

THAMES-COROMANDEL DISTRICT COUNCIL COASTAL HAZARDS POLICY

1. OBJECTIVES

- a) To sustainably manage the effects of coastal hazards on the District's coastal foreshore land by ensuring risk to life and property is maintained at an acceptable or tolerable level¹.
- b) To guide decisions on the level of service Council will provide at any location subject to a coastal hazard.
- c) To enable Council to respond consistently and efficiently to emergency events threatening public and/or private coastal property or infrastructure.

2. COUNCIL'S APPROACH TO MANAGING COASTAL HAZARDS

2.1 Overall Approach

- 2.1.1 Council will assess risk in accordance with the guidance in the District Plan and the Ministry for the Environment's Coastal Hazard Guidance to Local Authorities, and apply the following hierarchy to the management of effects from coastal hazards:
 - a. Acknowledge and live with natural fluctuations of the coast line
 - b. Implement and maintain 'soft' coastal defences where appropriate
 - c. Replace existing 'hard' coastal defences with 'soft' coastal defences, if this is practicable
 - d. Consideration will be given to managed retreat or relocation where appropriate
 - e. New 'hard' coastal defences should be avoided except where no other option is available to safeguard existing dwellings, community facilities or a lifeline utility. Any new 'hard' coastal defence is to be located above MHWS² where possible.
- 2.1.2 Council will proactively work with individuals and communities to identify and prioritise areas at risk or potential risk from coastal hazards, and to determine the most appropriate avoidance or adaptation management options.
- 2.1.3 Where private property is at risk from a coastal hazard, Council will encourage private property owners, to undertake avoidance or adaptation actions, in advance of any emergency situation arising.
- 2.1.4 For any Council-owned or managed land, infrastructure, community facilities or lifeline utilities located in any area potentially at risk from a coastal hazard, Council will undertake the avoidance or adaptation actions it considers appropriate in advance of any emergency situation arising.

2.2 Decision-Making Policies for Managing Coastal Hazards

- 2.2.1 Council will apply the natural hazards policies and rules in the District Plan along with the management hierarchy in policy 2.1.1 above to all appropriate coastal hazard situations.
- 2.2.2 Where Council is responsible for managing any new assets or infrastructure in proximity to the coast, or where any upgrade of existing infrastructure or facilities is undertaken, Council will avoid increasing the level of future risk from coastal hazards by locating or re-locating as far from MHWS as practicable.
- 2.2.3 Where Council is the landowner or land administrator of any area at risk, Council will seek to balance their responsibilities to protect coastal amenity values under the RMA, with their

¹ Refer to Chapter 10 District Plan for guidance on how to determine acceptable and tolerable risk.

² NB: Under the RMA, the Thames-Coromandel District Council is responsible for consents for structures above MHWS, while the Waikato Regional Council is responsible for consents for structures below MHWS. Where there is any debate over where the line of MHWS lies, it would need to be formally surveyed.

responsibilities to provide for public landward benefits under the Local Government Act or Reserves Act.

3. APPROPRIATE LEVEL OF COUNCIL SERVICE DELIVERY

3.1 Overall Approach

3.1.1 Council's service delivery role will focus on:

- Managing Council-owned or administered land (in particular, protecting infrastructure, protecting public reserves, protecting dunes)
- Building relationships with other agencies and informing land owners and communities of potential risks.

3.1.2 The level of service delivery provided by Council will be proportionate to the level of risk identified in a risk assessment undertaken for any particular site (using the guidance in the District Plan and the Ministry for the Environment's Coastal hazard Guidance for Local Authorities).

3.1.3 The Council may undertake a service delivery role solely or in collaboration with other government agencies, resource management agencies, individuals or third parties.

3.2 Decision-Making Policies for Determining the Level of Service

When will Council adopt a service delivery role:

3.2.1 As an on-going task, Council will undertake a proactive relationship building and information delivery role, in order to raise the knowledge base of potential risks within the District.

3.2.2 Council will only consider adopting an operational service delivery role if any proposal for coastal protection actions:

- a. Meets the requirements of the District Plan and this Policy Statement, and/or
- b. Legal advice confirms that the risk for Council in adopting a service delivery role is acceptable, taking into account legislation, case law, the District Plan, the Ministry for the Environment's Coastal Hazard Guidance for Local Authorities and this Policy Statement, and
- c. Provides a risk assessment to determine the potential erosion trend and inundation risk; and an environmental cost-benefit assessment, to determine the relative costs and benefits of taking or not taking different options for actions, and
- d. Demonstrate that there is a significant wider public benefit that outweighs any adverse environmental costs, and
- e. Demonstrates that there is a clear legal and financial responsibility on the landowners benefitting from the works, for on-going maintenance of the works and/or any removal of failed works, and
- f. Is affordable, both in the short-term and the long-term (taking into account potential maintenance costs).

3.2.3 Where landowners are affected or potentially affected by coastal hazards, it is expected that they would take the lead in any processes required to determine and implement an appropriate solution(s). Council would provide facilitation or planning guidance, if requested by the landowners to participate.

What will Council expect of any proposal for coastal protection actions:

3.2.4 Council will require any proposal for coastal hazard actions to:

- a. Demonstrate that the hierarchy of responses as set out in Policy 2.1.1 above has been appropriately considered
- b. Manage erosion and inundation risk within an entire coastal cell irrespective of land ownership

- c. Provide for amenity and safe public access along the top of any hard defences and from the top of any hard defences to the beach where it is on public land, where appropriate. Wherever possible, where soft defences are in place appropriate safe public access is to be provided to the beach where it is on public land.
- d. Provide a risk assessment to determine the potential erosion trend and inundation risk; and an environmental cost-benefit assessment to determine the relative costs and benefits of taking or not taking any action, which are to be undertaken by suitably qualified persons
- e. Provide a clear implementation and action plan, with budget and timeframes.

Costs & Timing for service delivery role:

- 3.2.5 The Council reserves the right to:
 - a. Charge land owners for any services provided, and in setting any charges will take into account public benefits; and
 - b. Charge any party for the occupation of any structure located in or on Council-owned and administered land
 - c. Charge any landowner for any remedial works or actions required where further erosion occurs on Council-owned and administered land, as a result of “end effects” arising from any abutting coastal protection works.
- 3.2.6 Council may use the special consultative process of the Local Government Act 2002, to determine community support for and financial commitment to adopting a service delivery role.
- 3.2.7 A targeted rate against beneficiaries may be applied.
- 3.2.8 If Council decides that a service delivery role is appropriate, Council may then determine an appropriate timeframe based on Council’s existing service delivery priorities and the level of risk identified, and if appropriate, taking into account the information provided by Policy 3.2.2 above.

4. MANAGING EMERGENCY SITUATIONS

4.1 Overall Approach

- 4.1.1 Council will seek to ensure that all communities are aware of potential risk from coastal hazards and where intolerable risk areas are identified, Council will encourage landowners to take avoidance or adaptation actions in advance of any potential future coastal hazard event.
- 4.1.2 Council will exercise its discretion under s330 Resource Management Act 1991 (RMA) cautiously and in general will only invoke s330 where the circumstances require it to act reasonably and objectively for the public good.
- 4.1.3 Council will not authorise private individuals or third parties to undertake emergency works for or on behalf of Council.
- 4.1.4 Council will work with Waikato Regional Council and the Department of Conservation to maintain an up-to-date RMA s330 protocol, which sets out joint/separate operating responsibilities and procedures.

4.2 Decision-Making Policies for Managing Emergency Situations

Statutory tests for invoking RMA s330

- 4.2.1 Prior to invoking RMA s330, Council must be satisfied that:
 - a. Council has financial responsibility for any public work; or
 - b. Council has jurisdiction under the RMA over the area and associated resources; and
 - c. In Council’s reasonable opinion, the public work or area is likely to be affected by:

- i. An adverse environmental effect which requires immediate preventative measures; or
- ii. An adverse environmental effect which requires immediate remedial measures; or
- iii. A sudden event causing or likely to cause loss of life, injury, or serious damage to property.

Guidance on decision-making

- 4.2.2 Council may determine that it is appropriate to invoke s330, if it is satisfied that the action is appropriate and is required to:
- a. Prevent loss of life or injury to people, or serious damage to property; or
 - b. Protect public values associated with both coastal reserves and beaches; or
 - c. Protect significant District infrastructure or lifelines; or
 - d. Protect identified archaeological sites of significance to tangata whenua or sites of an historical nature or historically significant vegetation.
- 4.2.3 It must be clear that any actions taken must:
- a. Be specific to addressing an emergency situation, and
 - b. Be immediately necessary as a preventative or remedial measure; and
 - c. Only be of a scale sufficient to avoid or mitigate the effects of the emergency.
- 4.2.4 For any location or public works where Council does not bear any financial responsibility, the costs of the actions undertaken, or the costs of removal, or the costs of obtaining a resource consent, is to be borne and agreed to in writing, by the individual or third party beneficiaries of the actions, or their lawful agent, prior to any emergency actions being commenced. [NB: This written agreement should be enacted prior to an emergency situation arising and be based on identified areas of potential intolerable risk]

Actions required post-emergency event

- 4.2.5 The effect of invoking s330 does not constitute Council approval (as consent authority under the RMA) for the actions undertaken, and a consent under s330A may be required. Council recognises that s330 acts as a defence to prosecution for a breach of the RMA and not as an authorising provision.
- 4.2.6 Any actions undertaken by individuals or third parties which have not been authorised by Council, will be treated as an offence against the RMA, and appropriate enforcement action may be taken. Any such person may be prosecuted. Council may also seek to recover all reasonable costs from any individual or third party beneficiaries of the actions undertaken (including the costs of removal).

Internal Procedures

- 4.2.7 The internal procedures for invoking s330 are set out in the protocol document agreed between the Waikato Regional Council, the Department of Conservation and Council entitled: "*Section 330 Protocol for Emergency Coastal Protection Works*"³.
- 4.2.8 The authority to make decisions with respect to s330 and this Policy Statement, lies with the Chief Executive, or his or her appointed delegate(s).
- 4.2.9 The Chief Executive shall be responsible for recording and documenting, as soon as practicable, the reasons for making any decision in accordance with s330 and this Policy Statement, including any supporting material (such as photographs, legal or financial agreements reached).

³ NB: As at 7 August the protocol is on the work programme for review; and will be attached once adopted by Council.

Appendix 1: Definitions

Extracts from Proposed Thames-Coromandel District Plan: Decision Version

Natural Hazard Defence means a 'soft' or 'hard' defence with a primary purpose to avoid or mitigate a natural hazard risk to an area. Flood defences, coastal defences, and coastal erosion defences are all forms of natural hazard defences that defend against a particular natural hazard or group of natural hazards. Examples include, but are not limited to: culvert, detention dam, floodgate, floodwall, pump station, river training groyne, spillway, stopbank, artificial channels, weir, rock rip-rap, bridge, earth stabilisation planting, wetland, dune restoration, geotextile wall.

'Soft' Defence means the use of ecological principles and natural character processes to reduce erosion, flood peaks and/or achieve the stabilisation of shorelines and riparian areas, while enhancing habitat and improving aesthetics. A 'soft' defence may include 'hard' components as long as they harness natural character processes, (e.g. an inter-tidal reef, or geotextile bags filled with natural material and buried under dunes). Other examples of 'soft' defence: re-contoured and planted sand dunes, wetlands for stormwater retention. This can be a coastal defence, flood defence or other natural hazard defence.

'Hard' Defence means controlled disruption of natural processes by using solid man-made structures to reduce erosion, flood peaks and/or achieve the stabilisation of shorelines and riparian areas. Examples include: groynes, sea walls, rock revetments, river stopbanks. This can be a coastal defence, flood defence or other natural hazard defence.

Lifeline Utility has the same meaning as in section 4 of the [Civil Defence and Emergency Management Act 2002](#).

"Lifeline utility means an entity named or described in Part A of Schedule 1, or that carries on a business described in Part B of Schedule 1."

Additional Definitions (for the purpose of this policy statement):

Avoidance or Adaptation Actions: any proactive actions which would help to a) avoid future exposure to risk; or b) enable changes to existing situations that would lower the level of future risk exposure.

[This could include for example: planning controls through the District Plan or the Building Act; relocating buildings to the rear of sections or onto higher foundations; designing structures such that inundation or erosion would not affect the structures; relocating infrastructure (e.g., pipes) further from the coastal edge when they are due for renewal/replacement; locating new infrastructure as far from coastal edge as feasible and practicable; 'soft' or 'hard' defences.]

Coastal Hazard: includes erosion and inundation

Coastal Cell: an area of coastline within which sediment circulates, or where natural processes occur separately or differently from adjacent areas of the coast.

End Effects: a broadly applied term that refers to the additional erosion that can occur adjacent at one or both ends of a seawall. This can be caused by an increase in turbulence/erosional stress at the ends of the wall, and/or an interruption of sediment supply caused by the wall.

Natural Fluctuations: reflects the natural processes of accretion and erosion, which have trends that may occur over short-term and long-term periods of time, and which varies from location to location.

Service Delivery: in the context of this policy statement means services provided by Thames-Coromandel District Council staff, to assist in managing the effects of coastal hazards and may include for example: education/ advice; guidance on statutory processes; meetings; soft or hard defence actions.

Appendix 2: Relevant RMA Policy

NB: this table is for guidance only, reference may also need to be made to other objectives (O) and policies (P), in the following documents.

| Ref | Policy Title | Overview |
|--|---|--|
| New Zealand Coastal Policy Statement 2010 | | |
| P 24 | Identification of coastal hazards | Sets parameters for identifying hazard risk |
| P 25 | Subdivision, use and development in areas of coastal hazard risk | Guidance on managing activities in coastal areas |
| P 26 | Natural defences against coastal hazards | Recognition and protection of natural hazards |
| P 27 | Strategies for protecting significant existing development from coastal hazard risk | Guidance on assessing response options |
| Regional Policy Statement | | |
| O 3.6 | Adapting to climate change | Managing adverse effects of climate change (incl sea level rise). |
| O 3.7 | Coastal environment | Integrated management |
| O 3.24 | Natural hazards | Increasing resilience, reducing risk, enabling recovery |
| P 6.2 | Planning for development in the coastal environment | Development guidance incl, avoiding increasing natural hazard risk |
| P 13.1 | Natural hazard risk management approach | Framework for tolerable, intolerable, acceptable risk |
| P 13.2 | Manage activities to reduce the risks from natural hazards | Guidance on managing subdivision, use and development |
| District Plan | | |
| 10.1.2 | Assessment of Acceptable, Tolerable and Intolerable Risk | Sets out a table of likelihood vs consequences to determine risk levels |
| 10.3 O 1 | [No title] | Not increasing risk, and are at acceptable or tolerable levels |
| P 1a – 1l | | All apply but in particular the following: |
| P 1a | [No title] | Protection of property etc in a manner that maintains the resilience of the natural environment. |
| P 1b | [No title] | 'soft' coastal defences |
| P 1 g | [No title] | Retreat/ relocation |
| P 1 j | [No title] | Precautionary approach |
| P 1k | [No title] | Effects of future climate change |
| 10.3 O 2 | [No title] | Maintain resilience of existing defences |

| | | |
|-----------------|-------------------------|--|
| P 2a | [No title] | Functionality and stability of authorised defences |
| 10.3 O 3 | [No title] | Risk reduction |
| P 3a – 3c | [No title] | Development criteria |
| 10.3 O4 | [No title] | New 'hard' coastal defences |
| P 4a | [No title] | Design criteria, 'soft' defences preferred |
| P 4b | [No title] | Activities to enhance natural defences & strengthen natural character resilience |
| P 4c | [No title] | New activities not to be dependent on new defences |
| P 4d | [No title] | Natural ecosystems should be allowed to migrate |
| P 4e | [No title] | Where 'hard' defences need replacing – replace with 'soft' defences |
| 10.4 1 - 4 | Non-regulatory methods | Work with WRC & community to identify risk levels, on likelihood of hazards, on sustainable defences, and review over time. |
| Section 34.5 | Coastal Erosion | Policy directives, Current coastal erosion line, Future coastal process line; Future coastal process line changes; Where the current coastal erosion area and future coastal process area rules apply. |
| 34.11 - - 34.14 | Rules – Coastal Erosion | |