- Ground level: the definition is simplistic and problematic for compliance purposes. It appears that as long as the ground level is changed before a building is proposed it is possible to make the ground level whatever is desired. Please see the Kāpiti Coast District Plan definition for original ground level for how to overcome this issue.
- Height: when read in conjunction with the draft definition for ground level, as long as the ground level is altered prior to any building consent application being lodged, the ground level can be changed to whatever is desired. Please see the Kāpiti Coast District Plan definition for original ground level for how to overcome this issue.
- Height in relation to boundary: the definition does not refer to other important factors such as ground level, original ground level
- Land disturbance: this has been used in District Plans in relation to managing the effects of earthworks within wahi tapu sites. Clarification of potential conflicting use would be beneficial.
- Residential activity: the definition would result in uncertainly as to what is included and what is not included. For example, does the definition include temporary and visitor accommodation?
- Site: the definition does not acknowledge a site can be part of an allotment; a site is not necessarily the entire legal entity.
- Structure: this definition is inconsistent with the RMA definition.
- Subdivision: the definition needs to include boundary adjustments.

27. As noted above the Council appreciates the intent to standardise the definitions and the flexibility to add further to definitions to reflect local circumstances. However, in simplifying a number of the definitions there is the potential to create significant gaps, conflicts and inconsistencies in District Plan provisions.

Additional Issues

Understanding the full scope and suite of Standards

28. There are a number of questions in the consultation material that suggests there could be a number of further Standards introduced. A forward work programme of all known or emerging Standards would be helpful to inform Councils approach to implementing the Standards and set our planning work programme.

29. A forward programme has the advantage of providing flexibility, where councils can structure their review processes in a way that best aligns with government's timeframes.

National benefits of developing an E-Plan template

30. We recognise the benefits of E-Planning and are currently drafting an E-Plan for our District Plan. With all Councils moving towards E-Planning, there is a range of benefits that could be achieved by developing a common or shared IT platform and template to support implementation of the Standards.

31. This would provide consistency in the development and implementation of plans as well as considerable cost savings by best utilising key skills required to develop and implement E-Plans nationally.

Yours sincerely

Wayne Maxwell
CHIEF EXECUTIVE

TO: Ministry for the Environment

SUBMISSION ON: National Planning Standards

NAME: Taranaki Whānui ki te Upoko o te Ika a Maui and Papa Pounamu ki Te Upoko o Te Ika

INTRODUCTION

1. This submission is provided on behalf of Papa Pounamu ki Te Upoko o Te Ika (Papa Pounamu) and Taranaki Whānui ki Te Upoko o Te Ika (Taranaki Whānui).

CONTEXT

2. Taranaki Whānui is a post settlement governance entity within the Wellington region. Our Takiwā extends from Pipinui to Remutaka, down to Turakirae, across to Rimurapa and back up to Pipinui. Taranaki Whānui is a recognised Iwi Authority and holds various statutory acknowledgements over significant sites and environmental features. We are active kaitiaki within our takiwā.

3. Papa Pounamu is a technical interest group which aligns with the Special Interest Groups within the New Zealand Planning Institute (NZPI). The group focuses on the role of Māori and Pacific peoples in the New Zealand planning framework, and the integration of Māori perspectives in resource management planning and decision-making.

DISCUSSION – TANGATA WHENUA PROVISIONS

4. Both Taranaki Whānui and Papa Pounamu support (in principle) the development of National Planning Standards because it enables easier navigation by kaitiaki who interact with numerous planning documents and it provides a consistent in approach across councils in plan development processes. This will assist councils and government agencies in their planning processes however the risk will be a standardisation of approaches toward iwi, hapu and whanau Māori.

5. As with any national approach (including with these standards) there needs to balance a drive for national consistency while providing for local qualities and the distinct character that each region (rohe, takiwā, waahi). There is less evidence to confirm how the national standards approach will assist iwi, hapū and whanau Māori and discussions on this should continue to occur.

6. Across district and regional plans there is significant disparity in terms of the planning and policy framework deployed to ensure the implementation of Tangata Whenua provisions. Some plans, such as the Greater Wellington Regional Council Natural Resources Plan take a very integrated approach to providing for Tangata Whenua provisions. Within this plan Tangata Whenua provisions are expressed throughout the document and not isolated to one chapter within the Plan. This means that they explicitly form a part of the Plans policy framework.

7. Other planning documents articulate Tangata Whenua provisions as somewhat of a ‘context setting’ narrative which gives a description of values or significant sites (inter

alia). This is quite a common approach across councils and often fails to go beyond a narrative and into the policy framework.

8. Taranaki Whānui was intimately involved in the development of Greater Wellington Regional Councils Natural Resources Plan and note that the methodology deployed within that plan making process has merit.

DISCUSSION – FURTHER INCLUSION TO TANGATA WHENUA PROVISIONS

9. Provided below are some new provisions which could be explored as a part of the National Planning Standards. The ideas are not exhaustive, but rather reflect opportunities where Councils could more explicitly integrate and incorporate new elements within Tangata Whenua provisions.

Mana Whenua

10. *Purpose:* Enabling mana whenua to give greater expression to lands which have been received back as a part of a treaty settlement process.

11. *Example:* 'Cultural Redress' lands could have a specific planning framework around them which better enable the expression of mana whenua values and tino rangatiratanga

Indigenous Urban Landscapes

12. *Purpose:* Enabling mana whenua to give greater expression to the urban environment and landscape particularly sites of previous mana whenua occupation. This is about ensuring mana whenua identity is incorporated into the design our urban form and landscapes.

13. *Example:* An 'indigenous urban landscape' framework is developed and integrated into the planning framework.

Te Reo Māori

14. *Purpose:* Enabling greater expression of the Māori language and recognising it as a taonga (s.6e of the RMA)

15. *Example:* Te Reo Māori forms its own chapter within a District and Regional Plan. The Chapter will articulate how (through a policy framework) Council will support the use of Te Reo Māori.

Te Mana o Te Wai

16. *Purpose:* To explicitly express what Te Mana o Te Wai means for the community.

17. *Example:* Te Mana o Te Wai is expressed within its own chapter within both Regional and District Plans and a framework is set out to support implementation.

18. These are some examples of provisions the Ministry for the Environment, Councils and iwi could explore and incorporate into planning documents.

CONCLUSION

Key points:

a) In principle both Taranaki Whānui and Papa Pounamu support 'National Planning Standards' but note the risk to the 'standardisation' in how Councils and Central Government may interact with iwi, hapū and whānau. It is our expectation that discussions in this regard are continued.

b) In principle both Taranaki Whānui support a National Planning Standards framework which enables Tangata Whenua provisions to be expressed and integrated throughout the entirety of planning documents, therefore, Tangata Whenua provisions, values and interests are tied directly to objectives, policies, methods and rules.

c) Both Taranaki Whānui and Papa Pounamu do not support Tangata Whenua provisions which sit alone and do not meaningfully provide direction to the implementation of the plan (Objectives, Policies, Methods and Rules).

d) Both Taranaki Whānui and Papa Pounamu are of the view that there are a number of themes and elements that could be explored by the Ministry for the Environment, Councils and iwi which may form the basis of further Tangata Whenua provisions within the National Planning Standards. Further exploration in this regard is required by the Ministry for the Environment and both parties to this submission are willing to engage with the Ministry for the Environment in this regard.

Kara Puketapu-Dentice
Chair – Taranaki Whānui Takiwā Kōmiti

Jade Wikaira
Chair – Papa Pounamu ki Te Upoko o te Ika

Submission on Draft Planning Standards

General Comments

Support is expressed for creating a consistent layout in regional and District Plans.

Nevertheless, the changes represent a significant transformation in the layout of some District Plans and measures need to be considered for reducing the cost burden on Councils. Funding needs to be allocated to assist Council's to meet the new requirements.

The exclusion of mandatory policies and rules from the draft standards is supported. Additional time, research and consultation is needed before nationally consistent policies and objectives are proposed and considered.

Whilst the standards are not without benefit, care needs to be taken in the overall assessment of benefits. Improvements in the consistency of plans principally benefits professional persons in the planning, construction, infrastructure, property and associated fields. Many major obstacles need to be overcome before District and regional plans are accessible and understandable to the general public. It is likely that the general public will continue to need professional assistance to understand information for the foreseeable future, regardless of plan formatting or level of electronic functionality.

Greatest help to Councils in achieving transformation is likely to be through the creation of a universal digital template for the creation of new district plans. It would also assist if pilot Councils involved in the testing of the standards, made available their draft attempts to reformat their existing provisions into the new layout. This would help minimise the effort needed by other, perhaps less well-resourced Councils, in considering how to make similar types of changes.

Major thought needs to given to the implementation of the proposed standards. Whilst there are gains in implementing the changes through a full plan review, it needs to be considered that full plan reviews are a very expensive process and presents a range of challenges. A major challenge is that many District Plans, do not or only partially meet requirements of the New Zealand Coastal Policy Statement or applicable Regional Policy Statement. Several Councils have incomplete investigations of section 6 matters including European heritage, Maori heritage/areas of cultural value, landscapes and biodiversity. In addition to an increasing need to identify and address natural hazards, better manage land and water in an integrated catchment fashion and provide more opportunities for housing and associated infrastructure provision. A full District Plan review requires Councils to spend considerable sums of money addressing existing deficiencies and may be cost prohibitive.

Guidance is likely to be needed as to whether a full review could take place, which effectively allows some issues to be deferred (e.g. addressing natural hazard risk) to a future time, when more information is available. What potential is there for Councils to put in place interim measures, which recognise that proposed measures are not the best policy solution in the long-term, but represent the most cost-effective option in the short-term? An example of a Council which has effectively deferred a full investigation of areas of biological importance is Christchurch City Council.

Additional consideration is needed regarding public consultation for making the changes. There is little benefit in requiring Councils to undertake a major public consultation exercise if there is little scope for the public to make any significant changes. Suggested wording is recommended for informing the general public of the scope of submissions and any limits on their ability to influence

outcomes. It would helpful if the Ministry could provide suggested wording to clearly distinguish those changes which the public have no say on, those where the scope to make further changes is heavily constrained by new regulations (e.g. limited to new layout and definitions) and those were greater discretion is available to review the merits of changes. It is expected that members of the general public will seek to comment on the merit of changes or seek additional changes, even if the changes made by the Council are largely administrative. For example, a plan change may simply seek to introduce a new layout, however the public may feel that this is also a good time to raise issues with the performance and efficiency of existing provisions.

Changes to introduce consistent zoning names could easily led to multiple requests from the general public to change the type of zone that land parcels are currently in, particularly for land at current zone boundaries. Landowners may feel that property prices may be higher with a zoning intended for higher residential densities. Conversely, other landowners may object to the identification of areas as high or medium density zones, even when this represents nothing more than a change to zone name.

Changing zone names is likely to be a major exercise for some Councils which have used a variety of different zones to deal with land with specific features, such as the Hill Residential Activity Area, Landscape Protection Residential Activity Area and Historic Residential Activity Area in the City of Lower Hutt District Plan. Whilst the proposed template is likely to allow for alternative measures to keep the same level of regulatory control (such as the use of overlays and precincts), this requires more than just a change in zone name. For example, the hill residential provisions are likely to require the identification and mapping of land of higher gradient (e.g. slope over 15 degrees) and the creation of a new slope overlay, where additional provisions regarding earthworks on steeper land could apply. As the setting of zone boundaries has typically in the past involved an arbitrary element, it is likely that the more precise identification of features e.g. slope, would lead to the reclassification of some land.

It is also likely to trigger debate as to whether land of higher slope should automatically fall into a low residential density zone, or whether some hillside land is suitable for higher densities, such as hillside areas closer to existing retail strips or major roads.

Consequential amendments arising from the mandatory directions are considered to be very high.

Time Limits for Implementation

The extension of time limits for implementing the majority of the standards is supported. It involves considerable work and a period of less than 5 years is unlikely to be realistic. No objection is raised to the 7-year time frame for Councils which have more recently reviewed their plan change, although this additional time delay could have flow-on consequences. Councils which have more recently reviewed their provisions, are likely to be the better resourced Councils, which have often led more innovative changes. Consequentially, it could be harder for those Councils with older plans to bring themselves up to speed, prior to a group of larger and better resourced Councils.

Given that a number of existing Councils have recently reviewed their plans, consideration should be given as to whether a 7-year time frame for every Council is a better approach.

Another option that could be considered is to whether plan changes notified as from the date of adoption of the new planning standards, need to consistent with the new standards. This would

allow an element of transition in the layout of District Plans, prior to a full requirement that all parts of the plan are consistent.

Need for Guidance on the Use of Non-Mandatory Text in Plans

It is suggested that guidance be given to the use of supplementary non-mandatory text in Regional and District Plans. For example, some Councils have provided lengthy 'introductions', 'explanations' and 'list of methods' which have no statutory force in the policy section of plans. I am personally concerned about the use of 'explanations' in District Plans. I consider some have been inappropriately used to suggest that Councils have more active management measures or stronger regulatory protection than is the case (this is a particular issue for areas of significant ecological value). I am also of the view that well-drafted policies and rules should not need accompanying explanatory text. My experience is that the general public typically have little interest in non-mandatory text and would prefer shorter documents.

Providing a list of methods in District Plans often provides little real benefit. I have strong concerns that several methods referred to in District Plans, have never eventuated. I also consider text under anticipated environmental results and monitoring in District Plans has also provided little benefit. I suspect many monitoring activities referred to in District Plans has not actually taken place.

There appears to be considerable variation in the use of supplementary text in District and Regional plans. Greater consistency in their use is warranted.

The New List of Zones

The proposed list of 27 zones appears to provide a good range of zoning options, with multiple zone names available for different types of residential, commercial, business and open-space zones.

Restrictions on the use of new zones, is supported. I consider the practice of creating specific spot zones for new development sites should be restricted. It is far more strategic and integrated, to require land rezoned from say a rural to urban use, to fit into one of the more typical zones. If a developer sees the need for a specific variation from existing zone provisions, such as higher building height allowances, this could be provided by other means.

No objection is raised to the creation of 4 residential zones, which are intended to provide for different levels of housing density. However, concern is raised over the chosen names, which are likely to have specific meanings to the development community and general public. There is no universally accepted definition of low, medium and high density in NZ.

Need for Definitions for Housing Density

It is recommended that definitions of 'low density', 'medium density' and 'high density' be provided, to avoid additional confusion amongst the public as to what these terms mean. It makes little sense in a framework intended to encourage national consistency, if Councils are able to use a name of 'low density' to apply to what is more normally considered to be 'medium density', or alternatively for Councils to use a name of 'high density' to provide for a scale of development more normally described as 'low to medium' density. My experience is that Councils have confused the term 'high density' with 'high-rise development'.

Councils also seem to have confused provisions which would be viewed internationally as promoting a change in density from 'very low' to 'low' densities (e.g. a change in density from 10 to 20 dwellings per hectare), as a change from 'low' to 'medium' density. Medium density is more likely to result from less traditional housing forms (e.g. dual occupancy, terraces, low-rise apartments) than simply just allowing detached housing closer together and on smaller parcels of land.

An example of definitional problems is illustrated by Hutt City Council. In circa 2009 it proposed a plan change with a 'higher density residential area', however provisions in the plan change were not seen by the development community as genuinely representing high density development. At the time of adoption of the plan change in 2011, the name was changed to a 'medium density' overlay. However, in practice, the overlay appears to have largely resulted in development at the upper end of the low-density spectrum, rather than what is traditionally viewed as medium density housing. This situation has created more confusion with a 2018 Plan Change for Residential Intensification which proposes the deletion of the 'medium density overlay' provisions and the creation of a new 'medium density' zone. The new provisions are more than just a change in name, they also provide for a significant increase in housing density. Effectively there has been an upward creep in what is considered to be 'medium' density housing'.

Need to Change Names of Suggested Residential Zones

Regardless of the actual provisions which apply to these zones, zone names will create expectations in the development community as to the scale of development that is viewed as acceptable and likely to gain resource consent. It would be problematic for developers to be led to believe that higher density types of development are acceptable in a particular location, because of the zone name, when this is not supported by the actual provisions such as minimum net site areas, site coverage, building height and height recession plane rules.

Unless there is a requirement to provide for similar types of development in each Council using the same zone name, it makes more sense to use zone names which have less meaning for the general public. A more generic description of Residential 1, Residential, 2, Residential 3 and Residential 4 would provide a less confusing description of residential zones. The use of ascending numbers would still indicate a sense of housing density increasing for each zone.

Need to amend Purpose Statements for Residential Zones

Concern is expressed by the use of ambiguous language in the zone purpose statement for residential zones, which increases the possibility of differing interpretations made and inconsistent use.

The phase for the low-density residential zone of *"where there may be constraints on urban density"*, allows for wide discretion in the use of the zone. Guidance is suggested as to what constraints may justify a low-density zone. As well as how much information is needed to support a concern that the area is not suitable for higher densities. It is likely that some members of the public will consider some areas as unsuitable for higher densities, simply because their existing neighbourhood is characterised by low-density development. It could be argued that many areas could have constraints on urban density.

It is preferable to define what is meant by a *'suburban'* character referred to in the purpose statement for the residential zone. The character of suburbs in New Zealand varies widely.

I object to the confusing purpose statement for the medium-density residential zone, which refers to *'areas of urban character'*. This is an extremely ambiguous term and its usage clashes with the ordinary understanding of the word 'urban' as defined by the Oxford Dictionary. The Oxford Dictionary defines 'urban' as characteristic of a town or city. Its use is principally about distinguishing non-urban areas e.g. surrounding rural countryside from established residential or commercial areas. I am of the view that even very low-density residential development creates areas of 'urban character'. A more precise purpose statement is needed to distinguish a more general urban character from a medium density urban character.

The purpose statement for the high-density residential zone, refers to a high density residential character, but in the absence of a definition a high density, invites inconsistent use and interpretational problems.

Draft Schedule Standard

Whilst no in-principle objection is raised to the creation of specific standards for schedules as outlined in Table 17, concern is raised that the completion of schedules in this fashion would involve significant levels of work. My own review of Council documents in relation to the identification of areas of significant ecological value, indicated that few existing schedules fully identify the list of properties covered by this overlay outside urban areas (i.e. identification is often based on a map in rural areas), provided a full description of the values of the site or referred to the source material used in identification. Auckland Council has some 6,000 sites of identified ecological significance alone, which provides an indication of the scale of effort involved. Clarification as to what is precisely the minimum information requirements is needed. For example, is identification of the selection criteria met from the regional policy statement sufficient or is a more detailed description needed?

Concern is raised that the effort needed to adjust schedules to comply with the new requirements, would not justify the cost of making changes. There are alternative methods for interested persons to obtain this information, such as an information request under LGIOMA.

Unrealistic Expectations for Draft Electronic and Functionality Standard

Concern is raised over the draft electronic accessibility and functionality standard.

Concern is expressed as to the workability of points 6, 11 and 12 on page 50. Identifying when each provision in the current plan was last updated, along with providing a copy of all previous plans could be a very complex and time-consuming task for Council's which have undertaken a rolling process of review.

The cost of providing this information retrospectively for existing provisions, is considered to outweigh its benefits. My experience as a senior policy analyst, is that few requests are made regarding the background of district plan provisions. Interested persons are able to receive timely information on these issues through LGOIMA. There are far more time-efficient methods for academics and the Ministry for Environment to understand how planning provisions have changed over time. This is a topic for which there is little public interest. I expect this task would be even

more complex for Auckland Council, given the more recent nature of Council amalgamations in this region. It makes little sense to require Councils to spend a fortune on meeting administrative requirements for which less than 1% of the general public are likely to use, when Councils are already subject to significant financial pressures.

If the Ministry is committed to keeping these components, it is suggested that a 3-year period would be a more realistic timeframe.

Although the encouragement of Councils to use ePlans at level 5 is supported, concern is expressed as to whether this requirement is excessive for smaller Councils with a population of less than say 50,000. It is particularly demanding to require E-Plans that allow for the quick identification of rules and provisions which apply to specific properties. My opinion is that E-Plans of this high level of functioning will still not be enough to help the general public understand District Plans. District Plans are likely to remain hard to understand and interpret for the general public. My view is that it is far more important that Council's provide reasonable access to a planner, capable of interpreting provisions for the general public in a face-to-face setting, than having highly sophisticated E-plans.

Support for Consistent Formatting of Rule Tables

Consistent formatting of rule tables in the Draft Chapter Form Standard is supported. There appears considerable variation in how rules are displayed. It can be time consuming to work how an activity is managed under different activity statuses (e.g. the applicable activity status where there is non-compliance with a permitted or Restricted Discretionary standard). Provisions for the same type of activity (e.g. earthworks) are often split under long lists of Permitted, Controlled, Restricted Discretionary and Discretionary activities. It is helpful to group provisions relating to the same type of activity together.

Definitions

The creation of the draft definitions standard is supported. I consider there is significant benefit in introducing some nationally consistent terms. Nevertheless, definitional changes could lead to a significant amount of work to ensure that existing provisions continue to apply in their intended manner.

The proposed definition of building is particularly supported. It clearly identifies that it covers temporary and moveable structures which are enclosed (with 2 walls and a roof).

The definition of earthworks as proposed appears to exclude the filling or excavation of land where there is no change to the existing ground level. Consideration should be given as to whether the definition of earthworks should also extend to these activities, such as ground works needed for the laying of drains, where the majority of the soil excavated is returned in place. These works have the potential to create significant disturbance to sites of specific values, such as sites of significant landscape or ecological value. Particular care may also need to be exercised for these types of earthworks in hazard prone areas (e.g. high erosion and land slip potential).

Alternatively, a new defined term could be created which applies to land disturbance and temporary changes in ground levels.

Contact details

[redacted]

Ministry for the Environment
Manatū Mō Te Taiao

Draft first set of National Planning Standards

SUBMISSION FORM

The Government is seeking views on the draft first set of National Planning Standards.

For more information about the Government's proposals read our National planning standards consultation document available at http://www.mfe.govt.nz/consultation/draft-national-planning-standards.

Submissions close at 5:00 pm on Friday 17 August 2018.

Making a submission

You can provide feedback in three ways:

1. Use the online submission form available at http://www.mfe.govt.nz/consultation/draft-national-planning-standards. This is our preferred way to receive submissions.
2. Complete this submission form and send it to us by email or post.
3. Write your own submission and send it to us by email or post.

Publishing and releasing submissions

All or part of any written submission (including names of submitters) will be published on the Ministry for the Environment's website www.mfe.govt.nz. Unless you clearly specify otherwise in your submission, we will consider that you have consented both your submission and your name being posted to the Ministry's website.

Contents of submissions may be released to the public under the Official Information Act 1982 following requests to the Ministry for the Environment. Please advise if you have any objection to the release of any information contained in a submission and, in particular, which part(s) you consider should be withheld, together with the reason(s) for withholding the information. We will take into account all such objections when responding to requests for copies of, and information on, submissions under the Official Information Act.

The Privacy Act 1993 applies certain principles about the collection, use and disclosure of information about individuals by various agencies, including the Ministry for the Environment. It governs access by individuals to information about themselves held by agencies. Any personal information you supply to the Ministry in the course of making a submission will be used by the Ministry only in relation to the matters covered by this consultation. Please clearly indicate in your submission if you do not wish your name to be included in any summary of submissions that the Ministry may publish.

Submission form

The questions below are a guide only and all comments are welcome. You do not have to answer all of the questions. To ensure your point of view is clearly understood, please explain your rationale and provide supporting evidence where appropriate. The structure of this form is in line with the draft first set of national planning standards as shown in the overview section tables 1 and 2.

Contact information

Name*	Anna Wilkes
Organisation (if applicable)	Ravensdown Limited
Address	[redacted]
Phone	[redacted]
Email*	[redacted]

Submitter type*	Individual	☐	
	NGO	☐	
	Business / Industry	☒	
	Local government	☐	
	Central government	☐	
	Iwi	☐	
	Other (please specify)	☐	Click here to enter text.

* Questions marked with an asterisk are mandatory.

Draft first set of National Planning Standards

1. Do you support the draft first set of National Planning Standards?

☒ Yes

☐ No

In principle, Ravensdown Limited (Ravensdown) supports the intent of the National Planning Standards as a means of achieving national consistency in planning approaches and use of commonly used terminology. However, as detailed in this submission, Ravensdown suggests some amendments to the proposed wording of a number of Definitions (CM-1).

About Ravensdown
Ravensdown exists to enable smarter farming for a better New Zealand. As a farmer-owned co-operative, Ravensdown's products, expertise and technology help farmers reduce environmental impacts and optimise value from the land. Ravensdown is an integral part of the food creation process, whether the food is grown for livestock or for humans. Ravensdown is a science-focused organisation delivering quality agri-products, technologies and services. Ravensdown operates a network of fertiliser bulk stores, quarries and three superphosphate manufacturing plants throughout New Zealand.

Ravensdown takes an interest in a wide range of resource management matters that relate to rural and industrial activities and participates in planning processes at the national and regional level through preparing submissions on regulatory, policy and plan mechanisms prepared under the Resource Management Act 1991. Ravensdown recognises the need for the environmental impacts of farming and its industrial activities to be mitigated and is supportive of an effects-based approach. However, it is important that farmers' ability to operate is protected and they retain the opportunity to innovate and to run farm businesses that are productive, sustainable and profitable. This approach also applies to Ravensdown's stores, quarries and manufacturing sites.

In particular Ravensdown participates in planning processes to ensure policies and regulations incorporated into plans, or other planning mechanisms, seek and find an optimal balance between any necessary controls on farming activities, and the use of the products and systems developed to assist with sustainability, growth and production in the rural sector. The balance is ultimately necessary for the economic and social wellbeing of the rural community and New Zealand generally.

18. CM-1: Definitions standard

Ravensdown supports the drafting principles for definitions, as set out on p23 of the National Planning Standards Consultation Document. Ravensdown particularly supports the principle of referencing definitions already defined in existing legislation or statues and deemed fit for purpose.
However, Ravensdown considers that amendments to some definitions, as suggested below, are necessary in order to better meet the drafting principles.
The definitions listed below, as currently provided in the Draft First Set of National Planning Standards, are all opposed by Ravensdown. The reasons for Ravensdown's opposition and amendment sought through this submission are also outlined below.

a. Cleanfill

The draft definition refers to the area for disposal, rather than the cleanfill material itself.
Ravensdown considers that clarification of this definition is required. If the definition relates to the cleanfill material, then the definition requires amendment, however if the definition is intended to relate to the disposal area then the defined term should be amended to 'cleanfill disposal area'.
Current regional plan definitions of cleanfill material vary (eg Auckland Unitary Plan, Canterbury Land and Water Regional Plan). Ravensdown does not have a strong preference on wording for cleanfill material and seeks only for the distinction to be

made between 'cleanfill disposal area' and 'cleanfill material' to be made in the National Planning Standards definition.

b. Drinking Water

The draft definition is based on but does not reflect verbatim the Drinking-water Standards for New Zealand 2005 (Revised 2008) (DWSNZ). Ravensdown suggests that the definition be amended to reflect verbatim the DWSNZ definition and a reference to the DWSNZ included:
"Drinking Water has the same meaning as defined in the Drinking Water Standards for New Zealand 2005 (Revised 2008) (as set out in the box below)
Water intended to be used for human consumption, food preparation, utensil washing, oral hygiene or personal hygiene."

c. Fertiliser

The draft definition is not consistent with a description of fertiliser products which provide essential elements for plant growth (and indirectly for animals). As currently written, water could be classified as a fertiliser because it is a substance that supports or sustains the growth, productivity or quality of plants. It is also inconsistent with the drafting principles for definitions in that it does not reflect an existing statute definition contained in the Agricultural Compounds and Veterinary Medicines (Exemptions and Prohibited Substances) Regulations 2011 (ACVM Regulations) that Ravensdown considers is fit for purpose. While the ACVM Regulations are currently under review, in the absence of the outcome of that review Ravensdown considers that the current ACVM Regulations definition is appropriate and recommends that the following definition for fertiliser is adopted in the National Planning Standards:
"Fertiliser has the same meaning as defined in the Agricultural Compounds and Veterinary Medicines (Exemptions and Prohibited Substances) Regulations 2011 (as set out in the box below)
A substance or biological compound or mix of substances or biological compounds that is described as, or held to be for, or suitable for, sustaining or increasing the growth, productivity, or quality of plants or, indirectly, animals through the application to plants or soil of –
1) nitrogen, phosphorus, potassium, sulphur, magnesium, calcium, chlorine, and sodium as major nutrients; or
2) manganese, iron, zinc, copper, boron, cobalt, molybdenum, iodine, and selenium as minor nutrients; or
3) fertiliser additives; and
4) includes non-nutrient attributes of the materials used in fertiliser;
It does not include substances that are plant growth regulators that modify physiological functions of plants."

d. Height (both definitions)

From a user perspective, the draft definitions of height are confusing. One of the criteria for definitions to be included in the National Planning Standards is that the term is common to both district and regional plans. It is therefore illogical to include separate definitions for the same term, depending on whether the term is used in a

district or regional plan. Ravensdown suggests that if a singular definition for height cannot be agreed then the term should be removed from the National Planning Standards.

e. Intensive Primary Production

Ravensdown understands that the definition of intensive primary production is intended to capture those indoor primary production activities that have the potential to cause odour effects and are therefore typically controlled to some degree in statutory planning documents.
In its current form, the definition does not accord with the drafting principles because it includes subjective language (eg principally occurs within buildings). If use of the term 'principally' is intended to capture free-range poultry or pig farming, then further clarity in the definition is warranted.
Ravensdown considers that the definition should extend to include only those primary production activities that take place entirely indoors, in order to confusion with primary production activities that have a mix of indoor and outdoor requirements (eg free-range poultry, animal feed pads).

f. Reverse Sensitivity

Ravensdown considers that the definition of reverse sensitivity requires a minor correction so that the final three words read 'the existing activity' rather than 'an existing activity'. This amendment will clarify that the reference to the existing activity is linked to the same activity referred to in the first line, and not any other existing activity. The amended definition would read:
"means the potential for the operation of an existing lawfully established activity to be compromised, constrained, or curtailed by the establishment or alteration of another activity which may be sensitive to the actual, potential or perceived adverse environmental effects generated by the existing activity."

Releasing submissions

Your submission may be released under the Official Information Act 1982 and will be published on the Ministry's website. Unless you clearly specify otherwise in your submission, we will consider that you have consented to both your submission and your name being posted on the Ministry's website.

Please check this box if you would like your name, address, and any personal details withheld. ☐

Note that the name, email, and submitter type fields are mandatory for you to make your submission.

When your submission is complete

If you are emailing your submission, send it to PlanningStandards@mfe.govt.nz as a:

- PDF
- Microsoft Word document.

If you are posting your submission, send it to National Planning Standards, Ministry for the Environment, PO Box 10362, Wellington 6143.

Submissions close at 5:00 pm on Friday 17 August 2018.

15 August 2018

Planning Standards Team
Ministry of the Environment
PO Box 10362
Wellington 6143

Email via: planningstandards@mfe.govt.nz

Dear Sir/Madam,

Submission on First set of National Planning Standards - Spark Trading New Zealand Limited

Spark is New Zealand's largest digital services company delivering mobile, fixed and IT products and services to millions of New Zealand consumers and businesses. Our vision for New Zealand is "To help all of New Zealand win big in a digital world".

Spark is a multi-brand business, with principal brands Spark (supporting home, consumer mobile and small business customers) and Spark Digital (supporting government and business customers with strong Cloud services, mobility and Information and Communication Technologies (ICT) capabilities. Specialist and flanking brands include Skinny (consumer mobile), Revera and Appserv (data hosting services), Lightbox (internet TV), Qrious (data analytics), and Bigpipe (consumer broadband). An in-house incubator, Spark Ventures, is developing other new business opportunities.

Fully privatised since 1990, Spark is listed on the NZX and ASX stock exchanges. Spark New Zealand contributes significantly to the community via the Spark Foundation, whose activities include ownership of Givealittle, New Zealand's first 'zero-fees' online crowdfunding platform through which generous New Zealanders donate millions of dollars annually to thousands of charities and deserving causes; and as a key partner of the Manaiakalani Education Trust,

which is transforming digital learning at schools within economically-challenged communities across New Zealand.

The New Zealand mobile market is growing at approximately 6 percent per annum, which is primarily driven by growth in mobile data and handset sales. The increase in mobile data usage has been driven by the increased uptake of smartphones. To support the “smartphone revolution” we are upgrading the existing mobile sites with the deployment of 4G technology throughout New Zealand. More than 60 percent of mobile customers now use a smart phone, with the ability to receive and upload data. In 2015, 18 percent of data was generated by mobile devices. By 2020 this is projected to be 27 percent.

There has also been significant growth in the transfer of data between devices (Machine to Machine (M2M) communication) and this demand is expected to increase rapidly over the next few years. Aligned to this growth in the "macro" network, developing technological breakthroughs have enabled the deployment of micro cells, small cells and cel-fl units to provide improved in-building and black spot coverage. Spark is expanding the access to broadband services through Skinny Broadband, a prepaid service, and Wireless Broadband, which since its launch in the middle of 2015 attracted more than 11,000 customers. All these wireless broadband services deliver a fast and reliable internet connection using 4G mobile technology instead of a connection using the traditional copper line ADSL network. The planning for the next generation of mobile technology, 5G, as we prepare to deploy in 2020.

We are continuously investing in our mobile and fixed data networks and systems across NZ. To support this Spark generally with Chorus and Vodafone work with Local Government and make submissions on proposed regional and district plan documents to ensure that maintaining, upgrading existing, building new mobile and fixed data networks is reasonably enabled throughout New Zealand. Every regional and district plan deals with network utility provisions differently meaning there is limited consistency of what is permitted or requires resource consent from district to district or city to city. The reality is that our network is manufactured and built in a reasonably consistent form to achieve the performance that the equipment is designed for and meet our customers expectation.

The telecommunications industry is partially enabled to upgrade the existing networks and building new facilities in the road and rural areas throughout New Zealand within the perimeters of the permitted standards within the National Environmental Standards for Telecommunication Facilities Regulations 2016 (NESTF). The S32 report, page 5, on the NESTF recognised the following benefits:

"The main benefits associated with the proposed NESTF Regulations 2016 are:

- *national consistency and certainty for the telecommunications industry*
- *reduced consent processing and compliance costs*
- *reduced time delays for infrastructure deployment*
- *enabling New Zealanders to realise the benefits of UFB and RBI sooner.*

The efficiency gains for the telecommunications industry and local government will also enable them have more time and resources to invest elsewhere. Improved telecommunication coverage and services will also contribute to the economic and social well-being of businesses and communities."

The NESTF has been significantly successful in achieving national consistency and certainty for the industry. However, as a national network utility building new infrastructure fixed line and mobile across New Zealand we still rely on regional and district plans to enable new networks primarily outside the road and in urban areas. Consequently, we are heavy users of planning documents as we seek to evaluate each site as to what is permitted or where resource consents are required. This creates a range of issues including:

- Variation layout of planning documents, limited use of electronic plans, wide use of PDF documents that make it difficult to navigate planning documents;
- Variation in build costs from district to district because the variation in rules leads to bespoke solutions for each site due to wide variation in district plan provisions and thresholds as when a resource consent is required;
- Time delays in the site acquisition and build programmes due to having to undertake complex planning assessments or resource consent applications, and the time a council takes to process and consider an application;
- Uncertainty of outcomes where telecommunications infrastructure and/or associated installation activities are not permitted;
- Planning restrictions, which may reduce optimisation in the design of the network resulting in increased inefficiencies, network risk and sometimes a less than optimal service experience for our customers or that potential users miss out because the facility must be constructed at a height, to meet permitted standards, that is too low to provide coverage of the full potential user catchment;
- Time and cost of submitting, attending hearings on each Plan review process. We tell a consistent story but often achieve inconsistent outcomes. To be fair our intensive engagement processes and collaborative efforts are starting to achieve greater

consistency of District Plan provisions, but it is a on-going and demanding process with no certainty of outcome;

- Councils face costs for staff time required to prepare telecommunication and network utility provisions in District Plans that are technical and have been described as 'boring' to prepare and work on. The resourcing costs of staff and/or consultants to process and monitor resource consents and enforce district plan provisions can be unnecessary; and
- Delays and uncertainty in building new or upgrading our telecommunication networks and technology affect our customers that rely on communications technologies to be competitive internationally, or other users being able to fully realise the benefits of improved telecommunication coverage and services.

Draft first set of National Planning Standards

Spark supports the draft first set of National Planning Standards. We have some suggestions for amendments and some additional definitions.

Development of additional National Planning Standards

Spark supports the development of additional National Planning Standards. Spark supported the Ministry for the Environment in establishing the working group in August 2016 to explore the opportunities to develop a National Planning Standard for Infrastructure. The working group continues to work on the preparation of what is now National Planning Standard for Network Utilities (NPSNU). Graeme McCarrison, Spark's Engagement and Planning Manager, facilitates this working group.

The concept for the working party was created via submissions to the Resource Legislation Amendment Bill 2016 that suggested potential content for the National Planning Template (NPT). Of the range of suggestions put forward, topics relating to infrastructure and utilities are commonly raised. Submissions included the following comments:

- There are high costs for network providers and interested parties to submit on multiple plans, on essentially the same or similar topics;
- Welcome consistency in resource management plans and policy statements structure and format. In order to reduce complexity and improve the clarity and user friendliness of plans;

- Providing a level of consistency in definitions and terms would be beneficial to all users of the plans;
- It is critical to protect the national grid from inappropriate development; and
- There can be issues centred around reverse sensitivity.

During the Auckland Unitary Plan and the Christchurch Replacement Plan review processes many of these network utility providers worked co-operatively together to support these plan reviews. In both reviews, the network utility providers participated in mediation sessions and were required to work together to achieve workable provisions for their respective activities. Due to industry specific technical requirements and knowledge required about each network, Councils have been seeking guidance on what is required to support network utilities. Collaborations on a range of plan reviews have significantly improved the provisions and reduced time and resources required to prepare network utility chapters for Councils and industry alike.

NPSNU working group has representatives from Local Government NZ being Christchurch City, Water Services, Wellington Water; Transpower, Electricity Networks Association (ENA) being Vector, PowerCo and Aureroa; National Transport Agency, Kiwirail, First Gas, and Telecommunications Carrier Forum (TCF) being Spark and Chorus and independent Resource Management consultant Ainsley McCleod. Ministry for the Environment (MfE) continues to support the working group, however, the work is currently outside the first Planning Standards programme of work. The output of the working group will be a full content Regional Policy Statement and Network Utilities chapter. The working group has been sharing and testing content with key groups that have a general interest in network utility provisions in district plans. Over the last few months workshops were held with the Rural sector and a number Councils which are currently developing district plans in Canterbury, Wellington and New Plymouth. The feedback received was supportive and has been used to enhance the provisions, specially to ensure that core services such as public transport including roads, cycling and walking, the 3-waters and other council networks were appropriately enabled.

NPSNU working group has been working closely with MfE and has been able to essentially road test the first planning standards including using the F-5 draft chapter from National Planning Standard. Our comments are based on the experience of using a range of the draft planning standards but with a focus on the standards for Infrastructure and Energy Chapter provisions.

Standardised structure of document

The following draft standards provide the opportunity for professionals who in their everyday jobs, regularly use a range of regional and district plan documents in New Zealand. To know and understand the layout and how the plan is going to work in relation to other chapters of National Environmental Standards:

> S-RPS: Regional policy statement structure standard, S-DP: District plan structure, standard, S-CP: Combined plan structure standard, S-IGP: Introduction and general provisions standard – Part 1 of all plans and policy statements and S-DWM: District wide matters standard – Part 4 of District plans.

Spark supports the proposals in each of the standards. There is also support for the provisions that for Council's that have recently completed Plan reviews have 7 years to transition to the planning standards format.

The use of discretionary direction for zones is appropriate as it enables the right level of pick and mix depending on the type/scale of City or District provisions that the planning document covers.

The requirement for a colour palette as per Table 21 on page 54/55 does not recognise the cost of printing in colour and broader environmental issues. Our environmental sustainability policies prioritise printing in black and white. The colour palette, especially when printed, is not always easy to read without symbols, to aide in clarification of the zone type. In our opinion, a white and black palette of symbols and/or abbreviations needs to be developed and made compulsory.

The requirement to set out details of which rules are more lenient or stringent that the NES under S-IGP table 15 is supported. This will provide clarity for plan users.

F-1: Electronic accessibility and functionality standard

Currently 97% New Zealanders have the ability to access electronic planning documents. Mobile and fixed line access via the rural broadband ad ultra-fast fibre projects, will lead to the ability to access these just about anywhere in NZ. Access is continually being improved by the roll-out of new technology and networks, the next being 5G. The requirement to transition to electronic plans is critical for New Zealanders and will significantly improve access to planning documents and the planning process for everyone. Users will be able to access the document when they want and read the information relevant to any proposal they are

considering. This will significantly reduce the time it takes to find relevant provisions and improve access to the right information.

As well as ensuring members of the public have access to e-planning documents, the use of e-plans will assist planners in assessing projects throughout the New Zealand. If the NPSNU is incorporated this will consequentially, improve our ability to assess our telecommunication projects across the New Zealand in a consistent format.

F-2: Mapping standard, F-3 and F-4: Spatial planning tools (District) standard

The requirement to have printed maps should be a discretionary requirement. An electronic plan provides the ability to print the material relevant to a particular project, including the plans. For Councils that continue to use and search pdf documents, the requirement to have printed plans/maps is important.

F-5: Chapter Form standard & F-6: Status of rules and other text and numbering form standard.

Part of the work that has been completed for the development of the NPSNU, is the use of the standard template format in F6. Our experience of transferring the information from a Christchurch District Plan type of format to the new layout is that it reasonably straight forward and creates a document which is easy to use and understand. The user is able to quickly understand the status of the activity, and what happens if the rules are infringed. Whilst drafting provisions in this format takes a bit of getting used to, it should not preclude the use or incorporation of the planning standards.

CM-1: Definitions standard

We consider that the following definitions need to be added or altered. During drafting of the NPSNU document, a wide range of new definitions or alterations will be required to ensure that the NPSNU functions and is interpreted as intended.

We consider that in the definitions, it is too narrow only to recognise a “functional need”. The phrase “Operational need” should also be included, to align with the Auckland Unitary Plan and Christchurch District Plans.

> *The need for a proposal or activity to traverse, locate or operate in a particular environment because of technical or operational characteristics or constraints.*

The definition of "Height" while simple to read is very open to interpretation and could potentially trigger consequential plan changes to height rules in plan function. Furthermore, the definition on how height is measured, is in direct conflict with NESTF 2016 regulation 7(6).

We consider that this conflict should be recognised and resolved by the inclusion of the NESTF height measurement regulations.

Designations format

We consider that the format and information requirements for designation is appropriate. This will ensure everyone has access and knowledge about what a requiring authority can execute on a designated site.

Future content for standards – Utilities provisions

We support the development of content standards such as the draft NPSNU. Network utilities are core infrastructure that all new Zealanders rely upon. There should be consistency of the regulatory framework with recognition that geographical variation of standards is appropriate in some circumstances. For Example, telecommunication facilities such as mobile phone sites are permitted in the Queenstown Lakes District outstanding national landscape or in the Canterbury plains.

We consider that NPSNU should resolve all the issues identified on page 3 of this submission. Utilities chapters that were traditionally seen by planners as 'technical and boring' chapters to prepare, can be entirely replaced by the draft NPSNU. The collaboration between the technical experts and local and central government with drafting controlled by an independent expert, and inputs and comments from other stakeholders will mean efficiencies in process are gained with time and money saved for Councils and the industry. In addition, the draft NPSNU resolves the difficult issue of integrating the NESTF 2016 into district plans for telecommunications provisions for telecommunication operators that do not rely on the NESTF 2016, such as Councils.

Yours sincerely,

Kenny Thomson

Chapter Lead, Network Delivery

The address for service is:
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Submission to Planning Standards Select Committee

mfe.govt.nz

Submissions for the Environment Court

1. Introduction

1.1 Written submissions have been requested in respect of the draft National Planning Standards, to be filed by 17 August 2018. The Environment Court has not been separately consulted relating to this standard, or the earlier reports identified as Discussion Papers A to G. The Environment Court has particular experience dealing with planning documents on a regular basis throughout New Zealand. It uniquely has an overview in respect of all of these documents.

1.2 The concept of a draft national planning standard has been in discussion for some considerable period of time, commencing around 2010, but has largely taken place without any contextual discussion with the Court or any explicit consideration of the numerous Court decisions that have had to consider planning documents both in terms of plan appeals, individual resource consents, and enforcement proceedings in the District Court.

2. What is a plan?

2.1 The consultation document does not discuss either the purpose or status of a Plan under the Resource Management Act. Many councils have adopted a whole series of documents, aspirational statements, plans and the like that have no status under the Resource Management Act. Many of these have been promulgated at significant cost to the local authority, and considerable time on the part of the various parties. The question of their status before the Court has been discussed in a significant number of decisions, and effectively they have no particular status in planning matters, and none at all in respect of enforcement matters.

2.2 In addition, many councils have developed internal policies as to how they will approach matters relating to the environment. These have been the subject of a number of decisions by the Court, particularly where they modify or alter the statutory documents that apply.

2.3 Key to a plan promulgated under the Resource Management Act is that A PLAN MUST BE ENFORCEABLE. Any aspect of a plan that is not achieving this end is otiose to its primary purpose. The tendency over the last two decades to include more and more aspirational or explanatory material into the plan has diluted its primary purpose as a document to compel certain outcomes.

2.4 Although it may also contain aspirational incentives and explanations, its primary purpose within the resource management regime is a regulatory one.

3. Purpose of national planning standards

3.1 This matter is discussed within the MfE discussion document at pages 7-11 (it is unfortunate that no numerical system was used so we could identify the various paragraphs). This picks up, in part, on some of the earlier reports such as discussion papers A and B.

3.2 Nevertheless, we submit that there are three primary purposes to having a national planning document. This could be expressed in two alternative ways:

(a) the Plan must be Enforceable, Effective and Efficient (Triple E);

(b) the Plan must be Compulsive, Clear and Certain (the 3 Cs).

3.3 To that end, while we agree with a number of the statements made in pages 10, 11 and 12 of the discussion document, we submit that the primary reason for national planning standards relates to limiting the drift to the explanatory and aspirational, which complicates plans without improving them.

3.4 We would add to this that there has been a tendency towards significant repetition of the same issues, often with very slight differences in the way the statement is put, both in different portions of the plan and in comparison with the statutory requirement. Many plans restate (or mistake) statutory provisions, particularly from Part 2, as objectives or policies, without linkage to particular issues within the region or district. Thus, there is no development of policy at a local level in the Plan. Simple examples may be taken from the requirements in s 6 for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. The restatement of that to identify outstanding indigenous vegetation and high value indigenous vegetation introduces further levels of complexity given that

the levels of protection seem to vary for each. Similar comments can be made in respect of the natural character of the coastal environment (identifying that as outstanding or high value) and the various levels of identification under s 6(b) outstanding, high and significant.

3.5 Similarly, issues such as the identification of the Coastal Environment, which is essential to the operation of the New Zealand Coastal Policy Statement, are often not addressed at all in plans (see AUP), while the policies or objectives in question may be mandatory (see *King Salmon*). Other examples relate to infrastructure such as coverage and importance.

4. Primary submission – the need to identify matters by issue and spatial extent

4.1 Throughout the various reports, there seems to be a recognition that zoning itself is a spatial approach, yet it has still been dealt with separately to other issues of a spatial nature. The reports themselves recognise that the various issues (for some reason identified as "matters" through the reports) such as heritage, cultural, natural values and the like may apply over the entire district or may have spatial limitations. The same can be said about effects, which may result in similar constraints over an entire area or be constrained to certain areas, depending on their nature. For example, earthworks, which may be controlled both through volume throughout the entire district and/or just to significant slopes in respect of other activities, (ie much lower volumes of earthmoving).

4.2 At its heart, the report recognises these issues but goes on to adopt a hybrid approach, trying to deal both with the topics and their spatial extent, while still utilising mechanisms such as zoning and overlays. The end result, as demonstrated in the Auckland Unitary Plan (**AUP**), is a level of complexity that makes the plan both difficult to operate (see *London Pacific*, with some 27 overlays plus zoning, and subject to application by way of Council policy) and which may be unenforceable or even actionable. Such a hybrid approach may result in less clarity and more complexity when preparing both regional and district planning documents. Our submission is that any national policy statement or national planning standards should aim to assist to create an appropriate plan by utilising techniques nationally.

4.3 We consider that, in descending order of importance, the techniques that would significantly assist the administration and interpretation of plans would be:

4.3.1 standardised formatting, particularly chapter layout, headings and chapter numbering;

4.3.2 a set of standard definitions that can be used nationwide;

4.3.3 a standardised arrangement of content; and

4.3.4 exemplars as guides to plan content.

4.4 We deal with each in turn.

5 Format

5.1 Although this issue may seem somewhat trite, the experience of the Court has been that the approaches to sub-chaptering and numbering of the plan is so varied that it is difficult for anyone, including the Court and members of the public, to find their way around documents. While some plans may have issues, objectives, policies, rules and other methods, the arrangement of content is less critical than the ability to find the content in the plan. For example, use of chapter heading letters – *NH* for *Natural Heritage* – and the like create immense difficulty in finding relevant provisions, especially when these are distributed through the plan. We strongly recommend a system contain a chapter heading, sub-chapter heading and contents, with each of those utilising a numerical system, .ie chapter 6, part 4, point 10, paragraph 14 would be represented as 6.4.10.14.

5.2 Although the sub-numbering below this, still using numbers, has been criticised as resulting in very long numerical strings, we submit that this is preferable to any other alternative. This has become particularly pointed since the move to electronic plans has begun, as re-ordering of parts of the plan can result in different numbering on different days for the same provision. While parties were frequently relying on the page number to identify the relevant provision, page numbers have become a less effective method of identifying the relevant provision. We believe that the better system to identify the particular part of the plan in discussion is to use the numerical subdivision system identified.

5.3 We suggest utilising numbers throughout, i.e. no alphabetical, roman numbers or bullet points.

6 Definitions

6.1 We submit that, as far as possible, reference should be made through the document to defined words rather than creating new words for the same issue. An interim solution to this has been to use nesting tables, which give a group of meanings to a particular word, such as residential or business. Two difficulties have been experienced with this:

6.1.1 often the range of activities covered by the nesting table is far wider than may be intended in the particular context of the plan provisions, e.g. permitted residential activity may include retirement villages;

6.1.2 The term used in the nesting table may be used in unexpected places in the plan, with (arguably) unintended consequences. Care needs to be taken in utilising a nesting table word in the Plan. For example, many plans consider a mix of business and residential areas and industrial and residential activities.

7 Arrangement of content

7.1 In short, we consider that the current suggestion of zones is too prescriptive, and leads to a complexity between the overlays, general controls and zone controls. A more direct spatial management approach has the potential to be simpler and more direct.

7.2 Although the Court has no particular preference for the way matters in the plan are addressed, we would agree that a standard format setout is likely to lead to a significant improvement in the usability of the plans on a national basis for several reasons.

7.3 Many practitioners practice over large portions of New Zealand. This is likely to lead to better and more consistent advice.

7.4 Transferability of concepts will lead to a more uniform approach through application of case law and local government experience.

7.5 Education and training around the use of plans for the public can be based upon the standard format. Whether the format is based upon an activity focus, or an issues focus, is a matter of policy decision. Both have their advantages and disadvantages.

7.6 We suggest that the following principles should apply to such formatting:

7.6.1 the outcome should be concise (avoid repetition);

7.6.2 identification of issues, objectives, policies, rules and other methods should be clear and enforceable;

7.6.2A the relationship or connection between an objective and its related policies, and between those provisions and the rules or methods that give effect to them, should be explicit and easy to follow;

7.6.3 the document should be accessible both to expert and lay users, whether in hard copy or electronic form; and

7.6.4 the structure should guide access to the relevant portions (on electronic documents, described as navigable).

7.7 As to whether provisions are set out in text or tables there are, again, advantages and disadvantages to all approaches. In some situations, a combination of approaches may work best. This is a choice that could be left for the determination of the individual council.

8 Exemplars of content

8.1 Some decades ago there was a model plan that was utilised widely by many smaller councils throughout New Zealand. To the extent that there may be aspects of a plan that should be discretionary, it seems to us that rather than have a whole series of discretionary guidelines, a template or exemplar plan might assist councils in understanding how to approach issues beyond those that are the subject of mandatory requirement. In our view, this would give potential to address the issue of spatial (overlays/zoning) in context.

8.2 It has become clear through the recent plans that the wide use of overlays and zoning has led to public and Council misunderstanding, and potential conflicts between the objectives of the plan. Could we suggest that this is based upon an assumption that a zoning is something different to an overlay or any other form of spatial control (such as precincts in the AUP).

8.3 As the report itself makes clear, zoning is simply a spatial planning mechanism over an area smaller than the entire district. The same is true of overlays, and in fact both perform similar functions. Could we suggest that greater clarity might be obtained by addressing spatial planning on this basis. In a case where there are multiple overlays for such things as historic or natural heritage, cultural values, flooding etc, identification of all of these overlays (including any that would be conditionally considered zoning, ie building style, size, type etc) could be identified and then the management areas identified as a result.

8.4 We suggest that moving away from zoning as exclusively rural or residential and the like has the advantage of avoiding difficulties with dealing with the highly mixed zones that are occurring throughout New Zealand. Even within rural zones, there are significantly different constraints within areas of those zones. If there is to be any dichotomy (such as in Auckland between rural and urban), then all particular spatial controls could be subsets of the overall spatial control for rural or urban. Within that, special management zones might consist of things such as general, mixed, special.

8.4 A possible approach is to start by identifying the particular constraints in an area based on the requirements in sections 6 and 7 in Part 2 of the Act, and any that may be directed by any relevant national or regional policy statement. Then to use mapping to show the relevant affected areas or sub-zones. Spatial areas could be addressed as sub-zones of the standard categories of Residential, Business, Industrial, Open Space and Special.

8.5 Accordingly, although we generally agree with Discussion Paper B, we consider that there has been a tendency to rely on the structures used to date, without re-addressing spatial management in the broader context of spatial controls and activity controls.

8.6 Nevertheless, the issues have been identified within that paper, but should be left for decision by Councils. What is critical with any approach is to show the overall impact of the overlays within spatial areas. In the AUP, the infrastructure issues (region-wide) were addressed by special chapters bringing together the various overlays. We suggest such an approach could provide a limit to spatial mapping controls.

9. E-plans

9.1 Electronic plans have been in development in New Zealand for some considerable time, with early versions of online plans being available from early 2000s. We submit that, unfortunately, little thought has been given to the movement from online copies of the plans to e-plans in terms of their:

9.1.1 authenticity;

9.1.2 updating; or

9.1.3 enforceability.

9.2 Two recent cases highlighted difficulties with e-plans: *London Pacific* and *Cabra Developments*, both dealing with the Auckland Unitary Plan. The Court has been advised that the Auckland Unitary Plan, if printed, would occupy some 3,500 pages, and the maps themselves cannot be printed.

9.3 Issues then arise as to how one can be sure that the particular plan one is looking at is the valid plan, either at the current time or at the time in the past that is applicable for the purposes of examining, for example, a prosecution. The requirements of the Electronic Transactions Act 2002 also appear to apply.

9.4 Practical difficulties in relation to authenticity include where changes have been made by a staff member to "clarify" a document changing the meaning of the paragraph or sentence, difficulties with understanding the plan that applied on a particular date, which is relevant not only for prosecutions but for many appeals, and difficulties with understanding how the update has been authorised under the Act to become an enforceable document.

9.5 As we highlighted at the commencement, the enforceability of the plan is its distinguishing feature. Without it, any aspirational or other statements of the council cannot be enforced. Arguably, it would be difficult to oppose the issue of a

building consent if there were no enforceable planning provisions within an area. In this way, the question of a valid and enforceable plan becomes a critical issue for the rule of law, the reputation of not only the Courts but the local authorities.

10. Conclusions

10.1 We support national planning standards and consider that they should specify:

10.1.1 formatting;

10.1.2 definitions;

10.1.3 general content layout.

10.2 Beyond this, we consider that a template for content would give a guide to councils that would be non-mandatory in nature, but would assist with uniformity of documentation.

10.3 Although we agree there is significant potential for e-plans, we consider that it should not be used as a substitute for conciseness and clarity, given the significant extra length these documents are occupying. Furthermore, there are issues as to enforceability and accessibility that would need to be addressed.

10.4 We consider the imposition of national planning standards would assist in this process, but does not necessarily address directly the issues relating to e-plans.

10.5 Finally, we wonder whether a working group, involving representatives for the Courts and other user groups, might not usefully monitor and report on the application of the National Policy into the future to ensure it remains fit for purpose.

He tono nā

Te Rūnanga o NGĀI TAHU

ki te

MINISTRY FOR THE ENVIRONMENT

e pā ana ki te

DRAFT NATIONAL PLANNING STANDARDS

August/Ākuhata 2018

Contact person
Rebecca Clements I Te Rūnanga o Ngāi Tahu
[redacted]

1. EXECUTIVE SUMMARY

1.1. Te Rūnanga o Ngāi Tahu ("**Te Rūnanga**") welcomes the opportunity to comment on the draft National Planning Standards (**"the Standards"**).

1.2. Te Rūnanga would like to acknowledge the Minister for the Environment for the opportunity to make a submission. Te Rūnanga is invested in creating a planning system that is easy for whānau to engage with, whilst also ensuring that Ngāi Tahu values are present and enabled throughout planning documents.

1.3. Te Rūnanga supports the intent of the National Planning Standards. There are twenty-two district councils, four regional councils and two unitary authorities within the Ngāi Tahu takiwā. Therefore the intention of these Standards, to make moving between different district and regional plans simpler, and the mandatory inclusion of points of Ngāi Tahu rights and interest in these Standards, are welcomed by Ngai Tahu whānau.

1.4. Whilst Te Rūnanga support the intention of the Standards, there is some concerns around the current form and content of the Standards. Te Rūnanga has concerns regarding:

- The Regional Planning Standards, particularly the issue and catchment approaches
- A number of definitions
- The integration of iwi values throughout standardised Plans
- Matters regarding wāhi tapu and cultural heritage
- The ability to acknowledge iwi and hapū variations within standardised Plans, including use of local dialect.

1.5. Te Rūnanga welcomes the opportunity to comment on areas of particular relevance and significance to Ngāi Tahu. As the Treaty Partner, Te Rūnanga expects direct engagement on these issues.

2. TE RŪNANGA O NGĀI TAHU

2.1. This response is made on behalf of Te Rūnanga o Ngāi Tahu (Te Rūnanga). Te Rūnanga is statutorily recognised as the representative tribal body of Ngāi Tahu whānui and was established as a body corporate on 24th April 1996 under section 6 of Te Rūnanga o Ngāi Tahu Act 1996 (the Act).

2.2. We note for the Ministry the following relevant provisions of our constitutional documents:

Section 3 of the Act States:

> *"This Act binds the Crown and every person (including any body politic or corporate) whose rights are affected by any provisions of this Act."*

Section 15(1) of the Act states:

"Te Rūnanga o Ngāi Tahu shall be recognised for all purposes as the representative of Ngāi Tahu Whānui.".

2.3. The Charter of Te Rūnanga o Ngāi Tahu constitutes Te Rūnanga as the kaitiaki of the tribal interest.

2.4. Te Rūnanga respectfully requests that the Ministry accord this response the status and weight due to the tribal collective, Ngāi Tahu whānui, currently comprising over 60,000 members, registered in accordance with section 8 of the Act.

2.5. Notwithstanding its statutory status as the representative voice of Ngāi Tahu whānui "for all purposes", Te Rūnanga accepts and respects the right of individuals and Papatipu Rūnanga to make their own responses in relation to this matter.

3. TE RŪNANGA INTERESTS IN THE DRAFT NATIONAL PLANNING STANDARDS

3.1. Te Rūnanga notes the following interests:

Treaty Relationship

- Te Rūnanga have an expectation that the Crown will honour Te Tiriti o Waitangi and the principles upon which the Treaty is founded.

Kaitiakitanga

- In keeping with the kaitiaki responsibilities of Ngāi Tahu whānui, Te Rūnanga has an interest in ensuring sustainable management of natural resources, including protection of taonga and mahinga kai for future generations.
- At all times, Te Rūnanga is guided by the tribal whakataukī:

  "Mō tātou, ā, mō ngā uri ā muri ake nei" (for us and our descendants after us).

Tohungatanga

- Te Rūnanga welcomes innovation and change where it provides improved outcomes for Ngāi Tahu whānui.

Manaakitanga

- Te Rūnanga has a responsibility to promote the wellbeing of Ngāi Tahu whānui and ensure that the management of Ngāi Tahu assets and the wider management of natural resources supports the development of iwi members.

Rangatiratanga

- Te Rūnanga expects that any changes to current practice will entrench and extend the ability for Ngāi Tahu whānui to express their rangatiratanga within their takiwā.

3.2. The Act provides for Ngāi Tahu and the Crown to enter into a new age of co-operation. An excerpt of the Act is attached as **Appendix One**, as a guide to the basis of the post-Settlement relationship which underpins this response.

3.3. The Crown apology to Ngāi Tahu recognises the Treaty principles of partnership, active participation in decision-making, active protection and rangatiratanga.

3.4. With regards to the Ngāi Tahu takiwā, Section 5 of the Act statutorily defines those areas "south of the northern most boundaries described in the decision of the Māori Appellate Court", which in effect is south of Te Parinui o Whiti on the East Coast and

Kahurangi Point on the West Coast of the South Island (see map attached in **Appendix Two**).

4. TE RŪNANGA POSITION

4.1 Te Rūnanga support the National Planning Standards in principle however some specific amendments and additions are sought. These are discussed briefly below, and are listed in the attached **Schedule One**.

4.2 Overall, Te Rūnanga supports the intent of the National Planning Standards, particularly the standardisation of zone names and map tools, plan sections, numbering/abbreviations, and digital availability (provided that hard copy availability is also maintained). These will be of use to Ngāi Tahu whānau and other parties who work across multiple regional and district plans that exist within the Ngāi Tahu takiwā.

4.3 Te Rūnanga also support the mandatory addressing of management arrangements from Treaty settlement and post-Treaty settlement agreements, statutory acknowledgements, cultural landscapes, and formal relationships agreements between tangata whenua and a local authority including Mana Whakahono-a-Rohe/iwi participation arrangements, co-management agreements, joint management agreements and transfer of powers within the Standards. This ensures that all councils must recognise these arrangements, therefore lessening the need for Ngāi Tahu to fight for adequate acknowledgment on a plan by plan basis.

4.4 Whilst Te Rūnanga support the inclusion of the Tangata Whenua section, it also raises concerns that councils may incorrectly consider that this section is the extent of their responsibilities to recognise for Ngāi Tahu whānau values within a plan. Te Rūnanga consider it vital that the Standards explicitly direct councils to weave iwi values throughout planning documents, so that councils have clarity about their responsibilities in plan writing processes with iwi. Furthermore, Te Rūnanga has concerns with the name of this section – *Tangata Whenua* – and recommends further consultation with whānau to find a culturally appropriate name for this section.

4.5 Te Rūnanga support the decision to remove all Te Reo Māori terms from the list of standard definitions, as well as the proposed process of defining these terms locally on a plan by plan basis. Te Rūnanga continues to have concerns however around the inclusion of Te Reo Māori terms that have been defined within the Resource Management Act 1991. This is on the basis that these definitions do not accommodate for iwi variation, or local understandings of these concepts. Further to this, Te Rūnanga also have concerns around a number of other definitions within the Standard Definitions – particularly those that define natural features, as these definitions do not provide enough specificity to be of use within a local context.

4.6 Te Rūnanga also has concerns regarding how wāhi tapu have been addressed within the Standards. Whilst Te Rūnanga supports their recognition, the requirement to identify their location and contents is culturally inappropriate. Te Rūnanga also considers it inadequate to only have a point marker for sites of significance to Māori, as most sites of significance cover an extended area - such as a lake or extent of a pā site - as opposed to a small, contained point.

4.7 Te Rūnanga opposes the way cultural heritage has been addressed and defined within the Standards. Cultural heritage has been included under the wider heading of Historic Heritage, which is misleading as Ngāi Tahu culture is ever evolving and alive within modern times as well as being present throughout history. This issue is also reflected in the definition of historic heritage (in which cultural heritage is listed as a sub-set of

historic heritage), as it also reflects the incorrect assumption that Ngāi Tahu culture is confined to the past, and does not have a modern element.

4.9 Finally, Te Rūnanga have serious concerns regarding the structure of the Regional Planning Standards, and recommend that they be deferred to a later set of standards. Te Rūnanga consider that both the theme and catchment options for addressing matters within a regional plan have major flaws that would result in repetition and re-litigation of points throughout the plan, as well as gaps where significant issues would not comfortably fit in any chapter as listed in the draft. For this reason Te Rūnanga consider these Standards to not yet be fully developed enough for inclusion in this set of Standards, and recommend further work with pilot regional councils and other special interest working groups.

SCHEDULE ONE: TE RŪNANGA SUBMISSION POINTS ON DRAFT NATIONAL PLANNING STANDARDS

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
S-RPS	Part 2 – Tangata Whenua [general comment]	-	Support in part	Te Rūnanga supports the intention of the Tangata Whenua section however there is a serious concern that councils will incorrectly assume that this section is the extent of their responsibility to meeting the needs of whānau/hapū/iwi within a plan – which is incorrect Whilst the companion document to the Standards clearly states that there is an expectation for councils to weave whānau/hapū/iwi values throughout their plan, this is not reflected in the wording of the Standards Te Rūnanga is aware that this companion document is not legally binding, therefore this omission from the Standards themselves is concerning Te Rūnanga strongly supports the integration of whānau/hapū/iwi values throughout planning documents, and strongly opposes the segregation of all whānau/hapū/iwi issues into a single section (which is how the Standards, when read in their entirety, currently direct plans to be written)	Retain TW as drafted (unless directed by a further submission point within this schedule) Redraft Standards to more overtly direct plan-makers to integrate whānau/hapū/iwi values throughout all sections of the plan
S-RPS		[Title] Tangata Whenua	Oppose	Te Rūnanga considers tangata whenua to be an inappropriate title for this section. This is based on the Ngāi Tahu understanding of the definition of "tangata whenua" The term "mana whenua" is considered more appropriate as this relates to the individuals who hold mana whenua rights, as opposed to tangata whenua who may be of the place, but not holders of mana whenua rights	Amend title to: Part 2 – **Mana Whenua**
	Part 2 – Tangata Whenua	[sub-heading] Recognition of iwi and hapū	Oppose	Te Rūnanga considers this wording inappropriate as it is understood that Māori kinship structures follow a "bottom-up" structure, as opposed to a "top down" structure as indicated in the current title	Amend sub-heading to: Recognition of **hapū and iwi**
	Part 2 – Tangata Whenua	[Sub-heading] Tangata whenua – local authority relationships	Oppose	Te Rūnanga considers the term "tangata whenua" to be inappropriate for this sub-section. This is based on the Ngāi Tahu understanding of the definition of "tangata whenua". The term "mana whenua" is considered more appropriate as this relates to the individuals who hold mana whenua rights, as opposed to tangata whenua who may be of the place, but not holders of mana whenua rights	Amend sub-heading to: **Mana** whenua – local authority relationships

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
	Part 2 – Tangata Whenua	[sub-heading] Iwi and hapū planning documents	Oppose	Te Rūnanga considers this wording inappropriate as it is understood that Māori kinship structures follow a "bottom-up" structure, as opposed to a "top down" structure as indicated in the current title	Amend sub-heading to: **Hapū and iwi** planning documents
	Part 4 - Themes	Air quality Coastal Environment Landscape, landforms and natural character Ecosystems and indigenous biodiversity Environmental risk Historic heritage Infrastructure and energy Land Water Special Topics	Support in part	Te Rūnanga consider that river, lakes and wetland issues are of a prevalence and upmost importance that they there is an option for these to be a special topic where they do not sit comfortably within the water theme	Add rivers theme Add wetlands theme
S-RP	Part 2 – Tangata Whenua [general comment]	-	Support in part	Te Rūnanga supports the intention of the Tangata Whenua section. However there is a serious concern that councils will incorrectly assume that this section is the extent of their responsibility to meeting the needs of whānau/hapū/iwi within a plan – which is incorrect Whilst the companion document to the Standards clearly states that there is an expectation for councils to weave whānau/hapū/iwi values throughout their plan, this is not reflected in the wording of the Standards Te Rūnanga is aware that this companion document is not legally binding, therefore this omission from the Standards themselves is concerning Te Rūnanga strongly supports the integration of whānau/hapū/iwi values throughout planning documents, and strongly opposes the segregation of all whānau/hapū/iwi issues into a single section (which is how the Standards, when read in their entirety, currently direct plans to be written)	Retain TW as drafted (unless directed by a further submission point within this schedule Redraft Standards to more overtly direct plan-makers to integrate whānau/hapū/iwi values throughout all sections of the plan
	Part 2 – Tangata Whenua	[Title] Tangata Whenua	Oppose	Te Rūnanga considers tangata whenua to be an inappropriate title for this section. This is based on the Ngāi Tahu understanding of the definition of "tangata whenua"	Amend title to: Part 2 – **Mana Whenua**

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
				The term “mana whenua” is considered more appropriate as this relates to the individuals who hold mana whenua rights, as opposed to tangata whenua who may be of the place, but not holders of mana whenua rights	
	Part 2 – Tangata Whenua	[sub-heading] Recognition of iwi and hapū	Oppose	Te Rūnanga considers this wording inappropriate as it is understood that Māori kinship structures follow a “bottom-up” structure, as opposed to a “top down” structure as indicated in the current title	Amend sub-heading to: Recognition of **hapū and iwi**
	Part 2 – Tangata Whenua	[Sub-heading] Tangata whenua – local authority relationships	Oppose	Te Rūnanga considers the term “tangata whenua” to be inappropriate for this sub-section. This is based on the Ngāi Tahu understanding of the definition of “tangata whenua” The term “mana whenua” is considered more appropriate as this relates to the individuals who hold mana whenua rights, as opposed to tangata whenua who may be of the place, but not holders of mana whenua rights	Amend sub-heading to: **Mana** whenua – local authority relationships
	Part 2 – Tangata Whenua	[sub-heading] Iwi and hapū planning documents	Oppose	Te Rūnanga considers this wording inappropriate as it is understood that Māori kinship structures follow a “bottom-up” structure, as opposed to a “top down” structure as indicated in the current title	Amend sub-heading to: **Hapū and iwi** planning documents
	Part 4 - Themes	Air quality Coastal Environment Landscape, landforms and natural character Ecosystems and indigenous biodiversity Environmental risk Historic heritage Infrastructure and energy Land Water Special Topics	Oppose	Te Rūnanga consider these themes to be underdeveloped, and do not believe that they will be workable in a practical context Many key issues such as farming and river issues do not fit comfortably into any one theme, which will likely create both duplication provisions, and risk of key issues falling between the cracks	Defer S-RP to a later set of National Planning Standards, and further develop alongside pilot regional councils
	Part 5 - Catchments	-	Oppose	Although Catchment approaches relate closely to the Ngāi Tahu value of Ki Uta Ki Tai, in this context Te Rūnanga consider that this approach, given the structure of the higher level themes could potentially result in issues that can be addressed across a	Defer S-RS to a later set of National Planning Standards, and further develop alongside pilot regional councils

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
				region being re-litigated between individual catchments, and inconsistencies between interrelated catchments Te Rūnanga is also uncertain as to why these catchments are not referred to as Freshwater Management Units which are required under the NPS-FW	
S-DP	Part 2 – Tangata Whenua [general comment]	-	Support in part	Te Rūnanga supports the intention of the Tangata Whenua section. However there is a serious concern that councils will incorrectly assume that this section is the extent of their responsibility to meeting the needs of whānau/hapū/iwi within a plan – which is incorrect Whilst the companion document to the Standards clearly states that there is an expectation for councils to weave whānau/hapū/iwi values throughout their plan, this is not reflected in the wording of the Standards. Te Rūnanga is aware that this companion document is not legally binding, therefore this omission from the Standards themselves is concerning Te Rūnanga strongly supports the integration of whānau/hapū/iwi values throughout planning documents, and strongly opposes the segregation of all whānau/hapū/iwi issues into a single section (which is how the Standards, when read in their entirety, currently direct plans to be written)	Retain TW as drafted (unless directed by a further submission point within this schedule Redraft Standards to more overtly direct plan-makers to integrate whānau/hapū/iwi values throughout all sections of the plan
	Part 2 – Tangata Whenua	[Title] Tangata Whenua	Oppose	Te Rūnanga considers tangata whenua to be an inappropriate title for this section. This is based on the Ngāi Tahu understanding of the definition of "tangata whenua" The term "mana whenua" is considered more appropriate as this relates to the individuals who hold mana whenua rights, as opposed to tangata whenua who may be of the place, but not holders of mana whenua rights	Amend title to: Part 2 – **Mana Whenua**
	Part 2 – Tangata Whenua	[sub-heading] Recognition of iwi and hapū	Oppose	Te Rūnanga considers this wording inappropriate as it is understood that Māori kinship structures follow a "bottom-up" structure, as opposed to a "top down" structure as indicated in the current title	Amend sub-heading to: Recognition of **hapū and iwi**
	Part 2 – Tangata Whenua	[Sub-heading] Tangata whenua – local authority relationships	Oppose	Te Rūnanga considers the term "tangata whenua" to be inappropriate for this sub-section. This is based on the Ngāi Tahu understanding of the definition of "tangata whenua" The term "mana whenua" is considered more appropriate as this relates to the individuals who hold mana whenua rights, as opposed to tangata whenua who may be of the place, but not holders of mana whenua rights	Amend sub-heading to: **Mana** whenua – local authority relationships

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
	Part 2 – Tangata Whenua	[sub-heading] Iwi and hapū planning documents	Oppose	Te Rūnanga considers this wording inappropriate as it is understood that Māori kinship structures follow a "bottom-up" structure, as opposed to a "top down" structure as indicated in the current title	Amend sub-heading to: **Hapū and iwi** planning documents
	Part 4 – District-wide Matters *Community Values*	[Section title] Sites of Significance to Māori	Oppose	Te Rūnanga consider the name "sites of significance to Māori" to be too generic	Amend section title to: Sites of Significance to **Mana Whenua**
	Part 5 – Area-Specific Matters Special Purpose Zones	[Zone name] Māori Cultural Zone	Oppose	Te Rūnanga does not consider the term "cultural" appropriate for the name of this zone as it carries connotations that don't reflect the true nature of the zone and the activities anticipated to occur within it	Amend zone name to: Māori **Purpose** Zone
S-CP	Part 2 – Tangata Whenua	[Title] Tangata Whenua	Oppose	Te Rūnanga considers tangata whenua to be an inappropriate title for this section. This is based on the Ngāi Tahu understanding of the definition of "tangata whenua". The term "mana whenua" is considered more appropriate as this relates to the individuals who hold mana whenua rights, as opposed to tangata whenua who may be of the place, but not holders of mana whenua rights	Amend title to: Part 2 – **Mana Whenua**
	Part 2 – Tangata Whenua	[sub-heading] Recognition of iwi and hapū	Oppose	Te Rūnanga considers this wording inappropriate as it is understood that Māori kinship structures follow a "bottom-up" structure, as opposed to a "top down" structure as indicated in the current title.	Amend sub-heading to: Recognition of **hapū and iwi**
	Part 2 – Tangata Whenua	[Sub-heading] Tangata whenua – local authority relationships	Oppose	Te Rūnanga considers the term "tangata whenua" to be inappropriate for this sub-section. This is based on the Ngāi Tahu understanding of the definition of "tangata whenua" The term "mana whenua" is considered more appropriate as this relates to the individuals who hold mana whenua rights, as opposed to tangata whenua who may be of the place, but not holders of mana whenua rights	Amend sub-heading to: **Mana** whenua – local authority relationships
	Part 2 – Tangata Whenua	[sub-heading] Iwi and hapū planning documents	Oppose	Te Rūnanga considers this wording inappropriate as it is understood that Māori kinship structures follow a "bottom-up" structure, as opposed to a "top down" structure as indicated in the current title	Amend sub-heading to: **Hapū and iwi** planning documents
	Part 4 – Region-wide Matters *Community Values*	[Section title] Sites of Significance to Māori	Oppose	Te Rūnanga consider the name "sites of significance to Māori" too generic	Amend section title to: Sites of Significance to **Mana Whenua**

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
	Part 6 – Area-Specific Matters Special Purpose Zones	[Zone name] Māori Cultural Zone	Oppose	Te Rūnanga does not consider the term "cultural" appropriate for the name of this zone as it carries connotations that don't reflect the true nature of the zone and the activities anticipated to occur within it	Amend zone name to: Māori **Purpose** Zone
S-IGP	S-INTRO(6)	If the following matters are addressed in the policy statement/plan, they must be included in the Region and its Resources, or Description of Region or Description of the District (as relevant for the policy statement or plan) section: a. key information about the region and/or district that is of relevance from a resource management perspective.	Support in part	Te Rūnanga considers it important that mana whenua be referenced in this first section of the Plan, The mana whenua are part of the fabric of the environment and cannot be separated from it, therefore it is right to reference them alongside the other key information about the region	Amend to read: … a. key information about the region and/or district that is of relevance from a resource management perspective. <u>b. naming of mana whenua groupings within the jurisdiction of the Plan</u>
	S-HPW 7(c)	If the following matters are to be addressed in the policy statement/plan, they must be located in the Statutory Context section: … c. a list of all other plans that are important to the context or content of the plan; eg, urban development strategies, regional spatial plans (RMA section 74(2)(b)).	Support in part	Te Rūnanga considers it useful to include Iwi Management Plans within this list, so as to include all relevant information in one place for user ease of use	Amend to read: … c. a list of all other plans that are important to the context or content of the plan; eg, urban development strategies, regional spatial plans (RMA section 74(2)(b))<u>, Iwi Management Plans</u>.
	S-HPW(8)(a)	If the following matters are to be addressed in the policy statement/plan, they must be located in the General approach section: a. an explanation of the approach taken around integrated management …	Support in part	In the interests of integrating hapū/iwi values throughout the Standards, Te Rūnanga consider it important to include a directive to acknowledge traditional management practices or values in this Standard (e.g.. ki uta ki tai management, Te Mana o Te Wai)	Amend to read: a. an explanation of the approach taken around integrated management<u>, including (where relevant) hapū/iwi management values and/or practices</u>

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
	S-INTER(14)	If abbreviations are to be provided in district plans, they must be located in the Abbreviations section, using Table 11: Abbreviation table in the form below.	Support in part	Te Rūnanga considers it important to clarify that this standard relates to Regional Policy Statements and Regional Plans, as well as District Plans	Amend to read: … If abbreviations are to be provided in <u>policy statements and/or</u> ~~district~~ plans, they must be located in the Abbreviations section, using Table 11: Abbreviation table in the form below.
	S-INTER(19)	If Te Reo Māori terms are to be provided in policy statement/plans, they must be located in the Glossary of te reo Māori terms, in the form below …	Support in part	Whilst Te Rūnanga supports the removal of Te Reo Māori terms from the standard definitions as listed in the Standards, we consider it unnecessary have Te Reo terms in their own glossary. This will likely cause confusion for the plan reader who will likely refer to the definitions section for all word definitions regardless of language	Remove S-INTER standards 18, 19, 20, and 21 so as to locate Te Reo Māori terms within the main definitions list
S-TW	General	Use of phrases “iwi/hapū”, and “iwi and hapū”	Oppose	Te Rūnanga considers this wording inappropriate as it is understood that Māori kinship structures follow a “bottom-up” structure, as opposed to a “top down” structure as indicated in the current title	Reorder phrasing to: “**Hapū/iwi**” and “**hapū and iwi**”
	General	Use of phrase “tangata whenua”	Oppose	Te Rūnanga considers the term “tangata whenua” to be inappropriate for the context it has been used in these Standards. This is based on the Ngāi Tahu understanding of the definition of “tangata whenua” The term “mana whenua” is considered more appropriate as this relates to the individuals who hold mana whenua rights, as opposed to tangata whenua who may be of the place, but not holders of mana whenua rights	Replace phrase “tangata whenua” with “**mana whenua”** throughout these Standards
	S-TW(3)	3 If the following matters are addressed in policy statements and plans, they must be located in Recognition of iwi/hapū chapter: … - An explanation of how iwi and hapū values have been considered when preparing the Plan, or	Support	Te Rūnanga considers it vital that hapū and iwi values are reflected throughout policy statements and plan, therefore we support this direction within the Standards	Retain as drafted

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
		are reflected in the plan			
	S-TW(3)	3 If the following matters are addressed in policy statements and plans, they must be located in Recognition of iwi/hapū chapter: … - An overview of the outcome of resource management arrangements from treaty settlement and post-treaty settlement agreements	Support	Te Rūnanga consider it both important and useful for this information to be formally recognised within policy statements and plans, so therefore support this direction within the Standards	Retain as drafted
	S-TW(3)	3 If the following matters are addressed in policy statements and plans, they must be located in Recognition of iwi/hapū chapter: … - A list and explanation of what the statutory acknowledgments for this district and region are. Where possible this should include a link to the relevant statutory acknowledgment legislation	Support	Te Rūnanga consider it both important and useful for this information to be formally recognised within policy statements and plans, so therefore support this direction within the Standards	Retain as drafted
		3 If the following matters are addressed in policy statements and plans, they must be located in	Support	Te Rūnanga considers it vital that hapū and iwi values are reflected throughout policy statements and plan, therefore we support this direction within the Standards	Retain as drafted

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
		Recognition of iwi/hapū chapter: … - A brief explanation of how statutory acknowledgments affect the plan and/or how statutory acknowledgments are reflected in specific Objectives, Policies, and Methods, including rules (if any)			
	S-TW(4)	4 If the following matters are addressed in policy statements and plans, they must be located in the Tangata whenua-local authority relationships chapter: - a list of any formal relationship agreements between tangata whenua and a local authority. These formal relationship agreements may include any memoranda of understanding, mana whakahono a rohe/iwi participation arrangements, co-management agreements, joint management agreements and transfer of powers under RMA 1991 section 33, as they relate to resource management functions	Support	Te Rūnanga consider it both important and useful for these types of formal relationship agreements to be formally recognised within policy statements and plans, so therefore support this direction within the Standards	Retain as drafted
	S-TW(5)	5 If the following matters are addressed in policy statements and plans, they must be located in the	Support	Te Rūnanga supports this directive on the grounds of providing clarity and ease of access for plan users	Retain as drafted

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
		Iwi and hapū planning documents chapter: - a list of iwi and hapū planning documents lodged with a local authority. Where possible this should include a link to planning documents			
	S-TW(5)	5 If the following matters are addressed in policy statements and plans, they must be located in the Iwi and hapū planning documents chapter: … – a description of how the local authority has taken the iwi/hapū planning documents into account in the plan		Te Rūnanga considers it vital that hapū and iwi values are reflected throughout policy statements and plan, therefore we support this direction within the Standards	Retain as drafted
	S-TW(5)	5 If the following matters are addressed in policy statements and plans, they must be located in the Iwi and hapū planning documents chapter: … – a flowchart of how iwi and hapū planning documents are used	Support in part	Whilst Te Rūnanga supports the intent of this directive, we have concerns around its practicality. A flow chart seems to be an oddly specific form of explaining how the document is used, and may obstruct clear explanations in other forms. For this reason, we consider that a less prescriptive method of explaining this be adopted	Amend wording to: … – an ~~flowchart~~ **explanation** of how iwi and hapū planning documents are used
	S-TW(6)	Use of term “consultation”	Oppose	Te Rūnanga consider the term ‘consultation’ out dated as it refers to a level of co-operation between Crown and hapū/iwi that is far below what is now expected. The term ‘engagement’ is more representative of the relationship that hapū/iwi expect from the Crown in modern times, as this denotes a more equal, two-way process that the outdated practice of consulting	Replace all references to ‘consultation’ to reference to ‘engagement’

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
	S-TW(6)	6 If the following matters are addressed in policy statements and plans, they must be located in the consultation chapter: … – a flowchart of consultation processes used or supported	Support in part	Whilst Te Rūnanga supports the intent of this directive, we have concerns around its practicality, as different papatipu rūnanga, hapū and iwi (of which there may be multiple in the jurisdiction of a single policy statement or plan) will have different preferred methods of engagement. This may also change depending on what the issue is (i.e. water issues or earthworks issues). For this reason, we consider that a less prescriptive method of explaining this be adopted	Amend wording to: … – a**n explanation** ~~flowchart~~ of consultation processes used or supported
S-DWM	S-NEV(6)(c)	6 If the following matters are addressed in combined plans or district plans, they must be located in the Coastal environment section: … c. objectives, polices and methods, including rules (if any) that will ensure the live supporting capacity of these systems are safeguarded	Support in part	Te Rūnanga considers it appropriate to reference both the life supporting capacity of a system, as well as its mauri – as protection of mauri links to Te Mana o Te Wai. It also supports the integration of iwi values throughout planning documents affected by these Standards	Amend wording to: c. objectives, polices and methods, including rules (if any) that will ensure the live supporting capacity **and mauri** of these systems are safeguarded
	S-NEV(7)(c)	7 If the following matters are addressed in combined plans or district plans, they must be located in landscape, landforms and natural character section: … c. objectives, polices and methods, including rules (if any) that will ensure the live supporting capacity of these systems are safeguarded	Support in part	Te Rūnanga considers it appropriate to reference both the life supporting capacity of a system, as well as its mauri , as this supports the integration of iwi values throughout planning documents affected by these Standards	Amend wording to: c. objectives, polices and methods, including rules (if any) that will ensure the live supporting capacity **and mauri** of these systems are safeguarded
	S-ER(13)(b)	13 If the following matters are addressed in combined plans or district plans, they must be located in the hazardous substances and contaminated sites section:	Support in part	Te Rūnanga considers it appropriate to reference cultural health alongside human and ecological health as this supports the integration of iwi values throughout the Standards	Amend to: … b. provisions relating to the use, storage and disposal of hazardous substances on land and in the coastal marine area as that presents a specific risk to human or ecological **or cultural** health and prosperity

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
		… b. provisions relating to the use, storage and disposal of hazardous substances on land and in the coastal marine area as that presents a specific risk to human or ecological health and prosperity			
	S-CV(18)(b)	18 If the following matters are addressed in combined plans or district plans, they must be located in the Sites of significance to Māori section: … b. sites of significance to Māori that have been identified through an agreed process with tangata whenua, including any Māori Cultural Landscapes	Support in part	Te Rūnanga strongly supports the explicit mention of Māori Cultural Landscapes within the Standards, as these are an important management tool for hapū and iwi that not all councils have been aware of. We do however consider their inclusion exclusively in this section to be unhelpful to the plan reader, as they also have strong links to S-NEV *Landscapes, landforms and natural character.* As cultural landscapes are a type of landscape it is sensible to include reference them in *S-NEV Landscapes, landforms and natural character* section as well, as this is would then sit them alongside other landscape tools Te Rūnanga also considers the use of the term “tangata whenua” inappropriate, and for reasons already stated within this response recommend substituting the term “mana whenua”	Amend S-CV(18)(b) to: b. sites of significance to Māori that have been identified through an agreed process with ~~tangata~~ **mana** whenua, including any Māori Cultural Landscapes Add new directive to S-NEV(7): 7 If the following matters are addressed in combined plans or district plans, they must be located in landscape, landforms and natural character section: … d. Reference to Māori Cultural landscapes, with link to full objectives, policies and methods, including rules (if any) in S-CV(18)(b)
	S-CV(18)(d)	18 If the following matters are addressed in combined plans or district plans, they must be located in the Sites of significance to Māori section: … d. cross referencing to the schedules chapter that a list of the specific location of areas and sites of significance to Māori identified as requiring management, with a description of why or what in each area or site requires management	Oppose	Te Rūnanga consider it inappropriate to require whānau/hapū/iwi to publically identify in a Plan the specific location of sites of cultural significance, along with the contents of these sites. This is because in many cases these sites are tapu and making their location public puts both the sites themselves at risk, and the people who visit them without adhering to appropriate tikanga. Publically sharing the reasons for them being deemed a site of significance is also culturally inappropriate as these reasons are often related to closely protected tribal histories that are not only not public knowledge within the wider community, but often not public knowledge within the hapū/iwi as well. There have also been instances where members of the public have actively explored sites of cultural significance once finding out the contents of them (i.e. burial sites, or wāhi taonga), which puts these sites potentially at greater risk than if they were not listed at all	Amend S-CV(18)(d) to: … d. cross referencing to the schedules chapter that a list of ~~the specific location of areas and~~ sites of significance to Māori identified as requiring management, ~~with a description of why or what in each area or site requires management~~

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
				In Canterbury a “silent file” system is used which indicates publically the general location of a site, but not its specific position within that location, or the reason it has been identified as a silent file. This allows kaitiaki whānau to protect the tapu of these sites, and ensures that they are protected from those who may want to visit these sites for reasons that are not culturally appropriate. This provision as drafted would not allow for this approach to continue which is unacceptable to Te Rūnanga	
		18 If the following matters are addressed in combined plans or district plans, they must be located in the Sites of significance to Māori section: … e. sub-headings or descriptions of the sites; e.g., wahi tapu, wahi tipuna, statutory acknowledgement, customary rights, historic site and other culturally important sites and areas	Support in part	Whilst Te Rūnanga can see the merit in grouping similar sites together, we consider the groups themselves to be a matter that should be mutually agreed between the council and mana whenua. This will better allow for protection of cultural information, expression of local values and dialects, and more tailored – and therefore useful – groupings to occur	Amend to: … e. sub-headings or descriptions of the sites **agreed to through a process with mana whenua**; e.g., **wāhi** tapu, **wāhi** tipuna, statutory acknowledgement, customary rights, historic site and other culturally important sites and areas
S-ASM	S-Zones(8) Māori Cultural Zone	*Māori cultural zone* The purpose of the Māori cultural zone is to enable a range of activities which specifically meet Māori cultural needs including but not limited to residential and commercial activities.	Support in part	Te Rūnanga supports the purpose statement for the Māori Cultural Zone , particularly the confirmation that commercial activities are part of meeting cultural needs (and are therefore permitted within this zone) Te Rūnanga does however consider the name “Māori Cultural Zone” inappropriate for this zone, as the term cultural has other connotations that do not match its use within this context	Retain purpose statement as drafted Amend zone title to: “Māori **Purpose** Zone”
F-1	F-1(d) Plan accessibility and functionality	2 All policy statements and plans prepared under the Resource Management Act 1991 can be accessed in no more than three clicks (three pages/pop ups) from the local authority homepage (one click from the home page is strongly preferred). 3 All plans and policy statements are hosted on	Support	Te Rūnanga fully supports the mandatory move towards ePlans as they will make accessing and using plans more user friendly for both whānau and technicians. Te Rūnanga does however continue to see value in having hard copy plans available for whānau members who may struggle with digital formats (e.g. kaumātua), and those who do not have internet access	Amend F-1(d)(3) to: 3 All plans and policy statements are hosted on local authority websites via a commonly named ‘District Plan’ or ‘Regional Policy Statement and Plans’ landing page**, and available in hard copy at local libraries and/or council buildings, or on request**

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
		local authority websites via a commonly named 'District Plan' or 'Regional Policy Statement and Plans' landing page. 4 All regional policy statements and plans on local authority websites must comply with Department for Internal Affairs' Web Accessibility Standard 1.0 and Web Usability Standard 1.2 or their successors. 5 Local authorities must provide hyperlinks to their plans and regional policy statements to the Ministry for the Environment and inform the Ministry for the Environment if the hyperlink changes. 6 Ensure that policy statements and plans contain information on when they were last updated. 7 Provide a 'note' within any district or regional plan rule (and hyperlink to relevant plan) that clarifies an activity may also require consent from another plan (eg, note and hyperlink from a regional plan rule relating to earthworks to relevant district plan chapters relating to earthworks). 8 Links are provided between significant planning provisions (eg, hyperlinks within the policy statement/plan, the use of tabulation, or bookmarking).			

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
		9 Plans and regional policy statements support key word search functionality. 10 Legal status of provisions must be displayed (including in downloaded or printed format) 11 All versions of the current plan since first becoming operative must be available from the local authority website. 12 A copy of all previous plans under the RMA both at the time they first became operative and the final version before being superseded by the replacement plan must be available from the local authority website (in PDF format).			
F-2	Table 21: Zone colour palette table	*[see table 21 on p54 of draft National Planning Standards]*	Support in part	Te Rūnanga supports the standardisation of zone colour palettes through the Standards. However, Te Rūnanga supports better alignment of these colours with the Land Based Classification Standards. Where a base colour needs to be split across a spectrum to denote variations (e.g. density) these need to be sufficiently distinct. In the draft Standards zones such as low-density residential and medium density residential are too similar	Closer alignment of colours to Land Based Classification Standards Further development to ensure that all colours are distinct from each other.
	Table 21: Zone colour palette table	*[see table 21 on p54 of draft National Planning Standards]*	Support in part	Te Rūnanga considers it appropriate to develop unique colours for Special Purpose Zones so that different SPZs can have their own colours. This is for ease of use by the plan user in situations where a Plan has multiple different SPZs	List SPZs as having no set colour within Table 21
	Table 22: Symbol table	Sites of significance to Māori Geometry point	Support in part	Te Rūnanga considers the term Sites of significance to Māori to be too general, and considers Sites of significance to iwi a better reflection of the locations this tool will show Te Rūnanga considers it appropriate to include a polygon option for sites of significance to Māori, as the majority of sites of cultural significance cover an area as opposed to being an	Amend name to: "Sites of significance to **iwi"** Include a polygon option for representing sites of significance to Māori

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
				individual point e.g. lakes, battle sites, cultural landscapes, pā sites It is recommended that sites of significance to Māori be treated similar to how places of historic value have been treated within the symbol table – that is by having both a polygon option and a geometry point option	
F-5	Table 26: Rule table	*[see table in Standards]*	Support	Te Rūnanga supports the table format for rules within the Standards based on their ease of use and legibility	Retain as drafted
CM-1	Mandatory directions 3(d)	d. Policy statements and plans may include locally defined terms that are not synonyms of a term in the Definitions table.	Oppose in part	Te Rūnanga considers it important for hapū and iwi to be able to use their local dialect within planning documents within their takiwā (regions). The use of reo-a-iwi (local dialect) is an important expression of rangatiratanga, and mana whenua rights The definitions as drafted, when read alongside CM-1(3)(d) would restrict plan writers to using the Te Reo terms within the standard definitions (i.e. kaitiakitanga, mana whenua, tangata whenua) strictly as listed. However, these terms are not universal. For example, Southern Ngāi Tahu hapū use the term kaitiakitaka as opposed to kaitiakitanga, and would be barred from using this term within plans under CM-1(3)(d), as it is a synonym of kaitiakitanga	Amend CM-1(3)(d) to: Policy statements and plans may include locally defined terms that are not synonyms of a term in the Definitions table.
	Definition - Bed	has the same meaning as in section 2 of the RMA means— (a) in relation to any river— (i) for the purposes of esplanade reserves, esplanade strips, and subdivision, the space of land which the waters of the river cover at its annual fullest flow without overtopping its banks: (ii) in all other cases, the space of land which the waters of the river cover at its fullest flow without overtopping its banks; and (b) in relation to any lake, except a lake controlled by artificial means,—	Oppose	Te Rūnanga recognise that this is an RMA definition. However, it considers this definition to be inadequate as it is not specific enough to provide any guidance in practical situations. Councils have sought to clarify bed both through rules and sub-definitions. Te Rūnanga also understands that by making this definition any more specific it may not be applicable nation-wide, as natural features are not standard in their form. For this reason Te Rūnanga considers the most practical solution is to remove this entry from the standard definitions and revisit in a future amendment to the Standards, once the full implications have been assessed	Remove definition from list of standard definitions and revisit in a future Standard once the full implications are assessed.

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
		(i) for the purposes of esplanade reserves, esplanade strips, and subdivision, the space of land which the waters of the lake cover at its annual highest level without exceeding its margin: (ii) in all other cases, the space of land which the waters of the lake cover at its highest level without exceeding its margin; and (c) in relation to any lake controlled by artificial means, the space of land which the waters of the lake cover at its maximum permitted operating level; and (d) in relation to the sea, the submarine areas covered by the internal waters and the territorial sea			
	Definition - drain	means any artificial watercourse, open or piped, that is designed and constructed, or used, for the purpose of the drainage of surface or subsurface water	Oppose	Te Rūnanga has serious concerns with this definition of a drain. Particularly in the South Island context many historic drains have become naturalised over time and are now habitat for taonga species such as tuna (eels). Many drains are also natural waterways that have been straightened – so whilst they are currently used as drains, they are in fact a natural watercourse. The current definition does not provide for either of these scenarios which will negatively impact whānau ability to act as kaitiaki for taonga species that live in these drains.	Remove definition from list of standard definitions and revisit in a future planning standard once the full implications are assessed.
	Definition - earthworks	means any land disturbance that changes the existing ground contour or ground level	Oppose	Te Rūnanga considers that this definition as drafted creates unintended loopholes i.e. if earthworks are undertaken that only temporarily change the ground contour or ground level Te Rūnanga also questions if this definition will be overly restrictive for day-to-day activities such as recreational gardening activities, or holes for fence posts	Amend definition to: means any land disturbance that changes <u>either permanently or temporarily</u> the existing ground contour or ground level
	Definition – fertilizer	(a) means any substance or biological compound that is—	Support in part	Te Rūnanga considers minor rewording is needed to this definition to remove loopholes	Amend to read: (a) means any substance or biological compound that is—

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
		(i) applied to plants or soils, whether in solid or liquid form; and (ii) supports or sustains the growth, productivity or quality of soils, plants or, indirectly, animals; but (b) does not include livestock and human effluent, or pathogens			(i) applied to plants or soils, whether in solid or liquid form; and (ii) supports or sustains the growth, productivity or quality of soils, plants or, indirectly, animals; but (b) does not include livestock and/or human effluent, or pathogens
	Definition - greywater	means untreated liquid waste from sources such as household sinks, basins, baths, showers and similar appliances but does not include any sewage	Oppose	Te Rūnanga considers that this definition as drafted creates unintended loopholes as it addresses the way the waste liquid enters the wastewater system – not the contents of the wastewater	Amend definition to: means untreated liquid waste from sources such as household sinks, basins, baths, showers and similar appliances but does not include any sewage or industrial waste.
	Definition – historic heritage	(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities: (i) archaeological: (ii) architectural: (iii) cultural: (iv) historic: (v) scientific: (vi) technological; and (b) includes— (i) historic sites, structures, places, and areas; and (ii) archaeological sites; and	Oppose	Te Rūnanga strongly opposes this definition of historic heritage on the grounds that it includes cultural heritage and sites of significance to Māori under this umbrella Sites of significance to Māori and cultural heritage are not associated with the past in the same way historic heritage is Sites of significance to Māori and cultural heritage are living places of continual iwi engagement that have historic, present, and future relevance to iwi By including them under the heading of historic heritage this disregards their present and future Te Rūnanga is aware that this is an RMA definition, but does not consider this a reason for not being able to use an alternative, correct, definition within the Standards	Remove reference to Sites of significance to Māori and cultural heritage from historic heritage definition, and include a separate definition for Sites of significance to Māori, and cultural heritage

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
		(iii) sites of significance to Māori, including wāhi tapu; and (iv) surroundings associated with the natural and physical resources			
	Definition - Lake	means a body of fresh water which is entirely or nearly surrounded by land	Oppose	Te Rūnanga recognise that this is an RMA definition however, it considers this definition to be inadequate as it is not specific enough to provide any guidance in practical situations. Councils have sought to clarify bed both through rules and sub-definitions Te Rūnanga also understands that by making this definition any more specific it may not be applicable nation-wide, as natural features are not standard in their form. For this reason Te Rūnanga considers the most practical solution is to remove this entry from the standard definitions and revisit in a future amendment to the Planning Standards, once the full implications have been assessed	Remove definition from list of standard definitions and revisit in a future planning standard once the full implications are assessed.
	Definition - river	means a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal)	Oppose	Te Rūnanga recognise that this is an RMA definition. However, it considers this definition to be inadequate as it is not specific enough to provide any guidance in practical situations. Councils have sought to clarify bed both through rules and sub-definitions Te Rūnanga also understands that by making this definition any more specific it may not be applicable nation-wide, as natural features are not standard in their form Te Rūnanga considers the most practical solution is to remove this entry from the standard definitions and revisit in a future amendment to the Planning Standards, once the full implications have been assessed	Remove definition from list of standard definitions and revisit in a future planning standard once the full implications are assessed
	Definition - stormwater	means water from natural precipitation (including any contaminants it contains) that flows over land or structures (including in a network), to a waterbody or the coastal marine area.	Oppose	Te Rūnanga considers this definition inadequate as it provides to many loop holes. For example, not all stormwater enters a waterbody or the coastal marine area (i.e. stormwater that is disposed to land). In addition to this, not all stormwater flows over land or structures – some flows through land, or over other surfaces such as carparks	Redraft to close loopholes
	Definition – tangata whenua	in relation to a particular area, means the iwi, or hapū,	Oppose	Te Rūnanga considers this definition incorrect as not all tangata whenua are also mana whenua. These two terms are not	Redraft with guidance from appropriate experts

Section	Reference	Current Form	Te Rūnanga Position	Justification	Relief Sought
		that holds mana whenua over that area		interchangeable and have their own meanings when used to refer to a group of people Te Rūnanga is aware that this is an RMA definition, but does not consider this a reason for not being able to use an alternative, correct, definition within the Standards	
	Definition - wetland	includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions	Oppose	Te Rūnanga recognise that this is an RMA definition however, it considers this definition to be inadequate as it is not specific enough to provide any guidance in practical situations Councils have sought to clarify bed both through rules and sub-definitions. Te Rūnanga also understands that by making this definition any more specific it may not be applicable nation-wide, as natural features are not standard in their current form Te Rūnanga considers the most practical solution is to remove this entry from the standard definitions and revisit in a future amendment to the Planning Standards, once the full implications have been assessed	Remove definition from list of standard definitions and revisit in a future planning standard once the full implications are assessed.

APPENDIX ONE: TEXT OF CROWN APOLOGY

The following is text of the Crown apology contained in the Ngāi Tahu Claims Settlement Act 1998.

Part One – Apology by the Crown to Ngāi Tahu

Section 6 Text in English

The text of the apology in English is as follows:

1. The Crown recognises the protracted labours of the Ngāi Tahu ancestors in pursuit of their claims for redress and compensation against the Crown for nearly 150 years, as alluded to in the Ngāi Tahu proverb 'He mahi kai takata, he mahi kai hoaka' ('It is work that consumes people, as greenstone consumes sandstone'). The Ngāi Tahu understanding of the Crown's responsibilities conveyed to Queen Victoria by Matiaha Tiramorehu in a petition in 1857, guided the Ngāi Tahu ancestors. Tiramorehu wrote:

   "'*This was the command thy love laid upon these Governors … that the law be made one, that the commandments be made one, that the nation be made one, that the white skin be made just equal with the dark skin, and to lay down the love of thy graciousness to the Māori that they dwell happily … and remember the power of thy name."*

   The Crown hereby acknowledges the work of the Ngāi Tahu ancestors and makes this apology to them and to their descendants.

2. The Crown acknowledges that it acted unconscionably and in repeated breach of the principles of the Treaty of Waitangi in its dealings with Ngāi Tahu in the purchases of Ngāi Tahu land. The Crown further acknowledges that in relation to the deeds of purchase it has failed in most material respects to honour its obligations to Ngāi Tahu as its Treaty partner, while it also failed to set aside adequate lands for Ngāi Tahu's use, and to provide adequate economic and social resources for Ngāi Tahu.

3. The Crown acknowledges that, in breach of Article Two of the Treaty, it failed to preserve and protect Ngāi Tahu's use and ownership of such of their land and valued possessions as they wished to retain.

4. The Crown recognises that it has failed to act towards Ngāi Tahu reasonably and with the utmost good faith in a manner consistent with the honour of the Crown. That failure is referred to in the Ngāi Tahu saying 'Te Hapa o Niu Tireni!' ('The unfulfilled promise of New Zealand'). The Crown further recognises that its failure always to act in good faith deprived Ngāi Tahu of the opportunity to develop and kept the tribe for several generations in a state of poverty, a state referred to in the proverb 'Te mate o te iwi' ('The malaise of the tribe').

5. The Crown recognises that Ngāi Tahu has been consistently loyal to the Crown, and that the tribe has honoured its obligations and responsibilities under the Treaty of Waitangi and duties as citizens of the nation, especially, but not exclusively, in their

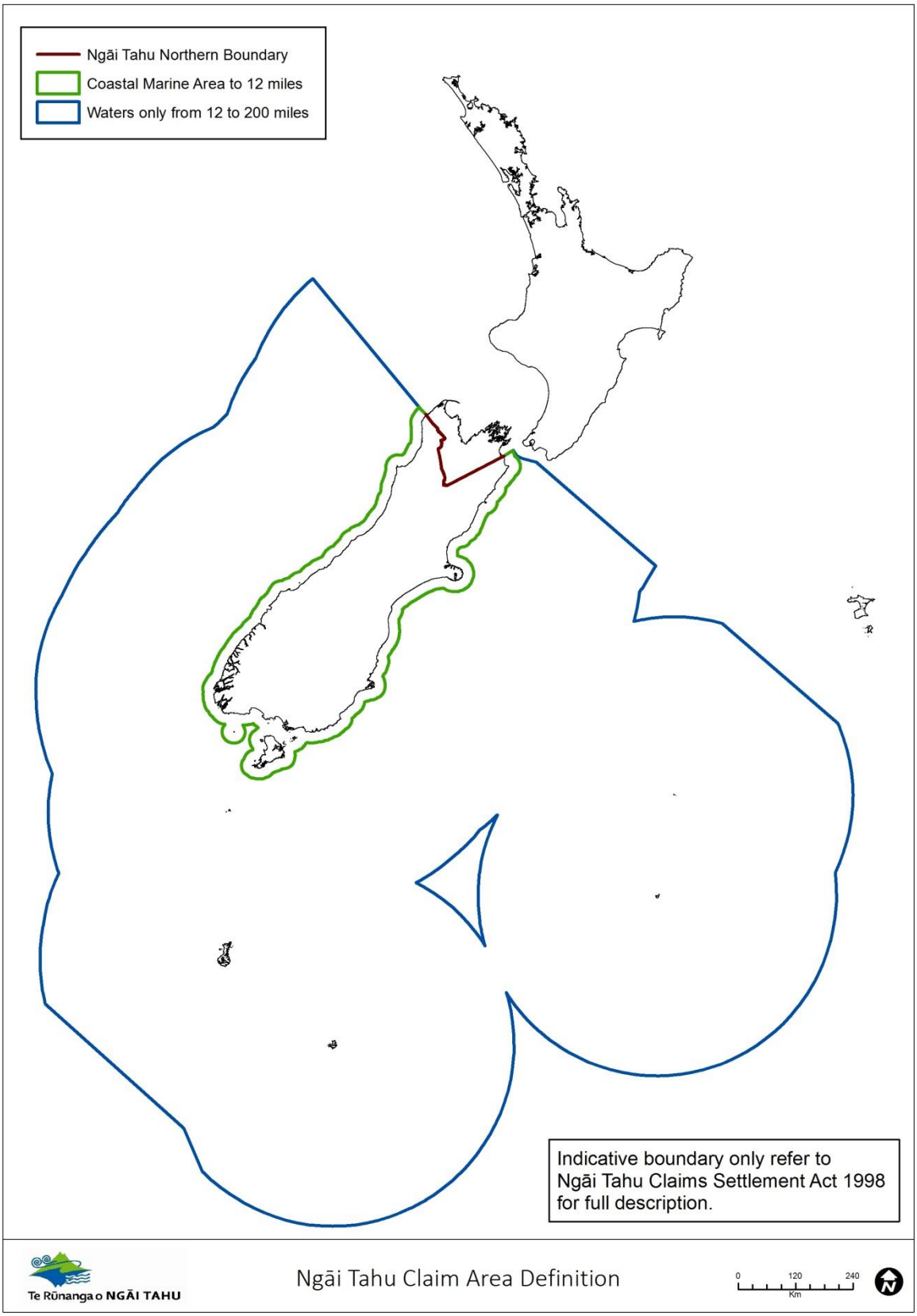
active service in all of the major conflicts up to the present time to which New Zealand has sent troops. The Crown pays tribute to Ngāi Tahu's loyalty and to the contribution made by the tribe to the nation.

6. The Crown expresses its profound regret and apologises unreservedly to all members of Ngāi Tahu Whānui for the suffering and hardship caused to Ngāi Tahu, and for the harmful effects which resulted to the welfare, economy and development of Ngāi Tahu as a tribe. The Crown acknowledges that such suffering, hardship and harmful effects resulted from its failures to honour its obligations to Ngāi Tahu under the deeds of purchase whereby it acquired Ngāi Tahu lands, to set aside adequate lands for the tribe's use, to allow reasonable access to traditional sources of food, to protect Ngāi Tahu's rights to pounamu and such other valued possessions as the tribe wished to retain, or to remedy effectually Ngāi Tahu's grievances.

7. The Crown apologises to Ngāi Tahu for its past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island lands within its boundaries, and, in fulfilment of its Treaty obligations, the Crown recognises Ngāi Tahu as the tangata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui.

Accordingly, the Crown seeks on behalf of all New Zealanders to atone for these acknowledged injustices, so far as that is now possible, and, with the historical grievances finally settled as to matters set out in the Deed of Settlement signed on 21 November 1997, to begin the process of healing and to enter a new age of co-operation with Ngāi Tahu."

APPENDIX TWO: NGĀI TAHU TAKIWĀ



20 August 2018

Hon Nanaia Mahuta

Planning standards, c/- Ministry for the Environment,

PO Box 10362, Wellington 6143.

Tēnā koe Minister Mahuta

Independent Māori Statutory Board Submission on the Draft National Planning Standards 2018

Te Atua tōku piringa ka puta ka ora

Maumaharatanga ki ngā tini aitua o te motu haere koutou

Honohono tātou te hunga ora kia tātou, pai marire

Panga atu te reo karanga ki ngā wha topito o Tāmaki nui tonu

Karanga atu ra

1 Introduction

1.1.1. The Independent Māori Statutory Board welcomes the opportunity to provide feedback on the Draft National Planning Standards and welcomes discussions with the Ministry for the Environment on points raised in this submission.

1.1.2. The Independent Māori Statutory Board whose purpose is to assist Auckland Council to make decisions, perform functions, and exercise powers identifies Māori participation in decision-making and management of natural resources as an issue of significance.

1.1.3. To ensure there are opportunities for participation in decision-making and management of natural resources by Māori the Auckland Unitary Plan (Operative in Part) (the AUP) was developed in extensive consultation with Mana Whenua and Mataawaka in Auckland; including the development of the Regional Policy Statement (RPS) structure, definitions and content of the AUP.

1.1.4. This submission is in two sections. The first section states the position of the Independent Māori Statutory Board (the Board) regarding the Draft National Planning Standards (the standards). The second section identifies two of the draft standards that will impact the AUP in areas that have been developed with Māori. This section also comments on the new tangata whenua chapter that will be introduced in the standards.

1.1.5. The two standards discussed in this submission that require the AUP to change are not supported in their current form by the Board. The new tangata whenua chapter is supported by the Board.

2 The position of the Independent Māori Statutory Board

2.1. The Independent Māori Statutory Board supports in principle the need for National Planning Standards. The Board believes Auckland should align with the standards where possible for good planning practice.

2.2. The Independent Māori Statutory Board supports the Auckland Council submission on the Draft National Planning Standards.

2.3. The Independent Māori Statutory Board agrees with the Auckland Planning Committee that the timeframe for this process should have been extended to allow for Council's consultation with affected groups including Mana Whenua and Mataawaka in Auckland.

3 Standards that will impact areas of the AUP which were developed with Māori

3.1. S-CP Draft Combined Plan Structure Standard – The Board is concerned that 'Part 3 – Regional Policy Statement' of this standard does not include a section for tangata whenua. The AUP has a Mana Whenua section in the RPS which clearly states the resource management issues of significance to iwi authorities in the region; this section was requested by and developed with Mana Whenua. The Mana Whenua section in the RPS leaves no ambiguity in meeting requirements under s62(b) of the RMA. The Mana Whenua section of the AUP RPS provides consistency and sets the context for Mana Whenua provisions across the region. The Board recommends a similar Mana Whenua or Tangata Whenua section is incorporated in the standard.

3.2. CM-1: Draft Definitions standard – The Board is concerned that the locally defined term 'Mana Whenua' in the AUP will be changed under this standard without engagement with Mana Whenua in Auckland. The AUP definition of Mana Whenua was developed with Mana Whenua and refers to possessors of authority regarding ancestral rights as opposed to the RMA definitions of Mana Whenua and Tangata Whenua which refer to the authority possessed and customary rights.

The Board recommends flexibility within the standard. Flexibility for Mana Whenua to accept the meanings provided for 'Tangata Whenua' and 'Mana Whenua' in the RMA; or develop and define their own terms and meanings should be provided.

While the purpose for standardising definitions for consistency is understood, flexibility here could provide a better level of relevance and accuracy within plans.

The term and meaning chosen by Mana Whenua should be used consistently throughout the plan e.g. the heading for 'sites of significance to Māori' within the combined plan structure could read 'sites of significance to Mana Whenua'. The values being identified and protected are values that are associated with iwi within the region, not all Māori.

3.3. S-TW: Draft Tangata Whenua Structure Standard – The Board supports this standard. This standard should not compromise providing a tangata whenua section in Part 3 – Regional Policy Statement.

Changes sought

- **That the Combined Plan Structure Standard includes in the RPS a mandatory section for resource management issues of significance to iwi authorities.**
- **Flexibility for Mana Whenua to accept the RMA terms and meanings for 'mana whenua' and 'tangata whenua' or develop terms and meanings that are relevant and accurate for their iwi and or region.**

Please liaise with the Board's CEO, Brandi Hudson 0[redacted] or [redacted] if you would like to discuss the report with us.

Naku noa

David Taipari

Chairman

Independent Māori Statutory Board

[redacted]

20 August 2018

Ministry for the Environment
Via email

Submission to Draft National Planning Standards (NPS) Consultation Document

1. The Central Otago District Council understands that there may be some benefits in having consistency in district plans across the country. The value gained by national direction, however, may be countered by an inflexible one-size fits all approach that stifles innovation and the ability for a plan to truly reflect the desired outcomes of a community. And the time and cost of complying with the NPS should not be underestimated

2. Central Otago is part way through a full review of the district plan. Council's approach is now to delay the plan review until the NPS is gazetted, and a National Policy Statement on Biodiversity developed, to avoid re-writing the district plan at significant cost to the community. Central Otago is in a period of strong growth so provision of appropriately zoned land will be addressed in the interim by the development of spatial frameworks and plan changes to the operative district plan.

3. The Draft Electronic Accessibility and Functionality Standard requires that a note and hyperlink be contained within a district plan rule to a relevant regional plan rule. The Central Otago District Council considers this too onerous. Identification of all the rules to be linked in the various plans would be a challenging, costly and risky undertaking. Failure to cross-reference correctly may put Councils into legal challenges.

4. The economic analysis carried out for the DNPS showed that rural councils would be facing a $34 per capita cost, compared to $12 for provincial and $5 for metro councils. Not only is this inequitable, the costs are grossly underestimated. Central Otago has less than 13,000 ratepayers so the estimated cost for E-plan development at approximately $440,000 is totally unrealistic. Central Otago is a large geographic area facing significant challenges in a period of high growth, and there are many complex issues to be addressed. The development of an E-plan for the district is anticipated to be in excess of $1,000,000. This will result in a rate increase of approximately 4% for all Central Otago ratepayers.

5. The development of an E-plan is new and different from normal work of the Council and will require significant additional expertise and resource. The Council therefore requests financial

and technical support to implement these changes, as it is an unfair burden on an already stretched ratepayer base.

We would welcome further discussion on any of the above matters.

Yours sincerely

Louise van der Voort
Executive Manager, Planning and Environment

SUBMISSION: DRAFT NATIONAL PLANNING STANDARDS

To: Ministry for the Environment
PO Box 10362
Wellington
6143

This submission is filed by:

[redacted]

TABLE OF CONTENTS

INTRODUCTION

1. This submission is made on behalf of Te Whakakitenga o Waikato Incorporated (formerly known as Waikato-Tainui Te Kauhanganui Incorporated) to the Ministry for the Environment (**MFE**) in relation to the Draft National Planning Standards which seek to provide a more consistent structure for District and Regional plans.

2. Te Whakakitenga o Waikato Incorporated (**Waikato-Tainui**) is the governing body and mandated iwi organisation for the 68 marae and 33 hapuu of Waikato-Tainui and manages the assets of Waikato-Tainui for the benefit of over 72,000 registered tribal members.

3. Waikato-Tainui makes this submission on behalf of our Marae, Hapuu and Iwi members. The rohe (tribal region) of Waikato-Tainui is bounded by Auckland in the north and Te Rohe Potae (King Country) in the south and extends from the west coast to the mountain ranges of Hapuakohe and Kaimai in the east. Significant landmarks within the rohe of Waikato include the Waikato and Waipaa Rivers, the sacred mountains of Taupiri, Karioi, Pirongia and Maungatautari, and the west coast of Whaaingaroa (Raglan), Manukau, Aotea and Kawhia moana.

4. This submission will lay out the views, concerns and recommendations of Waikato-Tainui regarding the Draft National Planning Standards through the information provided by the Ministry for the Environment.

5. The assessment of the Draft National Planning Standards is based upon the guiding principles within the Waikato-Tainui Environmental Plan “Tai Tumu, Tai Pari, Tai Ao” (**the Plan**), the aspirations of the Vision and Strategy “Te Ture Whaimana”.

6. Waikato-Tainui requests that this submission be considered by the MFE.

SUMMARY OF POSITION

7. Waikato-Tainui are tangata whenua of the Waikato and Auckland rohe. This includes the West Coast, Manukau, Whaingaroa, Aaotea and Kaawhia Harbours, of which Waikato-Tainui are a kaitiaki. Waikato-Tainui exercise Mana Whakahaere over these regions including the marine and coastal areas.

8. Waikato-Tainui has Mana Whakahaere over its lands, waterways, resources and its

associated natural environs.

9. Waikato-Tainui acknowledges the Ministry for the Environment and the proposed National Planning Standards that aim to provide consistency across Regional and District plans making them easier to prepare, understand, compare and comply with whilst also recognising that these standards will provide greater efficiency in terms of national direction.

10. Waikato-Tainui supports the purpose of the National Planning Standards to provide greater consistency of Resource Management Act 1991 plans and policy statements developed in New Zealand.

11. Waikato-Tainui also supports and promotes a coordinated, co-operative, and collaborative approach to natural resources and environmental management, restoration that seeks to achieve iwi and hapuu aspirations.

BACKGROUND

12. The Ministry for the Environment is currently consulting on the Draft National Planning Standards with the intention of gazetting the first set of planning standards by April 2019.

13. National Planning Standards were introduced through the Resource Legislation Amendment Act 2017. National Planning Standards offer an opportunity to provide a consistent and streamlined approach towards planning in terms of plan and policy statement structure, format and content. These planning standards will make plans easier to prepare, use, compare and comply with.

14. The National Planning Standards or essential the standardisation of plans will not lead to direct changes in environmental outcomes but will provide some consistency across district and regional planning and will ensure that national direction e.g. National Environmental Statement and National Policy Statements, is also implemented consistently. The consultation documents provide a detailed overview of the Draft National Planning Standards.

15. To ensure that there is no adverse effect on the rights and interests of Waikato-

Tainui this submission focuses on those matters within the Draft National Planning Standards that are related directly to Waikato-Tainui. These are summarised below.

16. This submission will lay out the views, concerns and recommendations of Waikato-Tainui regarding the Draft National Planning Standards.

17. The assessment of the Draft National Planning Standards is based upon the guiding principles and aspirations within the Waikato-Tainui Environmental Plan "Tai Tumu, Tai Pari, Tai Ao" (**the Plan**).

WAIKATO-TAINUI ENVIRONMENTAL PLAN, TAI TUMU, TAI PARI, TAI AO

18. The Waikato-Tainui Environmental Plan, "Tai Tumu, Tai Pari, Tai Ao" (**Plan**) is an environmental policy/planning document that provides guidance for resource users and managers in terms the sustainable management of the natural resources within the Waikato-Tainui tribal area. The Plan takes a holistic and integrated approach towards resource management[1].

19. The overarching purpose of the Plan is to provide a map or pathway that will return the Waikato-Tainui rohe to the modern-day equivalent of the environmental state when Kiingi Taawhiao composed his maimai aroha. To do this, the Plan seeks to:

- Provide the overarching position of Waikato-Tainui on the environment;
- Consolidate and describe Waikato-Tainui values, principles, knowledge and perspectives on, relationship with, and objectives for natural resources and the environment;
- Underpin the development of a consistent and integrated approach to environmental management within the Waikato-Tainui rohe;
- Describe Waikato-Tainui environmental issues;
- Provide tools to enhance Waikato-Tainui mana whakahaere and kaitiakitanga, particularly when participating in resource and environmental management

1. Waikato-Tainui Environmental Plan *"Tai Tumu, Tai Pari, Tai Ao"* 2009 sourced from http://www.wrrt.co.nz/environmental-management-plan/

through:

(a) Influencing the development of all environmental policies and plans that affect Waikato-Tainui;
(b) Establishing a framework for resource and environmental management to support tribal members, whether as whaanau, marae, hapuu, or whatever grouping Waikato-Tainui, from time to time, choose to adopt;
(c) Providing mechanisms to restore and protect the natural environment of Waikato-Tainui, whilst recognising the reasonable needs of local communities;
(d) Actively contributing to the co-management of the Waikato River;
(e) Influencing local and national decision makers;
(f) Providing a guide for resource users or developers in the Waikato-Tainui rohe;
(g) Affecting how and where development may occur;
(h) Providing clear and consistent issues statements, policies, and methods to manage natural resources; and
(i) Provide guidance to external agencies regarding Waikato-Tainui values, principles, knowledge and perspectives on, relationship with, and objectives for natural resources and the environment.

20. As a Treaty partner and as kaitiaki within its tribal rohe it is very important that Waikato-Tainui are engaged at the earlier opportunity regarding the development of any plans or policies (i.e. co-design/co-development) to provide guidance regarding our values, principles, knowledge and perspectives on, relationship with, and objectives for natural resources and the environment.

WAIKATO RIVER ACT

21. Section 40 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 ('Waikato River Act') states that the effect of serving the Plan is as follows:

(a) A local authority preparing, reviewing, or changing a Resource Management Act 1991 planning document must recognise the Plan in the same manner as would be required under the Resource Management Act 1991 for any planning document recognised by an Iwi authority;
(b) A consent authority considering an application for resource consent under section 104 of the Resource Management Act 1991 must have regard to the Plan, if it considers that section 104(1)(c) applies to the Plan;
(c) A person carrying out functions or exercising powers under sections 12 to 14 of

the Fisheries Act 1996 must recognise and provide for the Plan to the extent to which its contents relate to the functions or powers; and

(d) A person carrying out functions or exercising powers under the conservation legislation in relation to the Waikato River and its catchment must have particular regard to the Plan to the extent to which its contents relate to the functions or powers.

WAIKATO-TAINUI AND THE CROWN ACCORDS

22. The Accords reflect a commitment between the Crown and Waikato-Tainui to enter a new era of co-management over the Waikato River with the overarching purpose of restoring and protecting the health and wellbeing of the Waikato River for future generations.

23. The Accords set out how Waikato-Tainui and the Accord partner will establish and maintain a positive, co-operative and enduring relationship regarding the matters set out in the Accords that directly impact the health and wellbeing of the Waikato River in the specified Accord areas.

24. Waikato-Tainui acknowledge the Ministry for their engagement with Iwi on the Draft National Planning Standards.

WAIKATO-TAINUI JOINT MANAGEMENT AGREEMENTS

25. The Waikato River Settlement provides for the establishment of Joint Management Agreements (JMAs) between local authorities and Waikato-Tainui.

26. The settlement requires the Waikato Regional Council and territorial authorities, Hamilton City Council, the Waikato District Council and the Waipaa District Council and Waikato-Tainui to enter into a JMA with respect to the Waikato River and activities within its catchment affecting the river.

27. The JMAs provide Waikato-Tainui the opportunity to sit at the table with local authorities and participate in the local government activities so far as they relate to the Waikato River.

WAIKATO-TAINUI VIEWS AND RECOMMENDATIONS

TANGATA WHENUA PROVISIONS IN THE AND REGIONAL PLANS

28. The Planning Standards must provide for existing or pending treaty legislation and regional or local statutory documents (e.g. Vision and Strategy). These are particularly important in the Waikato Region, where there are multiple natural resource settlements that apply to one regional council, one city and 10 district councils.

29. Tangata whenua provisions include statutory acknowledgements of the Treaty and Resource Management Act (**RMA**) obligations to iwi authorities and tangata whenua, iwi and hapū planning documents.

30. Waikato-Tainui believe that it is very important that these statutory obligations are acknowledged and given prominence within district and regional plans.

IWI AND HAPU PLANNING DOCUMENTS

31. The RMA requires councils to take into account any relevant iwi planning documents that have been lodged with the council. Currently there is some variation in terms of how iwi and hapū planning documents are acknowledged and integrated into district and regional planning documents.

32. Councils will need to engage with iwi and hapū in terms of giving regard to the provisions of their planning documents within district and regional plans. The Resource Legislation Amendment Act (RLAA) 2017 (section 32) requires Councils to provide an evaluation report to show how iwi and hapū planning documents have been taken into account.

33. The Draft National Planning Standards recommend that iwi and hapū planning documents are listed in District and Regional planning documents with hyperlinks to where the documents are available. This is a similar approach adopted for the National Policy Statements and National Environmental Standards. These plans could also provide a description of the iwi and hapū planning document and how they are used in the resource management process.

34. Iwi/hapū management plans are planning documents that are recognised by an iwi authority The Planning document are relevant to the resource management issues of the region/district/rohe which is designed to enhance iwi (whanau, marae, hapuu, or iwi) participation in resource and environmental matters lodged with the relevant local authority.

35. Iwi/hapuu Management Plans can provide clarity to those Part 2 Matters in the RMA that are of relevance to Maaori, in particular (but not limited to):

a) Section 6 - recognising and providing for: (e) the relationship of Maaori and their culture;

b) traditions with their ancestral lands, water, sites, waahi tapu, and other taonga; (g) the protection of historic heritage from inappropriate subdivision, use, and development; (f) the protection of protected customary rights;

c) Section 7 Other Matters – (a) having particular regard to kaitiakitanga; and

d) Section 8 Treaty of Waitangi - taking into account the principles of the Treaty of Waitangi

36. “Taking into account” of Iwi/Hapuu management Plans should be used with similar respect and authority to that of a district or regional plan in order to achieve section 5 of the RMA, 1991.

37. Iwi/Hapuu environmental management documents are relevant planning documents as referred to in sections 61(2A)(a) and 66(2A)(a) of the RMA which requires a regional council to “take into account” any relevant planning document recognised by an Iwi Authority and lodged with the local regional council, to the extent that its content has a bearing on the resource management issues of the region, when preparing or changing regional policy statements or regional plans respectively;

38. Iwi/Hapuu environmental management documents are relevant planning documents as referred to in section 74(2A) of the RMA which requires a local authority to take into account any relevant planning document recognised by an Iwi Authority and lodged with the local authority, to the extent that its content has a bearing on the resource management issues of the district, when preparing or

changing a district plan;

39. A consent authority considering an application for resource consent under section 104 of the Resource Management Act 1991 must have regard to Iwi/Hapuu Plans, if it considers that section 104(1)(c) applies to Iwi/Hapuu Plans; and

40. Iwi/Hapuu environmental management documents or Plan applies to all relevant sections of the RMA and is to be taken account of as a relevant planning document for an Iwi Authority as outlined in the RMA.

41. Waikato-Tainui believe that providing a description of relevant iwi and hapū planning documents within the plan, specifically how they have been integrated into the plan, is very important.

RMA MAORI RESOURCE MANAGEMENT PRINCIPLES

42. The RMA contains provisions relevant to iwi authorities and tangata whenua i.e. sections 6, 7 and 8. These recognise and provide for the relationship of Maori with their ancestral lands, traditions, customs and taonga. They also give regard to Kaitiakitanga and take into account Treaty of Waitangi principles. Councils must prepare their planning documents in accordance with the purpose and principles of the RMA whilst giving regard to the provisions of section 6, 7 and 8.

43. The National Planning Standards will not attempt to standardise these principles or provisions as these are not necessarily fixed but will standardise that location where plans should address the application of Treaty and the RMA Maori resource management principles as part of the plan structure.

44. Waikato-Tainui support this approach and believe that Treaty and RMA obligations should provide a foundation for the content of District and Regional plans therefore these should be addressed or located at the front end of these planning documents.

TANGATA WHENUA AND COUNCIL RELATIONSHIPS

45. Many District and Regional plans include a section on the relationships that councils have or intend develop with iwi, tangata whenua and other key stakeholders. Council are often required to engage with iwi through Treaty settlement legislation and other relevant legislation such as the RMA and the Local

Government Act 2002.

46. Many councils have formalised their relationships with tangata whenua through arrangements/agreements such Joint Management Agreements (**JMA**). The way that these agreements are worded and applied to plans is outside the scope of the National Planning Standards. It will however consider a standard for the location of these matters within the plan and direct planners to reference and describe these.

47. Waikato-Tainui have JMA agreements with several Councils. The National Planning Standards will provide a specific location for these matters within District and Regional Plans.

48. Waikato-Tainui support this approach as it will continue to acknowledge these Tangata Whenua, Council relationships but will not affect the content or integrity of these arrangements.

MAORI CONSULTATION REQUIREMENTS

49. For the council to meet its obligations under Part 2 of the RMA and other various requirements they must consult with Maori especially where they have been deemed to be an affected party. The content of these consultation requirements is again outside the scope of the proposed National Planning Standards however there is an opportunity to consider a standard for the location and reference of these matters.

50. Waikato-Tainui support this approach as it will not affect these consultation requirements but will assist to increase the prominence and accessibility of these provisions in the plan.

TANGATA WHENUA PROVISIONS

51. Under the proposed National Planning Standards there is an opportunity to provide a specific Tangata Whenua “stand alone” section containing iwi planning provisions and references to iwi planning documents.

52. Waikato-Tainui support the requirement for a specific section relating to iwi plans

and provisions. This would increase the prominence and accessibility of this information. It would also mean that planners will need to give specific consideration to this section and will need to demonstrate how these provisions have been integrated into the plan.

IWI AND MANA WHENUA ENGAGEMENT

53. Waikato-Tainui acknowledge MFE for there their engagement with Iwi regarding the Draft National Planning Standards and encourage continued engagement regarding these matters.

WAAHI TAPU AND SITES OF SIGNIFICANCE

54. Part 2 of the RMA sections 6(e) and (f) require Councils to recognise, amongst other things, the relationship of Maori with their ancestral lands, waters, sites, waahi tapu, other taonga and the protection of historic heritage, from inappropriate subdivision, use and development.

55. Under the Draft National Planning Standards there is an opportunity to standardise the way waahi tapu or sites of significance are termed, incorporated and recognised in plans. Currently there is variation across plans in the terms used to describe these features.

56. The planning standard could recommend the use of a common term across the plan such as “Sites of significance to Maori” to provide some consistency. Providing the detail of the site, in terms of what it is or its cultural significance, would remain with the relevant Iwi authorities and Councils.

57. Waikato-Tainui support the requirement for some standardisation across plans in terms of this terminology. We also agree that the detail or content relating to these sites should remain the responsibility of Iwi and the Council.

PAPAKAINGA PROVISIONS

58. Papakainga provisions are often included in district plans although they are often limited to papakainga housing. MFE acknowledges that Papakainga in its fullest sense refers to development by tangata whenua on their traditional rohe for residential, social, cultural, economic and recreational activities. Papakainga has traditionally occurred on Maori land however there are emerging examples of

papakainga development on general land or freehold land.

59. Currently there are different activity statuses in district plans for papakainga activities. Many rules within plans can be restrictive in terms of papakainga provisions.

60. MFE are proposing to provide a standard on the definition for papakainga. A standard location of these provisions should be located.

61. Waikato-Tainui support the standardisation of papakainga defintions and would recommend that wider provisions for residential, social, cultural, economic and recreational activities are included in this definition.

DEVELOPMENT OF MAORI LAND AND TREATY OF WAITANGI SETTLEMENT LAND

62. MFE recognise that it is important to enable Maori to provide for their cultural, economic and social wellbeing in an environmentally sustainable way. To provide for this a wide range of activities may need to be allowed for these lands. Many of these activities may exist in conjunction with a marae, and may include education or training facilities, housing or medical facilities.

63. Development on Maori land comes with its own challenges in terms of legislative and Council constraints. Through the planning standards MFE are proposing tools such as a special zone or overlay for Maori land for optional use in plans. The option, without limiting the use of these lands, of a zone can be applied to these lands with provisions for associated housing and commercial activities to suit hapū and/or whanau. This will be a new tool for Councils and Iwi authorities to consider when preparing an RMA plan.

64. Waikato-Tainui supports the development of these tools and a national standard that includes a framework to facilitate Maori land development.

CONCLUSION

65. This submission outlines the views, concerns and recommendations of Waikato-Tainui regarding the Draft National Planning Standards.

66. The proposed National Planning Standards will provide a more consistent and streamlined approached towards planning and will ensure that there is consistency at a district and regional level whilst also ensuring greater efficiency at a national level.

67. The National Planning Standards will not affect the specific content of the plan but will provide some consistency/standardisation in terms of their structure, format and process. The Council will still be responsible for the content of their plans but these tools will provide some guidance in terms structure.

68. Waikato-Tainui supports the purpose and intent of the National Planning Standards to provide greater consistency of Resource Management Act 1991 plans and policy statements developed in New Zealand.

69. Waikato-Tainui supports and promotes a coordinated, co-operative, and collaborative approach towards planning.

DATED 3 September 2018

WAIKATO-TAINUI

[redacted]

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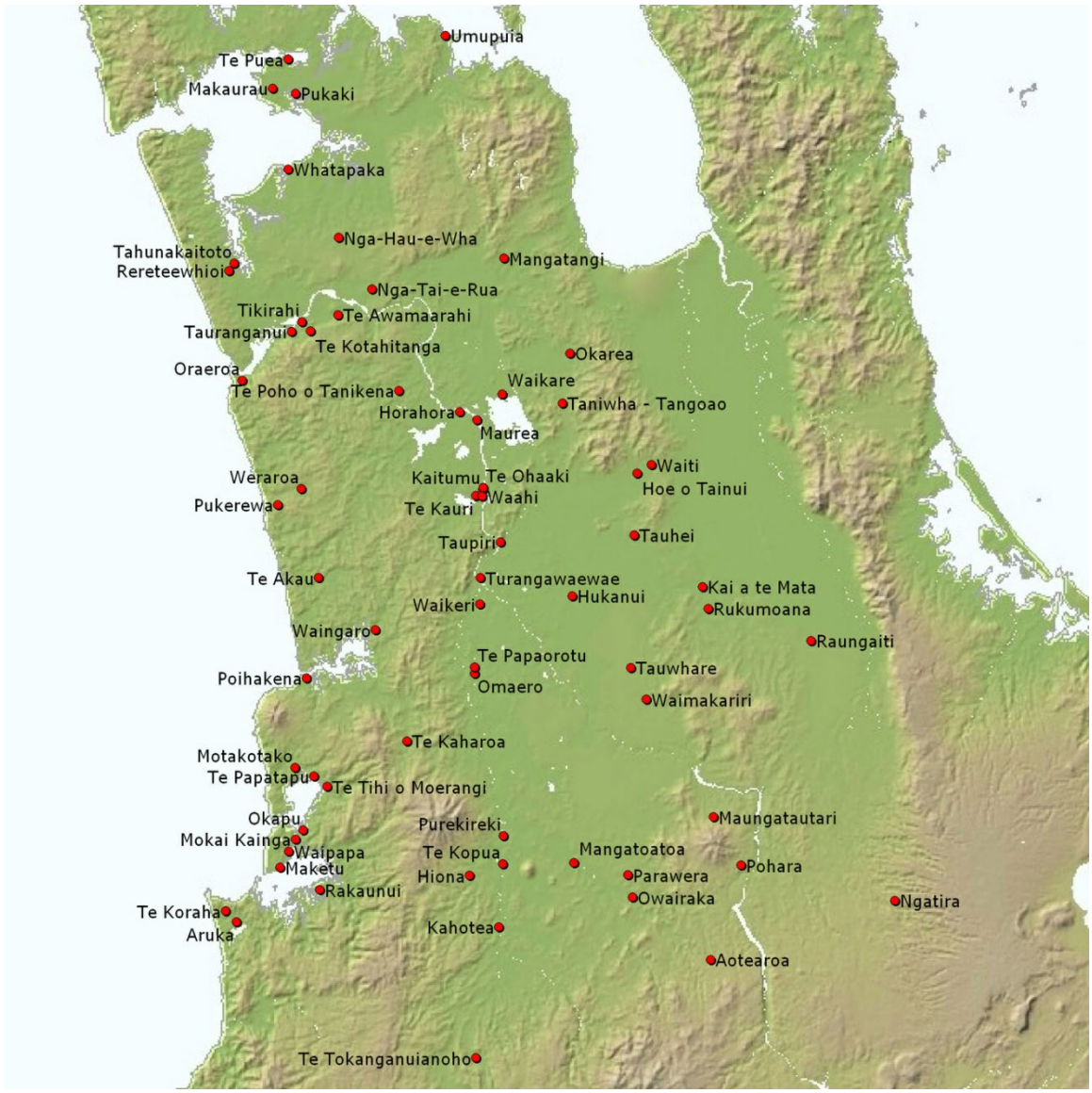
APPENDIX 1 – WAIKATO RAUPATU MARAE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Te Puea
Makaurau
Pukaki
Whatapaka
Nga-Hau-e-Wha
Tahunakaitoto
Rereteewhioi
Mangatangi
Nga-Tai-e-Rua
Tikirahi
Te Awamaarahi
Tauranganui
Te Kotahitanga
Okarea
Oraeroa
Te Poho o Tanikena
Waikare
Taniwha - Tangoao
Horahora
Maurea
Waiti
Hoe o Tainui
Weraroa
Kaitumu
Te Ohaaki
Waahi
Pukerewa
Te Kauri
Tauhei
Taupiri
Te Akau
Turangawaewae
Hukanui
Kai a te Mata
Rukumoana
Waikeri
Waingaro
Raungaiti
Te Papaorotu
Tauwhare
Poihakena
Omaero
Waimakariri
Te Kaharoa
Motakotako
Te Papatapu
Te Tihi o Moerangi
Maungatautari
Okapu
Purekireki
Mokai Kainga
Waipapa
Te Kopua
Mangatoatoa
Pohara
Maketu
Hiona
Parawera
Rakaunui
Owairaka
Ngatira
Te Koraha
Aruka
Kahotea
Aotearoa
Te Tokanganuianoho

ellisgould
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17 August 2018

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Dear Sir / Madam

Feedback on Draft National Planning Standards notified June 2018

The Ministry for the Environment has invited public feedback by **17 August 2018** on the first draft set of National Planning Standards.

This feedback is made on behalf of the following clients of Ellis Gould (collectively "**the Submitters**"):

1. **CDL Land NZ Limited**, a land development company with a particular focus on greenfields residential development. CDL has undertaken significant residential development throughout New Zealand including most notably in Auckland, Hamilton and Christchurch.

2. **Kiwi Property Group Limited**, New Zealand's largest diversified property company with a property portfolio throughout New Zealand valued at $3.1 billion. Kiwi has a particular focus on creating town and metropolitan centres and has extensive investments in shopping centres and landmark office towers. Kiwi has assets in the Auckland and Wellington regions, Christchurch, Hamilton and Palmerston North. Kiwi has extensive experience with national, regional and local planning instruments.

3. **The National Trading Company of New Zealand Limited**, being the property holding and development arm of Foodstuffs North Island Limited which is the cooperative through which New World, Pak'n Save and Four Square supermarkets are established and operated in the North Island. NTC has responsibility for developing, maintaining and upgrading supermarkets throughout the North Island and has extensive experience working with national, regional and local planning instruments.

4. **Ngati Whatua Orakei Whai Rawa Limited**, which is the commercial arm of the Ngati Whatua Orakei Group, responsible for protecting and building the asset base of Ngati Whatua Orakei. The company has landholdings in the Auckland Region and is currently redeveloping and intensifying urban landholdings that have historically been developed at a relatively low density but which are now earmarked under the Auckland Unitary Plan (Operative in Part) for significantly more intensive urban development.

5. **Tramco Group Limited**, a property investment entity with extensive assets in urban and rural areas of the country (e.g.: Viaduct Harbour and Wynyard Quarter, Central Auckland). Tramco has worked with and submitted on planning instruments over many years.

6. **The Waitakere Ranges Protection Society Incorporated**, an incorporated society that was founded in 1973 and has a particular interest in the legislative and planning framework applying to the Waitakere Ranges, on the western edge of Auckland. The Society has extensive experience with national, regional and local planning instruments and considers that the Waitakere Ranges Heritage Area Act 2008 appropriately identifies the unique characteristics of the Waitakere Ranges.

The Submitters' feedback is **annexed** to this letter. The feedback is intentionally high level in nature rather than being a detailed analysis of the content of the draft national planning standards. In summary:

1. National planning standards regarding the format and content of district and regional planning instruments are likely to be a useful resource for smaller councils with extensive districts but which lack the resourcing required to develop effective plans.

2. It is unnecessary and counterproductive to impose such documents on all councils, however, and in particular on larger councils that face district or region specific issues and have the resources needed to develop appropriate provisions and planning instruments. The Submitters ask the Ministry:

   (a) To introduce national planning standards that councils may elect to adopt but are not required to use.

   (b) Alternatively, to exempt large councils and those facing distinctive local issues (eg: Auckland Council, Hamilton City Council, Tauranga City Council, the Greater Wellington Region, Christchurch City Council and Queenstown Lakes District Council) from complying with the standards.

   (c) In any event, to exempt Auckland Council from complying with the standards given, in particular, the exhaustive Auckland Unitary Plan process which is only now coming to an end and has transformed the planning framework for New Zealand's largest and most complex urban area.

3. The Submitters consider that national planning standards are best suited to addressing structural issues rather than the substance of rules. The first set of draft national planning standards is primarily concerned with structural matters but notably includes a standard regarding definitions which will have significant substantive implications (discussed below). The issues that arise throughout parts of New Zealand differ markedly and, accordingly, the planning provisions and outcomes sought will also differ. There are sound practical reasons why resource management issues are appropriately addressed at a local or regional level and endeavouring to draft substantive planning provisions with universal application is likely to create practical difficulties for councils.

4. The introduction of standard mandatory definitions is unnecessary and fails to recognise the purpose for which terms are defined in planning instruments. While the national planning standards could contain definitions that councils would have a discretion to adopt, mandatory definitions will alter the meaning of provisions and require councils to either amend provisions or develop specific additional definitions in order to ensure that provisions are written in an efficient and clear manner.

5. The Submitters consider that, in addition to introducing national planning standards, the Ministry should endeavour to develop expertise within central government on elements such as the landscape, coastal and cultural matters that are relevant under Part 2 of the Resource Management Act. These are areas in which rural territorial authorities with smaller rating bases but extensive districts, in particular, are struggling to meet their statutory obligations. That expertise might usefully be made available to local authorities so that these aspects of plan preparation are robust and consistent around the country.

6. The Submitters consider that, if the national planning standards are either to contain substantive provisions (eg: definitions) or to be mandatory, they should be the subject of rigorous testing and the decision makers must be fully informed. In that case, the provisions should, pursuant to section 58D(3)(d) of RMA, be subject to a public hearing process that enables parties to speak to their submissions and the provisions to be tested through cross examination before an independent panel. That approach would increase the probability that errors can be identified and corrected.

The Submitters would be pleased to meet with Ministry staff to discuss this submission in greater detail.

Yours faithfully
ELLIS GOULD

[redacted]

ANNEXURE

Detailed Feedback on First Draft National Planning Standards

Function of Template

1. National planning standards regarding the format and content of district and regional planning instruments are likely to be a useful resource for smaller councils with extensive districts but which lack the resourcing required to develop effective plans:

   (a) Under New Zealand's resource management legislation, significant responsibility is devolved to territorial authorities. While central government has made increasing use of the National Policy Statement and National Standard mechanisms, the administrative load on councils has remained high. That is particularly true of rural councils that have a limited rating base but have extensive regulatory and legislative responsibilities over physically extensive parts of the country, which in many cases contain landscapes or resources that raise challenging issues in terms of Part 2 of the RMA.

   (b) Those legislative responsibilities require territorial authorities to undertake extensive analyses of the resources in their district and to fund the preparation of planning instruments together with the related hearing and appeal processes. In that context, it would be beneficial to such councils if there could be guidance from the Ministry as to the form and structure of planning instruments.

2. It is unnecessary and counterproductive to impose such documents on all councils, however, and in particular on larger councils that face particular issues and have the resources needed to develop appropriate provisions and planning instruments:

   (a) It is important that the national planning standards function as useful tools and sources rather than act as straight-jackets into which councils must fit their local issues and responses, regardless of the extent to which the national planning standard model is suited to the local response.

   (b) These issues are particularly apparent in the larger centres such as Auckland, Hamilton, Tauranga, Wellington and Christchurch, where unique geographical conditions apply in the context of specific growth and environmental pressures and populations have differing expectations as to how their community should develop. Such councils have the resourcing and technical support required to develop their own plans (although they should be free to adopt or integrate ideas found in national planning standards).

   (c) Accordingly, the Submitters ask the Ministry to introduce national standards that councils may elect to adopt but are not required to use. That is, the templates would be a resource available to councils that lack the capacity or funding to undertake their statutory obligations but will not be forced on larger, more capable councils. Councils should be able to amend and refine the provisions as they think fit in order to fit them to the particular circumstances and objectives of their district.

   (d) Alternatively, large councils and those facing distinctive local issues (eg: Auckland Council, Hamilton City Council, Tauranga City Council, the Greater Wellington Region, Christchurch City Council and Queenstown Lakes District Council), should be exempted from complying with the standards.

(e) In any event, Auckland Council should be exempted from compliance with the standards given:

- The fact that it is only now completing an exhaustive five year Unitary Plan process which has comprehensively changed and reformatted the planning structure for the area.

- The size and extent of the Auckland Council area and its unique geographical setting and growth pressures, which give rise to regionally specific and unique issues and, as a consequence, unique planning solutions.

- The challenges inherent in trying to devise national planning standards that suit a city and region as complex as Auckland while remaining useful for smaller councils that face very different issues.

3. The Submitters consider that national planning standards are best suited to addressing structural issues rather than the substance of rules. The first set of standards is primarily concerned with structural matters but notably includes a standard regarding definitions which will have significant substantive implications (discussed in detail below). The Submitters make the following general observations regarding why resource management issues are appropriately addressed at a local or regional level and why drafting substantive planning provisions with universal application is likely to create practical difficulties for councils:

(a) During the Ministry's briefing sessions with the public, comment has been made regarding the possibility of further national planning standards being issued to deal with substantive matters such as the content of rules. The Submitters ask that no such substantive national planning standards be introduced.

(b) The Resource Management Act devolves responsibility for land use and resource planning to regional and local authorities because of the variability in issues, conditions and responses throughout the country. Those regional and local differences also militate against the ability of central government to develop a single template governing substantive planning matters that could or should apply universally throughout the country. By way of example, territorial authority areas in New Zealand can differ markedly in terms of:

- The presence or absence of landscapes and ecological resources that would warrant consideration in terms of section 6 of the RMA;

- The sensitivity of land and waterspace and the risk of particular problems or adverse effects (eg: nitrification of water bodies; erosion) arising from activities or land management techniques;

- The extent and prevalence of public land;

- The nature of predominant land uses;

- Population and population density and distribution;

- Urban form and matters that influence and constrain that;

- Population growth pressures; and

- Local visions and aspirations.

(c) That variability poses real risks if the provisions are mandatory, particularly where expectations as to planning outcomes, and hence the content of planning instruments, differ. The most obvious example is Auckland where the newly operative Auckland Unitary Plan proposes a significant intensification of development, accompanied by reduced standards in terms of matters such as carparking, side yards and height in relation to boundary controls. Furthermore, ongoing population growth and intensification will allow some adverse effects to be absorbed faster in Auckland than in other areas of the country (where a more conservative approach to activities might be warranted). As a consequence, outcomes that are effectively required to manage, say, the Auckland urban area in a sustainable manner are outcomes that may be an anathema to residents of smaller, regional centres with lower growth such as Whanganui and simply irrelevant to areas such as Westland.

(d) Planning provisions require careful drafting to ensure that they balance competing interests appropriately within a district, zone or neighbourhood. That process is challenging enough in the context of a single district plan. It is not possible for a national planning standard drafter to include in a template substantive provisions that account for all circumstances in all zones in all parts of New Zealand. A template that endeavours to address substantive issues will inevitably do so incompletely and without taking sufficient account of local characteristics, circumstances and objectives.

(e) There is no need for template residential, commercial or rural zones given that such provisions have been developed over decades and, in areas with little growth, do not need to alter notably over time. In contrast, the aspects of plan making that are proving most challenging for councils relate to Part 2 RMA issues in respect of elements such as landscape, ecology and cultural values. The Submitters' observation is that many councils are struggling to determine how best to identify areas that are subject to those Part 2 issues and, having done so, how best to manage and protect those areas. Central government guidance might most appropriately and usefully be applied in those areas and in particular with respect to the process through which that analysis is undertaken.

(f) In summary:

- It is not feasible for a single document to take a sufficiently nuanced approach to the issues in each district. As a consequence, a mandatory document is unlikely to produce provisions that work ideally throughout the country.

- If such a template is mandatory, councils will have limited ability to avoid any aspects that are inappropriate for the district or to disregard or repair inherent flaws in the document.

- Provisions in the template may fail to give effect to the purpose and principles of the RMA in terms of particular matters in particular parts of the country. That is, imposing a substantive outcome through a template may inevitably render provisions unlawful in terms of the RMA as none of the template provisions on offer will be the most appropriate in that circumstance. Whether particular provisions are unlawful will depend upon the local circumstances. Thus provisions that are unlawful in the Auckland urban area may be entirely appropriate in South Canterbury.

None of these problems need arise if national planning standards are optional rather than mandatory for councils.

4. The proposed introduction of mandatory **definitions** of commonly used terms is unnecessary, will be problematic, and fails to recognise the purpose for which terms are defined in planning instruments. While the national planning standards could provide definitions that councils would have a discretion to adopt, mandatory definitions will alter the meaning of provisions and require councils to either amend provisions or develop specific additional definitions in order to ensure that provisions are written in an efficient and clear manner:

   (a) Providing a list of definitions that councils may elect to adopt may prove useful, provided councils have a discretion regarding the use of those definitions. In contrast, imposing definitions on councils is innately problematic and fails to recognise the purpose for which definitions are developed.

   (b) Words and phrases are defined in planning instruments as a means of reducing the quantum of text required in that document. The definitions are developed in conjunction with the relevant rules, with the definition being shorthand for a longer expression that would otherwise need to be inserted repeatedly into the rule. Accordingly, it is the rule that determines the content of the definition, not the reverse.

   (c) Typically different councils adopt different definitions for the same term because the relevant rules will be different in their districts (e.g.: rules that apply in Auckland will, logically, differ from those that will apply in Westland). Accordingly, imposing standard definitions without reference to the content of rules will require councils to invent additional definitions or draft plans in a more complex form in order to ensure that the rules function as intended.

   (d) There is no adverse consequence that arises from different councils using different definitions for different purposes. In each case, the definition should be tuned to the issues that are relevant to the particular council and district or region. Professional advisers and consultants dealing with planning instruments are familiar with the need to review definitions when interpreting provisions and many of them have decades of experience doing just that. Similarly, members of the public are able to refer to and rely upon definitions provided that the structure of the planning instrument is sufficiently clear.

   (e) By seeking to impose mandatory nationwide definitions, the national planning standards discount and discard a drafting technique that has been used for centuries in legal and regulatory documents, namely the express definition of terms to provide clarity in regulation. There is no legal or planning rationale for taking such a radical and unnecessary step.

   (f) As the mandatory definitions are inserted into operative plans, the implications for the interpretation of existing rules will need to be considered and addressed in each district or region with respect to each of the defined terms. Altering the definition or meaning of a word will inevitably alter the meaning of provisions that use the word in random, inconsistent and unpredictable ways. That will generate a need for extensive and potentially contentious and complex plan changes in every affected region or district and will unnecessarily open up the relevant provisions for debate. The costs of those unnecessary plan changes will be borne by councils, their ratepayers and landowners. By way of illustration, it took almost a year to resolve appeals relating to the definition of "*height*" in the Auckland Unitary Plan because of the need to ensure a suitably flexible and nuanced definition. That issue will be reopened if the definition of "*height*" in the national planning standards is made mandatory and additional definitions will be needed or large numbers of rules will need to be changed.

5. The Submitters consider that, in addition to introducing national planning standards, the Ministry should endeavour to develop expertise within central government on elements such as the landscape, coastal and cultural matters that are relevant under Part 2 of the RMA. These are areas in which rural territorial authorities with smaller rating bases but extensive districts, in particular, are struggling to meet their statutory obligations. That expertise might usefully be made available to local authorities so that these aspects of plan preparation are robust and consistent around the country:

   (a) The Submitters' observation is that even relatively small councils are capable of preparing and implementing zones that provide for residential, commercial, industrial, rural and open space activities. In many cases district plan reviews simply roll-over existing provisions that have been refined over many decades. That is particularly the case with councils that are facing relatively low growth pressures.

   (b) In contrast, many councils struggle to deal with the increasing obligations placed upon them under the RMA with respect to Part 2 matters. In particular, the requirements to recognise and provide for the matters of national importance in section 6 impose on councils obligations to identify factors such as the natural character of the coastal environment, wetlands, lakes, rivers and their margins; outstanding natural features and landscapes; areas of significant indigenous vegetation; significant habitats of indigenous fauna; places of particular importance to Maori; and historic heritage. Those are often complex and very expensive tasks involving specialists in a number of disciplines. In addition, there is no relationship between the prevalence and complexity of these features in a given district and its population. In practice, relatively low population regions and districts often contain extensive features of relevance under section 6.

   (c) Accordingly, the Submitters' observation is that smaller councils require far more assistance with and funding in respect of the categorisation and identification of these section 6 matters than with the drafting of relatively straightforward provisions in regional or district planning instruments.

6. The Submitters consider that, if the national planning standards are either to contain substantive provisions (eg: definitions) or to be mandatory, they should be the subject of rigorous testing and the decision makers must be fully informed. In that case, the provisions should, pursuant to section 58D(3)(d) of RMA, be subject to a public hearing process that enables parties to speak to their submissions and the provisions to be tested through cross examination before an independent panel. That approach would increase the probability that errors can be identified and corrected.

   (a) Collectively, the national planning standards, to the extent that they are mandatory and touch upon substantive matters (eg: definitions), will be the single most important planning instrument in the country. They will render tracts of existing planning regulation redundant. In that context the Submitters consider it essential that the Ministry proposes a process for this exceptionally important planning instrument that involves at least the same level of public scrutiny and independent analysis as a district plan.

   (b) At this stage the Ministry proposes to produce its template documents through a public participation process that does not appear to involve cross party mediation, a hearing before independent commissioners or any cross examination. As a consequence, decisions regarding the role, structure and content of the template would be made:

- Without input from independent adjudicators with experience and expertise in plan drafting (e.g.: Environment Court judges or commissioners);

- Without presentation of detailed evidence from independent expert witnesses and interested parties such as the Submitters on the implications of provisions and the range of options available;

- Without the proponents of the provisions having to explain to that independent body why they consider those provisions to be appropriate in terms of the relevant legislation;

- Without evidence in support of the provisions being tested, either by the independent commissioners or by other parties through cross-examination and rebuttal; and

- Without the legal implications of the proposed provisions being tested publicly (including the potential for provisions to conflict with obligations under Part 2 of RMA for the reasons discussed above).

(c) In summary, the drafting of the most important planning instrument in the country will be subject to less formal and independent scrutiny than is the simplest resource consent application put before independent expert commissioners.

(d) In the event that a mandatory/substantive national planning standard is introduced, parties who disagree with it will have no alternative but to issue judicial review or declaration proceedings regarding the lawfulness of the provisions, whether generally or in the context of particular districts and circumstances. The problem with that circumstance is that decisions regarding the lawfulness of the provisions will only be made after those provisions have been given effect to. If such proceedings are successful then the national planning standard may need to be altered along with district plans that give effect to any problematic parts of the template. Such alterations will need to be drafted in such a way as to avoid creating new issues in respect of other locations.

(e) Thus omitting a hearing process for the national planning standards through which the legality of the provisions can be determined before they are introduced will produce ongoing uncertainty and potentially additional long term cost and delay. In contrast, a hearing process for the template would enable the appointed commissioners and/or Environment Court on appeal to assess the lawfulness and appropriateness of provisions. That would enable the refinement and documentation of a document that, as a consequence of that hearing process, should be both lawful and of broader relevance.

SUBMISSION - DRAFT FIRST SET OF NATIONAL PLANNING STANDARDS

Name: Aaron Gray

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Submitter type: Individual

CM-2: Draft noise and vibration metrics standard

1. This is a submission in relation to the CM-2: Draft noise and vibration metrics standard.

2. The submitters are involved in proceedings with Auckland Council and others concerning the correct approach to the assessment of impulsive sound from gunfire.

3. The purpose of the submission is to address apparent confusion in the draft standard in relation to the measurement and assessment of impulsive sound such as gunfire and blasting, which are characterised as a peak sound level (with the descriptor L_{peak}). Impulsive sounds are not properly assessed and measured by applying a rating level expressed in L_{eq} (for a continuous steady sound) or L_{max} in NZS 6802:2008 as implied in paragraph 4 of the draft standard.

4. Paragraph 3 of the draft standard states:

> Any plan rule to manage an emission of noise must be consistent with noise measurement methods in the New Zealand Standards listed in table 30: Acoustic New Zealand Standards below.

5. Paragraph 4 of the draft standard states:

> Any plan rule to manage **an emission of noise** must be consistent with the assessment methods in section 6 Rating Level and section 7 LMAX in New Zealand Standard 6802:2008 Acoustics – Environment Noise.

6. At least as it relates to impulsive sound, paragraphs 3 and 4 of the draft standards appear to be in conflict. This is because for impulsive sound such as gunfire or blasting (impulsive sound being transient sound having a peak level a very short duration, typically less than 100 milliseconds) should be described by the measurement of its peak level as indicated by the descriptor L_{peak} (refer clause 8.6, New Zealand Standard 6801:2008).

7. In comparison, the descriptor for a continuous steady sound is the L_{eq} which is a time average level i.e. L_{eq} is 'a different thing' from the peak level.

8. The assessment and determination of the rating level (as expressed in L_{eq} with adjustments for duration and special audible characteristics) and L_{MAX} in New Zealand Standard 6802:2008 will only be applicable and relevant if the type of sound is generally within the scope of NZS 6801:2008 and NZS 6802:2008.

9. Impulsive sound (gunfire and blasting) is generally outside the scope of NZS 6802:2008 (refer clause 1.2 NZS 6802:2008).

10. An (unintended) implication from the current drafting to the draft New Zealand standard may be a possible interpretation that gun clubs in New Zealand are subject to the assessment criteria requiring the calculation of a rating level (in $L_{eq)}$ and the application of L_{MAX} - when these are not the correct descriptors for impulsive sound.

11. It is submitted that it would not be logical to have a plan rule or draft national standard implying that emission of impulsive sound is to be assessed in a manner consistent (per paragraph 4 of the draft standards) with section 6 Rating Level and section 7 L_{MAX} in New Zealand Standard 6802:2008 Acoustics – Environment Noise – when L_{eq} and L_{max} are not applicable to the assessment of impulsive sound.

> It is important to ensure validity of any draft standard that the draft standard not "overreach" the application of a rating level to types of sounds (such as gunfire and blasting) not intended to be addressed by the descriptors L_{eq} or L_{max}.

12. In the New Zealand context in *Brooks v Western Bay of Plenty District Council*, the Environment Court expressly recognised (based on expert evidence) that general amenity noise standards in New Zealand Standard 6802:2008 were not applicable to impulsive noise.[1]

Outcome sought

13. Suggested drafting to resolve the conflict would be to amend clause 4 of the draft national standard (CM-2: Draft noise and vibration metrics standard) to read (or to same or similar effect):

> Any plan rule to manage an emission of noise must be consistent with the assessment methods in section 6 Rating Level and section 7 L_{MAX} in New Zealand Standard 6802:2008 Acoustics – Environment Noise, provided the emission of noise in question is generally within the scope New Zealand Standard 6802:2008.

14. The submitter requests to be heard in relation to this submission.

Date: 17 August 2018

_Aaron Gray _____
93, Tuhirangi road, Makarau, 0984

[1] *Brooks v Western Bay of Plenty District Council* [2011] NZEnvC 216 at [20].

Submission by Genesis Energy Limited

Trading as Genesis

ON

Draft National Planning Standards

17 August 2018

Submission by Genesis Energy Limited

Trading as Genesis

ON

Draft National Planning Standards

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Submission

Genesis Energy Limited, trading as Genesis ("Genesis") makes this submission on the Draft National Planning Standards, as set out in Table 1 below.

As an organisation with electricity generation assets, and LPG facilities across New Zealand, Genesis supports the intent of the National Planning Standards to improve consistency in plan and policy statement structure, format and content.

By way of introduction, Genesis is New Zealand's largest electricity and gas retailer, supplying energy to more than 650,000 customer connections nationwide. We also generate and trade electricity and natural gas through a diverse range of assets across the country. Genesis' diverse portfolio of assets comprises:

- Thermal generation: The Huntly Power Station, the largest electricity generation facility in New Zealand by capacity (953 MW).
- Hydro generation: Three hydro schemes including Tongariro (361.8 MW, Waikaremoana (138.0 MW) and Tekapo (179.0 MW). These schemes comprise eight power stations (six in the North Island and two in the South Island), and use an extensive range of lakes, rivers and streams for generation purposes
- Other renewable generation: Genesis owns and operates a 7.3 MW wind farm at Hau Nui in the North Island and holds resource consents to establish a wind farm at Castle Hill in the northern Wairarapa.
- A 46% interest in the Kupe Joint Venture, which owns the Kupe oil and gas field.
- A nationwide bottled LPG supply and distribution network.

Genesis' ability to generate electricity is reliant on its ability to appropriately use natural resources. The use of resources is enabled by way of resource consents. Ensuring that resource consents can be renewed and are not adversely affected by changes to rules (that may necessitate reviews) are a key focus area for Genesis.

Given its extensive portfolio of renewable electricity generation assets and resource consents, Genesis also seeks to ensure that RMA planning documents recognise the resource use requirements of renewable electricity generation infrastructure and give effect to the requirements of the National Policy Statement on Renewable Electricity Generation 2011 ("**NPSREG**").

Genesis' specific submission points are presented in the Table 1.

Yours sincerely

Karen Sky
Environmental Manager

Table 1: Draft National Planning Standards – Specific Submission Points

Standard	Support/ Oppose	Reason	**Relief Sought** [New text shown as underlined and deleted text shown as ~~strike through~~] or wording to similar effect
Draft Regional Policy Statement Structure Standard (S-RPS)			
Direction 3	Oppose in Part	Genesis considers that it is appropriate to include a chapter in regional policy statements regarding the management of energy. However, regional policy statements also generally acknowledge matters relating to the provision of energy and infrastructure in other relevant chapters. These include chapters regarding the management of fresh water, the appropriate use of which is a fundamental requirement for Genesis hydro and thermal generation assets. Genesis submits that the National Planning Standards need to continue to provide for this approach so that there is clear integration / expectation as to how natural and physical resources will be managed. The National Planning Standards should not unintentionally compartmentalise the management of natural and physical resources in regional policy statements by way of one chapter simply specifying how key natural resources will be protected or managed, and another chapter including generic provisions regarding the use and development of energy and infrastructure	**Amend** Table 3 (the right-hand column) under Direction 3 as follows: Infrastructure and Energy If infrastructure and energy matters are addressed in the regional policy statement they must be included in the Infrastructure and Energy chapter, acknowledging that matters related to the management of infrastructure and energy may also need to be addressed in other theme chapters (e.g. coastal environment, landscape, landforms and natural character, and water).
New Direction		Genesis considers there is a strong case for energy, including renewable electricity generation, to be located in its own self-contained chapter in planning documents, separate from other infrastructure. Combining energy with infrastructure risks resulting in a generic framework being applied to all infrastructure without recognising specific differences of some forms of infrastructure.	**Separate** Infrastructure and Energy in Part 4 – Themes, creating a **new theme** specifically for Energy. *The amendment sought above regarding the acknowledgment that energy / infrastructure matters may need to be addressed in other chapters will also need to be encompassed for both the Infrastructure and Energy chapters.*
Draft Regional Plan Structure Standard (S-RP)			
Direction 3	Oppose in Part	Genesis considers that it is appropriate to include a chapter in regional plans regarding the management of energy and infrastructure. However, regional plans	**Amend** Table 4 (the right-hand column) under Direction 3 as follows:

Standard	Support/ Oppose	Reason	**Relief Sought** [New text shown as underlined and deleted text shown as ~~strike through~~] or wording to similar effect
		also generally acknowledge matters related to the provision of energy in other relevant chapters. These include chapters regarding the management of fresh water, the appropriate use of which is a fundamental requirement for Genesis hydro and thermal generation assets. Genesis submits that the National Planning Standards need to continue to provide for this approach so that there is clear integration / expectation as to how natural and physical resources will be managed. The National Planning Standards should not unintentionally compartmentalise the management of natural and physical resources in regional policy statements by way of one chapter simply specifying how key natural resources will be protected or managed, and another chapter including generic provisions regarding the use and development of energy and infrastructure	Infrastructure and Energy If a local authority chooses to address matters on a theme basis and infrastructure and energy matters are addressed in the regional plan they must be included in the Infrastructure and Energy chapter, acknowledging that matters related to the management of infrastructure and energy may also need to be addressed in other theme chapters (e.g. coastal environment, landscape, landforms and natural character, and water).
New Direction		Genesis considers there is a strong case for energy, including renewable electricity generation, to be located in its own self-contained chapter in planning documents, separate from other infrastructure. Combining energy with infrastructure risks resulting in a generic framework being applied to all infrastructure without recognising specific differences of some forms of infrastructure.	**Separate** Infrastructure and Energy in Part 4 – Themes, creating a **new theme** specifically for Energy. *The amendment sought above regarding the acknowledgment that energy / infrastructure matters may need to be addressed in other chapters will also need to be encompassed for both the Infrastructure and Energy chapters.*
Draft District Plan Structure Standard (S-DP)			
Direction 3	Oppose in Part	Genesis considers that the National Planning Standards should recognise that it may be appropriate for specific infrastructure and energy matters to be addressed via special purpose zones in some instances. For example, by an Electricity Generation Zone or an Energy Zone. In this regard, there may be examples where power station sites are zoned as specific purposes zones in a manner similar to airports, ports or hospitals.	**Amend** Table 5 (the right-hand column) under Direction 3 as follows: Infrastructure and Energy Local authorities must consider whether sections should also be included in this chapter and include them if they are required…

Standard	Support/ Oppose	Reason	**Relief Sought** [New text shown as underlined and deleted text shown as ~~strike through~~] or wording to similar effect
			Infrastructure and energy matters may also be addressed via specific purpose zones or other provisions that are applicable to the circumstances relating to specific infrastructure and energy matters.
New Direction		Genesis considers there is a strong case for energy, including renewable electricity generation, to be located in its own self-contained chapter in planning documents, separate from other infrastructure. Combining energy with infrastructure risks resulting in a generic framework being applied to all infrastructure without recognising specific differences of some forms of infrastructure.	**Separate** Infrastructure and Energy in Part 4 – Themes, creating a **new theme** specifically for Energy. *The amendment sought above regarding the acknowledgment that energy / infrastructure matters may need to be addressed in other chapters will also need to be encompassed for both the Infrastructure and Energy chapters.*
Combined Plan Structure Standard (S-CP)			
Direction 3 – Table 6	Oppose in Part	Genesis considers that it is appropriate to include a section in an RPS section of a combined plan regarding the management of energy. However, plans also generally acknowledge matters related to the provision of energy and infrastructure in other relevant chapters. These include chapters regarding the management of fresh water, the appropriate use of which is a fundamental requirement for Genesis hydro and thermal generation assets. Genesis submits that the National Planning Standards need to continue to provide for this approach so that there is clear integration / expectation as to how natural and physical resources will be managed. The National Planning Standards should not unintentionally compartmentalise the management of natural and physical resources in combined plans by way of one chapter simply specifying how key natural resources will be protected or managed, and another chapter including generic provisions regarding the use and development of energy and infrastructure	**Amend** Part 3 - Regional Policy Statement (the right-hand column) as follows**:** Infrastructure and Energy If infrastructure and energy matters are addressed in the regional policy statement on a theme basis the must be included int eh infrastructure and energy section, acknowledging that matters related to the management of infrastructure and energy may also need to be addressed in other sections (e.g. coastal environment, landscape, landforms and natural character, and water).
		Genesis considers there is a strong case for energy, including renewable electricity generation, to be located in its own self-contained chapter in planning documents, separate from other infrastructure. Combining energy with infrastructure risks	**Separate** Infrastructure and Energy in Part 3 _ Regional Policy Statement, creating a **new section** specifically for Energy.

Standard	Support/ Oppose	Reason	Relief Sought [New text shown as underlined and deleted text shown as ~~strike through~~] or wording to similar effect
		resulting in a generic framework being applied to all infrastructure without recognising specific differences of some forms of infrastructure.	*The amendment sought above regarding the acknowledgment that energy / infrastructure matters may need to be addressed in other chapters will also need to be encompassed for both the Infrastructure and Energy chapters in the regional plan and district plan sections of a combined plan also.*
Draft Introduction and General Provisions Standard (S-IGP)			
Direction 9	Support	Genesis supports the direction on cross-boundary issues as cross-boundary issues are a common problem for many hydro-electricity generation schemes which may traverse multiple districts. This is the case for the Tongariro Power Scheme which crosses two regional council jurisdictions and three district council jurisdictions. In addition, wind farms are often located in the jurisdictions of multiple councils. For example, the Castle Hill Wind Farm crosses two regional and two district jurisdictions.	**Retain** Direction 9 as proposed.
Draft District Wide Matters Standard (S-DWM)			
Direction 7	Oppose in Part	This direction relates to the district-wide section on landscape, landforms and natural character. Clause (b) refers to objectives, policies, methods and rules "that will ensure the life supporting capacity of these systems are safeguarded". Safeguarding the life-supporting capacity of air, water, soil, and ecosystems is a s5 RMA matter, but it's not clear how it relates specifically to landscape, landforms and natural character elements under Direction 7 – it appears as if the incorrect statutory requirement has been applied. Genesis therefore considers that Direction 7(b) be amended to be consistent with the statutory requirements of the RMA.	**Amend** Direction 7 as follows: 7 If the following matters are to be addressed in combined plans or district plans, they must be located in the Landscape, landforms and natural character section: a. … b. objectives, policies and methods, including rules (if any) that will protect outstanding natural features and landscapes from inappropriate subdivision, use and development, and maintain significant or valued festures and landscapes ~~ensure the life supporting capacity of these systems are safeguarded~~ c. …

Standard	Support/ Oppose	Reason	Relief Sought [New text shown as underlined and deleted text shown as ~~strike through~~] or wording to similar effect
Directions 21 to 25	Support in Part	Genesis considers that there should be separate chapters for Energy and Infrastructure. In respect of Direction 21, District plans must give effect to National Policy Statements, not give effect "to the extent relevant". Genesis has therefore proposed amendments to reflect the statutory requirements. Genesis generally supports the directions on Infrastructure and Energy chapter (however, considers they should be separate standalone chapters). Direction 23c references provisions to manage reverse sensitivity effects between infrastructure / energy and other activities which is supported. Genesis has suggested a change to Direction 23 to separate Energy from Infrastructure and also reference the relevant zone chapters (as Genesis considers that there should be a specific zone in a District Plan for Electricity Generation). Direction 24 usefully references the Noise and Vibration Metrics Standard CM-2, however a change has been proposed to require the measurement methods to be consistent with the New Zealand Standard. Importantly, Direction 25 enables a Special Purpose Zone to be applied to electricity generation. However, Genesis considers that the most efficient approach is to enable a specific "Electricity Generation Zone" to be utilised in a District Plan.	**Amend** the Planning Standard to enable Energy to be a separate chapter from Infrastructure. **Amend** Direction 21 as follows: The Infrastructure and Eenergy chapters must~~, to the extent relevant~~ contain provisions that give effect to: a. National Policy Statement for Renewable Electricity Generation 2011 b. National Policy Statement on Electricity Transmission 2008. **Amend** Direction 23 as follows: If relevant to a local authority, the following matters must be addressed in the Infrastructure and Eenergy chapters, and relevant zone chapters where appropriate, unless provided in a special purpose zone, requirement or designation… **Amend** Direction 24 as follows: Any noise related metrics and measurement methods must be consistent with the Nosie and Vibration Metrics Standard (CM-2).
Direction 31	Support	Direction relates to noise and light section. Clause (d) is supported relating to Plans addressing noise reverse sensitivity.	**Retain** Direction 31 as proposed.
Direction 32	Oppose in Part	A change has been proposed to Direction 32 to reference the measurement methods alongside the noise related metrics.	**Amend** Direction 32 as follows:

Standard	Support/ Oppose	Reason	**Relief Sought** [New text shown as underlined and deleted text shown as ~~strike through~~] or wording to similar effect
			Any noise related metrics and measurement methods must be consistent with the Nosie and Vibration Metrics Standard (CM-2).
Draft Area Specific Matters Standard (S-ASM)			
Direction 7	Support in Part	Genesis supports the intent of Direction 7 in that it enables a special purpose zone to be created. However, it is unclear whether Direction 7 only allows for a special purpose zone to be created if all the criteria are met, or there only needs to be one criterion to be met. Amendments are proposed to clarify that only one criterion needs to be met for a special purpose zone to be created. An additional criterion has been proposed in relation to cross boundary issues – for schemes such as the Tongariro Power Schemes it is appropriate for a specific zone to be proposed so there is a consistent set of provisions applying to the activity across all district plans. Genesis also considers there is a strong case for energy, including renewable electricity generation, to be located in its own self-contained chapter in planning documents, separate from other infrastructure.	Amend Direction 7 as follows: An additional special purpose zone must only be created when the proposed land use activities and anticipated development within the defined area: a. are significant to the district or region; or b. could not be enabled by any other zone; or c. could not be enabled by the introduction of an overlay, precinct, designation, development area, or specific control~~.~~ ; or d. involves cross-boundary issues with another district or region.
Draft Electronic Accessibility and Functionality Standard (F-1)			
Table 18: Standard for baseline accessibility and functionality requirements		Genesis considers that the National Planning Standards should enable planning documents to be viewed as both a single pdf or individual chapter pdfs and that key word search functionality should be available for both whole of plan and individual chapters.	Amend Table 18 as follows: Plan accessibility and functionality …..

Standard	Support/ Oppose	Reason	**Relief Sought** [New text shown as underlined and deleted text shown as ~~strike through~~] or wording to similar effect
			9 Plans and regional policy statements support key word search functionality for both whole of plan and chapter by chapter. 9A. All policy statements and plans prepared under the Resource Management Act 1991 shall be available as a single PDF or as chapter-by-chapter PDFs.
Table 20 – Additional description levels		Genesis considers that functional levels should include having the ability to extract / copy parts of the Plan not just "download, print out and provide".	**Amend** Table 20, Level 5 as follows: Ability to download, print out, extract and provide, without alteration, a hard copy version of the plan which includes planning maps (in part of the entire document).
Draft Definitions Standard (CM-1)			
Definition of 'Ancillary Activity'	Support in Part	The definition is supported subject to the term for 'site' being appropriately defined (as sought below).	**Retain** the definition (subject to the modifications to the definition of 'Site').
Definition of 'Building'	Oppose in Part	There is a potential issue with the 'building' definition specifying "…enclosed with two or more walls and a roof, or any structure that is similarly enclosed". For example, hydro dams can include internal rooms that are enclosed by walls and a roof, but the rooms are not the principle purpose. That is, a dam (and its internal components) should be classified as a 'structure' and specifically excluded from the 'building' definition. The same would apply to other enclosed structures, such as tunnels, pipelines, and wind turbine towers. The examples given above are all types of 'infrastructure' as defined in the RMA, which are generally structures that are managed differently in policy statements and plans from other types of 'buildings'. It is therefore considered appropriate to exclude 'infrastructure' from the 'building' definition.	**Amend** the definition as follows: Building - means any structure, whether temporary or permanent, moveable or fixed, that is enclosed, with 2 or more walls and a roof~~, or any structure that is similarly enclosed~~

Standard	Support/ Oppose	Reason	Relief Sought [New text shown as underlined and deleted text shown as ~~strike through~~] or wording to similar effect
		An amendment to the definition has been proposed to remove the subjectivity to the definition (which will have the effect of enabling infrastructure to be excluded and managed differently to buildings). This will not affect the ability of plans to control and manage the effects (including bulk and location) of infrastructure, or of structures more generally.	
Definition of 'Cleanfill'	Oppose in Part	The proposed definition does not distinguish between cleanfill (being natural materials such as clay, gravel, sand, soil and rock which may be deposited on a site as fill during earthworks) and cleanfill sites (which are sites where cleanfill material may be deposited). They are two different concepts, and both should be defined in the National Planning Standards.	**Amend** the definition as follows: Cleanfill Site - means an area used for the disposal of exclusively inert, non-decomposting material. AND **insert** the following definition: Cleanfill - means natural material such as clay, gravel, sand, soil and rock which has been excavated or quarried from areas that are not contaminated with manufactured chemicals or chemical residues as a result of industrial, commercial, mining or agricultural activities.
Definition of 'Drain'	Oppose in Part	The definition as drafted refers to any artificial watercourse that is designed, constructed or used for the purpose of the drainage of surface or subsurface water and is too broad. Genesis considers that the definition should be amended to make it explicitly clear that the definition of drain excludes a canal (being an artificial watercourse) for electricity generation, irrigation or water supply purposes.	**Amend** the definition as follows: Drain - means any artificial watercourse, open or piped, that is designed and constructed, or used, for the purpose of the drainage of surface or subsurface water (but excludes any artificial watercourse for the conveyance of water for electricity generation, irrigation or water supply purposes).
Definition of 'Drinking Water'	Oppose in Part	Genesis considers the reference to "intended to be used" in this definition, with respect to the use of water, introduces unnecessary subjectivity to the definition. Definitions should be clear and concise; therefore, this degree of subjectivity is not supported. Genesis considers that the definition should be focused on the current use of water and the authorised use of water (i.e via resource consent).	**Amend** the definition as follows: Drinking water - means water ~~intended to be~~ used or authorised to be used for human consumption, and includes water ~~intended to be~~ used or authorised to be used for food preparation, utensil washing, and oral or other personal hygiene.

Standard	Support/ Oppose	Reason	Relief Sought [New text shown as underlined and deleted text shown as ~~strike through~~] or wording to similar effect
Definition of 'Dust'	Oppose in Part	There is an issue with how this definition is drafted, particularly in respect of ash which is a by-product of combustion, but the definition refers to non-combusted particulate matter. Genesis has proposed an amendment to reflect the intent.	**Amend** the definition as follows: Dust - means all ~~non-combusted~~ particulate matter that is suspended in the air or has settled after being airborne. Dust may be derived from various materials including sand, cement, fertiliser, coal, soil, paint, ash, animal products or wood.
Definition of 'Footprint'	Oppose in Part	The proposed definition for the term 'footprint' refers to 'ground floor level'. For consistency with other defined terms Genesis considers that the definition should refer to 'ground level'.	Amend the definition as follows: Footprint - means the total area of structures at ground ~~floor~~ level and the area of any section of any of those structures that protrudes directly above the ground.
Definition of 'Functional Need'	Oppose in Part	While the definition of 'Functional Need' is not opposed by Genesis, there are both functional (can only occur in that location) and operational (technical requirements arising because of that location) needs for infrastructure that should be recognised. Genesis' opposition in part to the definition is primarily in relation to a definition being not proposed in the Draft National Planning Standards for 'Operational Need'. The definition does not account for the operational needs of activities that may impact on where they can be located. The NPSREG recognises the concept of functional need as well as operational need in the context of renewable electricity generation activities. Examples of technical, logistical or operational characteristics or constraints may include: • The ability to transmit electricity from where it is generated to where it is used (i.e. proximity to suitable transmission or distribution infrastructure); • The design and placement of wind turbines within a windfarm to minimise turbulence effects; and • The ramping rates for hydro-electricity reservoirs to meet operational and market conditions.	**Retain** the definition of Functional Need: Functional need - means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment AND **insert** a definition for Operational Need as follows: Operational need – means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical or operational characteristics or constraints.

Standard	Support/ Oppose	Reason	Relief Sought [New text shown as underlined and deleted text shown as ~~strike through~~] or wording to similar effect
		Many RMA planning documents contain definitions for both functional and operation needs of infrastructure. This includes the Auckland Unitary Plan – Operative in Part, which considers whether the infrastructure has a functional or operational need to be located in, or, traverse a proposed location. Genesis considers that both functional need and operational should be defined in the National Planning Standards.	
Definition of 'height' in a District Plan context	Oppose in Part	The definition proposed is problematic for structures in or on the beds of lakes and rivers. The amendments proposed by Genesis would allow district plan rules to specify a separate reference point (i.e. other than ground level) when measuring height, for certain purposes. Therefore, bespoke height rules could be drafted to address the complexities of measuring the height in relation to electricity generation infrastructure (for example, dams).	**Amend** the definition as follows: Height - means the vertical distance between ~~ground level at any point and~~ the highest part of ~~the~~ a structure ~~immediately above that point~~ and a reference point. The reference point is ground level, unless otherwise stated in a rule.
Definition of 'height' in a Regional Policy Statement and Regional Plan context	Support	Genesis supports the definition proposed.	**Retain** the definition.
Definition of 'Industrial Activity'	Oppose in Part	Genesis considers that the proposed definition is too narrow in scope and could have the unintended consequence of excluding many existing industrial activities, including activities undertaken within industrial zones. In particular, clause (a) needs to be broader than just applying to "*goods*". Genesis therefore considers that the definition should include a reference to "*industrial or trade process*" as defined in the RMA. Including references to the RMA term expressly captures the chain of process from receipt of raw materials through to dispatch or use in another processes and acknowledges that an industrial activity can involve the use, storage, treatment or disposal of waste material, and the discharge of contaminants (e.g. air discharges) associated with the industrial or trade processes.	Amend the definition as follows: Industrial activity - means an activity for the primary purpose of: (a) manufacturing, fabricating, processing, packing, storing, maintaining, or repairing goods; or (b) research laboratories used for scientific, industrial or medical research; or (c) yard based storage, distribution and logistics activities; or (d) undertaking an industrial or trade process (as defined in section 2 of the RMA); or (~~d~~e) any training facilities for any of the above activities
Definition of 'Notional Boundary'	Support	Genesis supports the definition of Notional Boundary.	**Retain** the definition.

Standard	Support/ Oppose	Reason	Relief Sought [New text shown as underlined and deleted text shown as ~~strike through~~] or wording to similar effect
Definition of 'Reverse Sensitivity'	Oppose in Part	As an owner and operator of large electricity infrastructure assets, Genesis supports having a definition of 'Reverse Sensitivity', which is a key RMA matter of importance to the sector. However, Genesis considers that there are two issues with the proposed definition. 1. The definition applies to existing lawfully established activities but not unimplemented consented activities. The MfE Evaluation Report states that "such [consented but unimplemented] activities form part of the existing environment, and therefore are caught by the term "existing activity"." Genesis does not agree with this – there is a high degree of uncertainty as to whether unimplemented consents are considered an existing activity. MfE's intent that unimplemented consents be captured as part of the Reverse Sensitivity definition needs to be made explicit. Genesis has therefore proposed amendments to the definition to capture the intent. 2. The proposed definition also implies that the new activity sensitive to the existing activity must be recently established in order for there to be a reverse sensitivity effect. It is common for plans to seek the avoidance of reverse sensitivity effects from the outset which may mean the sensitive activity is not established in a particular locality. For example, there are often provisions in plans that seek to avoid sensitive activities such as residential activities establishing around a power station or other electricity generation infrastructure. The definition should therefore refer also to the "potential establishment" of new activities.	**Amend** the definition as follows: Reverse sensitivity - means the potential for the operation of ~~an~~ consented (but unimplemented) or existing lawfully established activity to be compromised, constrained, or curtailed by the more recent establishment, potential establishment, or alteration of another activity which may be sensitive to the actual, potential or perceived adverse environmental effects generated by ~~an~~ consented (but unimplemented) or existing activity.
Definition of 'Setback'	Support	Genesis supports the definition as proposed.	**Retain** the proposed definition of 'Setback'.
Definition of 'Sewage'	Support	The definition is supported in so far as it refers to *"…any waste in water from industrial or commercial processes".* 'Sewage' is referred to in the definition for 'wastewater' which is also supported. Any change to the definition for 'sewage' may require a consequential change to the 'wastewater' definition to ensure it continues to capture the liquid waste from an industrial or trade premises/process.	**Retain** the definition.

Standard	Support/ Oppose	Reason	**Relief Sought** [New text shown as underlined and deleted text shown as ~~strike through~~] or wording to similar effect
Definition of 'Site'	Oppose in Part	Genesis has proposed amendments to the definition to cover circumstances where a hydro scheme covering a dam, spillway, power station and switchyard may be regarded as a "site", given it is generally managed as an integrated activity (or site). The amendments enable rules to determine what constitutes to be a "site" as well as the proposed definition. These amendments provide sufficient flexibility to allow for local circumstances in relation to the management of specific "sites" that would not be considered "sites" under the proposed definition.	**Amend** the definition as follows: means: a) an area of land comprised in a single computer freehold register (record of title as per Land Transfer Act 2017); or b) an area of land which comprises two or more adjoining legally defined allotments in such a way that the allotments cannot be administered separately without the prior consent of the council; or c) the land comprised in a single allotment or balance area on an approved survey plan of subdivision for which a separate computer freehold register could be issued without further consent of the Council; or d) in the case of land subdivided under the Unit Title Act 1972 or the cross lease system, a site is deemed to be the whole of the land subject to the unit development or cross lease; or e) an area of adjacent land comprised in two or more computer freehold registers where an activity is occurring or proposed unless otherwise stated in a rule.
Definition of 'Small Scale Renewable Electricity Generation'		Genesis supports the definition as proposed.	**Retain** the definition.
Definition of 'Special Audible Characteristics'	Oppose in Part	The definition does not currently provide sufficient certainty, such as the location where its "subjective acceptability" is applied or how it is assessed. Any 'special audible characteristics' should only apply at the 'notional boundary' (as defined by the draft Standard) and its assessment should be in accordance with a relevant Acoustic New Zealand Standard.	Amend the definition as follows: Special audible characteristics - means sound that has a distinctive characteristic such as tonality or impulsiveness which affects its subjective acceptability assessed (unless otherwise stated in a rule) at the notional boundary in accordance with the applicable New Zealand Acoustical Standard.

Standard	Support/ Oppose	Reason	**Relief Sought** [New text shown as underlined and deleted text shown as ~~strike through~~] or wording to similar effect
Definition of 'Structure'	Oppose in Part	The definition of 'structure' differs from the definition given in section 2 of the RMA. The MfE Consultation Document and the MfE Evaluation Report both state that any definition already contained within the RMA is applied verbatim where it is seen as fit for purpose. MfE has not provided any commentary as to why the definition has been changed or why it is considered to not be fit for purpose. Having two definition makes it extremely unclear as to which definition – the RMA or the National Planning Standards takes the priority. If there are activities that are not considered structures (based on the definition in the RMA) or buildings (based on the definition in the Standards) – such as containers or scaffolding, then there is still the ability for district councils to regulate these activities without amending the definition of structure. Genesis considers that if the RMA definition is no longer fit for purpose, then the National Planning Standard should not be used as the vehicle make changes to legislative definitions.	**Delete** the definition of 'Structure' from the National Planning Standards and rely on the RMA definition. Below shows the National Planning Standards definition with the changes required to amend it to the RMA definition. Structure - means any building, equipment, device, or other facility made by people and which is fixed to ~~or located on~~ land; and includes any raft~~, but excludes motorised vehicles that be moved under their own power~~.
Definition of 'Wastewater'	Support	The definition is supported in so far as it refers to 'sewage' which itself is defined as *"…any waste in water from industrial or commercial processes".* Any change to the definition for 'sewage' may require a consequential change to the 'wastewater' definition to ensure it continues to capture the liquid waste from an industrial or trade premises/process.	**Retain** the definition.
Draft Noise and Vibration Metrics Standard (CM-2)			
Directions 3 and 4		The wording of Direction 3 requires any plan rules that manage noise must be consistent with the noise measurement methods of the New Zealand Standards. However, there is no requirement in the Standard for plan rules to adopt the corresponding noise metrics contained in the New Zealand Standards. Genesis has proposed amendments to appropriately implement the relevant acoustic New Zealand Standards	**Amend** Directions 3 and 4 as follows: 3. Any plan rule to manage an emission of noise must be consistent with the noise related metrics and noise measurement methods in the New Zealand Standards listed in table 30: Acoustic New Zealand Standards below.

Standard	Support/ Oppose	Reason	**Relief Sought** [New text shown as underlined and deleted text shown as ~~strike through~~] or wording to similar effect
			Table 30: Acoustic New Zealand Standards referenced … ~~4.Any plan rule to manage an emission of noise must be consistent with the assessment methods in section 6 Rating Level and section 7 LMAX in New Zealand Standard 6802:2008 Acoustics – Environment Noise.~~

ellisgould
LAWYERS

17 August 2018

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Dear Sir / Madam

Feedback on Draft National Planning Standards notified June 2018

The Ministry for the Environment has invited public feedback by **17 August 2018** on the first draft set of National Planning Standards.

This feedback is made on behalf of the following clients of Ellis Gould (collectively "**the Submitters**"):

1. **CDL Land NZ Limited**, a land development company with a particular focus on greenfields residential development. CDL has undertaken significant residential development throughout New Zealand including most notably in Auckland, Hamilton and Christchurch.

2. **Kiwi Property Group Limited**, New Zealand's largest diversified property company with a property portfolio throughout New Zealand valued at $3.1 billion. Kiwi has a particular focus on creating town and metropolitan centres and has extensive investments in shopping centres and landmark office towers. Kiwi has assets in the Auckland and Wellington regions, Christchurch, Hamilton and Palmerston North. Kiwi has extensive experience with national, regional and local planning instruments.

3. **The National Trading Company of New Zealand Limited**, being the property holding and development arm of Foodstuffs North Island Limited which is the cooperative through which New World, Pak'n Save and Four Square supermarkets are established and operated in the North Island. NTC has responsibility for developing, maintaining and upgrading supermarkets throughout the North Island and has extensive experience working with national, regional and local planning instruments.

4. **Ngati Whatua Orakei Whai Rawa Limited**, which is the commercial arm of the Ngati Whatua Orakei Group, responsible for protecting and building the asset base of Ngati Whatua Orakei. The company has landholdings in the Auckland Region and is currently redeveloping and intensifying urban landholdings that have historically been developed at a relatively low density but which are now earmarked under the Auckland Unitary Plan (Operative in Part) for significantly more intensive urban development.

5. **Tramco Group Limited**, a property investment entity with extensive assets in urban and rural areas of the country (e.g.: Viaduct Harbour and Wynyard Quarter, Central Auckland). Tramco has worked with and submitted on planning instruments over many years.

6. **The Waitakere Ranges Protection Society Incorporated**, an incorporated society that was founded in 1973 and has a particular interest in the legislative and planning framework applying to the Waitakere Ranges, on the western edge of Auckland. The Society has extensive experience with national, regional and local planning instruments and considers that the Waitakere Ranges Heritage Area Act 2008 appropriately identifies the unique characteristics of the Waitakere Ranges.

The Submitters' feedback is **annexed** to this letter. The feedback is intentionally high level in nature rather than being a detailed analysis of the content of the draft national planning standards. In summary:

1. National planning standards regarding the format and content of district and regional planning instruments are likely to be a useful resource for smaller councils with extensive districts but which lack the resourcing required to develop effective plans.

2. It is unnecessary and counterproductive to impose such documents on all councils, however, and in particular on larger councils that face district or region specific issues and have the resources needed to develop appropriate provisions and planning instruments. The Submitters ask the Ministry:

   (a) To introduce national planning standards that councils may elect to adopt but are not required to use.

   (b) Alternatively, to exempt large councils and those facing distinctive local issues (eg: Auckland Council, Hamilton City Council, Tauranga City Council, the Greater Wellington Region, Christchurch City Council and Queenstown Lakes District Council) from complying with the standards.

   (c) In any event, to exempt Auckland Council from complying with the standards given, in particular, the exhaustive Auckland Unitary Plan process which is only now coming to an end and has transformed the planning framework for New Zealand's largest and most complex urban area.

3. The Submitters consider that national planning standards are best suited to addressing structural issues rather than the substance of rules. The first set of draft national planning standards is primarily concerned with structural matters but notably includes a standard regarding definitions which will have significant substantive implications (discussed below). The issues that arise throughout parts of New Zealand differ markedly and, accordingly, the planning provisions and outcomes sought will also differ. There are sound practical reasons why resource management issues are appropriately addressed at a local or regional level and endeavouring to draft substantive planning provisions with universal application is likely to create practical difficulties for councils.

4. The introduction of standard mandatory definitions is unnecessary and fails to recognise the purpose for which terms are defined in planning instruments. While the national planning standards could contain definitions that councils would have a discretion to adopt, mandatory definitions will alter the meaning of provisions and require councils to either amend provisions or develop specific additional definitions in order to ensure that provisions are written in an efficient and clear manner.

5. The Submitters consider that, in addition to introducing national planning standards, the Ministry should endeavour to develop expertise within central government on elements such as the landscape, coastal and cultural matters that are relevant under Part 2 of the Resource Management Act. These are areas in which rural territorial authorities with smaller rating bases but extensive districts, in particular, are struggling to meet their statutory obligations. That expertise might usefully be made available to local authorities so that these aspects of plan preparation are robust and consistent around the country.

6. The Submitters consider that, if the national planning standards are either to contain substantive provisions (eg: definitions) or to be mandatory, they should be the subject of rigorous testing and the decision makers must be fully informed. In that case, the provisions should, pursuant to section 58D(3)(d) of RMA, be subject to a public hearing process that enables parties to speak to their submissions and the provisions to be tested through cross examination before an independent panel. That approach would increase the probability that errors can be identified and corrected.

The Submitters would be pleased to meet with Ministry staff to discuss this submission in greater detail.

Yours faithfully
ELLIS GOULD

[redacted]

ANNEXURE

Detailed Feedback on First Draft National Planning Standards

Function of Template

1. National planning standards regarding the format and content of district and regional planning instruments are likely to be a useful resource for smaller councils with extensive districts but which lack the resourcing required to develop effective plans:

   (a) Under New Zealand's resource management legislation, significant responsibility is devolved to territorial authorities. While central government has made increasing use of the National Policy Statement and National Standard mechanisms, the administrative load on councils has remained high. That is particularly true of rural councils that have a limited rating base but have extensive regulatory and legislative responsibilities over physically extensive parts of the country, which in many cases contain landscapes or resources that raise challenging issues in terms of Part 2 of the RMA.

   (b) Those legislative responsibilities require territorial authorities to undertake extensive analyses of the resources in their district and to fund the preparation of planning instruments together with the related hearing and appeal processes. In that context, it would be beneficial to such councils if there could be guidance from the Ministry as to the form and structure of planning instruments.

2. It is unnecessary and counterproductive to impose such documents on all councils, however, and in particular on larger councils that face particular issues and have the resources needed to develop appropriate provisions and planning instruments:

   (a) It is important that the national planning standards function as useful tools and sources rather than act as straight-jackets into which councils must fit their local issues and responses, regardless of the extent to which the national planning standard model is suited to the local response.

   (b) These issues are particularly apparent in the larger centres such as Auckland, Hamilton, Tauranga, Wellington and Christchurch, where unique geographical conditions apply in the context of specific growth and environmental pressures and populations have differing expectations as to how their community should develop. Such councils have the resourcing and technical support required to develop their own plans (although they should be free to adopt or integrate ideas found in national planning standards).

   (c) Accordingly, the Submitters ask the Ministry to introduce national standards that councils may elect to adopt but are not required to use. That is, the templates would be a resource available to councils that lack the capacity or funding to undertake their statutory obligations but will not be forced on larger, more capable councils. Councils should be able to amend and refine the provisions as they think fit in order to fit them to the particular circumstances and objectives of their district.

   (d) Alternatively, large councils and those facing distinctive local issues (eg: Auckland Council, Hamilton City Council, Tauranga City Council, the Greater Wellington Region, Christchurch City Council and Queenstown Lakes District Council), should be exempted from complying with the standards.

(e) In any event, Auckland Council should be exempted from compliance with the standards given:

- The fact that it is only now completing an exhaustive five year Unitary Plan process which has comprehensively changed and reformatted the planning structure for the area.

- The size and extent of the Auckland Council area and its unique geographical setting and growth pressures, which give rise to regionally specific and unique issues and, as a consequence, unique planning solutions.

- The challenges inherent in trying to devise national planning standards that suit a city and region as complex as Auckland while remaining useful for smaller councils that face very different issues.

3. The Submitters consider that national planning standards are best suited to addressing structural issues rather than the substance of rules. The first set of standards is primarily concerned with structural matters but notably includes a standard regarding definitions which will have significant substantive implications (discussed in detail below). The Submitters make the following general observations regarding why resource management issues are appropriately addressed at a local or regional level and why drafting substantive planning provisions with universal application is likely to create practical difficulties for councils:

(a) During the Ministry's briefing sessions with the public, comment has been made regarding the possibility of further national planning standards being issued to deal with substantive matters such as the content of rules. The Submitters ask that no such substantive national planning standards be introduced.

(b) The Resource Management Act devolves responsibility for land use and resource planning to regional and local authorities because of the variability in issues, conditions and responses throughout the country. Those regional and local differences also militate against the ability of central government to develop a single template governing substantive planning matters that could or should apply universally throughout the country. By way of example, territorial authority areas in New Zealand can differ markedly in terms of:

- The presence or absence of landscapes and ecological resources that would warrant consideration in terms of section 6 of the RMA;

- The sensitivity of land and waterspace and the risk of particular problems or adverse effects (eg: nitrification of water bodies; erosion) arising from activities or land management techniques;

- The extent and prevalence of public land;

- The nature of predominant land uses;

- Population and population density and distribution;

- Urban form and matters that influence and constrain that;

- Population growth pressures; and

- Local visions and aspirations.

(c) That variability poses real risks if the provisions are mandatory, particularly where expectations as to planning outcomes, and hence the content of planning instruments, differ. The most obvious example is Auckland where the newly operative Auckland Unitary Plan proposes a significant intensification of development, accompanied by reduced standards in terms of matters such as carparking, side yards and height in relation to boundary controls. Furthermore, ongoing population growth and intensification will allow some adverse effects to be absorbed faster in Auckland than in other areas of the country (where a more conservative approach to activities might be warranted). As a consequence, outcomes that are effectively required to manage, say, the Auckland urban area in a sustainable manner are outcomes that may be an anathema to residents of smaller, regional centres with lower growth such as Whanganui and simply irrelevant to areas such as Westland.

(d) Planning provisions require careful drafting to ensure that they balance competing interests appropriately within a district, zone or neighbourhood. That process is challenging enough in the context of a single district plan. It is not possible for a national planning standard drafter to include in a template substantive provisions that account for all circumstances in all zones in all parts of New Zealand. A template that endeavours to address substantive issues will inevitably do so incompletely and without taking sufficient account of local characteristics, circumstances and objectives.

(e) There is no need for template residential, commercial or rural zones given that such provisions have been developed over decades and, in areas with little growth, do not need to alter notably over time. In contrast, the aspects of plan making that are proving most challenging for councils relate to Part 2 RMA issues in respect of elements such as landscape, ecology and cultural values. The Submitters' observation is that many councils are struggling to determine how best to identify areas that are subject to those Part 2 issues and, having done so, how best to manage and protect those areas. Central government guidance might most appropriately and usefully be applied in those areas and in particular with respect to the process through which that analysis is undertaken.

(f) In summary:

- It is not feasible for a single document to take a sufficiently nuanced approach to the issues in each district. As a consequence, a mandatory document is unlikely to produce provisions that work ideally throughout the country.

- If such a template is mandatory, councils will have limited ability to avoid any aspects that are inappropriate for the district or to disregard or repair inherent flaws in the document.

- Provisions in the template may fail to give effect to the purpose and principles of the RMA in terms of particular matters in particular parts of the country. That is, imposing a substantive outcome through a template may inevitably render provisions unlawful in terms of the RMA as none of the template provisions on offer will be the most appropriate in that circumstance. Whether particular provisions are unlawful will depend upon the local circumstances. Thus provisions that are unlawful in the Auckland urban area may be entirely appropriate in South Canterbury.

None of these problems need arise if national planning standards are optional rather than mandatory for councils.

4. The proposed introduction of mandatory **definitions** of commonly used terms is unnecessary, will be problematic, and fails to recognise the purpose for which terms are defined in planning instruments. While the national planning standards could provide definitions that councils would have a discretion to adopt, mandatory definitions will alter the meaning of provisions and require councils to either amend provisions or develop specific additional definitions in order to ensure that provisions are written in an efficient and clear manner:

   (a) Providing a list of definitions that councils may elect to adopt may prove useful, provided councils have a discretion regarding the use of those definitions. In contrast, imposing definitions on councils is innately problematic and fails to recognise the purpose for which definitions are developed.

   (b) Words and phrases are defined in planning instruments as a means of reducing the quantum of text required in that document. The definitions are developed in conjunction with the relevant rules, with the definition being shorthand for a longer expression that would otherwise need to be inserted repeatedly into the rule. Accordingly, it is the rule that determines the content of the definition, not the reverse.

   (c) Typically different councils adopt different definitions for the same term because the relevant rules will be different in their districts (e.g.: rules that apply in Auckland will, logically, differ from those that will apply in Westland). Accordingly, imposing standard definitions without reference to the content of rules will require councils to invent additional definitions or draft plans in a more complex form in order to ensure that the rules function as intended.

   (d) There is no adverse consequence that arises from different councils using different definitions for different purposes. In each case, the definition should be tuned to the issues that are relevant to the particular council and district or region. Professional advisers and consultants dealing with planning instruments are familiar with the need to review definitions when interpreting provisions and many of them have decades of experience doing just that. Similarly, members of the public are able to refer to and rely upon definitions provided that the structure of the planning instrument is sufficiently clear.

   (e) By seeking to impose mandatory nationwide definitions, the national planning standards discount and discard a drafting technique that has been used for centuries in legal and regulatory documents, namely the express definition of terms to provide clarity in regulation. There is no legal or planning rationale for taking such a radical and unnecessary step.

   (f) As the mandatory definitions are inserted into operative plans, the implications for the interpretation of existing rules will need to be considered and addressed in each district or region with respect to each of the defined terms. Altering the definition or meaning of a word will inevitably alter the meaning of provisions that use the word in random, inconsistent and unpredictable ways. That will generate a need for extensive and potentially contentious and complex plan changes in every affected region or district and will unnecessarily open up the relevant provisions for debate. The costs of those unnecessary plan changes will be borne by councils, their ratepayers and landowners. By way of illustration, it took almost a year to resolve appeals relating to the definition of "*height*" in the Auckland Unitary Plan because of the need to ensure a suitably flexible and nuanced definition. That issue will be reopened if the definition of "*height*" in the national planning standards is made mandatory and additional definitions will be needed or large numbers of rules will need to be changed.

5. The Submitters consider that, in addition to introducing national planning standards, the Ministry should endeavour to develop expertise within central government on elements such as the landscape, coastal and cultural matters that are relevant under Part 2 of the RMA. These are areas in which rural territorial authorities with smaller rating bases but extensive districts, in particular, are struggling to meet their statutory obligations. That expertise might usefully be made available to local authorities so that these aspects of plan preparation are robust and consistent around the country:

   (a) The Submitters' observation is that even relatively small councils are capable of preparing and implementing zones that provide for residential, commercial, industrial, rural and open space activities. In many cases district plan reviews simply roll-over existing provisions that have been refined over many decades. That is particularly the case with councils that are facing relatively low growth pressures.

   (b) In contrast, many councils struggle to deal with the increasing obligations placed upon them under the RMA with respect to Part 2 matters. In particular, the requirements to recognise and provide for the matters of national importance in section 6 impose on councils obligations to identify factors such as the natural character of the coastal environment, wetlands, lakes, rivers and their margins; outstanding natural features and landscapes; areas of significant indigenous vegetation; significant habitats of indigenous fauna; places of particular importance to Maori; and historic heritage. Those are often complex and very expensive tasks involving specialists in a number of disciplines. In addition, there is no relationship between the prevalence and complexity of these features in a given district and its population. In practice, relatively low population regions and districts often contain extensive features of relevance under section 6.

   (c) Accordingly, the Submitters' observation is that smaller councils require far more assistance with and funding in respect of the categorisation and identification of these section 6 matters than with the drafting of relatively straightforward provisions in regional or district planning instruments.

6. The Submitters consider that, if the national planning standards are either to contain substantive provisions (eg: definitions) or to be mandatory, they should be the subject of rigorous testing and the decision makers must be fully informed. In that case, the provisions should, pursuant to section 58D(3)(d) of RMA, be subject to a public hearing process that enables parties to speak to their submissions and the provisions to be tested through cross examination before an independent panel. That approach would increase the probability that errors can be identified and corrected.

   (a) Collectively, the national planning standards, to the extent that they are mandatory and touch upon substantive matters (eg: definitions), will be the single most important planning instrument in the country. They will render tracts of existing planning regulation redundant. In that context the Submitters consider it essential that the Ministry proposes a process for this exceptionally important planning instrument that involves at least the same level of public scrutiny and independent analysis as a district plan.

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- Without the proponents of the provisions having to explain to that independent body why they consider those provisions to be appropriate in terms of the relevant legislation;

- Without evidence in support of the provisions being tested, either by the independent commissioners or by other parties through cross-examination and rebuttal; and

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(c) In summary, the drafting of the most important planning instrument in the country will be subject to less formal and independent scrutiny than is the simplest resource consent application put before independent expert commissioners.

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(e) Thus omitting a hearing process for the national planning standards through which the legality of the provisions can be determined before they are introduced will produce ongoing uncertainty and potentially additional long term cost and delay. In contrast, a hearing process for the template would enable the appointed commissioners and/or Environment Court on appeal to assess the lawfulness and appropriateness of provisions. That would enable the refinement and documentation of a document that, as a consequence of that hearing process, should be both lawful and of broader relevance.

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17 August 2018

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Dear Sir / Madam

Feedback on Draft National Planning Standards notified June 2018

The Ministry for the Environment has invited public feedback by **17 August 2018** on the first draft set of National Planning Standards.

This feedback is made on behalf of the following clients of Ellis Gould (collectively "**the Submitters**"):

1. **CDL Land NZ Limited**, a land development company with a particular focus on greenfields residential development. CDL has undertaken significant residential development throughout New Zealand including most notably in Auckland, Hamilton and Christchurch.

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6. **The Waitakere Ranges Protection Society Incorporated**, an incorporated society that was founded in 1973 and has a particular interest in the legislative and planning framework applying to the Waitakere Ranges, on the western edge of Auckland. The Society has extensive experience with national, regional and local planning instruments and considers that the Waitakere Ranges Heritage Area Act 2008 appropriately identifies the unique characteristics of the Waitakere Ranges.

The Submitters' feedback is **annexed** to this letter. The feedback is intentionally high level in nature rather than being a detailed analysis of the content of the draft national planning standards. In summary:

1. National planning standards regarding the format and content of district and regional planning instruments are likely to be a useful resource for smaller councils with extensive districts but which lack the resourcing required to develop effective plans.

2. It is unnecessary and counterproductive to impose such documents on all councils, however, and in particular on larger councils that face district or region specific issues and have the resources needed to develop appropriate provisions and planning instruments. The Submitters ask the Ministry:

   (a) To introduce national planning standards that councils may elect to adopt but are not required to use.

   (b) Alternatively, to exempt large councils and those facing distinctive local issues (eg: Auckland Council, Hamilton City Council, Tauranga City Council, the Greater Wellington Region, Christchurch City Council and Queenstown Lakes District Council) from complying with the standards.

   (c) In any event, to exempt Auckland Council from complying with the standards given, in particular, the exhaustive Auckland Unitary Plan process which is only now coming to an end and has transformed the planning framework for New Zealand's largest and most complex urban area.

3. The Submitters consider that national planning standards are best suited to addressing structural issues rather than the substance of rules. The first set of draft national planning standards is primarily concerned with structural matters but notably includes a standard regarding definitions which will have significant substantive implications (discussed below). The issues that arise throughout parts of New Zealand differ markedly and, accordingly, the planning provisions and outcomes sought will also differ. There are sound practical reasons why resource management issues are appropriately addressed at a local or regional level and endeavouring to draft substantive planning provisions with universal application is likely to create practical difficulties for councils.

4. The introduction of standard mandatory definitions is unnecessary and fails to recognise the purpose for which terms are defined in planning instruments. While the national planning standards could contain definitions that councils would have a discretion to adopt, mandatory definitions will alter the meaning of provisions and require councils to either amend provisions or develop specific additional definitions in order to ensure that provisions are written in an efficient and clear manner.

5. The Submitters consider that, in addition to introducing national planning standards, the Ministry should endeavour to develop expertise within central government on elements such as the landscape, coastal and cultural matters that are relevant under Part 2 of the Resource Management Act. These are areas in which rural territorial authorities with smaller rating bases but extensive districts, in particular, are struggling to meet their statutory obligations. That expertise might usefully be made available to local authorities so that these aspects of plan preparation are robust and consistent around the country.

6. The Submitters consider that, if the national planning standards are either to contain substantive provisions (eg: definitions) or to be mandatory, they should be the subject of rigorous testing and the decision makers must be fully informed. In that case, the provisions should, pursuant to section 58D(3)(d) of RMA, be subject to a public hearing process that enables parties to speak to their submissions and the provisions to be tested through cross examination before an independent panel. That approach would increase the probability that errors can be identified and corrected.

The Submitters would be pleased to meet with Ministry staff to discuss this submission in greater detail.

Yours faithfully
ELLIS GOULD

[redacted]

ANNEXURE

Detailed Feedback on First Draft National Planning Standards

Function of Template

1. National planning standards regarding the format and content of district and regional planning instruments are likely to be a useful resource for smaller councils with extensive districts but which lack the resourcing required to develop effective plans:

   (a) Under New Zealand's resource management legislation, significant responsibility is devolved to territorial authorities. While central government has made increasing use of the National Policy Statement and National Standard mechanisms, the administrative load on councils has remained high. That is particularly true of rural councils that have a limited rating base but have extensive regulatory and legislative responsibilities over physically extensive parts of the country, which in many cases contain landscapes or resources that raise challenging issues in terms of Part 2 of the RMA.

   (b) Those legislative responsibilities require territorial authorities to undertake extensive analyses of the resources in their district and to fund the preparation of planning instruments together with the related hearing and appeal processes. In that context, it would be beneficial to such councils if there could be guidance from the Ministry as to the form and structure of planning instruments.

2. It is unnecessary and counterproductive to impose such documents on all councils, however, and in particular on larger councils that face particular issues and have the resources needed to develop appropriate provisions and planning instruments:

   (a) It is important that the national planning standards function as useful tools and sources rather than act as straight-jackets into which councils must fit their local issues and responses, regardless of the extent to which the national planning standard model is suited to the local response.

   (b) These issues are particularly apparent in the larger centres such as Auckland, Hamilton, Tauranga, Wellington and Christchurch, where unique geographical conditions apply in the context of specific growth and environmental pressures and populations have differing expectations as to how their community should develop. Such councils have the resourcing and technical support required to develop their own plans (although they should be free to adopt or integrate ideas found in national planning standards).

   (c) Accordingly, the Submitters ask the Ministry to introduce national standards that councils may elect to adopt but are not required to use. That is, the templates would be a resource available to councils that lack the capacity or funding to undertake their statutory obligations but will not be forced on larger, more capable councils. Councils should be able to amend and refine the provisions as they think fit in order to fit them to the particular circumstances and objectives of their district.

   (d) Alternatively, large councils and those facing distinctive local issues (eg: Auckland Council, Hamilton City Council, Tauranga City Council, the Greater Wellington Region, Christchurch City Council and Queenstown Lakes District Council), should be exempted from complying with the standards.

(e) In any event, Auckland Council should be exempted from compliance with the standards given:

- The fact that it is only now completing an exhaustive five year Unitary Plan process which has comprehensively changed and reformatted the planning structure for the area.

- The size and extent of the Auckland Council area and its unique geographical setting and growth pressures, which give rise to regionally specific and unique issues and, as a consequence, unique planning solutions.

- The challenges inherent in trying to devise national planning standards that suit a city and region as complex as Auckland while remaining useful for smaller councils that face very different issues.

3. The Submitters consider that national planning standards are best suited to addressing structural issues rather than the substance of rules. The first set of standards is primarily concerned with structural matters but notably includes a standard regarding definitions which will have significant substantive implications (discussed in detail below). The Submitters make the following general observations regarding why resource management issues are appropriately addressed at a local or regional level and why drafting substantive planning provisions with universal application is likely to create practical difficulties for councils:

(a) During the Ministry's briefing sessions with the public, comment has been made regarding the possibility of further national planning standards being issued to deal with substantive matters such as the content of rules. The Submitters ask that no such substantive national planning standards be introduced.

(b) The Resource Management Act devolves responsibility for land use and resource planning to regional and local authorities because of the variability in issues, conditions and responses throughout the country. Those regional and local differences also militate against the ability of central government to develop a single template governing substantive planning matters that could or should apply universally throughout the country. By way of example, territorial authority areas in New Zealand can differ markedly in terms of:

- The presence or absence of landscapes and ecological resources that would warrant consideration in terms of section 6 of the RMA;

- The sensitivity of land and waterspace and the risk of particular problems or adverse effects (eg: nitrification of water bodies; erosion) arising from activities or land management techniques;

- The extent and prevalence of public land;

- The nature of predominant land uses;

- Population and population density and distribution;

- Urban form and matters that influence and constrain that;

- Population growth pressures; and

- Local visions and aspirations.

(c) That variability poses real risks if the provisions are mandatory, particularly where expectations as to planning outcomes, and hence the content of planning instruments, differ. The most obvious example is Auckland where the newly operative Auckland Unitary Plan proposes a significant intensification of development, accompanied by reduced standards in terms of matters such as carparking, side yards and height in relation to boundary controls. Furthermore, ongoing population growth and intensification will allow some adverse effects to be absorbed faster in Auckland than in other areas of the country (where a more conservative approach to activities might be warranted). As a consequence, outcomes that are effectively required to manage, say, the Auckland urban area in a sustainable manner are outcomes that may be an anathema to residents of smaller, regional centres with lower growth such as Whanganui and simply irrelevant to areas such as Westland.

(d) Planning provisions require careful drafting to ensure that they balance competing interests appropriately within a district, zone or neighbourhood. That process is challenging enough in the context of a single district plan. It is not possible for a national planning standard drafter to include in a template substantive provisions that account for all circumstances in all zones in all parts of New Zealand. A template that endeavours to address substantive issues will inevitably do so incompletely and without taking sufficient account of local characteristics, circumstances and objectives.

(e) There is no need for template residential, commercial or rural zones given that such provisions have been developed over decades and, in areas with little growth, do not need to alter notably over time. In contrast, the aspects of plan making that are proving most challenging for councils relate to Part 2 RMA issues in respect of elements such as landscape, ecology and cultural values. The Submitters' observation is that many councils are struggling to determine how best to identify areas that are subject to those Part 2 issues and, having done so, how best to manage and protect those areas. Central government guidance might most appropriately and usefully be applied in those areas and in particular with respect to the process through which that analysis is undertaken.

(f) In summary:

- It is not feasible for a single document to take a sufficiently nuanced approach to the issues in each district. As a consequence, a mandatory document is unlikely to produce provisions that work ideally throughout the country.

- If such a template is mandatory, councils will have limited ability to avoid any aspects that are inappropriate for the district or to disregard or repair inherent flaws in the document.

- Provisions in the template may fail to give effect to the purpose and principles of the RMA in terms of particular matters in particular parts of the country. That is, imposing a substantive outcome through a template may inevitably render provisions unlawful in terms of the RMA as none of the template provisions on offer will be the most appropriate in that circumstance. Whether particular provisions are unlawful will depend upon the local circumstances. Thus provisions that are unlawful in the Auckland urban area may be entirely appropriate in South Canterbury.

None of these problems need arise if national planning standards are optional rather than mandatory for councils.

4. The proposed introduction of mandatory **definitions** of commonly used terms is unnecessary, will be problematic, and fails to recognise the purpose for which terms are defined in planning instruments. While the national planning standards could provide definitions that councils would have a discretion to adopt, mandatory definitions will alter the meaning of provisions and require councils to either amend provisions or develop specific additional definitions in order to ensure that provisions are written in an efficient and clear manner:

   (a) Providing a list of definitions that councils may elect to adopt may prove useful, provided councils have a discretion regarding the use of those definitions. In contrast, imposing definitions on councils is innately problematic and fails to recognise the purpose for which definitions are developed.

   (b) Words and phrases are defined in planning instruments as a means of reducing the quantum of text required in that document. The definitions are developed in conjunction with the relevant rules, with the definition being shorthand for a longer expression that would otherwise need to be inserted repeatedly into the rule. Accordingly, it is the rule that determines the content of the definition, not the reverse.

   (c) Typically different councils adopt different definitions for the same term because the relevant rules will be different in their districts (e.g.: rules that apply in Auckland will, logically, differ from those that will apply in Westland). Accordingly, imposing standard definitions without reference to the content of rules will require councils to invent additional definitions or draft plans in a more complex form in order to ensure that the rules function as intended.

   (d) There is no adverse consequence that arises from different councils using different definitions for different purposes. In each case, the definition should be tuned to the issues that are relevant to the particular council and district or region. Professional advisers and consultants dealing with planning instruments are familiar with the need to review definitions when interpreting provisions and many of them have decades of experience doing just that. Similarly, members of the public are able to refer to and rely upon definitions provided that the structure of the planning instrument is sufficiently clear.

   (e) By seeking to impose mandatory nationwide definitions, the national planning standards discount and discard a drafting technique that has been used for centuries in legal and regulatory documents, namely the express definition of terms to provide clarity in regulation. There is no legal or planning rationale for taking such a radical and unnecessary step.

   (f) As the mandatory definitions are inserted into operative plans, the implications for the interpretation of existing rules will need to be considered and addressed in each district or region with respect to each of the defined terms. Altering the definition or meaning of a word will inevitably alter the meaning of provisions that use the word in random, inconsistent and unpredictable ways. That will generate a need for extensive and potentially contentious and complex plan changes in every affected region or district and will unnecessarily open up the relevant provisions for debate. The costs of those unnecessary plan changes will be borne by councils, their ratepayers and landowners. By way of illustration, it took almost a year to resolve appeals relating to the definition of "*height*" in the Auckland Unitary Plan because of the need to ensure a suitably flexible and nuanced definition. That issue will be reopened if the definition of "*height*" in the national planning standards is made mandatory and additional definitions will be needed or large numbers of rules will need to be changed.

5. The Submitters consider that, in addition to introducing national planning standards, the Ministry should endeavour to develop expertise within central government on elements such as the landscape, coastal and cultural matters that are relevant under Part 2 of the RMA. These are areas in which rural territorial authorities with smaller rating bases but extensive districts, in particular, are struggling to meet their statutory obligations. That expertise might usefully be made available to local authorities so that these aspects of plan preparation are robust and consistent around the country:

   (a) The Submitters' observation is that even relatively small councils are capable of preparing and implementing zones that provide for residential, commercial, industrial, rural and open space activities. In many cases district plan reviews simply roll-over existing provisions that have been refined over many decades. That is particularly the case with councils that are facing relatively low growth pressures.

   (b) In contrast, many councils struggle to deal with the increasing obligations placed upon them under the RMA with respect to Part 2 matters. In particular, the requirements to recognise and provide for the matters of national importance in section 6 impose on councils obligations to identify factors such as the natural character of the coastal environment, wetlands, lakes, rivers and their margins; outstanding natural features and landscapes; areas of significant indigenous vegetation; significant habitats of indigenous fauna; places of particular importance to Maori; and historic heritage. Those are often complex and very expensive tasks involving specialists in a number of disciplines. In addition, there is no relationship between the prevalence and complexity of these features in a given district and its population. In practice, relatively low population regions and districts often contain extensive features of relevance under section 6.

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- The challenges inherent in trying to devise national planning standards that suit a city and region as complex as Auckland while remaining useful for smaller councils that face very different issues.

3. The Submitters consider that national planning standards are best suited to addressing structural issues rather than the substance of rules. The first set of standards is primarily concerned with structural matters but notably includes a standard regarding definitions which will have significant substantive implications (discussed in detail below). The Submitters make the following general observations regarding why resource management issues are appropriately addressed at a local or regional level and why drafting substantive planning provisions with universal application is likely to create practical difficulties for councils:

(a) During the Ministry's briefing sessions with the public, comment has been made regarding the possibility of further national planning standards being issued to deal with substantive matters such as the content of rules. The Submitters ask that no such substantive national planning standards be introduced.

(b) The Resource Management Act devolves responsibility for land use and resource planning to regional and local authorities because of the variability in issues, conditions and responses throughout the country. Those regional and local differences also militate against the ability of central government to develop a single template governing substantive planning matters that could or should apply universally throughout the country. By way of example, territorial authority areas in New Zealand can differ markedly in terms of:

- The presence or absence of landscapes and ecological resources that would warrant consideration in terms of section 6 of the RMA;

- The sensitivity of land and waterspace and the risk of particular problems or adverse effects (eg: nitrification of water bodies; erosion) arising from activities or land management techniques;

- The extent and prevalence of public land;

- The nature of predominant land uses;

- Population and population density and distribution;

- Urban form and matters that influence and constrain that;

- Population growth pressures; and

- Local visions and aspirations.

(c) That variability poses real risks if the provisions are mandatory, particularly where expectations as to planning outcomes, and hence the content of planning instruments, differ. The most obvious example is Auckland where the newly operative Auckland Unitary Plan proposes a significant intensification of development, accompanied by reduced standards in terms of matters such as carparking, side yards and height in relation to boundary controls. Furthermore, ongoing population growth and intensification will allow some adverse effects to be absorbed faster in Auckland than in other areas of the country (where a more conservative approach to activities might be warranted). As a consequence, outcomes that are effectively required to manage, say, the Auckland urban area in a sustainable manner are outcomes that may be an anathema to residents of smaller, regional centres with lower growth such as Whanganui and simply irrelevant to areas such as Westland.

(d) Planning provisions require careful drafting to ensure that they balance competing interests appropriately within a district, zone or neighbourhood. That process is challenging enough in the context of a single district plan. It is not possible for a national planning standard drafter to include in a template substantive provisions that account for all circumstances in all zones in all parts of New Zealand. A template that endeavours to address substantive issues will inevitably do so incompletely and without taking sufficient account of local characteristics, circumstances and objectives.

(e) There is no need for template residential, commercial or rural zones given that such provisions have been developed over decades and, in areas with little growth, do not need to alter notably over time. In contrast, the aspects of plan making that are proving most challenging for councils relate to Part 2 RMA issues in respect of elements such as landscape, ecology and cultural values. The Submitters' observation is that many councils are struggling to determine how best to identify areas that are subject to those Part 2 issues and, having done so, how best to manage and protect those areas. Central government guidance might most appropriately and usefully be applied in those areas and in particular with respect to the process through which that analysis is undertaken.

(f) In summary:

- It is not feasible for a single document to take a sufficiently nuanced approach to the issues in each district. As a consequence, a mandatory document is unlikely to produce provisions that work ideally throughout the country.

- If such a template is mandatory, councils will have limited ability to avoid any aspects that are inappropriate for the district or to disregard or repair inherent flaws in the document.

- Provisions in the template may fail to give effect to the purpose and principles of the RMA in terms of particular matters in particular parts of the country. That is, imposing a substantive outcome through a template may inevitably render provisions unlawful in terms of the RMA as none of the template provisions on offer will be the most appropriate in that circumstance. Whether particular provisions are unlawful will depend upon the local circumstances. Thus provisions that are unlawful in the Auckland urban area may be entirely appropriate in South Canterbury.

None of these problems need arise if national planning standards are optional rather than mandatory for councils.

4. The proposed introduction of mandatory **definitions** of commonly used terms is unnecessary, will be problematic, and fails to recognise the purpose for which terms are defined in planning instruments. While the national planning standards could provide definitions that councils would have a discretion to adopt, mandatory definitions will alter the meaning of provisions and require councils to either amend provisions or develop specific additional definitions in order to ensure that provisions are written in an efficient and clear manner:

   (a) Providing a list of definitions that councils may elect to adopt may prove useful, provided councils have a discretion regarding the use of those definitions. In contrast, imposing definitions on councils is innately problematic and fails to recognise the purpose for which definitions are developed.

   (b) Words and phrases are defined in planning instruments as a means of reducing the quantum of text required in that document. The definitions are developed in conjunction with the relevant rules, with the definition being shorthand for a longer expression that would otherwise need to be inserted repeatedly into the rule. Accordingly, it is the rule that determines the content of the definition, not the reverse.

   (c) Typically different councils adopt different definitions for the same term because the relevant rules will be different in their districts (e.g.: rules that apply in Auckland will, logically, differ from those that will apply in Westland). Accordingly, imposing standard definitions without reference to the content of rules will require councils to invent additional definitions or draft plans in a more complex form in order to ensure that the rules function as intended.

   (d) There is no adverse consequence that arises from different councils using different definitions for different purposes. In each case, the definition should be tuned to the issues that are relevant to the particular council and district or region. Professional advisers and consultants dealing with planning instruments are familiar with the need to review definitions when interpreting provisions and many of them have decades of experience doing just that. Similarly, members of the public are able to refer to and rely upon definitions provided that the structure of the planning instrument is sufficiently clear.

   (e) By seeking to impose mandatory nationwide definitions, the national planning standards discount and discard a drafting technique that has been used for centuries in legal and regulatory documents, namely the express definition of terms to provide clarity in regulation. There is no legal or planning rationale for taking such a radical and unnecessary step.

   (f) As the mandatory definitions are inserted into operative plans, the implications for the interpretation of existing rules will need to be considered and addressed in each district or region with respect to each of the defined terms. Altering the definition or meaning of a word will inevitably alter the meaning of provisions that use the word in random, inconsistent and unpredictable ways. That will generate a need for extensive and potentially contentious and complex plan changes in every affected region or district and will unnecessarily open up the relevant provisions for debate. The costs of those unnecessary plan changes will be borne by councils, their ratepayers and landowners. By way of illustration, it took almost a year to resolve appeals relating to the definition of "*height*" in the Auckland Unitary Plan because of the need to ensure a suitably flexible and nuanced definition. That issue will be reopened if the definition of "*height*" in the national planning standards is made mandatory and additional definitions will be needed or large numbers of rules will need to be changed.

5. The Submitters consider that, in addition to introducing national planning standards, the Ministry should endeavour to develop expertise within central government on elements such as the landscape, coastal and cultural matters that are relevant under Part 2 of the RMA. These are areas in which rural territorial authorities with smaller rating bases but extensive districts, in particular, are struggling to meet their statutory obligations. That expertise might usefully be made available to local authorities so that these aspects of plan preparation are robust and consistent around the country:

   (a) The Submitters' observation is that even relatively small councils are capable of preparing and implementing zones that provide for residential, commercial, industrial, rural and open space activities. In many cases district plan reviews simply roll-over existing provisions that have been refined over many decades. That is particularly the case with councils that are facing relatively low growth pressures.

   (b) In contrast, many councils struggle to deal with the increasing obligations placed upon them under the RMA with respect to Part 2 matters. In particular, the requirements to recognise and provide for the matters of national importance in section 6 impose on councils obligations to identify factors such as the natural character of the coastal environment, wetlands, lakes, rivers and their margins; outstanding natural features and landscapes; areas of significant indigenous vegetation; significant habitats of indigenous fauna; places of particular importance to Maori; and historic heritage. Those are often complex and very expensive tasks involving specialists in a number of disciplines. In addition, there is no relationship between the prevalence and complexity of these features in a given district and its population. In practice, relatively low population regions and districts often contain extensive features of relevance under section 6.

   (c) Accordingly, the Submitters' observation is that smaller councils require far more assistance with and funding in respect of the categorisation and identification of these section 6 matters than with the drafting of relatively straightforward provisions in regional or district planning instruments.

6. The Submitters consider that, if the national planning standards are either to contain substantive provisions (eg: definitions) or to be mandatory, they should be the subject of rigorous testing and the decision makers must be fully informed. In that case, the provisions should, pursuant to section 58D(3)(d) of RMA, be subject to a public hearing process that enables parties to speak to their submissions and the provisions to be tested through cross examination before an independent panel. That approach would increase the probability that errors can be identified and corrected.

   (a) Collectively, the national planning standards, to the extent that they are mandatory and touch upon substantive matters (eg: definitions), will be the single most important planning instrument in the country. They will render tracts of existing planning regulation redundant. In that context the Submitters consider it essential that the Ministry proposes a process for this exceptionally important planning instrument that involves at least the same level of public scrutiny and independent analysis as a district plan.

   (b) At this stage the Ministry proposes to produce its template documents through a public participation process that does not appear to involve cross party mediation, a hearing before independent commissioners or any cross examination. As a consequence, decisions regarding the role, structure and content of the template would be made:

- Without input from independent adjudicators with experience and expertise in plan drafting (e.g.: Environment Court judges or commissioners);

- Without presentation of detailed evidence from independent expert witnesses and interested parties such as the Submitters on the implications of provisions and the range of options available;

- Without the proponents of the provisions having to explain to that independent body why they consider those provisions to be appropriate in terms of the relevant legislation;

- Without evidence in support of the provisions being tested, either by the independent commissioners or by other parties through cross-examination and rebuttal; and

- Without the legal implications of the proposed provisions being tested publicly (including the potential for provisions to conflict with obligations under Part 2 of RMA for the reasons discussed above).

(c) In summary, the drafting of the most important planning instrument in the country will be subject to less formal and independent scrutiny than is the simplest resource consent application put before independent expert commissioners.

(d) In the event that a mandatory/substantive national planning standard is introduced, parties who disagree with it will have no alternative but to issue judicial review or declaration proceedings regarding the lawfulness of the provisions, whether generally or in the context of particular districts and circumstances. The problem with that circumstance is that decisions regarding the lawfulness of the provisions will only be made after those provisions have been given effect to. If such proceedings are successful then the national planning standard may need to be altered along with district plans that give effect to any problematic parts of the template. Such alterations will need to be drafted in such a way as to avoid creating new issues in respect of other locations.

(e) Thus omitting a hearing process for the national planning standards through which the legality of the provisions can be determined before they are introduced will produce ongoing uncertainty and potentially additional long term cost and delay. In contrast, a hearing process for the template would enable the appointed commissioners and/or Environment Court on appeal to assess the lawfulness and appropriateness of provisions. That would enable the refinement and documentation of a document that, as a consequence of that hearing process, should be both lawful and of broader relevance.

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17 August 2018

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Dear Sir / Madam

Feedback on Draft National Planning Standards notified June 2018

The Ministry for the Environment has invited public feedback by **17 August 2018** on the first draft set of National Planning Standards.

This feedback is made on behalf of the following clients of Ellis Gould (collectively "**the Submitters**"):

1. **CDL Land NZ Limited**, a land development company with a particular focus on greenfields residential development. CDL has undertaken significant residential development throughout New Zealand including most notably in Auckland, Hamilton and Christchurch.

2. **Kiwi Property Group Limited**, New Zealand's largest diversified property company with a property portfolio throughout New Zealand valued at $3.1 billion. Kiwi has a particular focus on creating town and metropolitan centres and has extensive investments in shopping centres and landmark office towers. Kiwi has assets in the Auckland and Wellington regions, Christchurch, Hamilton and Palmerston North. Kiwi has extensive experience with national, regional and local planning instruments.

3. **The National Trading Company of New Zealand Limited**, being the property holding and development arm of Foodstuffs North Island Limited which is the cooperative through which New World, Pak'n Save and Four Square supermarkets are established and operated in the North Island. NTC has responsibility for developing, maintaining and upgrading supermarkets throughout the North Island and has extensive experience working with national, regional and local planning instruments.

4. **Ngati Whatua Orakei Whai Rawa Limited**, which is the commercial arm of the Ngati Whatua Orakei Group, responsible for protecting and building the asset base of Ngati Whatua Orakei. The company has landholdings in the Auckland Region and is currently redeveloping and intensifying urban landholdings that have historically been developed at a relatively low density but which are now earmarked under the Auckland Unitary Plan (Operative in Part) for significantly more intensive urban development.

5. **Tramco Group Limited**, a property investment entity with extensive assets in urban and rural areas of the country (e.g.: Viaduct Harbour and Wynyard Quarter, Central Auckland). Tramco has worked with and submitted on planning instruments over many years.

6. **The Waitakere Ranges Protection Society Incorporated**, an incorporated society that was founded in 1973 and has a particular interest in the legislative and planning framework applying to the Waitakere Ranges, on the western edge of Auckland. The Society has extensive experience with national, regional and local planning instruments and considers that the Waitakere Ranges Heritage Area Act 2008 appropriately identifies the unique characteristics of the Waitakere Ranges.

The Submitters' feedback is **annexed** to this letter. The feedback is intentionally high level in nature rather than being a detailed analysis of the content of the draft national planning standards. In summary:

1. National planning standards regarding the format and content of district and regional planning instruments are likely to be a useful resource for smaller councils with extensive districts but which lack the resourcing required to develop effective plans.

2. It is unnecessary and counterproductive to impose such documents on all councils, however, and in particular on larger councils that face district or region specific issues and have the resources needed to develop appropriate provisions and planning instruments. The Submitters ask the Ministry:

   (a) To introduce national planning standards that councils may elect to adopt but are not required to use.

   (b) Alternatively, to exempt large councils and those facing distinctive local issues (eg: Auckland Council, Hamilton City Council, Tauranga City Council, the Greater Wellington Region, Christchurch City Council and Queenstown Lakes District Council) from complying with the standards.

   (c) In any event, to exempt Auckland Council from complying with the standards given, in particular, the exhaustive Auckland Unitary Plan process which is only now coming to an end and has transformed the planning framework for New Zealand's largest and most complex urban area.

3. The Submitters consider that national planning standards are best suited to addressing structural issues rather than the substance of rules. The first set of draft national planning standards is primarily concerned with structural matters but notably includes a standard regarding definitions which will have significant substantive implications (discussed below). The issues that arise throughout parts of New Zealand differ markedly and, accordingly, the planning provisions and outcomes sought will also differ. There are sound practical reasons why resource management issues are appropriately addressed at a local or regional level and endeavouring to draft substantive planning provisions with universal application is likely to create practical difficulties for councils.

4. The introduction of standard mandatory definitions is unnecessary and fails to recognise the purpose for which terms are defined in planning instruments. While the national planning standards could contain definitions that councils would have a discretion to adopt, mandatory definitions will alter the meaning of provisions and require councils to either amend provisions or develop specific additional definitions in order to ensure that provisions are written in an efficient and clear manner.

5. The Submitters consider that, in addition to introducing national planning standards, the Ministry should endeavour to develop expertise within central government on elements such as the landscape, coastal and cultural matters that are relevant under Part 2 of the Resource Management Act. These are areas in which rural territorial authorities with smaller rating bases but extensive districts, in particular, are struggling to meet their statutory obligations. That expertise might usefully be made available to local authorities so that these aspects of plan preparation are robust and consistent around the country.

6. The Submitters consider that, if the national planning standards are either to contain substantive provisions (eg: definitions) or to be mandatory, they should be the subject of rigorous testing and the decision makers must be fully informed. In that case, the provisions should, pursuant to section 58D(3)(d) of RMA, be subject to a public hearing process that enables parties to speak to their submissions and the provisions to be tested through cross examination before an independent panel. That approach would increase the probability that errors can be identified and corrected.

The Submitters would be pleased to meet with Ministry staff to discuss this submission in greater detail.

Yours faithfully
ELLIS GOULD

[redacted]

ANNEXURE

Detailed Feedback on First Draft National Planning Standards

Function of Template

1. National planning standards regarding the format and content of district and regional planning instruments are likely to be a useful resource for smaller councils with extensive districts but which lack the resourcing required to develop effective plans:

   (a) Under New Zealand's resource management legislation, significant responsibility is devolved to territorial authorities. While central government has made increasing use of the National Policy Statement and National Standard mechanisms, the administrative load on councils has remained high. That is particularly true of rural councils that have a limited rating base but have extensive regulatory and legislative responsibilities over physically extensive parts of the country, which in many cases contain landscapes or resources that raise challenging issues in terms of Part 2 of the RMA.

   (b) Those legislative responsibilities require territorial authorities to undertake extensive analyses of the resources in their district and to fund the preparation of planning instruments together with the related hearing and appeal processes. In that context, it would be beneficial to such councils if there could be guidance from the Ministry as to the form and structure of planning instruments.

2. It is unnecessary and counterproductive to impose such documents on all councils, however, and in particular on larger councils that face particular issues and have the resources needed to develop appropriate provisions and planning instruments:

   (a) It is important that the national planning standards function as useful tools and sources rather than act as straight-jackets into which councils must fit their local issues and responses, regardless of the extent to which the national planning standard model is suited to the local response.

   (b) These issues are particularly apparent in the larger centres such as Auckland, Hamilton, Tauranga, Wellington and Christchurch, where unique geographical conditions apply in the context of specific growth and environmental pressures and populations have differing expectations as to how their community should develop. Such councils have the resourcing and technical support required to develop their own plans (although they should be free to adopt or integrate ideas found in national planning standards).

   (c) Accordingly, the Submitters ask the Ministry to introduce national standards that councils may elect to adopt but are not required to use. That is, the templates would be a resource available to councils that lack the capacity or funding to undertake their statutory obligations but will not be forced on larger, more capable councils. Councils should be able to amend and refine the provisions as they think fit in order to fit them to the particular circumstances and objectives of their district.

   (d) Alternatively, large councils and those facing distinctive local issues (eg: Auckland Council, Hamilton City Council, Tauranga City Council, the Greater Wellington Region, Christchurch City Council and Queenstown Lakes District Council), should be exempted from complying with the standards.

(e) In any event, Auckland Council should be exempted from compliance with the standards given:

- The fact that it is only now completing an exhaustive five year Unitary Plan process which has comprehensively changed and reformatted the planning structure for the area.

- The size and extent of the Auckland Council area and its unique geographical setting and growth pressures, which give rise to regionally specific and unique issues and, as a consequence, unique planning solutions.

- The challenges inherent in trying to devise national planning standards that suit a city and region as complex as Auckland while remaining useful for smaller councils that face very different issues.

3. The Submitters consider that national planning standards are best suited to addressing structural issues rather than the substance of rules. The first set of standards is primarily concerned with structural matters but notably includes a standard regarding definitions which will have significant substantive implications (discussed in detail below). The Submitters make the following general observations regarding why resource management issues are appropriately addressed at a local or regional level and why drafting substantive planning provisions with universal application is likely to create practical difficulties for councils:

(a) During the Ministry's briefing sessions with the public, comment has been made regarding the possibility of further national planning standards being issued to deal with substantive matters such as the content of rules. The Submitters ask that no such substantive national planning standards be introduced.

(b) The Resource Management Act devolves responsibility for land use and resource planning to regional and local authorities because of the variability in issues, conditions and responses throughout the country. Those regional and local differences also militate against the ability of central government to develop a single template governing substantive planning matters that could or should apply universally throughout the country. By way of example, territorial authority areas in New Zealand can differ markedly in terms of:

- The presence or absence of landscapes and ecological resources that would warrant consideration in terms of section 6 of the RMA;

- The sensitivity of land and waterspace and the risk of particular problems or adverse effects (eg: nitrification of water bodies; erosion) arising from activities or land management techniques;

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- Local visions and aspirations.

(c) That variability poses real risks if the provisions are mandatory, particularly where expectations as to planning outcomes, and hence the content of planning instruments, differ. The most obvious example is Auckland where the newly operative Auckland Unitary Plan proposes a significant intensification of development, accompanied by reduced standards in terms of matters such as carparking, side yards and height in relation to boundary controls. Furthermore, ongoing population growth and intensification will allow some adverse effects to be absorbed faster in Auckland than in other areas of the country (where a more conservative approach to activities might be warranted). As a consequence, outcomes that are effectively required to manage, say, the Auckland urban area in a sustainable manner are outcomes that may be an anathema to residents of smaller, regional centres with lower growth such as Whanganui and simply irrelevant to areas such as Westland.

(d) Planning provisions require careful drafting to ensure that they balance competing interests appropriately within a district, zone or neighbourhood. That process is challenging enough in the context of a single district plan. It is not possible for a national planning standard drafter to include in a template substantive provisions that account for all circumstances in all zones in all parts of New Zealand. A template that endeavours to address substantive issues will inevitably do so incompletely and without taking sufficient account of local characteristics, circumstances and objectives.

(e) There is no need for template residential, commercial or rural zones given that such provisions have been developed over decades and, in areas with little growth, do not need to alter notably over time. In contrast, the aspects of plan making that are proving most challenging for councils relate to Part 2 RMA issues in respect of elements such as landscape, ecology and cultural values. The Submitters' observation is that many councils are struggling to determine how best to identify areas that are subject to those Part 2 issues and, having done so, how best to manage and protect those areas. Central government guidance might most appropriately and usefully be applied in those areas and in particular with respect to the process through which that analysis is undertaken.

(f) In summary:

- It is not feasible for a single document to take a sufficiently nuanced approach to the issues in each district. As a consequence, a mandatory document is unlikely to produce provisions that work ideally throughout the country.

- If such a template is mandatory, councils will have limited ability to avoid any aspects that are inappropriate for the district or to disregard or repair inherent flaws in the document.

- Provisions in the template may fail to give effect to the purpose and principles of the RMA in terms of particular matters in particular parts of the country. That is, imposing a substantive outcome through a template may inevitably render provisions unlawful in terms of the RMA as none of the template provisions on offer will be the most appropriate in that circumstance. Whether particular provisions are unlawful will depend upon the local circumstances. Thus provisions that are unlawful in the Auckland urban area may be entirely appropriate in South Canterbury.

None of these problems need arise if national planning standards are optional rather than mandatory for councils.

4. The proposed introduction of mandatory **definitions** of commonly used terms is unnecessary, will be problematic, and fails to recognise the purpose for which terms are defined in planning instruments. While the national planning standards could provide definitions that councils would have a discretion to adopt, mandatory definitions will alter the meaning of provisions and require councils to either amend provisions or develop specific additional definitions in order to ensure that provisions are written in an efficient and clear manner:

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1. **CDL Land NZ Limited**, a land development company with a particular focus on greenfields residential development. CDL has undertaken significant residential development throughout New Zealand including most notably in Auckland, Hamilton and Christchurch.

2. **Kiwi Property Group Limited**, New Zealand's largest diversified property company with a property portfolio throughout New Zealand valued at $3.1 billion. Kiwi has a particular focus on creating town and metropolitan centres and has extensive investments in shopping centres and landmark office towers. Kiwi has assets in the Auckland and Wellington regions, Christchurch, Hamilton and Palmerston North. Kiwi has extensive experience with national, regional and local planning instruments.

3. **The National Trading Company of New Zealand Limited**, being the property holding and development arm of Foodstuffs North Island Limited which is the cooperative through which New World, Pak'n Save and Four Square supermarkets are established and operated in the North Island. NTC has responsibility for developing, maintaining and upgrading supermarkets throughout the North Island and has extensive experience working with national, regional and local planning instruments.

4. **Ngati Whatua Orakei Whai Rawa Limited**, which is the commercial arm of the Ngati Whatua Orakei Group, responsible for protecting and building the asset base of Ngati Whatua Orakei. The company has landholdings in the Auckland Region and is currently redeveloping and intensifying urban landholdings that have historically been developed at a relatively low density but which are now earmarked under the Auckland Unitary Plan (Operative in Part) for significantly more intensive urban development.

5. **Tramco Group Limited**, a property investment entity with extensive assets in urban and rural areas of the country (e.g.: Viaduct Harbour and Wynyard Quarter, Central Auckland). Tramco has worked with and submitted on planning instruments over many years.

6. **The Waitakere Ranges Protection Society Incorporated**, an incorporated society that was founded in 1973 and has a particular interest in the legislative and planning framework applying to the Waitakere Ranges, on the western edge of Auckland. The Society has extensive experience with national, regional and local planning instruments and considers that the Waitakere Ranges Heritage Area Act 2008 appropriately identifies the unique characteristics of the Waitakere Ranges.

The Submitters' feedback is **annexed** to this letter. The feedback is intentionally high level in nature rather than being a detailed analysis of the content of the draft national planning standards. In summary:

1. National planning standards regarding the format and content of district and regional planning instruments are likely to be a useful resource for smaller councils with extensive districts but which lack the resourcing required to develop effective plans.

2. It is unnecessary and counterproductive to impose such documents on all councils, however, and in particular on larger councils that face district or region specific issues and have the resources needed to develop appropriate provisions and planning instruments. The Submitters ask the Ministry:

   (a) To introduce national planning standards that councils may elect to adopt but are not required to use.

   (b) Alternatively, to exempt large councils and those facing distinctive local issues (eg: Auckland Council, Hamilton City Council, Tauranga City Council, the Greater Wellington Region, Christchurch City Council and Queenstown Lakes District Council) from complying with the standards.

   (c) In any event, to exempt Auckland Council from complying with the standards given, in particular, the exhaustive Auckland Unitary Plan process which is only now coming to an end and has transformed the planning framework for New Zealand's largest and most complex urban area.

3. The Submitters consider that national planning standards are best suited to addressing structural issues rather than the substance of rules. The first set of draft national planning standards is primarily concerned with structural matters but notably includes a standard regarding definitions which will have significant substantive implications (discussed below). The issues that arise throughout parts of New Zealand differ markedly and, accordingly, the planning provisions and outcomes sought will also differ. There are sound practical reasons why resource management issues are appropriately addressed at a local or regional level and endeavouring to draft substantive planning provisions with universal application is likely to create practical difficulties for councils.

4. The introduction of standard mandatory definitions is unnecessary and fails to recognise the purpose for which terms are defined in planning instruments. While the national planning standards could contain definitions that councils would have a discretion to adopt, mandatory definitions will alter the meaning of provisions and require councils to either amend provisions or develop specific additional definitions in order to ensure that provisions are written in an efficient and clear manner.

5. The Submitters consider that, in addition to introducing national planning standards, the Ministry should endeavour to develop expertise within central government on elements such as the landscape, coastal and cultural matters that are relevant under Part 2 of the Resource Management Act. These are areas in which rural territorial authorities with smaller rating bases but extensive districts, in particular, are struggling to meet their statutory obligations. That expertise might usefully be made available to local authorities so that these aspects of plan preparation are robust and consistent around the country.

6. The Submitters consider that, if the national planning standards are either to contain substantive provisions (eg: definitions) or to be mandatory, they should be the subject of rigorous testing and the decision makers must be fully informed. In that case, the provisions should, pursuant to section 58D(3)(d) of RMA, be subject to a public hearing process that enables parties to speak to their submissions and the provisions to be tested through cross examination before an independent panel. That approach would increase the probability that errors can be identified and corrected.

The Submitters would be pleased to meet with Ministry staff to discuss this submission in greater detail.

Yours faithfully
ELLIS GOULD

[redacted]

ANNEXURE

Detailed Feedback on First Draft National Planning Standards

Function of Template

1. National planning standards regarding the format and content of district and regional planning instruments are likely to be a useful resource for smaller councils with extensive districts but which lack the resourcing required to develop effective plans:

   (a) Under New Zealand's resource management legislation, significant responsibility is devolved to territorial authorities. While central government has made increasing use of the National Policy Statement and National Standard mechanisms, the administrative load on councils has remained high. That is particularly true of rural councils that have a limited rating base but have extensive regulatory and legislative responsibilities over physically extensive parts of the country, which in many cases contain landscapes or resources that raise challenging issues in terms of Part 2 of the RMA.

   (b) Those legislative responsibilities require territorial authorities to undertake extensive analyses of the resources in their district and to fund the preparation of planning instruments together with the related hearing and appeal processes. In that context, it would be beneficial to such councils if there could be guidance from the Ministry as to the form and structure of planning instruments.

2. It is unnecessary and counterproductive to impose such documents on all councils, however, and in particular on larger councils that face particular issues and have the resources needed to develop appropriate provisions and planning instruments:

   (a) It is important that the national planning standards function as useful tools and sources rather than act as straight-jackets into which councils must fit their local issues and responses, regardless of the extent to which the national planning standard model is suited to the local response.

   (b) These issues are particularly apparent in the larger centres such as Auckland, Hamilton, Tauranga, Wellington and Christchurch, where unique geographical conditions apply in the context of specific growth and environmental pressures and populations have differing expectations as to how their community should develop. Such councils have the resourcing and technical support required to develop their own plans (although they should be free to adopt or integrate ideas found in national planning standards).

   (c) Accordingly, the Submitters ask the Ministry to introduce national standards that councils may elect to adopt but are not required to use. That is, the templates would be a resource available to councils that lack the capacity or funding to undertake their statutory obligations but will not be forced on larger, more capable councils. Councils should be able to amend and refine the provisions as they think fit in order to fit them to the particular circumstances and objectives of their district.

   (d) Alternatively, large councils and those facing distinctive local issues (eg: Auckland Council, Hamilton City Council, Tauranga City Council, the Greater Wellington Region, Christchurch City Council and Queenstown Lakes District Council), should be exempted from complying with the standards.

(e) In any event, Auckland Council should be exempted from compliance with the standards given:

- The fact that it is only now completing an exhaustive five year Unitary Plan process which has comprehensively changed and reformatted the planning structure for the area.

- The size and extent of the Auckland Council area and its unique geographical setting and growth pressures, which give rise to regionally specific and unique issues and, as a consequence, unique planning solutions.

- The challenges inherent in trying to devise national planning standards that suit a city and region as complex as Auckland while remaining useful for smaller councils that face very different issues.

3. The Submitters consider that national planning standards are best suited to addressing structural issues rather than the substance of rules. The first set of standards is primarily concerned with structural matters but notably includes a standard regarding definitions which will have significant substantive implications (discussed in detail below). The Submitters make the following general observations regarding why resource management issues are appropriately addressed at a local or regional level and why drafting substantive planning provisions with universal application is likely to create practical difficulties for councils:

(a) During the Ministry's briefing sessions with the public, comment has been made regarding the possibility of further national planning standards being issued to deal with substantive matters such as the content of rules. The Submitters ask that no such substantive national planning standards be introduced.

(b) The Resource Management Act devolves responsibility for land use and resource planning to regional and local authorities because of the variability in issues, conditions and responses throughout the country. Those regional and local differences also militate against the ability of central government to develop a single template governing substantive planning matters that could or should apply universally throughout the country. By way of example, territorial authority areas in New Zealand can differ markedly in terms of:

- The presence or absence of landscapes and ecological resources that would warrant consideration in terms of section 6 of the RMA;

- The sensitivity of land and waterspace and the risk of particular problems or adverse effects (eg: nitrification of water bodies; erosion) arising from activities or land management techniques;

- The extent and prevalence of public land;

- The nature of predominant land uses;

- Population and population density and distribution;

- Urban form and matters that influence and constrain that;

- Population growth pressures; and

- Local visions and aspirations.

(c) That variability poses real risks if the provisions are mandatory, particularly where expectations as to planning outcomes, and hence the content of planning instruments, differ. The most obvious example is Auckland where the newly operative Auckland Unitary Plan proposes a significant intensification of development, accompanied by reduced standards in terms of matters such as carparking, side yards and height in relation to boundary controls. Furthermore, ongoing population growth and intensification will allow some adverse effects to be absorbed faster in Auckland than in other areas of the country (where a more conservative approach to activities might be warranted). As a consequence, outcomes that are effectively required to manage, say, the Auckland urban area in a sustainable manner are outcomes that may be an anathema to residents of smaller, regional centres with lower growth such as Whanganui and simply irrelevant to areas such as Westland.

(d) Planning provisions require careful drafting to ensure that they balance competing interests appropriately within a district, zone or neighbourhood. That process is challenging enough in the context of a single district plan. It is not possible for a national planning standard drafter to include in a template substantive provisions that account for all circumstances in all zones in all parts of New Zealand. A template that endeavours to address substantive issues will inevitably do so incompletely and without taking sufficient account of local characteristics, circumstances and objectives.

(e) There is no need for template residential, commercial or rural zones given that such provisions have been developed over decades and, in areas with little growth, do not need to alter notably over time. In contrast, the aspects of plan making that are proving most challenging for councils relate to Part 2 RMA issues in respect of elements such as landscape, ecology and cultural values. The Submitters' observation is that many councils are struggling to determine how best to identify areas that are subject to those Part 2 issues and, having done so, how best to manage and protect those areas. Central government guidance might most appropriately and usefully be applied in those areas and in particular with respect to the process through which that analysis is undertaken.

(f) In summary:

- It is not feasible for a single document to take a sufficiently nuanced approach to the issues in each district. As a consequence, a mandatory document is unlikely to produce provisions that work ideally throughout the country.

- If such a template is mandatory, councils will have limited ability to avoid any aspects that are inappropriate for the district or to disregard or repair inherent flaws in the document.

- Provisions in the template may fail to give effect to the purpose and principles of the RMA in terms of particular matters in particular parts of the country. That is, imposing a substantive outcome through a template may inevitably render provisions unlawful in terms of the RMA as none of the template provisions on offer will be the most appropriate in that circumstance. Whether particular provisions are unlawful will depend upon the local circumstances. Thus provisions that are unlawful in the Auckland urban area may be entirely appropriate in South Canterbury.

None of these problems need arise if national planning standards are optional rather than mandatory for councils.

4. The proposed introduction of mandatory **definitions** of commonly used terms is unnecessary, will be problematic, and fails to recognise the purpose for which terms are defined in planning instruments. While the national planning standards could provide definitions that councils would have a discretion to adopt, mandatory definitions will alter the meaning of provisions and require councils to either amend provisions or develop specific additional definitions in order to ensure that provisions are written in an efficient and clear manner:

   (a) Providing a list of definitions that councils may elect to adopt may prove useful, provided councils have a discretion regarding the use of those definitions. In contrast, imposing definitions on councils is innately problematic and fails to recognise the purpose for which definitions are developed.

   (b) Words and phrases are defined in planning instruments as a means of reducing the quantum of text required in that document. The definitions are developed in conjunction with the relevant rules, with the definition being shorthand for a longer expression that would otherwise need to be inserted repeatedly into the rule. Accordingly, it is the rule that determines the content of the definition, not the reverse.

   (c) Typically different councils adopt different definitions for the same term because the relevant rules will be different in their districts (e.g.: rules that apply in Auckland will, logically, differ from those that will apply in Westland). Accordingly, imposing standard definitions without reference to the content of rules will require councils to invent additional definitions or draft plans in a more complex form in order to ensure that the rules function as intended.

   (d) There is no adverse consequence that arises from different councils using different definitions for different purposes. In each case, the definition should be tuned to the issues that are relevant to the particular council and district or region. Professional advisers and consultants dealing with planning instruments are familiar with the need to review definitions when interpreting provisions and many of them have decades of experience doing just that. Similarly, members of the public are able to refer to and rely upon definitions provided that the structure of the planning instrument is sufficiently clear.

   (e) By seeking to impose mandatory nationwide definitions, the national planning standards discount and discard a drafting technique that has been used for centuries in legal and regulatory documents, namely the express definition of terms to provide clarity in regulation. There is no legal or planning rationale for taking such a radical and unnecessary step.

   (f) As the mandatory definitions are inserted into operative plans, the implications for the interpretation of existing rules will need to be considered and addressed in each district or region with respect to each of the defined terms. Altering the definition or meaning of a word will inevitably alter the meaning of provisions that use the word in random, inconsistent and unpredictable ways. That will generate a need for extensive and potentially contentious and complex plan changes in every affected region or district and will unnecessarily open up the relevant provisions for debate. The costs of those unnecessary plan changes will be borne by councils, their ratepayers and landowners. By way of illustration, it took almost a year to resolve appeals relating to the definition of "*height*" in the Auckland Unitary Plan because of the need to ensure a suitably flexible and nuanced definition. That issue will be reopened if the definition of "*height*" in the national planning standards is made mandatory and additional definitions will be needed or large numbers of rules will need to be changed.

5. The Submitters consider that, in addition to introducing national planning standards, the Ministry should endeavour to develop expertise within central government on elements such as the landscape, coastal and cultural matters that are relevant under Part 2 of the RMA. These are areas in which rural territorial authorities with smaller rating bases but extensive districts, in particular, are struggling to meet their statutory obligations. That expertise might usefully be made available to local authorities so that these aspects of plan preparation are robust and consistent around the country:

   (a) The Submitters' observation is that even relatively small councils are capable of preparing and implementing zones that provide for residential, commercial, industrial, rural and open space activities. In many cases district plan reviews simply roll-over existing provisions that have been refined over many decades. That is particularly the case with councils that are facing relatively low growth pressures.

   (b) In contrast, many councils struggle to deal with the increasing obligations placed upon them under the RMA with respect to Part 2 matters. In particular, the requirements to recognise and provide for the matters of national importance in section 6 impose on councils obligations to identify factors such as the natural character of the coastal environment, wetlands, lakes, rivers and their margins; outstanding natural features and landscapes; areas of significant indigenous vegetation; significant habitats of indigenous fauna; places of particular importance to Maori; and historic heritage. Those are often complex and very expensive tasks involving specialists in a number of disciplines. In addition, there is no relationship between the prevalence and complexity of these features in a given district and its population. In practice, relatively low population regions and districts often contain extensive features of relevance under section 6.

   (c) Accordingly, the Submitters' observation is that smaller councils require far more assistance with and funding in respect of the categorisation and identification of these section 6 matters than with the drafting of relatively straightforward provisions in regional or district planning instruments.

6. The Submitters consider that, if the national planning standards are either to contain substantive provisions (eg: definitions) or to be mandatory, they should be the subject of rigorous testing and the decision makers must be fully informed. In that case, the provisions should, pursuant to section 58D(3)(d) of RMA, be subject to a public hearing process that enables parties to speak to their submissions and the provisions to be tested through cross examination before an independent panel. That approach would increase the probability that errors can be identified and corrected.

   (a) Collectively, the national planning standards, to the extent that they are mandatory and touch upon substantive matters (eg: definitions), will be the single most important planning instrument in the country. They will render tracts of existing planning regulation redundant. In that context the Submitters consider it essential that the Ministry proposes a process for this exceptionally important planning instrument that involves at least the same level of public scrutiny and independent analysis as a district plan.

   (b) At this stage the Ministry proposes to produce its template documents through a public participation process that does not appear to involve cross party mediation, a hearing before independent commissioners or any cross examination. As a consequence, decisions regarding the role, structure and content of the template would be made:

- Without input from independent adjudicators with experience and expertise in plan drafting (e.g.: Environment Court judges or commissioners);

- Without presentation of detailed evidence from independent expert witnesses and interested parties such as the Submitters on the implications of provisions and the range of options available;

- Without the proponents of the provisions having to explain to that independent body why they consider those provisions to be appropriate in terms of the relevant legislation;

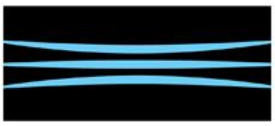
- Without evidence in support of the provisions being tested, either by the independent commissioners or by other parties through cross-examination and rebuttal; and

- Without the legal implications of the proposed provisions being tested publicly (including the potential for provisions to conflict with obligations under Part 2 of RMA for the reasons discussed above).

(c) In summary, the drafting of the most important planning instrument in the country will be subject to less formal and independent scrutiny than is the simplest resource consent application put before independent expert commissioners.

(d) In the event that a mandatory/substantive national planning standard is introduced, parties who disagree with it will have no alternative but to issue judicial review or declaration proceedings regarding the lawfulness of the provisions, whether generally or in the context of particular districts and circumstances. The problem with that circumstance is that decisions regarding the lawfulness of the provisions will only be made after those provisions have been given effect to. If such proceedings are successful then the national planning standard may need to be altered along with district plans that give effect to any problematic parts of the template. Such alterations will need to be drafted in such a way as to avoid creating new issues in respect of other locations.

(e) Thus omitting a hearing process for the national planning standards through which the legality of the provisions can be determined before they are introduced will produce ongoing uncertainty and potentially additional long term cost and delay. In contrast, a hearing process for the template would enable the appointed commissioners and/or Environment Court on appeal to assess the lawfulness and appropriateness of provisions. That would enable the refinement and documentation of a document that, as a consequence of that hearing process, should be both lawful and of broader relevance.



TRANSPOWER

Submission by Transpower New Zealand Limited on the Draft National Planning Standards (Ministry for the Environment)

17 August 2018

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Introduction

1. The Draft National Planning Standards (the Draft Standards) have been promulgated in response to a requirement of Section 58G the Resource Management Act 1991 (of the RMA) that the Minister for the Environment must have approved a first set of National Planning Standards by mid-April 2019. These must address structure and form (including references to national-level planning instruments), definitions and electronic functionality and accessibility of plans.

2. As owner and operator of the National Grid, Transpower New Zealand Limited (Transpower) has actively participated in RMA processes since the inception of that legislation. The National Grid traverses every district and region in New Zealand, except Kaikoura, Gisborne and the Chatham Islands. It also traverses parts of the coastal marine area adjacent to several regions. The National Grid comprises a wide range of assets, from transmission lines of various capacities (both overhead and underground), to substations and switch yards, and the associated infrastructure such as stormwater treatment and discharge systems and communications infrastructure.

3. Transpower thus has a significant interest in changes in RMA practice, including the Draft Standards.

4. In making this submission, Transpower answers some of the questions raised in the Ministry discussion document, where they are relevant to Transpower's activities.

Overall comment on the Draft National Planning Standards

5. On balance, Transpower considers that there could be long-term merit in the Draft Standards. However, it has concerns about:

    a. Incorporation of the definitions into plans requiring large-scale amendment to plan provisions – and potential inadvertent changes to the intent of the provisions occurring; and

    b. There being no mechanism for inadvertent changes being corrected, particularly where the Schedule 1 process is not used.

6. Transpower considers that this issue could be avoided if there was some mechanism for correcting inadvertent changes to the intent of provisions. Potential mechanisms could be rights of objection (i.e. an extension of section 357 of the RMA), submissions to correct minor defects, errors or omissions (as occurs under section 149RA of the RMA in relation to Board of Inquiry decisions), or an extension of Clause 16 and/or Clause 20A of Schedule 1 of the RMA (in relation to alterations of minor effect or correction of minor errors).

National Planning Instruments Relating to the National Grid

7. Since the National Policy Statement on Electricity Transmission 2008 (the NPSET) came into effect, Transpower has found it somewhat more straight-forward to achieve suitable provisions in plans, particularly district plans, than previously. The NPSET recognises the

national significance of the National Grid and requires councils to recognise and provide for its effective operation, maintenance, upgrading and development in RMA policies and plans.[1] A number of councils have given effect to the NPSET by including policy and other provisions in plans.

8. The Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (the NESETA) provide nation-wide standards for the operation, maintenance, upgrading, relocation and removal of existing[2] National Grid transmission lines. The NESETA allows for maintenance activities, but also for a level of upgrading, as permitted activities, and establishes the rule status for other types of activities relating to National Grid lines. Substations are not covered by the NESETA.

9. Transpower generally seeks to secure its new developments through designations and has also achieved designation status (often retrospectively) for many of its substations and switchyards. A small number of substations and switchyards around the country however rely on specific provisions in plans to provide for their ability to be modified or to operate outside existing use rights.

Response to National Planning Standards Consultation Document

Question: What topics or matters should be investigated for future standards?

Protection of the National Grid – corridor provisions

10. While the NESETA provides for established National Grid transmission line activities, the protection of the National Grid relies on rules in plans (primarily in district plans, and in the district components of unitary plans) to give effect to policies 10 and 11 of the NPSET. Transpower has developed an approach to these policies, based on a National Grid corridor, which has been included in a range of forms in plans.

11. Transpower considers that the National Grid corridor protections are one topic or matter that should be investigated for future standards. We consider corridor protections to be worthy of further investigation as there is a degree of certainty about the restrictions that are applied across the country to date, but a large degree of variability in plan drafting.

12. **Attachment A** sets out the restrictions that have been obtained in plans. It shows that since 2012 there has been consistent restrictions obtained in district plans. While this consistency has been obtained, no one plan is consistent in terms of the approach to drafting of provisions.

13. It is the consistency of restriction that Transpower considers makes the corridor provisions a useful topic to investigate for future standards. Transpower is willing to work with the

[1] NPSET Policy 2

[2] The NESETA only applies to National Grid transmissions lines which were existing on 14 January 2010, when the regulations came into force.

Ministry and relevant industry groups (such as Federated Farmers and Horticulture New Zealand) to investigate potential standards further.

Network Utility Rules

14. A further matter that may be useful to investigate for future standards is network utility rules. Transpower has been involved in a National Planning Standards network utility working group. This group is in the process of developing a set of provisions, from RPS through to district plan rules provisions.

15. Transpower considers there should be a degree of consistency in the types of rules that apply to network utilities throughout the country. However, we have not undertaken an audit of the degree of variability in relation to the rules.

16. We are less certain about the benefits of network utility objectives and policies being incorporated into the standards. The reasons for this are uncertainty are:

    a. Network utilities are a subset of infrastructure groups – there are likely to be good reasons why any objectives and policies should also apply to the broader infrastructure operators (including efficiency of plan provisions). Some plans have included objectives and policies for energy – including the electricity industry as a whole;

    b. It appears to be the intention of the Draft Standard that Infrastructure and Energy are treated together – see theme 4; and

    c. Changes to objectives and policies may be required to address the government's climate change commitments. While this is developing area, it may be prudent to avoid including objectives and policies in a Draft Standard until this is more thoroughly explored.

Question: What are your thoughts on this proposed package of planning standards? If you consider changes necessary, how would these affect the anticipated outcomes?

Risks of Inadvertent Errors in implementing the Draft National Planning Standards

17. At page 25, the Discussion Document recognises that "Long-term benefits outweigh costs, but short-term costs for some councils are a concern". This section of Transpower's submission sets out Transpower's concerns in relation to implementation of the draft National Planning Standards – that if not correctly managed, the implementation process could undermine those long-term benefits.

18. The Draft Standards propose to organise and formalise the structure and content of regional policy statements, regional and district plans and unitary plans. Transpower considers that the realignment of plans carries a cost and a risk for organisations, such as Transpower. This is because the plans which are required to be brought into line with the new standards are highly diverse. There are many complex and subtle provisions which currently may provide a

suitable planning framework for Transpower, but which may be inadvertently lost because of the reorganization of provisions required by the Draft Standards.

19. The varied definitions of "functional need" across district plans illustrate the complexity of implementing definitions. Transpower seeks that district plans recognise the operational, technical, locational and functional constraints of the National Grid. Depending on the plan, these concepts could be merged into the definition of "functional need". An example of this is the definition in the Environment Bay of Plenty Regional Coastal Plan. This plan defines "functional need" as follows:

"*A need or requirement that must be met in order for a structure, development, network or building to operate including the technical and operational requirements of the National Grid. For example, a marina has a functional need to be located in water. Other common examples include shipping lanes and anchorages, ports, and aquaculture, and some infrastructure such as stormwater pipes*."

20. The definition in the Draft Standards is not as broad. To avoid changing the intent of the plan provisions, Environment Bay of Plenty would need to make consequential changes to all provisions that use "functional need". Later in this submission, Transpower comments on the definition proposed in the Draft Standards, and suggests it is broadened to include locational, technical and operational requirements.

21. While the current diversity of plans, and plan provisions, is not desirable, it is likely that Transpower will nevertheless need to evaluate every plan as it realigns with the new standard. It will need to make sure the provisions which were formerly achieved through participation in the plan development or review process have not become modified or even lost, however the RMA provides limited opportunity for this outcome to be avoided.

22. RMA section 58I sets up procedural requirements for local authorities in meeting the National Planning Standards once they are promulgated. This provides that some amendments must be made without RMA Schedule 1 processes, but others must apply a Schedule 1 process.

23. Because of the Draft Standards,[3] it is likely that many of the plans will look quite different from their present format. While it is acknowledged that many provisions in the current draft are worded in a way that appears to provide a level of discretion, others, such as the definitions, do not. It will be difficult in some cases for local authorities, in meeting the National Planning Standard requirements, to maintain their current planning regime without involving Schedule 1 processes.

24. This will place a burden on organisations such as Transpower, which will need to check the modified plans, which are all to be modified in two tranches on a specific timeframe. Section 58I(5) provides that the changes (whether they use a Schedule 1 process or not), have immediate effect, adding further risk to the process if local authorities do not undertake the realignments being cognisant of the detail of how the plan currently works.

[3] Regardless of submissions made on the current draft.

25. Further, the process to be applied if a provision is not identical (due to, for example, the application of a new or changed mandatory definition) to the provision that preceded it, but the local authority has not included it in a Schedule 1 procedure, appears not to be set out within the RMA. Such circumstances may disadvantage those who participated in a previous planning process and were satisfied with the outcome, including items that may have been addressed through recourse to the Courts.

26. Transpower has identified the potential for risks arising from the introduction of new definitions, and for uncertain process if a local authority does not use the correct procedure.

27. If procedural matters are not clarified, it is likely that local authorities will conservatively apply Schedule 1 processes, adding to the burden for national agencies of checking and participating in numerous plans simultaneously.

28. Potential options for implementing the draft Planning Standard in a way that avoids the Schedule 1 process, but provides for correction of inadvertent errors are:

    a. Rights of objection (i.e. an extension of section 357 of the RMA);

    b. Submissions to correct minor defects, errors or omissions (as occurs under section 149RA of the RMA in relation to Board of Inquiry decisions); or

    c. Extension of Clause 16 and/or Clause 20A of Schedule 1 of the RMA (in relation to alterations of minor effect or correction of minor errors).

Comments on Specific Standards

29. Transpower wishes to make several comments on the individual standards. These are set out in the following paragraphs.

Inclusion of National direction instruments

30. Transpower notes the inclusion of a section dealing with National direction instruments in all documents[4]. While this may be helpful to users of the documents, it will also date unless all subsequent instruments include a National Planning Standard that requires updating of the documents (which would occur without a Schedule 1 process). Provision for this may need to be made within the RMA itself.

Use of the term "Landforms"

31. Transpower notes the frequent use of the term "landforms" in the Draft Standards. This term is undefined and is not used in the RMA. It appears that this term may be intended to be "natural feature"[5], which may include features which are not landforms (such as lakes, rivers, wetlands, springs, geologically significant areas). Transpower considers that this requires correction to properly reflect the RMA.

[4] As defined in RMA Section 58I.
[5] RMA Section 6(b).

Theme 4 – Infrastructure and Energy

32. Transpower supports the inclusion of a separate infrastructure and energy "theme" in Part 4 of the draft Regional Policy Statement Structure Standard, the District Plan Standard and the Combined Plan Standard.

33. The Draft Regional Plan Structure Standard includes Infrastructure and Energy as a specific theme. While recognising that this may be appropriate for some types of activities, it is more common for regional plans to address relevant elements of infrastructure and energy (such as discharges to air, water or land) under groupings of provisions relating to RMA sections 12 to 15. While this would appear not to be limited by the listing of "themes" in the Standard, the inclusion of a separate Infrastructure and Energy theme in the Draft Standard may result in additional complexity in such plans. It may be appropriate to limit the theme to objectives and policies, rather than rules to avoid this complexity.

Draft Introduction and General Provisions Standard

34. The Draft Introduction and General Provisions Standard provides mandatory directions for councils to amend their planning documents within 5 years of gazettal of the Draft Planning Standard. There is a two-year extension, to 7 years, for listed councils, including Auckland Council.

35. Transpower has some concerns about the National Planning Standard being applied to Auckland. The corridor provisions in the Auckland Unitary Plan (Operative in Part) were resolved after both Environment Court and High Court appeals. While the restrictions are generally similar to the corridor provisions sought in other district plans, the mapping of the corridor is very different:

    a. Spans are mapped as compromised or uncompromised, depending on the degree of building under the lines;

    b. The corridor that applies to subdivision is mapped on a span by span approach, rather than the more generic approach that applies elsewhere.

36. We consider that the mapping of the subdivision corridor on a span by span approach is limited to Auckland. It resulted from significant work, including peer review by a council engineer. We consider that costs of applying such an approach elsewhere in the country would outweigh any benefit. We also consider that moving away from the approach in Auckland would not be beneficial.

37. Instead, we consider that it would be appropriate for the National Planning Standards to provide an exemption for certain plans/provisions. In this regard, we consider that it would be appropriate for the Auckland Unitary Plan corridor overlay to continue to apply, and Auckland be exempted from applying any future content-based standards in relation to policies 10 and 11 of the NPSET. The Auckland Unitary Plan situation lends itself to local variation provided for under Section 58D(2)(c).

38. Under the Draft Introduction and General Provisions Standard, Tables 13, 14 and 15[6] includes a list of National direction instruments, including the dates of versions. This table is likely to date quickly. As noted above, unless all subsequent changes to these documents include a National Planning Standard direction to update the documents without a Schedule 1 process, Table 13 could be expected to hinder application of the National direction instruments as it will retain the application of the dated standard until any change is formally adopted through a Schedule 1 process.

Draft Area Specific Matters Standard (S-ASM)

39. In the Draft Area Specific Matters Standard (S-ASM), Table 16 sets out the requirements for a Designation Table. This is generally as would be expected in a district or combined plan, but there are three key differences:

- The date of the designation is not included. This is much more important than the lapse date and should be included.

- The lapse date or identification that designation has been given effect to. Further consideration should be given to whether this detail should be included, as it would require a change to the plan when effect is given. Designations have worked effectively in the past without such a provision.

- A "*designation hierarchy (primary or secondary)"* is listed as a required item. "Primary or secondary" designations are not defined in the RMA or the Draft Standard and so it can only be speculated as to what this means. It is envisaged that the intention of this item is to establish priority when there are overlapping designations. However, this can be achieved by simply identifying the original date of the designation. Transpower's designations cross numerous other designations and it would be unrealistic to identify all such areas of land and nominate them as "primary or secondary".

Infrastructure and Energy (S-IE)

40. In the District Wide Matters Standard, under the Infrastructure and Energy chapter (S-IE), Item 23(a)(x) references provisions relating to "*any buffer corridor area provisions required for the National Grid*". The "buffer corridors" required by policies 10 and 11 of the NPSET apply to all National Grid assets, not merely transmission lines. Item 23(a)((x) could be amended to clarify that corridors can apply to overhead and underground lines and substations.

41. It is usual for earthworks provisions and limitations to be included within rules relating to National Grid corridors and other provisions. Item 33 requires any earthworks provisions to be included in the *Earthworks* section. To have to separate these out into other sections will be to the disadvantage of landowners who need to be aware of all the provisions that relate to the corridor or other restriction, and also to Transpower in having to continue to educate plan administering officers.

[6] This tabulation appears to be poorly formatted and requires reconsideration.

Draft Mapping Standard (F-2)

42. The Draft Mapping Standard (F-2) includes specific symbols for the National Grid Line and the National Grid Underground Cable. Transpower notes that it may be necessary to distinguish different types of corridors around transmission lines (for example in the Auckland Unitary Plan different scales of hatching are used to identify compromised and uncompromised spans) and local authorities should be able to do that by varying the symbols.

Draft Spatial Planning Tools (District) Standard (F-4)

43. Transpower assumes that, for example, in Table 24 "buffer corridors" and other provisions to protect the National Grid would come under the heading of "overlay" or "specific control". The inclusion of this type of Spatial Planning Tool is supported.

Specific Comments on CM-1: Draft Definitions Standard

44. The following terms are included in the definitions and have importance in relation to the policy or protective provisions that have been included in plans. Transpower would seek to retain the current wording for these definitions in the Draft Standard:

- Abrasive blasting
- Addition
- Dry abrasive blasting
- Habitable room
- Land disturbance
- Wet abrasive blasting

45. Transpower would seek changes to the following definitions:

- Functional need – as currently worded, this reads: "*… the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment*". This needs to be broader if it is to align with Transpower's NPSET requirements under Policy 3 which refers to technical and operational requirements. More suitable wording would be: *"the locational, operational, practical or technical needs of an activity, including development and upgrades".*

- The definition of reverse sensitivity is useful but needs to be extended to provide for approved activities (whether by resource consent or designation) which are not yet established. This could be addressed by adding "*or approved*" following "*established*" in the current draft definition.

- Earthworks – Transpower does not support the definition of earthworks, as it has the potential to undermine the operative District Plan rules for earthworks around the National Grid if relied upon instead of "land disturbance". The definition

currently reads: "*means any land disturbance that changes the existing ground contour or ground level*." Earthworks that does not change the existing ground contour or ground level has the potential to undermine the National Grid and would be exempt from regulation where this definition is relied upon. Also, it is not clear whether the change to existing ground contour or ground level would apply temporarily during the earthworks, or after the earthworks are complete (or both). Transpower's observation is that only the land disturbance definition would be workable within operative District Plan rules as they relate to the National Grid. This is a detail that could easily be overlooked or misunderstood when the definitions are implemented.

46. Other definitions which could usefully be added could be "noise-sensitive activity" and "early childhood facility".

Conclusion

47. Transpower welcomes the opportunity to submit on the Draft Standards and would welcome any opportunity to discuss the matters raised in detail prior to their finalisation.

Attachment B: **District Plans in New Zealand implementing the NPSET**

The table below contains a high-level summary of the provisions of various District Plans which have given effect to the NPSET through district plan reviews or plan changes. Transpower has not identified provisions that were operative pre-2012. Transpower generally sought much wider corridors at this time. For example, Ashburton includes a corridor of 32m either side of the centreline of transmission lines where all land use is restricted. Waimakariri includes a 100m corridor.

District Council Plan	Date provisions made operative (or beyond challenge)	Land use rules within 12m National Grid Yard	Activity status of new sensitive activities in 12m National Grid Yard	More permissive activity status for additions, external alterations for, change of use to, sensitive activities within the 12m National Grid Yard?	Activity status of subdivision within wider corridor (up to 39m)	Activity status of subdivision if building platform is located in the National Grid Yard
Upper Hutt City	September 2012	Yes[7]	NC	No	RD[8]	D[9] NC[10]
Ashburton	November 2012	Yes[11]	NC[12]	No	Status depends on zone[13]	NC[14]
Kaipara	August 2013	Yes[15]	NC	No	RD	D[16]
Western Bay of Plenty	August 2013	Yes[17]	NC	No	Status depends on zone[18]	NC
Horowhenua	September 2013	Yes[19]	NC[20]	No	C[21]	RD[22]
Rangitikei	September 2013	Yes[23]	D[24]	No	RD[25]	D
Whangarei	November 2013	Yes[26]	NC[27]	No	RD	NC
Waimate	December 2013	Yes[28]	NC	No	RD	NC
Hauraki	February 2014	Yes[29]	NC	No	RD	RD[30]

[7] Rule 18.2 (Residential Zone); Rule 19.1 (Rural Zone – between 12 and 32 metres)
[8] Rule 18.1 (Residential Zone – 20 metre setback), Rule 19.1 (Rural Zone – 32 metre setback), Rule 20.1 (Business Zone); Rule 22.1 (Special Activity Zone)
[9] Rule 18.1 (Residential Zone);
[10] Rule 19.2 (Rural Zone)
[11] Standard 3.10.8 (Rural Zone – note this relates to any new building or structure, does not distinguish between sensitive or non-sensitive activities)
[12] Rule 3.8.6 (Rural Zone – relates to any new activity, not just sensitive activities)
[13] Rule 9.7.3: Controlled, Rule 9.7.4: Restricted Discretionary, Rule 9.7.5: Discretionary
[14] Rule 9.7.6 and Critical Standard 9.9.8 (Requires that no building platforms be located within 12 metre setback)
[15] Rule 12.10.28.
[16] No scope to seek NC status when Transpower's appeal was settled.
[17] Rules 18.3.5, 18.4.1(o) and 18.4.2(a).
[18] Rule 18.3.2: Controlled, Rule 18.3.3: Restricted Discretionary, Rule 18.3.4: Discretionary.
[19] Performance Standard 19.6.14(a) (Rural Zone)
[20] Rule 19.5.5(a) (Rural Zone)
[21] The rural subdivision rules were subject to a plan change (PC20) which occurred prior to the review of the Plan. The reviewed plan (Operative July 2015) did not include those provisions subject to the earlier plan change. Therefore, the older 'high voltage transmission line' provisions are still operative i.e. no part of the dwelling may be located within 20 metres of the line, and limited discretionary status for subdivision that cannot meet the 20 metre dwelling setback rule.
[22] See footnote above
[23] Rule B1.13.
[24] Rule B7.
[25] Rule B11.8.
[26] Rules NTW2.4-2.6.
[27] NTW.3. Discretionary status for activities within the Business 3 and Living 1 Environments due to scope.
[28] Rule 12.28 and zone standards 8.8 and 7.15.
[29] Rule 8.2A.1.3.
[30] No scope to seek default to NC status when Transpower's appeal was settled.

District Council Plan	Date provisions made operative (or beyond challenge)	Land use rules within 12m National Grid Yard	Activity status of new sensitive activities in 12m National Grid Yard	More permissive activity status for additions, external alterations for, change of use to, sensitive activities within the 12m National Grid Yard?	Activity status of subdivision within wider corridor (up to 39m)	Activity status of subdivision if building platform is located in the National Grid Yard
Central Otago	July 2014	Yes[31]	NC	No	RD	RD[32]
Southland	October 2014	Yes[33]	NC	No	D	NC
Matamata-Piako	December 2014	Yes[34]	NC	No	RD[35]	NC[36]
Rotorua	April 2015	Yes	D[37] NC[38]	No	RD[39]	NC[40]
Hamilton City	May 2015	Yes[41]	NC[42]	No	RD[43] NC[44]	NC
Waipa	May 2015	Yes[45]	NC[46]	No	RD[47]	NC[48]
Clutha	May 2015	Yes[49]	NC[50]	No	RD	RD[51]
Grey	July 2015	Yes[52]	D (until 10 July 2018, when such activities would become non-complying activities)	No[53]	C	D (until 1 July 2018, when such activities would become non-complying activities)
South Waikato	July 2015	Yes[54]	NC	No	RD	NC
Hutt City	Jun 2016	Yes[55]	NC[56]	N	RD	NC[57]

[31] Rule 12.7.8(i).
[32] No scope to seek default to NC status when Transpower's appeal was settled.
[33] Rural 1.8(2), 5 and 7(7), Sub 2.
[34] Part B, Rule 3.5.1
[35] Rule 6.1.1.11
[36] Standard 6.1.3(x)(c)
[37] Rule 4.1.48
[38] Closer than 8 metres to a pole or closer than 12 metres to a tower support structure - Rule 4.1.49
[39] Rule 13.5.11 (Residential Zones), 13.6.8 (City Centre Zones); 13.7.9 (Commercial 5 Zone); Rule 13.11.10 (Reserves, Community Assets & Water Zones);
[40] Table 13.5.1.12
[41] Rule 25.7.6.1 National Grid Buildings and Structures
[42] 25.7.4 Rules – Activity Status – Electricity National Grid Corridor
[43] Table 23.3a
[44] Table 23.3b where no approved Concept Development Plan in the Medium Density Residential and Rototuna Town Centre Zones and Te Rapa North Industrial Zone
[45] Performance Standards 2.4.2.32 (Residential Zone); 3.4.2.11 (Large Lot Residential Zone); 4.4.2.75 (Rural Zone)
[46] Rules 2.4.1.5 (Residential Zone); 3.4.1.5(d) (Large Lot Residential Zone); 4.4.1.5 (Rural Zone); 5.4.1.5 (Reserves Zone – any building)
[47] Table 15.4.1
[48] Rule 15.4.2.24
[49] Rule AME.9
[50] Rule AME.10
[51] Rule SUB4.C.2 requires allotments within the National Grid Subdivision Corridor to identify a building platform outside the Yard however there is no apparent express provision dealing with non-compliance with this requirement.
[52] Rules 16.7, 17.7, 18.7, 19.7, 20.7, and 25.2.10.
[53] Physical alterations of existing buildings where the degree of non-compliance does not increase,are permitted.
[54] Rules 10.3.1, 18.3.4, 18.4.1.
[55] Chapter 13.4
[56] Rule 13.4.2(a)
[57] Rule 11.2.3.2

District Council Plan	Date provisions made operative (or beyond challenge)	Land use rules within 12m National Grid Yard	Activity status of new sensitive activities in 12m National Grid Yard	More permissive activity status for additions, external alterations for, change of use to, sensitive activities within the 12m National Grid Yard?	Activity status of subdivision within wider corridor (up to 39m)	Activity status of subdivision if building platform is located in the National Grid Yard
Napier City	June 2016	Y[58]	NC[59]	No	RD[60]	NC[61]
Porirua City	June 2016	Y[62]	NC[63]	No	RD[64]	NC
Hastings	November 2016	Y[65]	NC[66]	No	RD[67]	NC[68]
Far North	April 2017	Y[69]	NC[70]	No	C[71]	NC[72]
Thames-Coromandel	May 2017	Y[73]	NC[74]	No	RD and D[75]	NC[76]
Whakatane	May 2017	Y[77]	NC[78]	No	RD[79] (NC in Community and Cultural Zone)	NC[80]
Whanganui	May 2017	Y[81]	NC[82]	No	RD[83]	NC[84]
South Taranaki	May 2017	Y[85]	NC[86]	No	RD[87]	NC[88]
Christchurch City	May 2017	Y[89]	NC[90]	No	RD[91]	NC[92]

[58] Rule 53.10
[59] Rule 53.22
[60] Rule 53.18
[61] Rule 53.23
[62] Chapters D3, D4, D5, D6, D7
[63] Rule D3.1.5
[64] Chapters D3, D4, D5,
[65] Chapter 22
[66] Rule 22.1.5.9
[67] Rule 15.1.9.1 and Rule SLD28
[68] Rule SLD28
[69] Chapter 17
[70] Rule 17.2.6.5
[71] Rule 13.7.4
[72] Rule 13.11
[73] Section 30.3 Rule 2
[74] Rule 30.3
[75] Rule 38.5 (RD), Rule 38.6 (D – rural)
[76] Rule 38.6 Rules 9 and 10
[77] Chapter 20
[78] Rule 20.2.8.3
[79] Rule 20.2.1.14
[80] Rule 20.2.1.16
[81] Chapter 3 and Chapter 4
[82] Rule 3.8.4 and Rule 4.4.5
[83] Rule 3.4.2, Rule 3.8.2, Rule 13.4.4
[84] Rule 13.4.4
[85] Section 3
[86] Rule 3.1.5
[87] Rule 9.1.3
[88] Rule 9.1.5
[89] Various, including Chapter 6, Chapter 14, Chapter 16
[90] Various, including Chapter 6, Chapter 14, Chapter 16
[91] Rule 8.3.2.2
[92] Rule 8.3.2.2

District Council Plan	Date provisions made operative (or beyond challenge)	Land use rules within 12m National Grid Yard	Activity status of new sensitive activities in 12m National Grid Yard	More permissive activity status for additions, external alterations for, change of use to, sensitive activities within the 12m National Grid Yard?	Activity status of subdivision within wider corridor (up to 39m)	Activity status of subdivision if building platform is located in the National Grid Yard
Hurunui	May 2017	Y[93]	NC[94]	No	RD (except Rural: C)[95]	NC[96]
Invercargill	October 2017	Y[97]	NC[98]	No	D[99]	NC[100]
Auckland (Unitary)	November 2017	Y[101]	NC[102]	No	RD[103]	NC[104]
Palmerston North City	April 2018	Y[105]	NC[106]	No	RD[107]	NC[108]

[93] Sections 3 and 4
[94] Rule 3.4.3.11 and Rule 4.6.13
[95] Section 5
[96] Rule 5.4.2.
[97] Section 3.9
[98] Rule 3.9.5
[99] Rule 3.18.3
[100] Rule 3.18.6(L)
[101] Chapter D26
[102] Table D26.4.1 Rule A1
[103] Table D26.4.1 Rule A34
[104] Table D26.4.1 Rule A22
[105] Rule R23.6.5(b)
[106] Rule R23.11.1
[107] Rule R7.17.1.2
[108] Rule R23.10.2

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Attention: Planning Standards Team

Feedback on Draft National Planning Standards

Introduction

The New Zealand Defence Force (NZDF) wishes to provide feedback on the draft National Planning Standards (the Standards), which the Ministry for the Environment (MfE) has sought public submissions on. NZDF acknowledges the previous engagement that it has had with MfE, which includes meetings and the provision of written feedback. NZDF looks forward to ongoing involvement in MfE's development of the Standards, including further discussions regarding the potential inclusion of specific provisions for temporary military training activities (TMTA).

Definition for Temporary Military Training Activities (CM-1)

NZDF undertakes TMTA across the country as part of its function of maintaining the nation's security and providing for the well-being, health and safety of communities. NZDF has been undertaking a nationwide project seeking the inclusion of specific and nationally consistent provisions for TMTA in district and regional plans, and has made formal requests or submissions on the plans of more than 20 Councils in the last decade.

In the feedback NZDF provided to MfE on the proposed National Planning Standards pilot, NZDF requested that a definition for TMTA be included. However this has not been adopted in the draft Standards.

Part 2C of MfE's "Evaluation Report for the Proposed National Planning Standards" describes the process that MfE used to identify which terms would be defined in the standards, whereby a term was included if it was deemed to meet two or more criteria. The term "temporary military training activities (TMTA)" was assessed as meeting only Criteria 3 (relevant to infrastructure), and was not selected for inclusion on this basis.

In addition to Criteria 3, NZDF believes the term "temporary military training activities (TMTA)" also meets Criteria 1 (highly used) and Criteria 2 (common to both district and regional plans).

Appendix 1 to Part 2C explains the criteria. Criteria 1 (highly used) is stated to apply to terms that appear in over 50 percent of plans, as well as terms that will assist in the implementation of emerging best practice across the country. NZDF has undertaken a survey[1] of a sample of plans around the country and has found that the term TMTA easily meets this criteria, with the term being defined in more than 70% of the District Plans surveyed. Further supporting its

[1] NZDF sampled 58 District Plans, 11 Regional Plans, and 6 Unitary Plans, and found TMTA (or similar term) is defined in 43 (74%), 2 (18%) and 5 (83%) of those plans respectively. In addition, a number of District and Regional Plans used the term "temporary military training activities" or similar but did not contain a definition for the term.

inclusion in the Standards, a high degree of commonality in the wording of the definition was also found across existing plans, and NZDF's project of engaging with Councils around the country is likely to result in a continued increase in the use of the term within plans.

Criteria 2 relates to terms that are commonly used in both district and regional plans. Part 2C of the Evaluation Report identifies that the development of national planning standards for these terms could help improve the interface between district and regional plans. TMTA are undertaken on both land and water, including the coastal marine area, and can involve activities that are regulated within both regional and district plans. NZDF's survey found that most regional and district plans use the term TMTA or a similar term. TMTA is therefore a term commonly used in in both district and regional plans, and the inclusion of a definition in the Standards would assist in the consistent interpretation of associated provisions. In NZDF's opinion, the term TMTA meets three of the criteria, and therefore qualifies for its definition to be included in the National Planning Standards.

NZDF may wish to carry out TMTA in any district or region in New Zealand, and NZDF is actively pursuing the inclusion of appropriate and specific provisions in every district, regional, and combined plan in the country. The inclusion of a standard definition in the National Planning Standards would be extremely useful and appropriate in this regard. Furthermore, NZDF has been in discussions with MfE about the future inclusion of a set of standards (including objectives, policies and rules) applying specifically to TMTA, and the early adoption of the associated definition would support this.

Accordingly, NZDF requests that the following definition for TMTA be included in the Standards:

> *"A temporary activity undertaken for defence purposes. Defence purposes are those undertaken in accordance with the Defence Act 1990."*

Definition for Infrastructure (CM-1)

Defence facilities are regionally and nationally important, playing a significant role in both military training and civil and/ or national defence operations. The facilities are essential in enabling NZDF to fulfil its obligations under the Defence Act 1990.

As part of NZDF's project of nationwide engagement with Councils, NZDF seeks to ensure that its existing and future defence facilities are appropriately recognised and provided for in regional policy statements and regional and district plans. Key to this is the recognition of NZDF facilities as infrastructure through their explicit inclusion in definitions.

The RMA definition for infrastructure is overly limited in that it excludes a range of significant non-linear infrastructure types including defence facilities. This inadequacy has been recognised and addressed by numerous Councils which have elected to include their own broader definition for infrastructure in their plans and regional policy statements, rather than adopt the definition in the RMA.

The implication of the infrastructure definition included in the draft Standards is that a number of significant infrastructure types, including defence facilities, are not considered to be infrastructure under the Standards. Unless individual Councils opt to include additional definitions of their own to remedy this, plans and regional policy statements are unlikely to adequately recognise or provide for these significant infrastructure. This includes the exclusion of these infrastructure types from the provisions of the Infrastructure and Energy chapter. Of particular concern to NZDF is the effect this exclusion has on the protection of its facilities from reverse sensitivity effects.

Reverse sensitivity is a key resource management issue for NZDF, as it can compromise the ability of NZDF to continue its lawful operations and activities at its facilities. The District Plan Infrastructure and Energy chapter (S-IE) in the Standards is required to include "provisions to manage reverse sensitivity effects between infrastructure and other activities", if relevant to a local authority and unless it is provided for in a special purpose zone, requirement or designation (paragraph 23.c of S-DWM: Draft District Wide Matters Standard). NZDF strongly supports the requirement for reverse sensitivity effects to be addressed within District Plans, however it is important that these provisions protect defence facilities and other infrastructure not currently included in the draft definition for infrastructure.

NZDF believes the optimal way to address these issues is to broaden the definition of infrastructure to include defence facilities, such as by adopting a definition similar to that used in the Auckland Unitary Plan – operative in part[2]. However based on discussions with MfE to date, NZDF understands that MfE does not wish to alter definitions for terms that are already defined in the RMA, such as infrastructure. NZDF therefore offers an additional definition for either "nationally significant infrastructure" or "critical infrastructure" as follows:

Nationally significant infrastructure or *Critical infrastructure: Infrastructure that provides services which have a significant effect on the wellbeing and health and safety of people and communities including, but not limited to, hospitals, airports, ports, state highways, the rail network, defence facilities and emergency response and coordination facilities.*

If MfE adopts this definition (or alternative definition including defence facilities), NZDF also requests that the requirement in paragraph 23.c of S-DWM: Draft District Wide Matters Standard relating to reverse sensitivity be amended to include nationally significant infrastructure or critical infrastructure.

Definition for Reverse Sensitivity (CM-1)

NZDF strongly supports the inclusion of a definition for reverse sensitivity in the Standards, and supports the wording of the draft definition. As discussed above, the Standards require District Plans include provisions that manage reverse sensitivity effects within an Infrastructure and Energy chapter (S-IE). It is important that these provisions address reverse sensitivity effects on defence facilities, which include regionally and nationally significant training facilities and airbases.

District Wide Matters

The draft Standards require District Plans to include a General District-Wide Matters chapter (S-GDW) that contains sections for temporary activities, noise and light, earthworks (if these matters are addressed in the plan). NZDF supports this structure for District Plans, as NZDF considers these matters are most appropriately managed consistently across the district. NZDF expects that local authorities would include provisions for TMTA within the temporary activities chapter, which it considers appropriate.

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[2] Infrastructure has the same meaning as in section 2 of the Resource Management Act 1991 and also means:

- bulk storage for wholesale or distribution purposes of natural or manufactured gas over 15 tonnes, or petroleum over 1 million litres;
- storage and treatment facilities for a water supply distribution system;
- storage, treatment and discharge facilities for a drainage or sewerage system;
- municipal landfills;
- national defence facilities; and
- facilities for air quality and meteorological services.

Noise and Vibration Metrics (CM-2)

NZDF recognises that there is often a non-consistent approach to the referencing of New Zealand Standards and the use of noise and vibration metrics across Council plans. This non-standardisation results in inefficiencies, especially the avoidable effort often required by councils and noise experts defending their approach. NZDF supports the adoption of a standardised approach to noise and vibration metrics (CM-2 and Part 2D – Noise and Vibration Metrics) subject to the consideration of the following matters.

Six noise metrics are defined in the Draft NPS and have the same meaning as in NZS 6801:2008 Measurement of Environmental Sound. These metrics are applicable to TMTA and other NZDF activities.

The L_{dn} metric is used to assess noise from NZDF aircraft activity and when assessing engine testing. The period of time over which L_{dn} is measured differs between NZ Standards: NZS 6801:2008 Acoustics - Measurement of Environmental Sound defines the L_{dn} as being the day-night average sound level for a single 24 hour period, whereas when assessing aircraft noise, NZS 6805:1992 Airport Noise Management and Land Use Planning notes that the Ldn is based on an extended period of time, for example a season or year (when assessing noise from engine testing, NZDF bases the L_{dn} on a five day busy period). The Port Noise Standard (NZS 6809:1999) also bases the L_{dn} on five consecutive busy days. To account for extended averaging periods such as those used by NZDF, the averaging metrics should be adaptable to the specifics of the activity. NZDF requests that the L_{dn} metric should not only have the same meaning as the 'Day night level, or day-night average sound level' in NZS 6801:2008 but should include further 'meanings' as defined in any other relevant New Zealand Standard, i.e. NZS 6805:1992 for aircraft, NZS 6807:1994 for helicopters and NZS 6809:1999 for port noise.

Other metrics may also be relevant, including those for vibration (see below), and the definitions included in CM-1 should not preclude the use of more appropriate metrics or locally defined terms for specific activities.

There is no vibration standard within New Zealand and the exclusion of vibration from the list of Standards is not unexpected. Whilst German Standard DIN 4150-3 1999 structural vibration is referenced, and is the most relevant international standard for this type of vibration, there is no standard relating to the amenity effects on people. NZDF activities can result in vibration felt by people typically from airborne sound from explosions, artillery and detonations. This 'blast over-pressure' can be perceived as vibration and is felt by people rather than resulting in a structural vibration effect. International Standards are often used to assess amenity effects but there is no standardisation within New Zealand. NZDF would welcome the inclusion of a comparable vibration standard(s) within CM-2.

With regards to structural vibration assessment, the latest version of DIN 4150-3 should be referenced, 2016 rather than 1999 that is currently referenced in CM-2.

NZDF requests that CM-1 should include appropriate definitions for vibration as defined in relevant standards, such as BS 5228-2:2009 Code of practice for noise and vibration control on construction and open sites – Part 2: Vibration or DIN 4150-3:2016 Vibration in buildings - Part 3: effects on structures. Relevant metrics for structural and human assessment are:

- Peak particle velocity (ppv) – instantaneous maximum velocity reached by a vibrating element as it oscillates about its rest position (structural),

- Vibration dose value (VDV) – measure of the total vibration experienced over a specified period of time (human).

Table 30 of CM-2 neglects to include NZS 6807:1994 Helicopter Noise Management and Land Use Planning for Helicopter Landing Areas. This Standard, whilst not intended to apply to infrequently used helicopter landing areas, does apply to a number of NZDF sites which experience regular helicopter movements and is currently referenced in many district plans. NZDF recognises that this Standard is almost 25 years old and some elements may no longer be best practice, but in the absence of any other guidance, NZDF requests the inclusion of this Standard to assess and rate the noise from helicopter operations.

Designation chapter (S-DES)

In its earlier feedback on the Standards under development, NZDF identified a practical issue with the requirement that a legal description be provided for all designations. This is on the basis that designations such as noise contours and obstacle limitation surfaces cover hundreds, if not thousands, of properties. Including the legal description of every property within the designation boundary would be administratively challenging and extremely problematic. It appears that the draft NPS now requires that a site is identified by its legal description, and/or physical address, and/or site name/description. NZDF supports this more practical approach.

Draft Mapping Standard F-2

A standardised symbol is proposed for designations in District Plan maps, being a geometry polygon with no fill and containing the designation identifier. NZDF supports a standardised symbol as it will assist in easily identifying designations in planning maps. However, designations which extend over large areas, such as Obstacle Limitation Surfaces designations for airports, could be overlooked at large map scales if they are represented by an outline only. NZDF requests that designation polygons be required to contain some type of fill, such as a transparent fill, hatching, or stippling.

Draft Spatial Planning Tools (District) Standard F-4

This standard proposes that designations should be shown on District Plan maps as either a polygon or point data. So that designations are easily identifiable, NZDF considers it best if the full extent of designation boundaries are shown on District Plan maps as a polygon, rather than point data which wouldn't show the extent of the designation boundary. This is especially important for designations extending over large areas such as Obstacle Limitation Surface designations for airports. NZDF requests that designations are only shown as polygons.

Next steps

NZDF would like to continue being included in the development of the Planning Standards. As previously discussed with MfE, NZDF would like to propose the inclusion of specific provisions for TMTA in a future version of the Planning Standards, and to develop these standards collaboratively between NZDF, MfE and technical specialists. Please contact the undersigned if you wish to discuss any aspect of this feedback.

Yours sincerely

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17 August 2018

NGAI TE RANGI SUBMISSION ON NATIONAL PLANNING STANDARDS

Tena koe

INTRODUCTION

Ngai Te Rangi are indigenous to the coastal area between Waihi in the north to Maketu and further to the east including the offshore islands of Tuhua, Karewa, Motiti and Ruamaio and associated reefs. Our freshwater interests are nestled in the inland catchments running from Kaimai ranges to the coast. We have numerous awa, puna and tahuna – all significant taonga to Ngai Te Rangi.

SUMMARY

We have a natural resource management unit – Te Ohu Taiao that is fully funded by the Iwi. We sent our Kaiarataki - Te Ohu Taiao, along to the regional roadshow sessions offered by the Ministry in June 2018.

The feedback we received was that the session wasn't very valuable – in fact our rep expressed that the session was a waste of time. She mentioned that there were no Maori staff from the Ministry involved. Further, that despite their genuine efforts and attempts to be helpful, there was a clear inability of the staff who were present, to effectively engage with Maori on Maori issues.

Our overall observation is that this shortfall is reflected in the national planning standards – particularly where iwi Maori issues are concerned.

THINGS WE KIND OF LIKE ABOUT THE STANDARDS

Structure Standards
Ngai Te Rangi see the practical advantages of standardized structures but maintain that standardizing should be real-world tested before being mandatorily rolled out across the country. Please note comments in following section – *things we don't like bout the standards*

Zone Chapter Structure
Ngai Te Rangi support in principle. The work we have been advancing within plan review processes at a regional level has involved tireless advocacy for similar concepts for Maori purposes, customary activities, development aspirations, heritage preservation and other forms of Maori cultural needs.

Ngai Te Rangi consider that relegating iwi Maori and our needs into one of the 27 zones will not work. Iwi Maori need to have a parallel zone framework. For instance, Maori have development and other requirements that involve sensitive planning considerations for matters such as residential, rural, commercial, open space and 'recreational' and even industrial sectors.

Assuming iwi Maori needs and values can be appropriately and adequately accommodated within other 'mainstream' mechanisms as factored in the "zone families" is a mistake.

Form Standards
Ngai Te Rangi support baseline electronic accessibility and functionality and ePlan requirements standards.

Mapping & Spatial Planning Tools
While we support in principle the concept of spatial planning standards, we think the standards need to explore spatial tools that explicitly empower iwi Maori planning innovations, initiatives and needs – such as Mana Whenua Whenua Policy Framework (Kai Tahu example), Koiora Moana Spatial Plans (appeals by iwi in BOP)

This recommendation is intended to cover both regional and district plan contexts.

THINGS WE DON'T LIKE ABOUT THE STANDARDS

Part/Chapter Structures – Tangata whenua part structure
Ngai Te Rangi get nervous when we see attempts to steer iwi Maori in a particular direction. That's how we view the potential within the standard that seeks to locate tangata whenua and our

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world view and needs in a compartmentalized section of plans. We cannot support the overly rigid and isolated results that this may unintentionally achieve or deliver.

Definitions
Ngai Te Rangi do not support any criteria, terms or definitions being determined or standardized without great care and proper process and involvement of appropriate and widely supported and appointed Maori experts who must be put there by iwi Maori, not the Crown or Crown appointed panel.

GENERAL COMMENTS

Iwi Maori interests and values appear to advise the standards rather than be the driving factors that set them. It appears that iwi Maori interests are considered afterwards to see what extent they are offended against and while this continues, iwi Maori interests are painted as mechanisms of protest rather than mechanisms that support provisions which would seek at its center, the enhancement of the mauri on the taiao as a whole.

Heoi ano ra,

Paimarire,

na Piatarihi Bennett
Kaiarataki – Te Ohu Taiao o Ngai Te Rangi

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