation, or vice versa.</p>

## 5. National Directives: National Environmental Standards

National environmental standards (NES) are regulations that prescribe standards for environmental matter addressing land use and subdivision, use of the coastal marine area and beds of lakes and rivers, water take and use, discharges, or noise. The government sets standards where appropriate to ensure a consistent standard for an activity or resource use. In some circumstances, councils can impose stricter or more lenient standards.

The requirements of the following current NESs are discussed in Table 5.1 below:

1. National Environmental Standard for Sources of Drinking Water 2007
2. National Environmental Standards for Electricity Transmission Activities 2009
3. National Environmental Standards for Air Quality 2011
4. National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
5. National Environmental Standards for Telecommunication Facilities 2016
6. National Environmental Standards for Plantation Forestry 2018

A number of other NESs are at various stages of development, ranging from initiating consultation to being legally drafted.<sup>45</sup> The implications of these will need to be considered if and when they are made operative.

NES REQUIREMENTS	IMPLICATIONS FOR TRPS
<b>National Environmental Standard for Sources of Drinking Water 2007<sup>46</sup></b>	
<p>Came into effect 20 June 2008. Sets requirements for protecting sources of human drinking water (such as a lake, river or groundwater that is used to supply a community with drinking water) from becoming contaminated.</p> <p>Requires regional councils to ensure that effects of activities on drinking water sources are considered in decisions on regional consents and regional plans.</p>	<p><b>What the TRPS says:</b></p> <p>Issue 7.4 addresses the effects of contaminant discharges on water quality and notes that <i>“Both consumptive and instream uses of water may be adversely affected by degraded water quality, where the features or condition of water become unsuitable for any particular use or value”</i>.</p> <p>Policy 10.1 requires significant water bodies to be classified to ensure water quality is maintained to a standard suitable for drinking (amongst other values). Other policies in chapter 10 seek to avoid or minimise adverse effects of contaminant discharges on water quality.</p> <p><b>Recommendations for ‘Giving Effect to’ the Sources of Drinking Water NES in the TRPS:<sup>47</sup></b></p> <p>Review TRPS objectives, policies and methods to ensure they require:</p> <ul style="list-style-type: none"> <li>• The declining of discharge or water permits that are likely to result in community drinking water</li> </ul>

<sup>45</sup> For more details see <https://www.mfe.govt.nz/rma/rma-legislative-tools/national-environmental-standards>

<sup>46</sup> Note Drinking Water NES and drinking water regulatory framework under Section 2A of the Health Act are currently under review following the findings of the Havelock North Inquiry.

<sup>47</sup> Detailed MfE guidance on implementing the Sources of Drinking Water NES is available at <https://www.mfe.govt.nz/publications/rma/nes-draft-sources-human-drinking-water>



NES REQUIREMENTS	IMPLICATIONS FOR TRPS
	<p>becoming unsafe for human consumption following treatment.</p> <ul style="list-style-type: none"> <li>• Permitted activities in regional plans to not result in community water supplies being unsafe for human consumption following existing treatment.</li> <li>• Conditions are placed on relevant resource consents that require notification of drinking water suppliers if significant unintended events occur (eg spills) that may adversely affect sources of human drinking water.</li> </ul>
<b>National Environmental Standards for Electricity Transmission Activities 2009</b>	
<p>Took effect 14 January 2010. Sets out a national framework of permissions and consent requirements for activities on existing electricity transmission lines. Activities include operation, maintenance and upgrading of existing lines. Sets out which transmission activities are permitted, subject to conditions to control the environmental effects.</p>	<p>This NES is very specific and the details do not need to be included in the TRPS.</p> <p>Amending the TRPS to give effect to the NPS on Electricity Transmission 2008 will help establish the policy framework for enabling the operation, maintenance, upgrading, relocation, or removal of an existing transmission line as required by the NES (see discussion &amp; recommendations, p.30).</p>
<b>National Environmental Standards for Air Quality 2004 (Updated 2011)</b>	
<p>Came into effect 8 October 2004 and is made up of 14 separate but interlinked standards, including:</p> <ol style="list-style-type: none"> <li>Seven standards banning activities that discharge significant quantities of dioxins and other toxins into the air.</li> <li>Five standards for ambient (outdoor) air quality.</li> <li>A design standard for new wood burners installed in urban areas.</li> <li>A requirement for landfills over 1 million tonnes of refuse to collect greenhouse gas emissions.</li> </ol> <p>Regional Councils are required to identify areas where air quality is likely, or known, to exceed the standards (known as airsheds).</p>	<p><b>What the TRPS says:</b></p> <p>Issue 10.1 deals with point source discharges to air, including industrial waste and boiler emissions. Issue 10.3 deals with diffuse source discharges to air, including emissions of gases or smoke from vehicles and fires. Issue 10.5 deals with the effects of generating and disposing of contaminant waste, including discharges to air of liquid or gaseous wastes such as methane.</p> <p>Policy 10.3 seeks to avoid, remedy, or mitigate adverse effects of the discharge of contaminants to air. It recognises that <i>“Decreasing the quality of air through the discharge of particulate or gaseous contaminants (including smoke, dust, carbon monoxide odours) can have considerable impact on human health and amenity values on the environment”</i>. Policy 10.6 states that, where practicable, the council will manage the adverse effects of diffuse source discharges of particulate and chemical contaminants on air quality.</p> <p><b>Recommendations for ‘Giving Effect to’ the Air Quality NES in the TRPS:<sup>48</sup></b></p> <ul style="list-style-type: none"> <li>• Review the TRPS objectives, policies and methods to ensure they recognise and respond to the seven activities banned by the NES and the five ambient standards for outdoor air quality.</li> <li>• Identify Richmond as an airshed that is known to exceed air quality standard for PM<sub>10</sub>.</li> </ul>

<sup>48</sup> Detailed MfE guidance on implementing the Air Quality NES is available at <https://www.mfe.govt.nz/air/air-guidance-and-wood-burners/guidance-implementing-national-environmental-standards-air-quality>

NES REQUIREMENTS	IMPLICATIONS FOR TRPS
	<ul style="list-style-type: none"> <li>Consider the use of air shed action plans as a method to assist with compliance with the Air Quality NES.</li> <li>Provide any necessary direction with regards to management of the District’s landfills to address emissions.</li> </ul>
<b>National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011</b>	
<p>Came into effect 1 January 2012 and provides a nationally consistent set of planning controls and soil contaminant values.</p> <p>The objective of the NES is to ensure land affected by contaminants in soil is appropriately identified and assessed when soil disturbance and/or land development activities take place and, if necessary, remediated or the contaminants contained to make the land safe for human use.</p> <p>Regional councils are required to investigate land for the purposes of identifying and monitoring contaminated land. To fulfil this function, most councils maintain a contaminated sites database.</p> <p>Under the regulations, land is considered to be actually or potentially contaminated if an activity or industry on the Hazardous Activities or Industries List (HAIL) has been, is, or is more likely than not to have been, undertaken on that land.<sup>49</sup></p>	<p><b>What the TRPS says:</b></p> <p>Issue 10.4 recognises the legacy of contaminated sites in urban and rural settings, and Policy 10.7 states that “<i>The Council will manage the legacy of contaminated sites in the District</i>” The investigation and assessment of potentially contaminated land is given as a method in the TRPS. It’s purpose is to define the location and extent of contaminated land and assess the effects and risks, options for remediation or cleanup, and priorities for further investigation, assessment, remediation, enforcement or other actions.</p> <p>An additional method given is the development of a public register of known contaminated sites.</p> <p><b>Recommendations for ‘Giving Effect to’ the Contaminants in Soil NES in the TRPS:<sup>50</sup></b></p> <p>Review the TRPS objectives, policies and methods to ensure they enable the safe use of affected land by:</p> <ul style="list-style-type: none"> <li>Applying the regulations for the specified activities where there is a potential that soil is contaminated in such a way as to be a risk to human health activities.</li> <li>Ensuring the planning controls relevant to assessing and managing public health risks from contaminants in soil are appropriate and nationally consistent.</li> <li>Establishing soil contaminant standards protective of human health and requiring their use when decisions are made under the NES.</li> <li>Updating references to the public register to instead refer to the Hail list.</li> <li>Ensuring best practice and consistent reporting on land affected or potentially affected by contaminants is applied to enable efficient information gathering and consistent decision-making.</li> </ul>
<b>National Environmental Standard for Telecommunication Facilities 2016</b>	
<p>Came into effect on 1 January 2017 and replaces the NESTF 2008.</p> <p>NESTF provided a national planning framework that allowed network operators to install some low impact</p>	<p><b>What the TRPS says:</b></p> <p>The TRPS does not refer to the siting of telecommunication facilities. Policy 5.1 seeks to avoid the loss of land of high productive value in allowing for</p>

<sup>49</sup> For more details on HAIL sites see <https://www.mfe.govt.nz/land/hazardous-activities-and-industries-list-hail>

<sup>50</sup> Detailed MfE guidance on implementing the Contaminants in Soil NES is available at <https://www.mfe.govt.nz/publications/rma-land-hazards/users-guide-national-environmental-standard-assessing-and-managing>

NES REQUIREMENTS	IMPLICATIONS FOR TRPS
<p>telecommunications infrastructure in road reserves without the need to apply for resource consent, provided they met specified conditions. It was then replaced by the NESTF 2016 which widens the scope of the 2008 framework by providing national consistency for a greater range of low impact telecommunications infrastructure.</p>	<p>further urban development, including the location of network utility services, and Policy 5.7 deals generally with the effects of network utility services (amongst other activities) on urban environmental quality.</p> <p><b>Recommendations for ‘Giving Effect to’ the Telecommunication Facilities NES in the TRPS:</b><sup>51</sup></p> <p>Review the TRPS objectives, policies and methods to ensure they require:</p> <ul style="list-style-type: none"> <li>• Identification of the regulated activities to which the NES relates.</li> <li>• Application of the appropriate standards in determining whether the regulated activities require consent.</li> <li>• Identification of when plan provisions may be more stringent (e.g. to protect historic heritage values, outstanding natural features etc).</li> </ul>
National Environmental Standards for Plantation Forestry 2018	
<p>Came into effect 1 May 2018. Provides a consistent set of regulations for plantation forestry activities. The objectives are to: 1) maintain or improve the environmental outcomes associated with plantation forestry activities nationally; and 2) increase certainty and efficiency in the management of plantation forestry activities.</p> <p>The regulations apply to any forest larger than one hectare that has been planted specifically for commercial purposes and harvest.</p> <p>They cover 8 core plantation forestry activities (afforestation; selective felling; earthworks; river crossings; forestry quarrying; harvesting; mechanical land preparation; replanting), allowing these to be carried out as permitted activities, subject to conditions to manage potential effects on the environment.</p> <p>Councils are able to impose stricter rules in relation to significant natural areas, outstanding natural features and landscapes, specified geological areas, and sensitive receiving environments. A local rule can also be stricter than the NES-PF if it is needed to give effect to the NPS-FM or the NZCPS.</p>	<p><b>What the TRPS says:</b></p> <p>The TRPS identifies a number of effects relating to plantation forestry, namely emissions from burning forestry waste (Issue 5.4, addressed by Policy 10.3), spraying to control vegetation when preparing land for planting (Issue 6.4, addressed by 5.4 &amp; 6.4), soil damage or loss and the resulting sedimentation in waterways and coastal waters (Issues 6.6, 6.8, 7.4 &amp; 9.8, addressed by Policy 6.5, 9.6 &amp; 9.7), reduction in surface water and availability of ground water (Issue 7.3, addressed by Policy 7.7), and disposal of forestry waste such as bark onto land (Issue 10.2, addressed by Policy 10.4).</p> <p><b>Recommendations for ‘Giving Effect to’ the Plantation Forestry NES in the TRPS:</b><sup>52</sup></p> <p>Review the TRPS objectives, policies and methods to ensure they require:</p> <ul style="list-style-type: none"> <li>• Identification of the regulated activities to which the NES relates.</li> <li>• Application of the appropriate standards in determining whether the regulated activities require consent.</li> <li>• Identification of when plan provisions may be more stringent than the NES (e.g. for soils susceptible to erosion such as Separation Point granites and karst systems).</li> </ul>

<sup>51</sup> Detailed MfE guidance on implementing the Telecommunication Facilities NES is available at <https://www.mfe.govt.nz/node/24369/>

<sup>52</sup> Detailed MPI guidance on implementing the Plantation Forestry NES is available at <https://www.teururakau.govt.nz/growing-and-harvesting/forestry/national-environmental-standards-for-plantation-forestry/nep-pf-guidance/>

## 6. Regulations made under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012<sup>53</sup>

Section s61(2c) of the RMA requires councils to have regard to “*the extent to which the regional policy statement needs to be consistent with regulations made under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012*” (EEZA).

The EEZA aims to promote the sustainable management of natural resources in the exclusive economic zone and continental shelf. The Act also seeks to protect the exclusive economic zone and continental shelf from pollution by regulating discharges and dumping. It seeks to achieve these goals by allowing for the regulation of certain activities that were previously unregulated in the exclusive economic zone and continental shelf.

The Exclusive economic zone is the area of ocean extending between 12 and 200 nautical miles from shore, including the seabed and subsoil, and the continental shelf is the seabed and subsoil of submarine areas extending out to the continental margin. The EEZA does not apply to the coastal marine area (the area within 12 nautical miles of shore), which is regulated under the RMA.

The Environmental Protection Authority (EPA) is responsible for the day-to-day operation of the EEZA and its regulations, including monitoring and enforcement.

The EEZA does not alter regional councils’ functions in the territorial sea under the RMA. Where an activity spans the boundary between the territorial sea (within 12 nautical miles of shore) and the Exclusive Economic Zone, the legislation provides for joint decision-making between the regional council (under the RMA) and the marine consent authority (under the EEZA).

There have been four regulations made under the EEZA, as set out in Table 6.1 below. For the reasons outlined below, the provisions in the TRPS **are not** inconsistent with any of these regulations and consequently no recommendations for change are necessary. When the TRPS is updated, new or amended provisions should be assessed against the EEZA regulations to ensure consistency where relevant.

EEZA REGULATION	IMPLICATIONS FOR TRPS
<b>Exclusive Economic Zone and Continental Shelf (Environmental Effects—Permitted Activities) Regulations 2013</b>	
<p>Allows for the following permitted activities to be carried out in the exclusive economic zone or in or on the continental shelf, provided they meet specified conditions:</p> <ul style="list-style-type: none"> <li>• Marine scientific research, prospecting, and exploration;</li> <li>• Permitted marine structures;</li> <li>• Seismic surveys that comply with the Department of Conservation’s 2013 Code of Conduct;<sup>54</sup></li> <li>• Submarine cables; and</li> </ul>	<p>TRPS provisions generally address surface water activities and disturbance of the seabed; there is no specific mention of seismic surveys, submarine cables, deposit of material from a space vehicle.</p> <p>Marine structures are covered, particularly those relating to boat moorings and aquaculture activities. However, these provisions apply within the CMA and have no effect on marine structures in the EEZ.</p>

<sup>53</sup> Information in this section comes from <https://www.mfe.govt.nz/marine/marine-acts-and-regulations/exclusive-economic-zone-and-continental-shelf-environmental>

<sup>54</sup> Department of Conservation. 2013. *Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations*. <https://www.doc.govt.nz/our-work/seismic-surveys-code-of-conduct/code-of-conduct-for-minimising-acoustic-disturbance-to-marine-mammals-from-seismic-survey-operations/>.

EEZA REGULATION	IMPLICATIONS FOR TRPS
<ul style="list-style-type: none"> <li>• Deposit of material on seabed from launch of space vehicle.</li> </ul> <p>The EPA is to monitor permitted activities and notify relevant iwi, hapū, customary marine title group, and protected customary rights group of the permitted activity.</p>	
<b>Exclusive Economic Zone and Continental Shelf (Environmental Effects—Non-notified Activities) Regulations 2014</b>	
<p>Allows for certain activities involved in exploration drilling for petroleum in the exclusive economic zone or in or on the continental shelf to be classified as non-notified activities where an application for a marine consent will not to be publicly notified, subject to two conditions:</p> <ol style="list-style-type: none"> <li>1. The geographical area covered by the application must be the same or part of the same geographical area covered by a permit or adjacent permits under the Crown Minerals Act 1991; or</li> <li>2. The activity must be authorised by an existing privilege held by the applicant that is preserved by clause 12 of Schedule 1 of Crown Minerals Act 1991.</li> </ol>	<p>The TRPS notes that there is no significant petroleum resource in the District. Discussion is instead concerned with the greenhouse gas effects of burning fossil carbon (e.g. on p.141).</p> <p>The current government has passed legislation preventing the issue of new exploration permits for offshore oil and gas fields.</p>
<b>Exclusive Economic Zone and Continental Shelf (Environmental Effects—Discharge and Dumping) Regulations 2015</b>	
<p><b>Provisions relating to discharge of sediments</b></p> <p>The following are classified as permitted activities provided they meet the specified conditions:</p> <ul style="list-style-type: none"> <li>• Discharge of sediments from iron sand prospecting and exploration;</li> <li>• Incidental discharge of sediments from phosphate nodule or placer gold prospecting and exploration; and</li> <li>• Discharge of sediments from seafloor massive sulphide prospecting and exploration.</li> </ul> <p>Other discharges of sediments that are not classified as permitted or prohibited are a discretionary activity.</p> <p>Discharges of sediments containing prohibited radioactive material are classified as prohibited (unless the discharge is an incidental discharge).</p> <p><b>Provisions relating to discharge of oil and ecotoxic substances</b></p> <p>Classifies the dumping of oil and ecotoxic substances as being either permitted (subject to conditions), non-notified, discretionary or prohibited.</p> <p><b>Provisions relating to garbage</b></p> <p>Classifies the discharge of food waste from an offshore installation as a permitted activity (subject to conditions); Prohibits the discharge of food waste from an offshore installation that does not meet the permitted activity conditions.</p> <p><b>Provisions relating to dumping</b></p> <p>Classifies the dumping of material as being either non-notified, discretionary or prohibited.</p>	<p>Seabed mining is not specifically mentioned in the TRPS.</p> <p>Coastal discharges are dealt with in chapter 9 ‘Coastal Environment’ &amp; 10 ‘Contamination &amp; Waste’ and address sedimentation and waste issues. With the exception of discharges from boats, the TRPS provisions are concerned with the effects of landuse activities on coastal water quality, rather than activities undertaken at sea.</p> <p>The risk of accidental spills of oil products from boats is addressed by Policy 10.5, which seeks to reduce the risk of emergency discharges to water by:</p> <p><i>(i) requiring development of contingency plans where any activity:</i></p> <p><i>(a) includes the generation, use, storage, or discharge to air, land or water of any contaminant, and</i></p> <p><i>(b) requires a resource consent under the Act or any plan to authorise the activity; and</i></p> <p><i>(ii) implementing a pollution response procedure to emergency discharges.</i></p> <p>Objective 12.3 &amp; Policy 12.3 aim to ensure there will be no risk of contamination from radioactive material or irradiating apparatus, but this is principally in relation to energy generation, including nuclear powered vessels.</p>

EEZA REGULATION	IMPLICATIONS FOR TRPS
<b>Exclusive Economic Zone and Continental Shelf (Environmental Effects—Burial at Sea) Regulations 2015</b>	
Permits the disposal of human remains other than ashes within authorised locations, subject to conditions.	Disposal of human remains at sea is not addressed in the TRPS. The closest authorised burial area under the EEZA is 30 nautical miles south of Wellington. <sup>55</sup>

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<sup>55</sup> For more details see <https://epa.govt.nz/assets/Uploads/Documents/Marine-Activities-EEZ/Guidance/e71248a654/Guidance-for-burials-at-sea-in-New-Zealand-June-2018.pdf>

## APPENDIX 1

### 59 Purpose of regional policy statements

The purpose of a regional policy statement is to achieve the purpose of the Act by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region.

### 60 Preparation and change of regional policy statements

(1) There shall at all times be for each region 1 regional policy statement prepared by the regional council in the manner set out in [Schedule 1](#).

(2) A regional policy statement may be changed in the manner set out in [Schedule 1](#), at the instigation of a Minister of the Crown, the regional council, or any territorial authority within or partly within the region.

### 61 Matters to be considered by regional council (policy statements)

(1) A regional council must prepare and change its regional policy statement in accordance with—

- (a) its functions under [section 30](#); and
- (b) the provisions of [Part 2](#); and
- (c) its obligation (if any) to prepare an evaluation report in accordance with [section 32](#); and
- (d) its obligation to have particular regard to an evaluation report prepared in accordance with [section 32](#); and
- (da) a national policy statement, a New Zealand coastal policy statement, and a national planning standard; and
- (e) any regulations.

(2) In addition to the requirements of [section 62\(3\)](#), when preparing or changing a regional policy statement, the regional council shall have regard to—

- (a) any—
  - (i) management plans and strategies prepared under other Acts; and
  - (ii) *[Repealed]*
  - (iia) relevant entry on the New Zealand Heritage List/Rārangī Kōrero required by the [Heritage New Zealand Pouhere Taonga Act 2014](#); and
  - (iii) regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing); and
  - (iv) *[Repealed]*

to the extent that their content has a bearing on resource management issues of the region; and

- (b) the extent to which the regional policy statement needs to be consistent with the policy statements and plans of adjacent regional councils; and
- (c) the extent to which the regional policy statement needs to be consistent with regulations made under the [Exclusive Economic Zone and Continental Shelf \(Environmental Effects\) Act 2012](#); and

(2A) When a regional council is preparing or changing a regional policy statement, it must deal with the following documents, if they are lodged with the council, in the manner specified, to the extent that their content has a bearing on the resource management issues of the region:

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

(3) In preparing or changing any regional policy statement, a regional council must not have regard to trade competition or the effects of trade competition.

## **62 Contents of regional policy statements**

(1) A regional policy statement must state—

- (a) the significant resource management issues for the region; and
- (b) the resource management issues of significance to iwi authorities in the region; and
- (c) the objectives sought to be achieved by the statement; and
- (d) the policies for those issues and objectives and an explanation of those policies; and
- (e) the methods (excluding rules) used, or to be used, to implement the policies; and
- (f) the principal reasons for adopting the objectives, policies, and methods of implementation set out in the statement; and
- (g) the environmental results anticipated from implementation of those policies and methods; and
- (h) the processes to be used to deal with issues that cross local authority boundaries, and issues between territorial authorities or between regions; and
- (i) the local authority responsible in the whole or any part of the region for specifying the objectives, policies, and methods for the control of the use of land—
  - (i) to avoid or mitigate natural hazards or any group of hazards; and
  - (ii) *[Repealed]*
  - (iii) to maintain indigenous biological diversity; and
- (j) the procedures used to monitor the efficiency and effectiveness of the policies or methods contained in the statement; and
- (k) any other information required for the purpose of the regional council's functions, powers, and duties under this Act.

(2) If no responsibilities are specified in the regional policy statement for functions described in subsection (1)(i)(i) or (ii), the regional council retains primary responsibility for the function in subsection (1)(i)(i) and the territorial authorities of the region retain primary responsibility for the function in subsection (1)(i)(ii).

(3) A regional policy statement must not be inconsistent with any water conservation order and must give effect to a national policy statement, a New Zealand coastal policy statement, or a national planning standard.