

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of the Proposed New Zealand Coastal Policy  
Statement 2008

**BY** SURFBREAK PROTECTION SOCIETY INC  
**Submitter**

**TO** DEPARTMENT OF CONSERVATION  
**Board of Inquiry**

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**EVIDENCE OF HAMISH GORDON RENNIE  
FOR THE SURFBREAK PROTECTION SOCIETY INCORPORATED**

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Field Code Changed

## INTRODUCTION

1. My name is Hamish Gordon Rennie. I hold BScHons, MA and PhD degrees in Geography specialising in coastal and marine management and planning. I am a full member of the New Zealand Planning Institute and the New Zealand Association for Resource Management in which I have been awarded the status of Leading Practitioner.
2. I am also a member of the coordinating executive of the New Zealand Association for Impact Assessment and have at various times been a member of other relevant non-professional associations including the Resource Management Law Association and a founding member of the NZ Coastal Society. I am on the editorial boards of the *NZ Planning Quarterly* and two international academic journals *Coastal Management Journal* and *MAST – Maritime Studies* and review articles and books in related fields for a number of other international journals.
3. I am accredited under the Resource Management Act (“RMA”) and serve as a commissioner on regional coastal plan changes and variations or resource consents, either appointed by regional councils or through being appointed as the Minister of Conservation’s representative. I am a member of the national panel from which the Minister of Conservation chooses appointees to restricted coastal activity hearings.
4. Since 1995 I have been a partner in Eclectic Energy, a Cambridge (NZ) consultancy specialising in social science research related to the coastal environment, resource management and planning.
5. Since May 2007 I have been a Senior Lecturer in Planning at Lincoln University. Prior to that I was the Director of Environmental Planning Programmes and a Senior Lecturer in the Department of Geography, Tourism and Environmental Planning at Waikato University. Between the two universities I have been a core contributor to compulsory papers in their professionally accredited planning programmes since 1995. My specialty has been coastal and marine planning with a particular focus on aquaculture, fisheries, surfing and tourism.
6. Since 1980, my research, conference presentations and publications have almost entirely been related to coastal management and planning and include the chapters on coastal planning in both of Profs Memon and Perkin’s 1993 and 2000 texts on Environmental Planning in New Zealand. I have ongoing contracts to provide regular contributions on aquaculture and on section 33 of the RMA for the DSL Environmental Handbook.
7. Since 1996 I have had an ongoing research interest in surf breaks and associated issues. To the best of my knowledge, I am the only New Zealand academic with such an extensive involvement with research on planning matters associated with surfing reefs. I was a member of the team that gained non-notified coastal permits for the building of New Zealand’s first

artificial surfing reef at Mount Maunganui and from about 2000 until 2002 I was a member of the Mount Reef Trust ("the Trust").

8. The Mount Reef project was initiated by Waikato University to enable its students and staff to field-test wave dynamics and to monitor associated effects on the coastal marine environment. The Trust was a mechanism to raise funds for the research. I continue to supervise and undertake research on the reef. I do not receive any funding from the Trust and have no connection with it other than the historic relationship I have outlined.
9. I have taught environmental impact assessment at universities for over twelve years and was previously responsible for commissioning and evaluating environmental impact assessments ("EIA") of NZ official development assistance projects. An EIA includes the on- and off-site impacts, including cumulative, on the biophysical environment. A strategic environmental assessment (SEA) involves assessing the impacts of proposed policies, plans and programmes and is among the methods I research and teach as part of EIA. Social impact assessment is part of EIA, and includes health impact assessment, cultural impact assessment, community impact assessment, heritage impact assessment and economic impact assessment. All are matters on which I will make brief comment in my evidence.
10. I have worked for four different central government departments between 1981 and 1995. Of particular relevance was my time as a Senior Conservation Officer in the Department of Conservation ("DoC") between January 1990 and February 1995. I was an acting Manager of the Coastal Section for approximately 9 months and subsequently Manager of the International Unit. During my time with DoC I was a member of the team that produced the 1990 and 1992 Proposed NZ Coastal Policy Statements, including consultation, drafting, editing, analysing submissions and conducting section 32 analyses. I was involved in drafting parts of the Resource Management Act and related fisheries legislation and processed and provided advice on restricted coastal activities. I directly advised the Minister of Conservation, Cabinet Committees and a Parliamentary Select Committee on various matters within these areas. In short, I am familiar with the issues and processes of making national coastal policy statements.
11. I was appointed by DoC as one of two independent reviewers to advise and peer review the work of Dr Jo Rosier and Mr Mike Jacobsen in their 2004 review of the NZ Coastal Policy Statement that gave rise to the present Proposed New Zealand Coastal Policy Statement ("PNZCPS"). That is the most recent funding I have received from DoC. I have deliberately not involved myself in any of the subsequent work of preparing the current PNZCPS so that I would be able to assess the policies in it from a distanced, neutral and objective perspective.
12. Neither I, nor any members of my immediate family are surfers or members of any society or association connected with surfing and I have made no submission on my own behalf on the PNZCPS.

13. Although this is a hearing before a Board of Inquiry, I have prepared my evidence in compliance with the Code of Conduct for expert witnesses set out in the Environment Court's Consolidated Practice Note 2006. I confirm that my evidence is within my area of expertise and that I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
14. I attended part of the Board's hearing in Christchurch on the 26<sup>th</sup> November. During that time Heidi and Nukuroa Tirakatene-Nash made individual submissions that addressed surf breaks, and the Board also heard from the Surfers Environmental Advocacy Society ("SEAS") and several witnesses called on its behalf. The Board raised a number of questions with the SEAS. The SEAS indicated that there were aspects of the evidence it was being questioned about that it felt the Surfbreak Protection Society ("SPS") was better placed to address and the Board sought assurance from the SEAS that it would liaise with the SPS to ensure the matters raised were addressed.
15. At that point, I took leave of the chair to indicate that I would be presenting evidence today on behalf of the SPS and had been taking note of the points being raised and that I could assure the Board that we would be happy to address them. I took it from the response of the chair that that would be welcomed. I consider the points raised by SEAS on which I undertook to respond impliedly lie within the scope of the original SPS submission, but if at times I appear to move beyond the scope of the original SPS submission I am doing so in response to that request.
16. I have also reviewed a number of submissions on Policy 20, and the sections 32 and 42A reports. Many of the submissions make the same general points. As there has not been provision for cross-submissions in the current process I have addressed the broad issues raised in some of these submissions as part of my planning analysis rather than address individual submissions directly.

#### **SCOPE OF EVIDENCE**

17. My evidence will cover the following issues from the perspective of an experienced policy analyst and coastal planner with particular expertise in environmental impact assessment and addresses:
  - (a) Definition of surf breaks.
  - (b) Do surf breaks fall within the scope of the RMA and the NZCPS?
  - (c) The role of surf breaks in enabling people and communities to meet their social, cultural and economic wellbeing and their health and safety.
  - (d) The need for attention to surf breaks.

- (e) Preserving the natural character of the coastal environment.
- (f) The importance of considering a hierarchy of surf breaks.
- (g) The need to consider regionally significant surf breaks.
- (h) Protection by means other than the RMA.
- (i) Efficacy of mechanisms to protect surf breaks through the NZCPS.
- (j) Rebuttal of arguments against inclusion of Policy 20.
- (k) Artificial Reefs.
- (l) Conclusion.

#### **DEFINITION OF SURF BREAK**

- 18. A 'Surf break' is an ephemeral natural feature comprising, in varying proportions, a combination of swell, seabed morphology, currents and wind in a particular place over a period of time such that the hydrodynamic character of the swell is of a shape that enables it to be surfed.
- 19. It is difficult to meaningfully separate such a dynamic manifestation of dynamic processes from the processes that create it. Therefore the break is perhaps best understood as three-dimensional combination of seabed, water column and air space. It is analogous to ephemeral characteristics (e.g., the transient whirlpools, ripples and upwellings) of a river. Some of these are more predictable than others because of the more frequent, semi-permanent presence of characteristics critical in the creation of particular surfable wave shapes. These more predictable, semi-permanent manifestations of breaks are the ones that tend to become known colloquially as surf breaks.
- 20. The 'habitat' of a surf break is the swell corridor, the hydrodynamic and sedimentary catchments, and the underlying structure of the seabed .

#### **DO SURFBREAKS FALL WITHIN THE SCOPE OF THE RMA AND THE NZCPS?**

- 21. Mr Makgill has set out the legal basis for addressing surfbreaks in the RMA and its instruments and I concur with him. Accordingly I will not address this matter further.

#### **ENABLING PEOPLE AND COMMUNITIES TO MEET THEIR SOCIAL, CULTURAL AND ECONOMIC WELLBEING AND THEIR HEALTH AND SAFETY**

- 22. As I have indicated, I was present during the Christchurch hearing of the submissions of the SEAS and of Heidi and Nukuroa Tirakatene-Nash. The Board has now heard also from **Mr**

**Pond and Mr Shanks** for the SPS. I understand that the Board has received submissions from others along similar themes. These submitters have emphasised the contribution surfing makes to peoples' social and cultural wellbeing, and to their health, both mental and physical. They have also noted the economic effects of surfing.

23. I consider that they are correct on all points, and in this I rely on aspects of my own research or research I have supervised, the development of surfing resorts, the demand for artificial surfing reefs, the many academic and other articles and books I have read over the years as well as the numerous instances of the use of surf breaks in television, photographs, movies, advertisements, and song, and my general discussions with and observations of surfers, and coastal communities. It is self-evident that surfing depends on surf breaks.

#### **Health and Safety**

24. I add that the presence of surf breaks that attract surfers also contributes to the safety of others. I have come across many situations where swimmers have been rescued by surfers and an instance where it has been the surfers who have identified pollution from sewage at a site where scientific monitoring had not identified any problem with the water quality. Such onsite monitoring adds to the safety for all water users and strengthens the effectiveness of attempts to maintain high water quality.

#### **Social & Cultural Wellbeing**

25. The international standing of surfing as a competitive sport is also evidenced by it being recognised in 1995 by the International Olympic Committee, although it has yet to make its debut at the Olympics. It is therefore both an outdoor recreation and, what is referred to by some experts as 'serious leisure'.
26. There are cases where the value of the control of access to particular waves and/or surfbreaks has been a cause of social disjuncture (see, for instance, Nat Young's *Surf Rage*). This serves to highlight the importance of ensuring that good access is provided to breaks, the advantage of having an organisation to manage surfbreak areas of high popularity, and that artificial surfbreaks may be of increasing importance to cope with the demand for surf breaks.
27. There is a belief in some quarters that surfers are the 'wrong sort of people' and some associate them with crime. However, during our research on the social impacts of the proposed reef at Mount Maunganui the police advised that they were not aware of any statistically valid link between the incidence of vandalism and surfers. On the waves, as you have heard from other submitters, there is a system of etiquette that aids in controlling the use of waves and codes of ethical surfing have been developed.

#### **Economic Wellbeing**

28. I supervised an economic impact assessment study done of Mount Maunganui's Tay Street and Raglan surfing and have read key works by other researchers on economic aspects of surfing.
29. The assessment of the economic value of surfbreaks is difficult because of the public or common property nature of surfbreaks in most western countries. An assessment of the total economic value of a surfbreak needs to include:
- a. Market value – that aspect which is captured by the market, for example through the sale of rights or means to access particular breaks or surf in particular competitions, and
  - b. Non-market value.
30. Non market value can be divided into Use and 'Non'- Use value. Use value in turn comprises indirect use (eg shore protection provided by surfing breaks), option value (the future ability to use surf sites), 'passive' value (eg recreational surfing). Non-use value includes existence value (knowing a break exists even if you do not use it), bequest value (providing a quality surfbreak or social fabric for future users), and vicarious value (surfing documentary, films or media). Added to this is the intrinsic value of a surf break which is often inadequately and mistakenly equated with the oft-used proxy 'existence value'. The role of surfbreaks in providing environmental services has not, as far as I am aware, received significant attention.
31. Non-market value assessment techniques include tools such as willingness-to-pay (eg "how much would you pay to use a particular break? How much would you pay to know that a particular break exists even if you do not now and never expect to use it?") or travel cost (how much did people spend to get to the surf break site). I note here that while the actual act of surfing a wave does not involve the use of petrol, travel to the holiday destination, consumption of food brought from elsewhere, etc, all involves indirect fuel costs that can be used as indicative of the preferential value of a break.
32. From my knowledge of the literature and inquiries I have made there is currently no reliable measure of the national economic importance of surfing reefs to New Zealand. However, Sport and Recreation New Zealand indicates that there are approximately 200,900 New Zealanders who surfed or body boarded in 2006. Government statistics also indicate that over 30,000 visitors from overseas in the year ending June 2008 recorded having surfed as one of the activities they undertook while in New Zealand. This a rise of close to 20% in numbers of overseas surfers over the three years for which the data was provided.
33. These are pointers to the economic value of surfing. You have also heard evidence that a small township like Whangamata supports four surfshops, that there are pro-tour events hosted in New Zealand, and event organisers have stated the amount of money they believe

surfbreaks contribute to their community. You have heard evidence of the domestic and international tourism to places as diverse as Papatowai and Gore Bay. You have had it drawn to your attention that people spend hundreds of thousands of dollars to build artificial surfing reefs to provide additional higher level surfing facilities. There are television programmes and movies made on surfing and on matters related to surfing. Access to high quality surfing breaks has been the cause of property price escalation at many well-known breaks (e.g., 'The Ranch' in California) and the development of entire towns has resulted from their reputations as surf resorts. These are all use-based valuations. They do not include the environmental services of breaks, the non-market values that can be attached to the existence of breaks or their intrinsic value.

34. It is also not possible to calculate the monetary costs and benefits of a policy statement on surfing reefs for much the same reasons – if you cannot value the breaks accurately, then you cannot assess the policies in monetary terms. In short, it is not possible, and nor do I consider there is a need, to provide an estimate of the value of surf breaks. The economic variables discussed above indicate that the existence of surfing breaks does enable people and communities to meet their economic well-being.

### **Summary**

35. In summary, the existence of surf breaks enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety. The issue then becomes is there a need for the sustainable management of surf breaks? If so, how should it be achieved?

### **THE NEED FOR ATTENTION TO SURFBREAKS**

36. The evidence of **Drs Scarfe and Mead** is unequivocal. Natural surf breaks are a finite natural and physical resource and naturally occurring breaks help constitute the natural character of the coastal environment. They can be and are being severely damaged and sometimes destroyed. Of particular note is the damage done to Raglan and the concerns over Whangamata and Pegasus Bay breaks. There is a real risk of future damage due to increased use of marine resources for new uses and new manifestations of traditional uses that may damage reefs of international, national or regional significance. This is exacerbated by the lack of knowledge of our coastal environments.
37. In addition, the expansion in surfing is placing greater pressure on existing breaks and there have been concerns over the potential impacts of traditional shore protection works on surf breaks. There is also the potential to include the development of artificial reefs into new tourist resorts and even to privatise the use of such artificially created surf breaks. The need to mitigate, or add value to, shore protection works and port expansion has led to the development of new designs of artificial reefs that incorporate an ability to shape and make a

surf break. These artificial surf reefs are usually initiated for shore protection and are best considered as multipurpose reefs. Their potential may lead some to overestimate their ability to mitigate or remedy the effects of activities on natural surf breaks.

38. It is important to recognise that artificial surf breaks are relatively recent. Their long-term effectiveness is being monitored with interest. If proven, then they offer the potential to add new, improved or less damaged surf breaks, but the technology does not yet exist to be confident that a *natural* surf break can be restored or recreated artificially.
39. It is clearly preferable at present to avoid damage to natural surf breaks, as opposed to attempting to use artificial breaks to mitigate or provide remedies for their damage or destruction. This is not to suggest that there is not a place for multipurpose artificial reefs, especially where there are no existing natural surf breaks. However, given the time needed to adequately assess the effects of such artificial surf reefs, I do not consider they will be able to provide a proven means to mitigate or remedy damage of natural breaks in the next ten years. I will return to artificial surf breaks shortly.
40. The damage done to surf breaks overseas demonstrates the types of effects that a wide range of activities can have on surf breaks. It is difficult to assess whether or not the damage that has happened overseas would be allowed to happen in New Zealand, given the different regulatory regimes and socio-political contexts.
41. It is also important to note that the damage to Raglan is pre-RMA and that surfing was considered at both Whangamata and Pegasus Bay before final decisions were reached with regard to the marina and aquaculture proposals respectively. In both the latter cases monitoring is required that might identify changes to the breaks. Therefore, it may be argued that there is not a major risk to nationally significant surf breaks.
42. Such thinking reflects, in my opinion, a backward looking approach to planning. It is readily apparent that there are increasing threats to surf breaks and it is useful to remind ourselves of these.
43. For instance, the higher prices paid and the increasing demand for petroleum products has led to increased interest in places that were previously uneconomic to explore – both inshore and offshore. The same expansion to new areas can be said for the extraction of other resources, such as mineral sands and gravel, and the development of marine aquaculture. There are also bound to be demands for more opportunities for marina, pipelines and cables.
44. Increasing energy demands mean that new technology will be used in the coastal marine area (“CMA”) for generating or harvesting energy from inshore and offshore wind, currents, tides, and waves. These are new technologies likely to significantly increase in their spatial distribution in the New Zealand marine area. Their effects may be complex and unanticipated.

45. New Government transport policies to increase the use of coastal shipping, if successful, may lead to a demand for expanded port infrastructure in the form of reclamations, jetties and break waters, and increased size and depth of dredged areas.
46. Coastal subdivision and land use intensification continues and may lead to reduced water quality and altered sedimentation systems. Entirely new, to New Zealand, developments like artificial islands, underwater hotels, and other tourism activities may place different demands on the CMA.
47. Each of these activities by itself or in combination with others may affect surf breaks. Policies 17 and 18 in the PNZCPS indicate that some of these developments are expected and considered appropriate use of the CMA. The weight accorded to such policies might lead to their effects on surf breaks being given insufficient weight unless the finite character and the level of significance of surf breaks is clearly identified through the NZCPS.
48. The poor quality of current information on surf breaks and their related 'habitats' adds to the risk that assessments of environmental effects on surfing breaks will be inadequate. **Drs Scarfe and Mead** have each drawn your attention to the necessity of ongoing monitoring of key variables that would enable assessment of the likely changes to breaks. There needs to be sufficient data held prior to new applications to enable the effective assessment of their effects on the breaks.
49. **Dr Scarfe** has noted that the failure to have robust pre-proposal monitoring renders the monitoring regime required by the coastal permit granted for the Whangamata marina unable to be effective in isolating the effects of the marina from the cumulative effects of use and developments occurring in the catchment. In such a situation even if the marina was the cause of damage to the break, it might be difficult to take action because of the inability to provide definitive evidence that the marina was the cause of negative effects.
50. The same outcome is likely to recur if there is not an increased effort by councils to understand the factors operating and giving character to significant surf breaks. This might be addressed through a more effective implementation of the precautionary principle, but that principle does not appear to carry much weight in decision-making.
51. In summary, surf breaks are finite and vulnerable geographical features that help constitute the natural character of the coastal environment. Increasing pressures in the life of the NZCPS will lead to damage and destruction of surf breaks. There is therefore a need to consider a level of protection if the natural character is to be preserved.

#### **PRESERVING THE NATURAL CHARACTER OF THE COASTAL ENVIRONMENT**

52. The basis for consideration of natural character lies in section 6(a) of the RMA and has been specifically addressed in Objective 3 and Policies 30 -35 of the PNZCPS. No definition of

“natural character” has been included in the PNZCPS or the 1994 NZCPS. The attempt to define it in an explanation to the 1990 PNZCPS was the cause of some concern at the time and there has been considerable research done on the term in subsequent years.

53. Policies 30-35 of this PNZCPS provide guidance on the concept of “natural character” and it may be that a definition can be inferred from these policies. There have been submissions on these policies, including the submission of the SPS seeking the inclusion of the word ‘hydrodynamic’ that I will discuss shortly.
54. A definition of “natural character” would appear to be useful and efficient. It may also be contentious. The SPS is concerned that the use of the term “natural character” throughout the PNZCPS may potentially be interpreted too narrowly.
55. Research at Waikato University has demonstrated that the non-natural sounds in the coastal environment affect the perception of the naturalness of the coastal environment. Sound may also affect the natural behaviour of fauna that use the CMA or coastal environment. The ‘natural ambient qualities of the soundscape’, however, is not encapsulated in any of the matters identified in Policy 30 as affecting the integrity and functioning of natural character. This is an oversight that should be addressed.
56. The natural aromas of coastal environments, are part of the full sensual experience of enjoyment of the amenity values of surfing breaks. Industrial or other non-natural odours may significantly affect the natural character of coastal environments.
57. The SPS has therefore sought that the term ‘natural character’ is inclusively defined in the glossary of the PNZCPS to identify the full sensual range of values that make up natural character:
 

Natural character includes the landscape, seascape, soundscape and odourscape. The natural ambient levels of soundscape and odourscape should be included in any consideration of the effects of proposed activities on the natural character of an area.
58. In my experience this richer appreciation of natural character has not often found expression in plans affecting the coastal environment and it would be appropriate to ensure these were clearly encompassed in any implied or explicit definition of the “natural character” of the coastal environment.
59. As no definition has been included in the PNZCPS it may not be appropriate to include one now in the Glossary. The section 42a report discusses the rationale for Policy 1 with regard to the coastal environment and the rationale for inclusion of terms in the Glossary. This discussion might also be applied to the SPS argument for a definition of “natural character”.
60. If the Board is not minded to develop a definition of “natural character” for the Glossary, and decides instead that the policy approach to such matters is appropriate, then the SPS requests

relief that would be best met by expansion of policies 30-35 through making specific reference to odours and soundscapes as appropriate.

61. The SPS has also sought the insertion of the words “and hydrodynamic” in Policy 30(c) so that it reads:

the dynamic and hydrodynamic processes and features that arise from the natural movement of sediments, water and air ...

62. The SPS submission on Policy 30(c) is addressed in **Mr Skellern’s** evidence with whose opinion I concur. The evidence presented by **Drs Scarfe and Mead** is indicative of inadequacies in the consideration of critical variables that affect surf breaks. The added specificity provided by the SPS amendment to include hydrodynamic processes would ensure that these critical processes that support surf breaks are specifically considered in the assessment of applications for resource consents and the development of appropriate provisions in plans. I consider this would be a useful change to the Policy.
63. SPS has also sought that Policy 36 specifically include reference to Policy 20. The omission of Policy 20 from those policies identified in Policy 36 may leave the impression that surf breaks, even nationally and regionally significant breaks, are not national priorities for having their natural character assessed and preserved (or protected if amended). I therefore support the SPS submission on this matter.

#### **THE IMPORTANCE OF CONSIDERING A HIERARCHY OF SURFBREAKS**

64. Under this head I will address first the identification of breaks of national significance and the relief sought by the SPS. I will then address the matter of regionally significant surf breaks.
65. It might be desirable, but may be impracticable and inappropriate to try to protect every surf break. The evidence of **Drs Scarfe and Mead**, is that there is considerable diversity in the nature of surf breaks and that surf breaks can be graded in terms of quality. High quality breaks are considered rare. Some types of breaks may be regionally rare and require protection as outstanding features in a regional context.
66. In my experience, priorities for protection should be determined on the basis of immediacy of threat, the magnitude of the loss, and the significance of the loss.
67. I do not consider it is possible to identify immediacy of threat given the diversity of activities with potential to affect surf breaks and the lack of knowledge of the coastal environment and nature of the specific variables that would affect specific significant surf breaks.
68. Although there have been considerable advances in the technology of creating artificial surf breaks, as **Dr Mead** has indicated, it is not practical in the life of this PNZCPS to expect artificial breaks to be able to repair or restore the original quality and characteristics of a

natural surf break of national or regional significance. Damage to a surf break may consequently be considered an irreversible loss of the natural character of the break. The significance of such an irreversible loss depends on the significance of the break and the degree of damage to it.

69. Therefore the focus must be on identifying breaks in terms of their different levels of significance. Policy 20 of the PNZCPS correctly sets out to identify a set of breaks of national significance.
70. The Section 32 report describes the basis for selecting the particular breaks listed in Policy 20 of the PNZCPS as being
- taking account of their national and international reputations, their use for international competition, and their particular contribution to the variety of surfing opportunities available in New Zealand.
71. But the evidential base has only been specified for the breaks at Ahipara (Shipwreck Bay), Raglan and Stent Road. The selection of these was based on their identification as among the top 80 breaks in the world in an international publication (see the second footnote on p46 of the Section 32 report). In other words the basis for selecting these was that they are considered of international significance.
72. The basis for inclusion of the remaining breaks White Rock, Mangamaunu and Papatowai is not stated, but they do provide a degree of wider regional representation and contribute to the variety of surfing opportunities.
73. I note in passing that Papatowai has been described in the Policy as being in Southland. In fact it is in Otago, although its swell corridor might include areas in Southland.
74. I understand that although the SPS supports the retention of the named breaks as of national significance it has found it difficult to determine why these particular breaks were included and others, which it considers were of equal national significance were not. The SPS has identified additional places to be listed in Policy 20.
75. From a planning perspective it is desirable to establish a process and criteria on which to rationally determine the significance of the different breaks. In this regard Policy 20 is deficient in that it identifies a mixture of breaks and areas in which it indicates there are breaks of national significance. It does not specify which of the breaks in the areas identified are of national significance and which are not. **Mr Skellern** usefully illustrates the difficulties created by the loose manner in which breaks and descriptive place names have been unhelpfully mixed with each other in this policy.
76. There is therefore a need to consider how best to prioritise between the surfbreaks that must be protected and those of lesser significance.

77. Guidance can be taken from the RMA. It requires (s6) that the preservation of the natural character of the coastal environment, the protection of outstanding natural features, the relationship of Maori with their ancestral lands, water, sites, waahi tapu and other taonga and the protection of historic heritage be recognised and provided for.
78. The preservation of the natural character of the coastal environment implies that sufficiently representative breaks in their natural context should be protected. This requires an understanding of the diversity of breaks to ensure that representation is complete. Those breaks that are rare should have a greater level of significance and priority for protection than those that are common.
79. The protection of outstanding features requires the identification of outstanding surf breaks. I am not aware of any objective or robust assessment of New Zealand's surf breaks in terms of the concept of outstanding features.
80. I am similarly unaware of any list of breaks of particular importance to Maori, and they may have reasons for not wishing to identify some or all of these.
81. I am also unaware of any attempt to ascertain the heritage value of any surf breaks, but it would seem from the impact that the movie *Endless Summer* has had that a break at Raglan might be identified as of heritage value. Lyall Bay might be so identified for being the place that surfing was introduced to New Zealand, as described by **Mr Shanks**. I anticipate that, in time, the site of the first artificial surf break at Tay St, Mount Maunganui may come to be seen as of significant heritage value.
82. However, in the absence of task-specific assessment systems it is appropriate to consider whether there is a suitable proxy that might be used.
83. In this regard I rely on **Dr Scarfe's** and Dr Mead's views that the most authoritative guide to New Zealand Surfbreaks is "The New Zealand Surfing Guide", which is published by Wavetrack. This lists 470 known and frequented breaks. It also indicates that there are potentially many more breaks that are not frequented on a regular basis due to remote access. The guide identifies 16 of the 470 listed breaks, as having a 10 out of 10 "stoke" or surf quality rating. This rating signifies that these surf breaks are of international importance. Such surfbreaks typically attract large crowds of surfers and spectators when conditions are suitable. They are of importance to both local and visiting surfers from within New Zealand and overseas.
84. In my opinion it is highly probable that the 10 'stoke' rating would provide a useful proxy for identifying outstanding natural surf break features. It is probable that it also covers breaks of significance for Maori and breaks of high heritage value. It may not include them all, especially as the 10 rating is reserved for those breaks of international importance rather than

the lower level of national importance. In this regard, SPS has identified Piha, Dunedin and Papatowai which do not have 10 stoke ratings. SPS has therefore sought relief by changing the current list in Policy 20 to read.

85. The surf breaks at Ahipara, Raglan, Piha, Taranaki Surfhighway 45, Gisborne, White Rock, Kaikoura, Dunedin and Papatowai, which are of national significance for surfing.
86. Mr Skellern has set down a process that could be used to identify the significant breaks in these places, but I note that the problems he has noted of differentiating between the specific recognised surf break and places is not resolved. Also the places are on land and rather broad. On the other hand the process proposed does have merit in enabling a broad range of views to be canvassed to identify which breaks are of national significance.
87. The alternative method of using the Wavetrack stoke rating, in my view, probably overstates the importance of these reefs. The number of visitors coming to New Zealand for surfing and the range of international events held at each are not of sufficient importance to rate all these breaks as internationally significant. The method of assessing its breaks is also not entirely transparent. However, the identification of the 16 surf breaks given a 10 stoke rating could provide a consistent and robust means of identifying nationally significant breaks and reflect the minimum precautionary approach necessary for ensuring the identification and preservation of nationally significant breaks until such time as a more considered mechanism existed. It also resolves the inconsistencies noted in the current Policy 20 and removes any doubt as to which of the breaks at Raglan are rated of national significance.
88. The relief sought by SPS is:

That Policy 20 is amended so that:

Policy 20 identifies the places where surf breaks of national significance are located as follows:

The surf breaks at Ahipara, Raglan, Taranaki Surfhighway 45, Gisborne, Whangamata, White Rock, Kaikoura, Dunedin and Papatowai, which are of national significance for surfing, shall be protected from inappropriate use and development, including by: ...

89. An alternative to implement the Wavetrack formula would be to amend Policy 20 as follows:

The surf breaks listed in Schedule V, which are of national significance for surfing, shall be protected from inappropriate use and development, including by: ...

**AND** a new Schedule V is added to the NZCPS that names surf breaks of national significance as follows:

**Schedule V**

Northland

Peaks-shipwreck Bay

Peaks -Super tubes -Mukie 2- Mukie 1

Waikato

Manu Bay-Raglan  
Whale Bay -Raglan  
Indicators – Raglan

Taranaki

Waiwhakaiho  
Stent Road -Backdoor Stent -Farmhouse Stent

Gisborne

Makorori Point -Centres  
Wainui -Stock Route -Pines-Whales  
The Island

Coromandel

Whangamata Bar

South Island

The Spit  
Mangamaunu  
Meatworks  
Karitane  
Murdering Bay

89. In my opinion the second option is preferable to the first. The inclusion of a schedule is a familiar tool for planners and provides greater specificity and certainty for effective implementation. For instance, it removes the difficulty of identifying which of the breaks in the Raglan area are of national significance. Superficially it appears to significantly increase the number of breaks that are covered by Policy 20, however, part of that increase is due to the greater level of specificity.
90. There are two difficulties I have with this option. The first is that the location of these breaks has not, as far as I am aware, been authoritatively mapped and recorded on official charts. I will return to this shortly.
91. My second concern is that the list is inconsistent with the relief sought by SPS. It does not include Papatowai, or breaks in Dunedin, and perhaps identifies breaks in particular areas that would not be rated as important by SPS as other breaks in the same more broadly defined places. The emphasis on stoke rating also undermines the importance of smaller nursery breaks.
92. Papatowai which has been included in the PNZCPS. Its omission from the list derived from the 10 stoke rating of Wavetrack of appears to reflect the relatively recent emergence of Papatowai as big wave surfing, its limited accessibility and the relatively elite level of skills required to ride it. Given the sheer magnitude of the break and the level of recognition it has gained in a relatively brief period, I consider it has high existence value and would meet the criteria of being an outstanding feature. It should be retained in Policy 20 and this could be achieved by adding it to the stoke-rated list of South Island breaks set out above. This would address this inconsistency in the relief sought by SPS and reflects the tenor of evidence presented to the Board.

93. I am concerned that it might not be possible to complete a robust process of identifying the *nationally* significant surf breaks in the places identified in the relief sought by SPS by using *regional* processes within the five year timeframe required by the PNZCPS. I am also concerned at the vacuum that such broad definitions will provide during the time it takes to reach agreement on the specific breaks of national significance. The failure to identify them more specifically in the NZCPS will result in a less efficient, more *ad hoc* and arbitrary identification of nationally significant surf breaks through individual Environment Court cases. In my view it is preferable to include the approach of using the stoke-rating to identify the breaks of national importance. A more consultative approach, such as that discussed by **Mr Skellern**, could be used then to identify breaks of regional significance to implement the proposed new policy sought as relief by the SPS.
94. **I therefore strongly recommend that Policy 20 be amended with the addition of the proposed new Schedule based on Wavetrack 10 stoke rating. I also recommend that Papatowai be added to the list of South Island breaks in that Schedule.**
95. Should this approach not be adopted, then Policy 20 should be amended as noted in the relief sought by SPS and for the reasons discussed by **Mr Skellern**. This would enable later identification and refinement while also broadening the scope of the areas to be considered so that they include areas of known high quality breaks that are not currently included in the PNZCPS.

#### **THE NEED TO CONSIDER REGIONALLY SIGNIFICANT SURFBREAKS**

96. **Drs Scarfe and Mead** have given evidence as to the diverse nature of surf breaks, the considerable variety of surf break types and forms, and it is part of the submission of the SPS and reinforced in the evidence of **Messrs Pond, Shanks and Skellern** that there is a need for nursery breaks and breaks of escalating size and character. This enables the diversity in styles and types of surfing experience sought by surfers.
97. Ensuring diversity of surf breaks should also ensure that all surfing skill levels are of related importance. Each offers different natural waves and associated activity challenges. The technology to artificially recreate the range and diversity of natural surf breaks has yet to be proven.
98. Surf breaks might not carry a 10 out of 10 “stoke” rating but can still be an important ‘nursery ground’ where young people learn to surf before progressing to the ‘advanced’ breaks.
99. A reef may be popular within a region for different reasons. Natural settings may have considerable attraction. Some breaks may be more easily accessed, or their character may be of more general appeal (for instance they might be ‘safer’).

100. Some reefs may not be rare or popular, but may be of a regional character in that they are either representative of the particular type of reef generally, or are representative of particular types of reefs that predominate within the region. Representative reefs are important for being representative of the natural character. They are a standard that you can use to educate and learn on.
101. Mr Aaron Luck in evidence for the SEAS described how the South Island Surfing Association (SISA) used the same six surf breaks each year because of their reliability and quality. Some of the breaks he referred to are not listed in Policy 20 or in the SPS proposed amendments. It can be argued that these (unlisted) breaks are regionally, or inter-regionally significant rather than of national significance.
102. In summary, I consider there is a hierarchy of reefs, from international, to national to regionally significant. Determining which category a break falls within is difficult without an agreed system of ranking. Breaks of national significance have been addressed in the PNZCPS and my evidence and are essentially those considered of international significance.
103. There remains a need to identify regionally significant breaks, but I consider that is beyond the scope of the NZCPS. Rather, the NZCPS should specify the need for regional councils to identify regionally significant surf breaks and may go further to identify the method for identifying regionally significant surf breaks. A method by which regional breaks could be identified is addressed by **Mr Skellern**.
104. The relief sought by SPS is that the following new policy is added:

Regional councils shall identify in regional coastal plans regionally significant surfing breaks that reflect the diversity of types of breaks and range of surfing skill levels and surfing enjoyment and these shall be protected from inappropriate use and development, including by:

- (a) ensuring that activities in the coastal environment do not adversely affect the surf breaks; and
- (b) avoiding, remedying or mitigating adverse effects of other activities on access to, and use and enjoyment of the surf breaks.

- 105. I recommend that this be relief be granted.**

#### **PROTECTION BY MEANS OTHER THAN THE RMA**

106. In reaching my views on the relief sought by the SPS I have considered other means that might give the level of attention and protection that is needed for surf breaks.
107. Comprehensive protection of appropriate surf breaks could be achieved through purpose specific legislation. That legislation does not exist and in my opinion is unlikely to be passed in the period for which the PNZCPS will be operative. Protecting surf breaks does not fit within the purposes of establishing reserves or sanctuaries under the Marine Reserves Act, the Wildlife Act and the Marine Mammals Protection Act. It does not fit with the purpose of

the Fisheries Act, including with regard to aquaculture matters that fall within the ambit of that statute.

108. The RMA is the logical mechanism through which to address surf break protection and the NZCPS is the tool through which to provide national guidance and direction especially with regard to breaks of national significance.
109. In summary, there are not practical alternative measures to meet the needs of submitters who seek greater protection for surf breaks.

#### **EFFICACY OF MECHANISMS TO PROTECT SURFBREAKS THROUGH THE NZCPS**

110. The relief sought by the SPS will generally provide improved levels of protection for surf breaks and will aid councils in determining priorities.
111. However, they each rely to an extent on identifying surf breaks. **Mr Skellern** discusses the means by which a surf break could be placed within a protective zone in a regional coastal plan. He points to analogous situations that are regularly dealt with in coastal planning. To achieve this identification requires an understanding of the difference between those matters that enable better access, use and enjoyment of surf breaks, and those that are fundamentally important for the breaks' continued presence. It is necessary in this context to consider the definition of the coastal environment and the potential for use of the restricted coastal activities ("RCA") mechanism.
112. It is quite possible to identify on a map the swell corridor and the area of the surf break, which would include the shoreward area that is ridden and the access routes to the break that lie within the CMA. This may be best achieved by identifying them as areas of significant conservation value, a matter which I will turn to shortly.

#### **Defining the Coastal Environment**

113. The SEAS and the Section 32 report have already drawn your attention to the importance of the swell corridor and this has been further supported by the evidence of **Drs Mead and Scarfe**.
114. The recent agreements on the boundaries of New Zealand's continental shelf are expected to lead to new legislation governing the areas beyond the seaward boundary of the CMA. The Section 42A report identified that New Zealand's international obligations extend beyond the 12nm territorial sea. However, I have some concern with the phrasing of this part of that report. It states (emphasis added):

New Zealand's international obligations regarding the coastal environment (including the CMA) arise from treaties and customary international law. They are broad in scope and variety. In most cases, obligations affecting the coastal environment also **extend beyond it – e.g. to the limit of the Exclusive Economic Zone**, or to New Zealand as a whole. International obligations are

implemented variously through statute, regulation, policy statements, and administrative action by government agencies, as appropriate.

115. The implication is that the coastal environment, of which the CMA is part, does not extend beyond the CMA as far as the 200nm limit, but that does not mean that the coastal environment does not include areas of oceanic water beyond the coastal waters. Activities in the CMA could clearly affect areas beyond the 12nm and one would expect that they might be addressed under the RMA. Similarly, to achieve integrated management across arbitrary boundaries it is appropriate for the NZCPS to address matters in the environment of the CMA. In other words matters and activities that might lie beyond the 12nm limit even though the RMA itself cannot be applied in such areas. This is in effect an advocacy policy.
116. Consequently, while the policy-based 'definition' of the coastal environment in the PNZCPS is welcome, the current definition needs to be expanded. It needs to be clear that oceanic waters and the continental shelf beyond the territorial sea are part of the coastal environment to the extent that activities in them affect the coastal waters and coastal marine area and *vice versa*. Such provisions may be necessary to ensure integration with future planning regimes that address the area beyond the outer limits of the territorial sea and may assist in ensuring that effects on the coastal marine environment are considered in decisions on activities beyond the territorial sea prior to the implementation of any new regime.
117. The explicit inclusion in the definition of the coastal environment of areas seaward of the 12nm boundary is a necessary consequential amendment to provide the level of relief sort by the SEAS and the SPS. **Mr Skellern** has raised similar points with respect to the definition of the coastal environment in his evidence.

#### **Restricted Coastal Activities (RCAs)**

118. Provision for surf breaks to be RCAs was raised in your discussions with the SEAS at the Christchurch Hearing where you also requested that definitional matters be considered by the SPS. I do not see how a natural surf break could be an RCA, but I can see how applications for resource consent for activities in the CMA that might have effects on a natural surf break of national significance could be considered as RCAs. This would be achieved through classifying surf breaks, including their swell corridor, wind, sedimentary and hydrodynamic catchments, as being within areas of significant conservation value ("ASCVs"). This is very much a definitional matter.
119. The Minister is able to require that particular areas are made ASCVs. Decisions on activities that might have effects on the values for ASCVs are treated as RCAs. The significance of this process is procedural.
120. The RCA procedure requires that an application that has been identified as such is publicly notified, that the Minister appoint a member of the RCA hearing committee, and that

committee makes a recommendation to the Minister. The Environment Court may be requested to inquire into the recommendation of the hearing committee and reports to the Minister. The Minister of Conservation considers the report and the evidence and makes the decision. The criteria for the Minister's decision are no different from those that the regional council's hearing committee or the Environment Court have to consider, but the Minister may well give different weight to particular matters than do these advisory levels of the process. History shows that the Minister has only made one decision that went against the advice received from these bodies and that was subsequently overturned, revisited and a changed.

121. This does not mean that the process was and is not valuable for matters of national significance and it has often led to improved conditions being attached to consents. In the case of the Whangamata Marina these have included conditions relating to monitoring for the effects on a surf break although, as you have heard, the monitoring may not assist in protecting the Whangamata break.
122. The RCA category also allows the Minister to ensure that the national community of interest and the interests of the Crown are given adequate weight in matters of national significance. It would seem appropriate that surf breaks of national significance be supported by a requirement to establish ASCVs in regional coastal plans to provide a safeguard befitting of their status.
123. The creation of ASCVs for nationally significant surf breaks was not a matter addressed explicitly in the relief sought in the SPS's original submission. Seeking this specific relief was an oversight in our original submission and is effectively a consequential relief implied by the protection that we sought. I do not consider that any potential submitter has been placed at a disadvantage by the failure to include this and it is well within the scope of the submissions of the SEAS. In any case it is not necessary for the Minister of Conservation to seek consultation on his making of a requirement that an ASCV be included in a regional plan. It is only necessary that he require it. Bringing it before the Board to consider would enable her or him to benefit from the Board's consideration.
124. It is therefore appropriate that the Board specifically consider the matter. You will know from the Section 42a report that a provision for ASCVs was included in the 1994 PNZCPS, but was deleted by that Board due to inadequacies in the wording. This has resulted in a variety of interpretations as to what should be an ASCV in regional coastal plans. The Section 42a report indicates that it sought not to disrupt such interpretations by including a policy in relation to these in this PNZCPS.
125. I have had the 'pleasure' of being on a regional council hearing panel considering changes to an ASCV in its regional coastal plan. The value of an ASCV and clear guidance to lower level decision-making is apparent to me.

126. The Section 42a report gave the reason for not including Policies on ASCVs as being 'practical':

to avoid disruption to practices and methodologies developed since 1994 and maintain the regime established by the earlier policy statement.

127. I have two responses to this. First the regime established without a clear policy statement has been piecemeal and hard to implement. It was brought about more by accident than by design and therefore does not adequately address ASCVs at a level reflecting that which warrants the Minister of Conservation to have a role in the decision-making process. By contrast identifying surfbreaks as ASCVs is a very appropriate way in which to ensure that those activities that might adversely affect nationally significant surf breaks have the final decision made by the Minister of Conservation.

128. Secondly, the approach does not involve a disruption to practices and methodologies developed since 1994 as these have not been developed for surf breaks. There is a clear distinction between the development of methodologies for establishing ASCVs for surf breaks and those for establishing ASCVs for multipurposes that primarily address other aspects of significant conservation value. An ASCV for a surf break at Whangamata is likely to be quite different than that developed for ambiguous ecosystem and landscape character purposes in part of the Whangamata estuary.

129. The limitation on ASCVs is that they are restricted to the CMA and the matters that give concern extend into the coastal environment. I therefore see the categorisation of particular surf breaks as being within ASCVs and the definition of such through this NZCPS as problematic given the current state of knowledge. However, it would be appropriate to include a policy in the NZCPS that:

regional plans are required to delineate ASCVs of adequate scale to encompass the sediment and hydrodynamic catchments and swell corridors within the CMA that support and give rise to nationally significant surf breaks

130. An alternative would be to include a policy to the effect that:

The Minister of Conservation, during the preparation of regional plans that give effect to the changes necessary from the NZCPS, shall issue a requirement for ASCVs of adequate scale to encompass the sediment and hydrodynamic catchments and swell corridors within the CMA that support and give rise to nationally significant surf breaks.

131. The difference between the two policies is the onus for funding the work. Departments and perhaps their Ministers, in general do not like to promote or have their government promulgate policies that bind or require them or their successors to take particular future actions. I would therefore favour the first option as best able to survive.

132. It would be of interest to hear the DoC's views, and I would hope that this is a matter that it will address when it makes its final representations to the Board, if such a representation is

intended. In any case, if the wording is deemed inadequate by this Board I would hope that it might replace the wording with wording that it considered would be effective.

133. Merely requiring activities that have effects on nationally significant surf breaks to be RCAs does not ensure a high level of protection unless the policies relating to surf breaks are clear and fully encompass the needs of the break. Activities outside the CMA that affect the break are not RCAs. Therefore it is important to ensure that Policy 20 extends beyond the CMA to ensure a high level of integration in the management of the break. The section 32 analysis considered the swell corridor, but appears to overlook the coastal environment seaward of the CMA in its discussion of Policy 20. It is important that the Board ensures that the seaward extension is clearly accepted as part of the coastal environment.
134. In summary I support the requiring of regional councils to include in their plans the mapping of ASCVs in such manner as to include the full catchment of surfbreaks.

## **REBUTTAL**

### **Should Policy 20 Be Retained (In A Modified Form)?**

135. A number of submitters have argued that Policy 20 is not needed as the matters it covers are already covered by other policies. Policy 20 marks a significant step towards improving policy guidance to decision-makers on the sustainable management of rare, finite and threatened geographical features.
136. In terms of the objectives of the PNZCPS, Objectives 1-5, 7 and 9 are all met to some extent by protection of surf breaks. The achievement of Objective 5 contributes to the use of surf breaks. Policy 20 therefore supports the objectives of the PNZCPS. I later turn to the improvements sought by SPS to Policy 20, but first I will address arguments that might be made against the retention of Policy 20.
137. The argument against inclusion of Policy 20 takes four main forms:
- (a) The cost of implementing the NZCPS will be too great a burden on local governments as it is, and each prescriptive or specific policy, such as Policy 20, adds to the costs, especially as it may be difficult to map surf breaks.
  - (b) Is there a need for a specific policy on surf breaks *vis a vis* other areas of the marine environment that might be important to particular interest groups (eg particular fishing spots)? After all there are other policies, for instance Policy 32, and more generally the processes of the RMA that might be expected to ensure significant surf breaks are protected.

- (c) The third view is that the NZCPS may not be able to provide the level of protection sought by those who have argued for the retention of Policy 20.
- (d) The methodology used to identify the surf breaks is unclear and has not produced a comprehensive list of nationally significant surf breaks.

138. I will deal with each of these in turn.

#### **Prescriptiveness and Cost**

139. The appropriate level of prescriptiveness of policies and the associated costs of their implementation was a matter raised in the preparation of the 1990 and 1994 NZCPSs. The conclusion reached at that time was to be less prescriptive and provide considerable flexibility for local government. This was exemplified in the flexibility provided through the RCA criteria that recognised that particular levels of activities were not likely to be of national importance in all situations, but that a degree of certainty was required as to what might be treated as RCAs in terms of the scale of the activities. The thresholds established in the NZCPS therefore enabled scope for regional councils who wished to exercise greater autonomy over their CMAs to be able to do so if they included relevant rules in plans addressing affects up to a scale at which it was apparent that the effects would be of national significance or irreversible. I note that in the PNZCPS this scope has been removed and single threshold levels have been proposed.
140. The second area of prescriptiveness was in those policies related to sewage treatment. This was a policy area of considerable importance to the public at the time and opposed by those concerned about the cost implications for councils. It appears from the review by Dr Jo Rosier that the prescriptiveness of these policies has meant that they were among the most effective in leading to an improvement in the outcome.
141. In short, in my experience, the approach of local government, especially in regions where there are campaigns for rate cuts, is to do in the first instance only that which they are required to do, ie that which is mandatory. After that they will opt for what is easy to do and has limited costs. The coastal environment is especially vulnerable in this respect because the costs of research and monitoring to gain levels of knowledge of a parity with that held for terrestrial systems is relatively high. Therefore there is an added necessity for prescriptiveness in the NZCPS that may not be found elsewhere.
142. Added to this is the oft heard expression that local government needs more and better guidance from central government on matters of national significance. I find it difficult to accept as credible that councils might therefore oppose clear policy directions such as that of Policy 20. It gives me cause to reflect on the performance of local government in managing its coastal environment.

143. In this regard only one regional council, Taranaki, has made a significant pro-active attempt to provide protection for surf breaks in its regional coastal plan. I am not aware of any provisions relating to preventing inappropriate subdivision, use of development on land being included in any territorial authority plan in order to protect surf breaks.
144. There are, however, instances where councils have taken actions that give me cause for concern as to the weight they might afford activities that could impact on surf breaks.
145. I recall the instance of a district council arguing in a hearing that there should be no provision for more oyster farms in a particular bay because that would mean that they would have to spend money on improved systems for drainage and sewage. The existing oyster farmer required high quality and monitored the water on a daily basis to meet his health requirements. He identified instances of lower than acceptable water quality in the bay. As this was a bay that was popular for recreational use one would have expected the council to welcome such monitoring. In fact it was more concerned that planned subdivisions might need to have higher standard stormwater and sewage treatment systems in place and that this would impose additional costs on subdivision and on the council.
146. In a second instance, a regional council consistently reported good water quality from its monitoring of a particular marine area despite concerns expressed locally, notably by surfers, about floating sewage. It took a video by locals, who I think were surfers, to confirm the inadequacies of the monitoring system in place and for the problem to be resolved. In this regard, encouraging and supporting surfers may lead to improved effectiveness of monitoring. **Mr Shanks** has provided a number of examples of poor management of surf breaks by local authorities.
147. In summary, it seems that where there is clearly an area of national significance, then it is quite appropriate and indeed necessary, to have in place policies that provide clear, specific and prescriptive guidance to councils. Thus removes uncertainty, aids them in their priority setting and provides them with a mandatory basis on which to structure their funding decisions.
148. Is the cost imposition of Policy 20 fair? As the Board will be aware from the research done in 1990 by Drs Rosier and Meister, it is not possible to do a cost benefit analysis on even very prescriptive policy statements made in the NZCPS because of the variety of settings and means by which they can be achieved and the uncertainties in calculating the benefits. In any case, the benefit cost analysis requirements of section 32 include non-monetary benefits. The information available indicates there are significant economic benefits from surfing.
149. There are also exceptional cultural, social and heritage values derived from and attached to the existence of specific surf breaks.

150. If we were to accept the arguments that Policy 32 and other policies already cover the needs of surf breaks, then the work that is required by Policy 20, would be undertaken anyway. Consequently, those who argue that Policy 32 is sufficient must also accept that Policy 20 cannot be seen as an additional cost. Therefore it would seem that those who have argued that Policy 20 is not needed cannot logically argue against it on the grounds of cost. If they argue against it and say it would add costs, then that suggests to me that Policy 20 is needed if surf breaks are to be given a level of protection appropriate to their finite nature and significance. The only additional cost of the inclusion of Policy 20 would be the requirement to prioritise the implementation of protection for nationally and regionally significant surf breaks. The provision of clear priorities is entirely appropriate and efficient. Any costs imposed are fair.

#### **The Need For A Specific Policy On Surf Breaks**

151. In terms of planning, the NZCPS provides the integrative link between different, rather arbitrary, administrative divisions of responsibility for the management of a dynamic biophysical environment. The arbitrary administrative division of the line of mean high water springs was hotly debated at the time of the making of the RMA. Essentially, a distinction was made between the common property coastal marine area, which would be co-managed between the regional councils representing the local community of interests and central government representing the national community of interest.
152. Provision was also made to recognise and give support to the underlying principles of the Treaty of Waitangi and to the 'rights' of the environment.
153. The division of responsibilities was accompanied by a second distinction between terrestrial and CMA. On land, the basic presumption was that land owners should be able to do what they wished with their land, within certain constraints on the nature of the effects of their activities on others, including future generations, and on the environment.
154. By contrast, in the CMA the underlying presumption was prohibitive. This was a common property, and therefore the rights of all New Zealanders would be affected by its use by any one person or group of people.
155. The need for a prohibitive approach was further supported by the relative knowledge held of the two environments and the greater dynamism of the coastal marine area. We know comparatively little about the CMA, but we do know that there is potential for irreversible significant change to occur as a result of seemingly minor changes to, or impositions on, that environment. In effect there is an extra dimension – the body of seawater that overlies the 'land' beneath – that has to be taken into consideration and as a species humans are not biologically adapted to this dimension. Our engagement with it is largely dependent on the level of our technology.

156. As has been demonstrated by the presentations of **Drs Mead and Scarfe**, there have been considerable advances in our knowledge of aspects of the coastal environment. However, this should not mislead the Board into thinking that we have in any way achieved parity between the knowledge held of the coastal environment and that held for other parts of the environment. However, our more general lack of knowledge should not prevent taking specific action on the basis of the knowledge we have gained.
157. **Drs Mead and Scarfe**, who are at the international forefront of research and technological development in understanding the coastal environment, have presented the current state of scientific knowledge on surf breaks. That knowledge includes distinguishing between different types of break and the characteristics of these. They have also identified surfbreak vulnerability and that there are some breaks that are less common or that are outstanding 'specimens', and there are seascapes where specific breaks may form outstanding features. It is also apparent from their evidence that the technology does not exist at present to restore an outstanding natural break that has been disturbed or damaged by human intervention.
158. In essence, surf breaks are like animal species. When an animal species is rare or endangered we take action to preserve it and this usually involves some form of protection. When a species is rare or endangered we closely monitor their state. If they are at the point of extinction, we contrive to rescue them with artificial means like the breeding programmes for the Kakapo.
159. It is generally accepted that prevention is better than a cure, and that a fence at the top of a cliff is better than an ambulance at the bottom. As a result, for most rare or endangered species there are species management plans, closely tied to monitoring programmes. The RMA supports such programmes by providing for the protection of species and their habitat and this is supported by relevant rules in plans.
160. The point of this analogy is clear. If we think of surf breaks as equivalent to flora or fauna, then we would want to maintain diversity just as we maintain biodiversity. More particularly, we would expect to see rare and endangered breaks given the highest degree of protection that we can. A significant difference between species and breaks is that the break is a manifestation of the combination of several dynamic aspects of the environment that work together at particular times and places to produce the break. The break is place specific and unable to be restored if lost. We cannot breed new Raglan breaks from the existing ones. The loss of such breaks may be of low probability, but if it occurred it would be irreversible and of very high significance. A specific policy offering protection is an appropriate precautionary approach.
161. Surf breaks as a component of the natural character of the general coastal environment may not need to be protected any more than birds in general need to be preserved. However,

surfbreaks as part of the natural character of particular regions may need some form of protection to preserve them.

162. Specific surf breaks may be regionally important or may be outstanding features of the region's CMA and may need protection. That there are particular surf breaks that are of national and international significance has been established and they clearly warrant protection.
163. From a planning perspective, therefore, there is sufficient knowledge about surf breaks that we should act and use whatever means are at our disposal to ensure effective monitoring and protection.
164. The NZCPS is one such means and it was specifically designed to integrate across the boundaries of the CMA. It is therefore able to address the need for protection in all three of the arbitrary divisions of the environment, the CMA, and the landward and oceanic extensions of its environment.
165. A comparison with other national policy statements further supports the appropriateness of including Policy 20. Other national policy statements, for instance the National Policy on Electricity Transmission, focus on very narrow and specific issues or components of the environment. There will consequently be a number of policy statements generated for the terrestrial environment.
166. There is no requirement to have a NZ Land Policy Statement or a NZ Water Policy Statement. Therefore it makes sense that specific narrow national policy statements on water flows, urban design, electricity transmission be developed to provide national direction and guidance on such terrestrial environmental issues to the extent to which they are of national significance and requiring of such measures.
167. There is, however, a requirement for a NZCPS and therefore it is both efficient and effective to address specific issues that are of national significance in such a policy.
168. There may come a time when there are specific national policy statements generated to address specific components of the coastal environment, for instance a national policy statement on surf breaks or a national policy statement on maui dolphins, or a national policy statement on swimming beaches or fishing holes. But I suspect that the inefficiencies in generating such policies and the mandatory requirement to have a NZCPS would lead people to argue that if it was sufficiently important to have a national policy statement on such things then it would be in the mandatory NZCPS.
169. The inclusions of a specific surfbreak policy in this NZCPS does not preclude the inclusion of more specific policies in a future NZCPS. It would be expected that such inclusions would require a similar standard of evidence to that presented to this hearing for surf breaks.

170. If such evidence existed for other aspects of the coastal environment, then it would have been identified either in the preparation of this PNZCPS or through submissions on the PNZCPS. It may well be that you have received sufficient evidence on other aspects of the coastal environment to include additional specific policies. Central and local governments have certainly had the opportunity to raise new specific matters and present well-founded arguments and evidence if they seriously considered that there were other matters warranting specific attention. If you have not received convincing arguments for the inclusion of specific policies on other aspects of the environment then I suggest that, unlike the case for surfbreaks, those matters are not yet of national significance.
171. The final point I wish to make in support of the need for specific policies within the NZCPS is a historical comparison between the 1990 and 1994 NZCPS and 2008 PNZCPS.
172. At the time of making the 1990 proposed NZCPS and the 1994 NZCPS the socio-political context was one of deregulation and the approach adopted in formulating the RMA was one of establishing environmental bottom lines and freeing up the market to determine peoples preferences. The wording in the RMA was specifically chosen to be sustainable management, not sustainable development. The formula was not to 'pick winners' in terms of activities, but to focus on effects.
173. Subsequent court decisions, notably *NZ Rail* and *Trio* adopted an overall broad judgement approach to interpreting and implementing section 5 of the RMA. There has also been a shift in government policy in favour of sustainable development, rather than sustainable management. In other words, central government appears to have also moved in favour of an overall broad judgement approach. These changes may explain some of the differences between this PNZCPS and its predecessors in style and content.
174. The inclusion in this PNZCPS of some specific policies addressing specific issues may give the impression that it is discriminating in favour of the surfing community, or of 'picking winners'. This is not the case.
175. The inclusion of specific policies addressing aquaculture and renewable energy is 'picking winners'. Specific policies on surf breaks should not be confused with such policies.
176. Policy 20 does not pick surfers over other users of the coastal environment. The policy specifically focuses on a component of the natural environment, as opposed to peoples' activities, and addresses the need to protect that component from the negative effects of other human activities on it. There are sound reasons for doing this as I have already indicated.
177. The NZCPS therefore retains the effects-based approach when addressing the surf break issue. It does not seek to pick the surfers as winners, but to protect the breaks of national significance. This is appropriate.

178. That this also enables surfers to meet their social and cultural needs, and for other people and communities to meet their economic needs is part and parcel of the purpose of the RMA, but is not the reason for the policies.
179. It would not be sustainable management to protect only nationally significant surf breaks. There is a need to be sure that surf breaks generally are preserved as part of the natural character of the coastal environment and as discussed above to ensure protection is given to regionally significant breaks.

**Is The NZCPS Able To Provide The Level Of Protection Sought By Those Who Have Argued For The Retention Of Policy 20?**

180. In and by itself the NZCPS cannot deliver the level of protection sought by many of those who have argued for the retention of Policy 20. It cannot for instance direct the creation of surfing reserves, although, as I will turn to shortly, it can provide for the CMA to be encompassed within ASCVs.
181. The NZCPS, as the SEAS argued, is a first step and is currently the only step available. In particular, clearly directive policies such as Policy 20 should provide the level of priority to surf breaks that they warrant. In this regard I remind the Board that provisions have not been made in any plan for surf breaks to be treated as ASCVs, and with the exception of Taranaki I am unaware of any substantial attempts to address surf breaks. As submissions show there is wide ranging support for Policy 20. As written however it is deficient and in its written submission SPS has suggested changes that would improve it by recognising the need to identify and protect regional significant surf breaks. I consider such a policy is required for reasons already set out.

**The Methodology Used To Identify The Surf Breaks Is Unclear And Has Not Produced A Comprehensive List Of Nationally Significant Surf Breaks**

182. I have already addressed much of this argument. In my view the reliance on voluntary mechanisms and identification of breaks by local government has not afforded adequate assurance of protection. Indeed it is arguably inappropriate for local government to identify a break as of national significance unless directed by clear policy guidance or through a requirement of the Minister when she or he approves the regional coastal plan. It is quite clear that the breaks listed in Policy 20 are of national significance and their listing provides a large degree of assurance that they will be protected or at least that their status will provide weight in favour of protection when decisions are made on the content of regional and district plans and on applications for resource consents.
183. It is unlikely that a first list will be comprehensive, but non-listing of a surf break is not to be taken as meaning that a surf break is not worthy of protection. It is important to put in place processes that ensure other breaks are considered for their regional or national significance. This should be achieved through the process suggested by **Mr Skellern**, but there may need

to be an additional layer to the process to consider if there are breaks identified as of regional significance that should be upgraded to national significance.

184. A more robust process of identification may well lead to identification of additional surf breaks of national significance. Such a process should consider inclusion of surf breaks in the areas identified in the SPS submission. A policy that requires regional councils in conjunction with the Minister of Conservation to investigate the stoke-rated surf breaks I have identified, and to identify and confirm those which are of national significance will make Policy 20 work. This is achieved in part through the SPS amendments to Policy 36 and Policy 20.
185. Without such a directive process reliance would be placed on voluntary effort. Some local authorities have made submissions indicating that they consider the costs of implementing policies in the PNZCPS will be quite burdensome. It is unlikely, therefore, that they will voluntarily undertake work on identifying the nationally important surf breaks without a clear policy direction and mandate to do so.
186. Nor do I consider it is entirely appropriate for a regional council to identify by itself the *nationally* significant surf breaks. That is ultimately the role of the NZCPS and the Minister through his ability to require changes to Regional Coastal Plans before approval. A NZCPS policy-based approach will add clarity and legitimacy to the process should it prove necessary for the Minister to require changes to Proposed Regional Coastal Plans to include surf breaks that they may otherwise have ignored.
187. This gives weight to the use of the ASCV as a mechanism to identify the areas that encompass the breaks.

#### **OTHER MATTERS RELEVANT TO THE RELIEF SOUGHT BY THE SEAS**

188. During your hearings the SEAS raised the surfing reserves of Australia as a possible model for New Zealand. I have considered the possibility that they might also provide the relief sought by the SPS.
189. I have been in discussion with Dr Neil Lazarow, an internationally recognised authority on the economics of surfing who is based at Griffith University. I have also undertaken some independent net-based research. I was seeking information on the nature of the surfing reserves in Australia and their management in order to ascertain their applicability to the New Zealand situation.
190. I understand that there are three types of surfing reserve in Australia.
191. The first type is exemplified by Bells Beach which receives up to 30,000 people to specific surfing events and was established in 1973. It is a surfing recreation reserve, but is only a land reserve. It is similar to many local purpose reserves in New Zealand. It does not extend

into water. However, an adjacent Marine Reserve established in the late 1990s has provided a degree of protection to the surfing values of the area and this may have given people the impression that it is an integrated land-sea surfing reserve. There is a management plan for the land reserve. There are some other similar reserves in New South Wales.

192. The second type of reserve has no formal status and is effectively symbolic, consisting of little more than a plaque on the land. For instance Maroubra which was declared in 2006. Such a declaration may add weight in hearings but is unlikely to provide the degree of protection that is sought here for nationally and regionally significant breaks.
193. The third type is Gazetted surfing reserves. These are only found in New South Wales. These are areas of coastal waters that have been recognised by National Surfing reserves Australia and the NSW Department of Lands as “iconic sites of environmental, cultural and historical significance to the Australian surfing culture”. Such a description would appear to adequately reflect the weight attached to New Zealand’s national surf breaks identified in Policy 20 and would also apply to a number of other breaks not yet identified in Policy 20 as either nationally or regionally significant.
194. Such a description adds weight to my earlier analysis that surf breaks deserve protection as outstanding natural features of the CMA, as outstanding features in the land and seascape, and integral components of the natural character of the coast. The added weight reflects the historic and heritage values of the surf breaks and their protection would meet the needs of section 6(f).
195. The NSW mechanism, however, is not available in New Zealand and in any case is inadequate to meet the needs of protecting a surf break. They are located on Crown Land and are made under the Crown Lands Act 1989. The boundaries of the breaks extend from mean high tide mark out to only 500m from the shore. The management of these reserves is with the NSW Department of Lands. An advisory board called a Reserve Trust, similar to management boards found in New Zealand for marine reserves, can be established. These provide a local voice on matters affecting the reserve and can mitigate and effectively manage activities affecting the environment within the reserve area and can engage in and support developments and recreational interests within and adjacent to the reserve. They can but have yet to develop a management plan for the reserve.
196. If a mechanism existed in New Zealand to establish something similar to the coastal reserves it would provide for the active engagement of surfers in management of the area of the relevant breaks and adjacent areas, but this would be of limited value in protecting from activities within the breaks’ coastal environment, the swell corridor and the sediment and hydrodynamic catchment. As noted the mechanism does not exist, but as **Mr Skellern** discusses provision has been made, at least in Auckland for parts of the CMA to be reserved for particular uses. It is not necessary or appropriate for the NZCPS to specify that such

reservation of surf breaks be provided in order to protect the breaks, but such measures might in part provide the relief sought by the SEAS. Policy direction in encouraging consideration of such measures could be included to achieve this.

### **ARTIFICIAL REEFS**

197. Artificial means of creating surf breaks, whether by accident or design, cannot be relied upon to replace significant natural surf breaks, but may provide additional surfing places to cope with the reasonably foreseeable expansion in demand for surf breaks. The development of multipurpose artificial reefs that use soft structures such as sand filled geotextile bags are one of the tools available to coastal planners and managers. I have been following the debates over different techniques for developing shoreline protection, artificial marine habitat and surfing for many years. Research on the appropriate use of such tools as multipurpose soft protection structures is ongoing. It seems strange however to discourage them in favour of hard structures built in private property boundaries that will ultimately become seawalls. Soft artificial structures may be necessary and preferable options. I consider the inclusion of them in the category of hard structures in the glossary is inappropriate. A new category of soft structures should be developed.

### **CONCLUSION**

198. From a planning perspective there is an issue, the finite nature and vulnerability of surf breaks, that is of nationally significant importance. Addressing this through the NZCPS is appropriate to achieving the purpose of the RMA. Policy 20 is a necessary and useful step and addresses objectives intended to provide for the preservation of the natural character of the coastal environment, the protection of outstanding features and landscapes, and the protection of our heritage while enabling the maintenance and improvement of amenity values.
199. I am in agreement that the relief sought by the SPS is appropriate. I have a preference for the option of identifying surf breaks, with the addition of Papatowai, as of national significance because I consider it is more likely to be effective than the alternative within the proposed timeframe for implementing the NZCPS.
200. I also consider there is merit in requiring the identification of ASCVs that encompass the surf breaks and the components of which they are comprised (the swell corridor, water and sediment catchments of the CMA).

Hamish Rennie