2B REGIONAL PLAN STRUCTURE STANDARD

Recommendations on Submissions Report for the first set of

National Planning Standards

Contents

Context to this document

This document forms part of the suite of recommendations on submissions reports prepared for the National Planning Standards. It should be read in conjunction with the Overall Introduction and is likely to reference the other recommendations on submission reports listed below. The recommendations on submissions reports are organised as follows:

1. **Overall introduction**
   - Explanation of all of the recommendations on submissions reports
   - High-level submissions analysis

Detailed recommendation reports

2A. **Regional Policy Statement Structure Standard report**

2B. **Regional Plan Structure Standard report**

2C. **District Plan Structure Standard**

2D. **Combined Plan Structure Standard**

2E. **Chapter Standards report** including
   - Introduction and General Provisions Standard
   - National Direction
   - Tangata Whenua Standard
   - Strategic Direction Standard
   - District-wide Matters Standard
   - Designations Standard
   - Schedules, Appendices and Maps Standard

2F. **Format Standard** including
   - Chapter Form Standard
   - Status of Rules and Other Text and Numbering Form Standard

2G. **Zone Framework Standard**

2H. **Spatial Layers Standards** including
   - Regional Spatial Layers Standard
   - District Spatial Layers Standard

2I. **Definitions Standard**

2J. **Noise and Vibration Metrics Standard**

2K. **Electronic Accessibility and Functionality Standard** including
   - Baseline electronic accessibility
   - Online interactive plans

2L. **Mapping Standard**

2M. **Implementation of the Standards**

1 Overview

This report provides an overview of the submissions made on the Regional Plan Structure Standard, our analysis of those submissions and recommended responses.

The draft Standard attracted 54 submissions, reflective of the high level of engagement observed during the planning standards roadshow. Submitters included central government (1), local government (18), iwi groups (4), business and industry (14), resource management practitioners (3), as well submissions from individuals and groups (6).

In general, submissions on the draft Standard contained both overarching comments and detailed suggestions as to the structure, form and content of the Regional Plan Structure Standard. In particular, submissions from local government often raised specific matters or sought detailed changes to the Regional Plan Structure Standard. Submissions were well considered, indicating due consideration to the issues at hand, and often included helpful suggestions to address the submitter's concerns.

Most submissions supported, in principle, standardisation of the structure and format of regional plans. Support for standardisation was greatest in submissions from resource users and plan users, particularly businesses, non-governmental organisations and central government bodies with interests in multiple regions. Fonterra and 2degrees commented on the extent to which regional plan structures differed between councils. Fonterra also noted the use of variable terms to describe common plan sections and the resultant inefficiencies this produced for plan navigation.

Regional councils, while supportive in principle, expressed concerns over the cost and resource implications of the Regional Plan Structure Standard. In particular, councils often submitted that significant 'reworking' of plan provisions would be required to conform to the structure and directions in the Regional Plan Structure Standard.

2 General approach to analysis of submissions and recommendations

Submissions have been analysed and general and overarching issues separated from those relating to a specific matter or provision.

Submission points relating to a common theme have been aggregated to enable an assessment of the range of views expressed by submitters. Following that assessment, we have analysed and evaluated the merits of the points raised and included our recommended responses.

Submission points relating to a specific part or chapter of the Regional Plan Structure Standard have been aggregated according to the part or chapter to which the submission relates. Where multiple submitters requested different amendments in response to the same issue, we have analysed and evaluated these together and provided a single recommendation in response.

The following chapter headings have been used in this report for collating and analysing submissions:

- Architecture of the regional plan structure (parts, chapters, sections)
- Mandatory directions
- Integrated management of natural and physical resources
- Themes versus provision-based architecture
- Part 1 – Introduction and general provisions and Part 2 – Tangata whenua
- Part 3 – Issues and objectives
- Part 4 – Themes
- Part 5 – Catchments provisions
- Part 6 – Evaluation and monitoring.

In our recommendations below, we recommend merging or deleting some parts of the regional plan structure standard. For clarity, we continue to refer to the part as it was notified when analysing submissions and then clarify in the recommendations what the new part reference should be.

The changes recommended in this report can be seen in the recommended planning standards version. Given the number of changes being made, preparing a track changed version would have been too cumbersome, especially with the changes to parts, chapters, and directions for each of them. Please refer to the Regional Plan Structure Standard for the final changes recommended.

3   High-level provisions

3.1   Architecture of the regional plan structure (parts, chapters, sections)

3.1.1   Background

The Regional Plan Structure Standard was divided into four components. 'A' contained a purpose statement, 'B' described the relationship of the Regional Plan Structure Standard to other planning standards, 'C' set out procedural steps to be followed by councils when implementing the Regional Plan Structure Standard (Part C) and 'D' contained mandatory directions and a structure and form for regional plans, which is set out in table 4.

Table 4 applied a hierarchical approach to the arrangement of plan content, with material organised into parts, chapters and sections. Parts are the foundational elements of the Regional Plan Structure Standard and are used to group together high-level content. Within each part is a series of chapters that standardise the order, name and content of material within a part. Finally, embedded within some chapters are sections, which standardise the arrangement and order of content within a chapter.

3.1.2   Submissions

The New Zealand Law Society, Bay of Plenty Regional Council and West Coast Regional Council expressed general concern over perceived inconsistencies between the mandatory directions in Part D of the provisions in the Regional Plan Structure Standard,[1] the instructions in table 4 of the Regional Plan Structure Standard[2] and directions in the draft Chapter Form Standard.[3] All three submitters requested changes to the Regional Plan Structure Standard to distinguish mandatory content from optional content.

3.1.3   Analysis

The draft Standard has been developed to help with achieving the purpose of the National Planning Standards, as set out in section 58B of the RMA. Section 58B provides for the Minister for the Environment to set out requirements relating to the structure, format or content of regional plans that the Minister considers require national consistency or that will help people with complying with the procedural principles in section 18A of the RMA. The procedural principles in section 18A state:

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[1]   Point 3 of the mandatory directions in Part D of the draft Regional Plan Structure Standard directs that all regional plans must include the mandatory headings (ie, part, chapter or section headings) in the order provided in table 4, unless otherwise stated.

[2]   Instructions for parts 3, 4 or 5 of table 4 of the Regional Plan Structure Standard state that a part must be included if the council addresses matters related to that part.

[3]   Point 4 of the draft Chapter Form Standard directs that, unless otherwise stated, regional plan chapters may contain headings in the order provided.

> Every person exercising powers and performing functions under the Act must take all practicable steps to—
>
> (a) use timely, **efficient**, consistent**,** and cost-effective processes … and
>
> (b) ensure that policy statements and plans—
>
>   (i) …
>
>   **(ii) are worded in a way that is clear and concise.** [Emphasis added]

The intent of the Regional Plan Structure Standard is for councils to include only part, chapter and section headings that are relevant to the content of the plan. However, we note a consequence of providing this flexibility is that different regional plans will contain a different number of parts. For example, less complex regional plans may include as few four parts,[4] while comprehensive regional plans (particularly those that relate to management of air, coastal and water environments) could contain up to seven parts.[5]

While at face value these differences may seem trivial, the result is a Standard that does not achieve its principal goal – that being a consistent structure and format for regional plans.

Furthermore, a consistent architecture is important to help plan users in navigating between different regional plans. This point was highlighted in the Section 32 Evaluation Report,[6] which quoted a core principle from the Quality Planning website:

> The way in which a plan is structure and the content within which it is organises is critical in assisting the understanding and effectiveness of that plan. Good structure and organisation can help ensure important plan provisions are not overlooked, enable better integration between provisions, and improve understanding as to the origin and intent of provisions (particularly rules).[7]

We agree with the principle above. A robust and logical structure helps with effective and efficient plan navigation. However, we are also mindful that any changes we recommend to the architecture of the Regional Plan Structure Standard need to preserve the inherent flexibility built into the Regional Plan Structure Standard, which allows councils to omit chapters and sections not relevant to the content of the regional plan.

We consider the dual outcomes of flexibility and a consistent number of parts can be achieved by revisiting the way in which parts are used in the Regional Plan Structure Standard. We consider parts should be used sparingly, to collate content that is mandatory or common to all regional plans. In contrast, flexibility to insert or omit content should be reserved for chapter and sections. By making this simple change to the structure of the Regional Plan Structure Standard, we consider the dual goals above can be achieved.

We consider the above recommendations can be accommodated by combining the introduction and general provisions (Part 1) and tangata whenua (Part 2) into a new Part 1;

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[4] Mandatory Part 1 (Introduction and general provisions), Part 2 (Tangata whenua standard), Part 7 (Schedules, appendices and maps), and either Part 3 (Issues and objectives) or Part 4 (Themes) or Part 5 (Catchments).

[5] Parts 1 to 7.

[6] Page 6 of the Proposed National Planning Standards Evaluation Report 2018. www.mfe.govt.nz/sites/default/files/media/RMA/PART%201%20s32-Overall%20assessment.pdf.

[7] Section 32 Evaluation Report – extract from the Quality Planning website.

amalgamating the issues and objectives (Part 3), themes (Part 4) and catchments (Part 5) into a new Part 2, and retaining the appendices and maps (Part 6) as a new Part 3.

3.1.4   Recommendations

We recommend the following amendments to the draft Regional Plan Structure Standard:

- combine Part 1 – Introduction and General Provisions and Part 2 – Tangata Whenua into a new Part 1 – Introduction and Generation Provisions with a separate Tangata Whenua/Mana Whenua heading

- amalgamate Part 3 – Issues and Objectives, Part 4 – Themes and Part 5 – Catchments to a single new Part 2 – Management of Resources

- Retain the appendices and maps in Part 6 as a new Part 3 – Appendices and Maps

- Direct that all parts in the Regional Plan Structure Standard must be included in the order shown in the Standard.

3.2   Mandatory directions

3.2.1   Background

The Regional Plan Structure Standard contained a set of mandatory directions that councils must follow when implementing the Regional Plan Structure Standard.

The mandatory directions specify timeframes for implementation of the Regional Plan Structure Standard (points 1 and 2) and instructions regarding the implementation of the structure standard in table 4 (points 3 and 4). Point 3 of the Regional Plan Structure Standard directs councils to implement all part, chapter and section headings in table 4, unless otherwise stated.

In addition to these mandatory directions, column 3 of table 4 includes a set of 'additional instructions' that councils must comply with for each part, chapter or section.

3.2.2   Submissions

In general, submitters were supportive that regional plans should contain only chapter headings from table 4 relevant to the content of the regional plan. However, two submitters stated this intent was unclear and sought changes to clarify the intent of the Regional Plan Structure Standard (Local Government New Zealand and Bay of Plenty Regional Council).

In particular, submitters stated the term 'may' and the inclusion of 'if statements' in mandatory directions created confusion as to which content was mandatory and which could be omitted (Christchurch City Council, Tauranga City Council).

Furthermore, some submitters stated the directions in the Regional Plan Structure Standard were unclear as to where to place content that related to more than one theme (Local Government New Zealand and Bay of Plenty Regional Council). Both submitters requested changes, to provide further direction on this matter.

3.2.3 Analysis

Clarity on directions relating to each part, chapter and section

We agree that the mandatory directions in the Regional Plan Structure Standard should be unambiguous and clearly state the directions that apply to each part, chapter or section.

To achieve this, we recommend that directions relating to parts, chapters and sections be collated and organised under each part in the 'Mandatory directions' Regional Plan Structure Standard. We consider this combination of changes will help councils in determining the directions relevant to each part, chapter and section. We also consider the phrase 'additional instructions' is unhelpful and creates uncertainty as to the legal status of the directions. We therefore recommend all of the directions are called 'mandatory directions' as per section 58I of the RMA.

Mandatory versus discretionary directions

The Regional Plan Structure Standard states that all directions in the Regional Plan Structure Standard are mandatory, as indicated by the text below:

> The table (or cells) in part D contains mandatory directions.

However, we agree with submitters that some terms and phrases in 'D' and table 4 of the Regional Plan Structure Standard suggest 'discretionary directions' as described in section 58I(4) of the RMA. In particular, statements that include the terms 'may' or 'choose' inappropriately are reflective of the type of statements that would be included within discretionary directions. An example of one such direction is:

> '**If** the council **chooses** to address matters on a theme basis and air quality matters are addressed in the regional plan they must be included in the Air quality chapter. [Emphasis added]

We acknowledge these statements have been included in the draft Regional Plan Structure Standard to allow councils to include only content relevant to the regional plan. However, we consider this outcome can still be achieved while framing the directions in language that is clearer and absolute. To accommodate this, we have recommended changes to the language used in the directions and table 4.

Content relevant to more than one theme

We also agree with submitters that the directions in the Regional Plan Structure Standard could be clearer, with respect to the location of content that relates to more than one theme. We address the issue of overlapping content in the following sections of this report: 'integrated management of resources' and 'coastal environment'. However, in summary, we recommend changes to provide more explicit directions on where content that relates to more than one theme should be located. These directions set out a clear hierarchy for the location of content that we consider will help councils in implementing the Regional Plan Structure Standard consistently.

3.2.4 Recommendations

We recommend the following amendments to the draft Regional Plan Structure Standard:

- collate directions relating to parts, chapters and sections under each part in the 'Mandatory directions'

- reframe directions with language that is clearer and absolute

- provide more explicit directions on where content that relates to more than one theme should be located.

3.3 Integrated management of natural and physical resources

3.3.1 Submissions

A number of submitters[8] queried the extent to which the structure of the Regional Plan Structure Standard provides for and encourages integrated management of natural and physical resources. Three general concerns relating to the matter of integrated management of resources were raised by submitters:

- a lack of recognition of the connectivity between land, air, water and coastal resources

- the potential to exacerbate issues of conflict and tension between outcomes

- the segregation of natural resources from physical resources.

These matters are addressed under the relevant subheadings below.

Connectivity between land, water and coastal environments

A lack of connectivity and recognition of the interactions between land, coast and water resources was identified by some submitters as a potential weakness of the Regional Plan Structure Standard structure (Bay of Plenty Regional Council, Morphum Environmental Limited, Waikato Regional Council). Some submitters stated this could be best addressed by including new chapters titled 'integrated management' and 'strategic direction', stating this would support more a more holistic and integrated approach to management of resources (Bay of Plenty Regional Council, Resource Management Law Association (RMLA), New Zealand Law Society and Te Rūnanga o Ngāi Tahu, New Zealand Pork).

Integrated management was viewed as particularly necessary with respect to the management of land and water resources. Morphum Environmental Limited cited the historical segregation of land use decisions from freshwater decisions as a contributing factor to poor water quality across the country. Combined 'land' and 'water' chapters were also supported by Canterbury Regional Council and the New Zealand Law Society on the basis that it would enable a more integrated approach to resource management. In contrast, New Zealand Pork opposed a combined 'land' and 'water' chapter, stating issues relating to land and water management would be best addressed within an 'integrated management' section.

Integration of land, water and the coastal environment was also raised in the context of the structure of Part 5 (Catchments) of the Regional Plan Structure Standard. Bay of Plenty Regional Council, Canterbury Regional Council and Otago Regional Council requested changes

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[8] Bay of Plenty Regional Council, Canterbury Regional Council, New Zealand Planning Institute, Otago Regional Council, Morphum Environmental Limited, Resource Management Law Association, Te Rūnanga o Ngāti Ruanui Trust, Trustpower Ltd.

to Part 5, to allow councils to prepare a regional plan that incorporates a 'regional-' and 'catchment-' based framework. Canterbury Regional Council submitted that a combined 'regional- and catchment-' based framework would support regional councils that have adopted a 'staged approach' to the implementation of limit-setting processes under the National Policy Statement for Freshwater Management (NPS-FM).[9]

Compartmentalisation of themes

Canterbury Regional Council submitted that compartmentalising issues into themes would not encourage horizontal integration of provisions or encourage plan-makers and plan users to 'look across' and consider relationships and tensions between different themes. The RMLA expressed similar concerns, submitting that a theme-based structure had the potential to perpetuate issues of conflict between provisions and create an artificial distinction between topics.

The separation of 'natural character' from 'water' and 'coastal environment' was considered inappropriate by Otago Regional Council, given the interrelatedness of these matters. Furthermore, it submitted that compartmentalising topics would necessitate extensive cross-referencing of provisions and result in disjointed and difficult to navigate plans. An alternative structure put forward in its submission retained air, coast, land, water, infrastructure and energy and special topic chapters but required matters related to preservation of natural values (eg, natural character, biodiversity and so on) to be addressed within each domain.

Segregation of natural resources from physical resources

Genesis, the New Zealand Planning Institute and Otago Regional Council considered that 'theme-based' chapters inappropriately segregated the management of natural resources (eg, ecosystems and biodiversity) from physical resources (eg, infrastructure). Genesis and Trustpower submitted this issue could be resolved by amending the 'directions' in Part 4 of the Regional Plan Structure Standard to state:

> If the council 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 (eg, coastal environment, landscape, landforms and natural character, and water) or via catchment-specific provisions.

3.3.2   Analysis

A number of submitters raised concerns that the structure of the Regional Plan Structure Standard will contribute to less integrated regional plans.

Regional plans have a significant role in promoting the sustainable management of a region's natural and physical resources. Regional plans that are effective in achieving this purpose consider and resolve competing demands for resource use (while giving effect to directives in

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higher order instruments) and guide decision-makers in the determination of applications for resource consent.

We consider the structure of the Regional Plan Structure Standard will have a significant influence on the extent to which it encourages or frustrates an integrated approach to the management of resources at a regional level. A Regional Plan Structure Standard that encourages plan-makers to consider connectivity between resources and competing demands and values is consistent with a ki uta ki tai (from the mountains to the sea) approach to resource management and the promotion of sustainable management of natural and physical resources. In contrast, a Regional Plan Structure Standard that directs plan-makers to consider resources and values in 'domain-' or 'theme-' based silos may result in conflicting provisions and derail the attainment of plan outcomes.

For these reasons, we accept a number of the concerns raised by submitters and recommend changes to the arrangement of chapters in parts 3, 4 and 5 to encourage a more integrated approach to the sustainable management of natural and physical resources. The approach we recommend adopts a 'general' to 'specific' architecture and arranges chapters under four new headings in a 'new' Part 2[10] titled:

- integrated management

- domains

- topics

- area-specific matters.

Under the 'integrated management' heading, we recommend a new chapter titled 'integrated objectives' within which outcomes for the integrated management of land, air, water and coastal environments are placed. Under this heading, we also recommend a 'integrated policies' chapter is inserted within which overarching policies relating to the strategic management of a region's resources are placed.[11]

Beneath the 'domains' heading, we recommend 'air, 'coastal environment', 'geothermal', 'land and freshwater' chapters are put in place. The combined 'land and freshwater' chapter recognises the valid point made by some submitters that segregation of land use decisions from water management decisions has contributed to less integrated planning in the past. The title 'land and freshwater', rather than 'land and water', is preferred because this clarifies that provisions relating to 'coastal water' are to be located in the 'coastal environment' chapter and 'coastal marine' section. For 'geothermal', refer to section 6.2 of this report.

A companion set of mandatory directions is recommended to accompany the 'domains' heading that direct councils to locate provisions specific to a domain, or provisions that address overlapping topics, within the relevant domain chapter. We consider this second tier of chapters will encourage plan-makers to consider the different values of a resource (eg, freshwater biodiversity versus supply for irrigation) and include provisions that resolve these competing demands.

Thirdly, we recommend chapters relating to a specific value, risk or topic are located under the 'topics' heading. A companion set of directions is recommended that direct councils to

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[10] Note: recommendations in other reports have resulted in Part 2 Tangata Whenua being merged into Part 1.

[11] Examples include policies that direct concurrent expiry dates for resource consents to enable the integrated management and allocation of resources.

include provisions that are specific to a single topic beneath the relevant chapter heading. This structure allows councils to insert nuanced or specific provisions that relate to a topic within the relevant chapter, while retaining the 'integrated management' and 'domain-' based chapters for broader outcomes or general provisions.

Finally, we recommend changes to enable integrated management at the catchment or area scale. We recommend a heading called 'area-specific matters' is inserted into Part 2 of the Regional Plan Structure Standard. The title 'area-specific matters' encompasses a range of different spatial layers that regional councils may use to manage specific defined areas, such as freshwater management units. These area-specific chapters recognise that these chapters incorporate a geographic area that may encompass land, freshwater, geothermal resources, coast and the air. We consider this approach is consistent with the requirements of the NPS-FM, which obliges councils to consider the assimilative capacity of downstream receiving environments (eg, lagoons, hapua, coastal waterbodies) when setting limits for freshwater management units.

Furthermore we consider an 'area-based' architecture will provide for regional councils that wish to implement a true ki uta ki tai (from the mountains to the sea) approach, whereby provisions relating to the management of air, coast, geothermal, land and freshwater are included in a single area-based chapter. Finally, to ensure a standardised approach to the naming and order of content under this heading, we recommend mandatory directions which require the council to use the integrated management, domain or topic chapter headings listed in the new, revised Part 2.

We consider this comprehensive set of changes will address concerns from submitters that the structure of the draft Regional Plan Structure Standard encouraged the production of less integrated planning documents.

3.3.3   Recommendations

We recommend the following amendments to the draft Regional Plan Structure Standard:

- insert new headings for 'integrated management', 'domains', 'topics' and 'area-specific matters' into Part 2 of the Regional Plan Structure Standard

- insert a new 'integrated objectives' and new 'integrated policies' chapter under the heading 'integrated management'

- relocate the 'air quality, 'land', 'water' and 'coastal environment' chapters under the 'domains' heading and rename these 'air', 'coastal environment', 'geothermal' and 'land and freshwater'

- relocate the remaining 'topic-' based chapters under the heading 'topics'

- locate provisions related to the connectivity of domains and the strategic management of these resources within the chapters under the integrated management heading

- locate overarching provisions relating to the domain, or provisions that relate to multiple topics, within the relevant domain chapter

- locate provisions specific to a topic within the relevant topic chapter.

3.4   Theme-based versus provision-based architecture

3.4.1   Background

The Regional Plan Structure Standard adopts a blended approach to the arrangement of plan provisions. Councils are directed to place any standalone 'issues' and 'objectives' in their regional plan within the 'issues' and 'objectives' chapters. This architecture reflects a 'provision-based' approach to the arrangement of plan content.

However, this provision-based architecture is the exception, rather than the norm, within the Regional Plan Structure Standard. In general, the Regional Plan Structure Standard requires all parts of the policy cascade (ie, issues, objectives, policies and methods) to be collated within one of the 'theme-' based chapters in Part 4. This architecture reflects a 'vertically integrated' approach to the arrangement of plan provisions, where a line of sight is maintained between outcomes and implementation.

In contrast, Part 5 of the draft Regional Plan Structure Standard contains no mandatory chapters nor directions as to how content is to be arranged.

3.4.2   Submissions

With the exception of Hawkes Bay Regional Council, all regional councils made either general or specific comments regarding the approach applied by the Regional Plan Structure Standard to arranging plan content.

In general, regional councils were united that the Regional Plan Structure Standard should recognise and provide for the different approaches applied by councils to arrange plan content. Submitters frequently stated the Regional Plan Structure Standard should accommodate plans with provisions arranged horizontally, vertically, by RMA provision or by activity.

Several regional councils compared and contrasted the approach used in the Regional Plan Structure Standard with that of their plan and stated significant recrafting would be required to conform to the Regional Plan Structure Standard. However, other submitters interpreted the Regional Plan Structure Standard as providing flexibility as to the arrangement of plan content. Greater Wellington Regional Council interpreted the instructions in Part 3 (Issues and objectives) and Part 4 (Themes) of the draft Regional Plan Structure Standard as providing councils with a choice between two alternative plan structures; one that allows content to be grouped according to RMA provision[12] and an alternative structure that grouped content according to theme. In contrast, other submitters interpreted the instructions as precluding 'rule-based' chapters (Canterbury Regional Council and Northland Regional Council).

Given the different approaches taken by councils to arranging plan content, a consensus as to the 'most appropriate' or 'preferred' method was not evident from submissions.

A theme-based architecture was supported by Bay of Plenty Regional Council on the basis it enabled a line of sight between plan outcomes and implementation. However, the submitter also requested changes to allow the creation of subthemes within a chapter, each with their

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[12]   That is, provisions grouped to sections 9, 12, 13 and 15 of the RMA.

own policy cascade. This, they submitted, would retain relevant parts of the policy cascade together, enabling a more cohesive arrangement of mini topics.

In contrast, Canterbury Regional Council opposed a 'theme-based' structure, stating it was incompatible with regional plans that use a single rule to manage all interrelated effects of an activity (eg, a rule to regulate a farming activity that includes conditions to manage effects on biodiversity, water quality, drinking water and so on). Northland Regional Council, also opposed the theme-based structure, submitting that most plan users do not approach plans by considering the potential values affected by the activity, rather they consider the activity they wish to undertake and navigate to the relevant rule. Both submitters requested a change to the Regional Plan Structure Standard to allow for the insertion of an optional 'rules' chapter.

The tendency for regional plans to package content according to RMA provision[13] was also noted in the submission by Transpower. Given the complexity of regional plan rules, Transpower submitted that consideration should be given to requiring objectives and policies to be packaged according to theme, but rules should be grouped by RMA provision.

3.4.3 Analysis

The submission from Greater Wellington Regional Council indicates some submitters have interpreted the Regional Plan Structure Standard as providing regional councils with 'options' as to how to arrange plan content.

We consider this perception arises because of a misunderstanding of the instructions in Part 3 of the draft Regional Plan Structure Standard. Part 3 directs that "if the council includes issues and objectives in a separate section this part must be used". Therefore, while Part 3 accommodates regional plans with issues and objectives in a standalone section of the plan, it does not extend so far as to allow policies and rules to be separated and collated by provision. Instead, the draft Regional Plan Structure Standard requires policies and rules to be located within relevant themes, so as to maintain a line of sight between outcome and intent.

The preference for the 'theme-based' approach to the arrangement of plan content was discussed in the Section 32 Evaluation Report.[14] The report states a theme-based structure, with vertically integrated provisions, was preferred because:

- it maintains visibility between issues and how they are addressed

- it is easier for plan users to find the area of the plan they need, while seeing the context for the rules they need to comply with

- it can be adapted to new ways of planning

- it is already (at least partly) used by many councils so decreases the time required for councils to restructure their plans.

However, the Section 32 Evaluation Report also acknowledged the weaknesses of a 'theme-based' approach, stating it risks 'de-emphasising the connections between issues'[15] and is less effective for ensuring horizontal integration of provisions.

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[13] With provisions grouped according to sections 9, 12, 13 and 15 of the RMA.

[14] Proposed National Planning Standards Evaluation Report 2018, page 20.
www.mfe.govt.nz/sites/default/files/media/RMA/PART%201%20s32-Overall%20assessment.pdf

[15] Section 32 Evaluation Report, page 20.

Both approaches to plan architecture (theme based versus provision based) have benefits and disbenefits, and note these vary, depending on the plan user, the complexity of the proposal being assessed and considered, and the compatibility of the proposal with plan outcomes.

In general, we agree with Canterbury and Northland regional councils that many users will approach a plan by considering the 'activity' they wish to undertake, navigating the rules relevant to that activity. Where an activity is permitted, there is little need for plan users to further consider provisions of the plan.

However, for activities that require a resource consent (particularly discretionary or non-complying activities), the connection between plan outcomes (ie, objectives) and the road to achieve those outcomes (ie, policies and methods) need to be readily discernible to both applicants and decision-makers. This line of sight helps users in identifying compatible and incompatible activities, and provides direction as to how effects may be mitigated.

However, 'theme-based' architectures present their own risks. Where objectives, policies and methods are fully integrated within 'themes', the potential for horizontal integration between plan provisions is reduced and there is greater potential for conflicting outcomes between individual themes.

We also acknowledge that for councils the cost and resource implications associated with conforming to the Regional Plan Structure Standard structure are not insignificant. For that reason, we agree with submitters that the Regional Plan Structure Standard should attempt to accommodate different plan structures, so as to minimise costs while maximising the benefits of standardisation.

We consider our recommendations in section 3.1 of this report (architecture of the regional plan structure) go some way to achieving this outcome. The use of general to specific chapters accommodates councils that have collated provisions according to a resource or domain. Regional councils that rely on activity-based rules to manage a range of interrelated effects (eg, Northland and Canterbury regional councils) can locate provisions within the relevant 'air', 'coastal environment', 'geothermal' or 'land and freshwater' chapters, reducing the need to split provisions into topic-based chapters. An added benefit of this approach is that it retains a line of sight between outcomes for a resource and the provisions that implement them. In contrast, regional councils that use a 'theme-' based approach to arranging plan content (eg, West Coast and Bay of Plenty regional councils), can locate most of their provisions within topic-specific chapters, thus reducing the amount of recrafting of provisions required.

Finally, we acknowledge the point made by Bay of Plenty Regional Council that some chapters (particularly the domain-based chapters) will contain content relating to a range of sub-themes or related matters.[16] In these instances, it is appropriate that the Regional Plan Structure Standard allows provisions to be grouped within their own 'sub-theme'. To accommodate this, we recommend a new mandatory direction for Part 2 that directs councils to consider the need for additional section or subsection headings and include these where it helps with organising plan content into subordinate themes.

We consider the recommended changes to the draft Standard provide the necessary flexibility to accommodate, in the short term, the different approaches councils have taken to the

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[16] For example, the land and freshwater chapter is likely to include content related to a range of matters including the management of nutrients, protection of drinking water supplies, allocation of freshwater resources, reliability of supply and so on.

arrangement of plan content. Over time, we consider our recommended structure will encourage plans to achieve an appropriate balance between horizontal and vertical integration of plan content.

To help councils in a smooth transition towards this goal, we consider that the Ministry for the Environment should consider preparing guidance material and example plan structures that demonstrate best practice implementation of the Regional Plan Structure Standard.

3.4.4   Recommendation

We recommend the following amendment to the draft Regional Plan Structure Standard.

- require councils to use headings provided in the Regional Plan Structure Standard if a chapter in the Standard is used.

4 Analysis of parts

4.1 Part 1 – Introduction and general provisions and Part 2 – Tangata whenua

4.1.1 Overview

Part 1 of the draft Regional Plan Structure Standard is titled 'introduction and general provisions' and contains four chapters (introduction, how the plan works, interpretation and national direction instruments). The subject matter in this part is primarily administrative and includes content to help the reader use and navigate the planning document. The companion instructions direct councils to implement the Introduction and General Provisions Standard and the Definitions Standard.

Part 2 of the draft Regional Plan Structure Standard is titled 'tangata whenua' and contains four chapters (recognition of iwi and hapū, tangata whenua – council relationships, iwi and hapū planning documents and consultation). The instructions that accompany Part 2 direct councils to implement the Tangata Whenua Standard.

4.1.2 Submissions

Submissions relating to Part 1 and Part 2 of the draft Regional Plan Structure Standard have been analysed and our recommendations in response included in the *2E Chapter standards report*. We do not address submissions relating to Part 1 and Part 2 of the draft Regional Plan Structure Standard further in this report, but note for completeness that a key recommendation is to merge Part 1 and Part 2. This frees up 'Part 2' to be used for the substantive regional plan provisions.

4.2 Part 3 – Issues and objectives

4.2.1 Overview

Part 3 of the draft Regional Plan Structure Standard contains two chapters titled 'issues' and 'objectives'. Councils are directed to place any standalone issues and objectives contained in the regional plan within the relevant chapter.

4.2.2 Submissions

Four submissions were received on Part 3 of the draft Regional Plan Structure Standard (Bay of Plenty Regional Council, Otago Regional Council, RMLA and Whetu Consultancy).

Whetu Consultancy submitted in support of Part 3, but did not articulate its reasons for support.

Bay of Plenty and Otago regional councils provided conditional support for Part 3, on the proviso the Part could be omitted from regional plans that do not contain standalone chapters for issues and objectives. Bay of Plenty Regional Council also advised a decision had been made to exclude 'issues' from the regional plan, so as to enable the production of a streamlined planning document.

The RMLA requested changes to the directions in Part 3 of the draft Regional Plan Structure Standard to resolve a conflict with the directions in the Chapter Form Standard. In particular, it submitted that the directions in the Chapter Form Standard require objectives to be grouped together, conflicting with the directions in Part 3 of the draft Regional Plan Structure Standard that allow issues and objectives to be contained in separate chapters.

4.2.3   Analysis

We acknowledge the point made by Bay of Plenty and West Coast regional councils that standalone 'issues' and 'objectives' chapters are not common across all regional plans, and, for that reason, Part 3 (Issues and objectives) should not be mandatory.

We have discussed our reasons for making all parts mandatory in section 3.1 of this report. In summary, requiring all regional plans to contain all parts ensures a consistent architecture across all regional plans. However, we consider the outcome sought by these submitters has been accommodated through our earlier recommendations.[17] Our recommended changes to the mandatory directions for Part 2 (Management of resources) clarify that only chapters relevant to the content of the plan are required to be included.

In addition, we consider our earlier recommendations to replace the 'issues' and 'objectives' chapters with 'integrated objectives' and 'integrated policies' respond to the point made by Bay of Plenty Regional Council that not all regional plans contain 'issues'. We note many second generation regional plans contain only mandatory content required by section 67(1)[18] of the RMA. Optional content,[19] including issues, principle reasons and environmental results, are often omitted to enable the production of a targeted and streamlined regional plan. In recognition of this fact, we recommend a new mandatory direction for Part 2 that states:

> **Any** issues, objectives, policies or methods (including rules) **included in the regional plan** must be located within the relevant chapter in Part 2 of table 4. [Emphasis added]

The term 'any', and the phrase 'included in the regional plan', are recommended to clarify that the Regional Plan Structure Standard does not compel councils to include non-mandatory content within a regional plan. It is only where the regional plan contains this content that the Regional Plan Structure Standard is directive as to its placement.

Finally, we agree with RMLA that inconsistences between the directions in the Regional Plan Structure Standard and the Chapter Form Standard should be addressed. We consider this outcome is accommodated through our recommended changes to the draft Chapter Form Standard as outlined in the *2E Chapter standards report* and the *2F Format Standard report*. Our recommended changes to the directions in the Chapter Form Standard require provisions in a chapter or section to be grouped by provision, unless otherwise stated. The phrase 'unless otherwise stated' clarifies exceptions to this general direction are permissible where explicitly stated in another standard. In the case of the Regional Plan Structure Standard, the direction to group 'integrated objectives' and 'integrated policies' together is an explicit exception.

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[17]   As set out in section 3.1 (Mandatory directions) of this report.

[18]   Mandatory content is objectives, policies to implement the objectives, and rules (if any) to implement the policies.

[19]   As set out in section 67(2) of the RMA.

4.2.4   Recommendation

We recommend the following change to the draft Regional Plan Structure Standard.

- Require objectives and policies that address integrated management of resources or that provide strategic direction on resource management are located in the *Integrated objectives* and *Integrated policies* chapters.

4.3   Part 4 – Themes

4.3.1   Overview

Part 4 (Themes) of the draft Regional Plan Structure Standard contains 10 theme-based chapters, with chapter titles representing domains,[20] natural values,[21] physical resources[22] or risks.[23]

Many of the points raised by submitters in relation to these chapters are addressed in other sections of this report (eg, integrated management of resources, appropriateness of a theme-based structure). For the purposes of efficiency we do not repeat these issues or our analysis here, but have instead focused on any outstanding matters raised by submitters.

4.3.2   Submissions

Submissions relating to each chapter in Part 4 have been grouped together and analysed under the respective theme heading. If a chapter did not attract any submissions, or the matters raised by the submitter are addressed in another section of this report, the chapter title is not listed below.

4.4   Part 5 – Catchments

4.4.1   Background

Part 5 of the draft Regional Plan Structure Standard is titled 'catchments' and is as an optional part that councils are directed to include if the council addresses matters on a catchment-by-catchment basis. The instructions that accompany Part 5 direct councils to insert a new chapter for each freshwater management unit or catchment.

4.4.2   Submissions

Seven submissions were received on Part 5 of the Regional Plan Structure Standard, with submitters generally supportive of a catchment-based framework, stating this appropriately recognised and provided for limit-setting processes required under the NPS-FM.

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[20]   Air, coastal environment, geothermal, land and freshwater.

[21]   Landscape, landforms and natural character; ecosystems and indigenous biodiversity.

[22]   Historic heritage, infrastructure and energy.

[23]   Environmental risks.

Trustpower supported the option of allowing regional plans to address resource management matters on a catchment basis, stating the approach reflects the directions contained in the NP-SFM. Perception Planning Limited submitted that significant overlap exists between the 'water-' and 'catchment-' based topics and this could lead to councils addressing these matters in variable ways.

Both Canterbury and Bay of Plenty regional councils requested changes to the Regional Plan Structure Standard to allow councils to use a combined region-wide and catchment-based framework. Canterbury Regional Council submitted this would support councils that have started a staged approach to implementation of the NPS-FM and have implemented a region-wide framework to prevent further degradation of freshwater resources, until plan-making processes can be initiated at the catchment scale.

Otago Regional Council submitted that, while some issues are appropriate to address at a catchment-scale (eg, preservation of natural character and indigenous biodiversity), other issues need to be considered and addressed at a regional scale. Examples provided by Otago Regional Council included the management of seismic risks and management of landscape effects, which are generally addressed through regional provisions. To accommodate these different approaches, the Council submitted that the directions in Part 4 (Themes) should be amended to ensure appropriate linkages between regional- and catchment-scale matters. The suggested amendment put forward by Otago Regional Council is set out below.

> If the council chooses to address matter on a theme basis, and xxx matters are addressed in the regional plan, they must be included in the xxx chapter, <u>unless addressed in Part 5</u>.
>
> (xxx represents the relevant chapter reference in Part 4.)

Te Rūnanga o Ngāi Tahu stated a catchment-based framework closely aligned with the Ngāi Tahu value of ki uta ki tai (from the mountains to the sea). However, they cautioned that requiring matters to be considered and addressed catchment by catchment could lead to issues being relitigated throughout a region and inconsistent approaches applied across interrelated catchments. For this reason, Te Runanga o Ngāi Tahu considered further testing of the Regional Plan Structure Standard was needed at a catchment scale and requested the Regional Plan Structure Standard be deferred for further testing.

In contrast, the Waikato River Authority supported catchment-based chapters, stating it enabled representation of catchment values at the hapū, marae and community scale, and would help with achieving the vision and strategy for the Waikato and Waipa rivers and their catchments.

Finally, Morphum Environmental Limited submitted that a reference to 'freshwater management units' could inappropriately skew the focus of councils, resulting in less emphasis being placed on the management of groundwater resources.

4.4.3   Analysis

The discussion document[24] prepared in support of the Regional Plan Structure Standard states a 'catchment-based' framework was included in Part 5 of the draft Regional Plan Structure Standard as an alternative framework, to recognise the requirements of the NPS-FM.

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[24]   Ministry for the Environment. 2017. *National Planning Standards: Structure of regional plans and policy statements – Discussion paper D*. Wellington: Ministry for the Environment.

However, we consider that requiring councils to <u>choose</u> between a regional- or catchment-based framework would frustrate the objectives of the NPS-FM. Policy E1 of the NPS-FM allows councils to adopt a time-staged approach to implementation of the limit-setting processes under the NPS-FM. To date, 14 regional councils have publicly notified progressive implementation programmes (PIPs) that set out timeframes by which full implementation of the NPS-FM will be achieved throughout their region. However, regional councils are also required, under objectives A2 and B2[25] of the NPS-FM, to maintain or improve the quality of freshwater and avoid further over-allocation. Some councils have responded to these dual obligations by implementing 'regional' provisions that restrict or prohibit further allocation of freshwater resources. These regional provisions are then subsequently replaced or supplemented with catchment-specific provisions at the time the council notifies a plan change, to give effect to the limit-setting requirements in the NPS-FM.

We note the combined region-wide and catchment-scale approach described above has multiple benefits. Cost and resource implications for councils can be reduced by adopting 'regional-' scale responses where appropriate, and limiting catchment-scale plan-making processes to local issues. Environmental benefits are achieved by ensuring regional provisions are in place to prevent further degradation of freshwater resources until limit-setting processes can be initiated.

We also agree with Otago Regional Council and Te Rūnanga o Ngāi Tahu that not all issues are appropriate to address at a catchment scale. In particular, resource management issues that extend across multiple catchments (eg, management of seismic risks) are generally best addressed at the regional scale, to ensure a coordinated and integrated response. For this reason, we recommend changes to the mandatory directions, to allow councils to rely on provisions in other chapters in Part 2 to address issues.

We consider the additional benefits of the above direction are that it reduces the need to repeat content, thereby reducing the overall length of the regional plan, and avoids overlaps between the 'water' and 'catchment' topics, thus addressing the submission point by Perception Planning Limited.

Finally, we are not convinced that the phrase 'freshwater management unit' inappropriately prioritises management of surface water resources over management of groundwater resources. The term 'freshwater management unit' is defined in the NPS-FM as:

> **Freshwater management unit** is a water body, multiple water bodies or any part of a water body determined by the regional council as the appropriate spatial scale for setting freshwater objectives and limits and for freshwater accounting and management purposes.

The term 'water body' is not defined in the NPS-FM and, therefore, consistent with the principles of interpretation, we have referred to the definition in section 2 of the RMA, which states:

> **Water body** means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area.

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[25] Objective A2 of the NPS-FM directs the overall quality of freshwater within a freshwater management unit to be maintained or improved while protecting the significant values of outstanding freshwater bodies and wetlands, and improving the quality of freshwater in water bodies that have been degraded by human activities to the point of being over-allocated. Objective B2 is to avoid any further over-allocation of fresh water and phase out existing over-allocation.

We consider it is clear from the relationship between these two definitions that freshwater management may include water contained in an aquifer to groundwater. For this reason, we do not consider the reference to 'freshwater management unit' to be inappropriate and do not recommend its omission.

4.4.4 Recommendations

We recommend the following changes to Part 4 (Themes) and Part 5 (Catchments) of the Regional Plan Structure Standard.

- Allow councils to rely on provisions in other chapters in Part 2 to address issues.

- Direct provisions to be located under the area-specific matters heading if it applies only to a freshwater management unit, catchment, identified area, coastal zone or coastal precinct.

4.5 Part 6 – Evaluation and monitoring

4.5.1 Background

Part 6 of the draft Regional Plan Structure Standard is titled 'evaluation and monitoring'. The Part does not include any predefined chapter titles, but mandatory directions require councils to include the Part within regional plans.

4.5.2 Submissions

Six submissions were received on Part 6 of the Regional Plan Structure Standard, with two submitters in support, one in opposition and three unclear as to their position.

Heritage New Zealand Pouhere Taonga supported the compulsory requirement to include Part 6, stating its inclusion was appropriate, given the obligation in section 35 of the RMA that requires councils to carry out monitoring.

In contrast, Bay of Plenty Regional Council submitted the Part should be omitted, stating the obligation in section 35 of the RMA did not translate to an obligation under section 67 of the RMA to include monitoring as content within regional plans. Furthermore, the Council submitted that the inclusion of extraneous material was inconsistent with the general trend towards modern streamlined planning documents.

4.5.3 Analysis

Section 67 of the RMA sets out content to be included in regional plan. Compulsory content is set out in section 67(1) and is limited to the inclusion of objectives for the region, policies to implement the objectives, and the rules (if any) to implement the policies.

Section 67(2) lists matters that may be included within a regional plan, which includes procedures for monitoring the efficiency and effectiveness of the policies and methods.[26]

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[26] Section 67(2)(e) of the RMA.

We agree with Bay of Plenty Regional Council that councils are not required to include content relating to the effectiveness and efficiency of policies and methods within their regional plans. While we agree with Heritage New Zealand Pouhere Taonga that councils are obliged to monitor the state of the environment within their region,[27] and the efficiency and effectiveness of policies, rules and methods,[28] the provisions of section 35 do not require this information to be contained in a regional plan.

We further consider there are compelling reasons to avoid a compulsory requirement to include this content within regional plans. Procedures and processes needed to evaluate the effectiveness and efficiency of plan provisions may not be known at the time the plan is developed. Furthermore, monitoring regimes need to be adaptive to respond to emerging issues, changes in the local environment or societal expectations. This often necessitates the need for an agile monitoring framework, one in which the frequency or type of environmental indicators monitored can be amended accordingly. The agile nature of this type of adaptive framework does not mesh well with planning processes, where the content of a planning document can only be amended through a Schedule 1 process.

For these reasons, we agree with Bay of Plenty Regional Council that Part 6 should not be included as mandatory content within the Regional Plan Structure Standard and recommend it is omitted. However, we also recognise that some councils include content related to monitoring and the evaluative processes within their regional plans. In these circumstances, this content can be inserted as an appendix into Part 3 of the Regional Plan Structure Standard.

4.5.4   Recommendation

We recommend deleting Part 6 (Evaluation and monitoring) from the draft Regional Plan Structure Standard.

4.6   Part 7 – Schedules, appendices and maps

4.6.1   Overview

Part 7 of the Regional Plan Structure Standard is schedules, appendices and maps and contains three chapters. Councils are directed to implement the Schedules, Appendices and Maps Part Standard.

Submissions related to Part 7 have been analysed and our recommendations in the *Chapter standards report*. We do not address submissions relating to Part 7 further in this report.

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[27]   Section 35(2)(a) of the RMA.

[28]   Section 35(2)(b) of the RMA.

5   Analysis of themes

5.1   Order of themes

5.1.1   Submissions

Three submitters raised questions regarding the rationale for the order of the 'themes' contained in Part 4 of the draft Regional Plan Structure Standard.

Heritage New Zealand Pouhere Taonga submitted the order of chapters and sections should be standardised between regional plans to help users navigating hard copies of a plan. The Joint Southland Regional Councils submitted that there was no clear rationale for the order of the themes and requested an amendment to articulate the reasons for the order. The RMA made a similar point, stating there was 'no clear pattern' to the order of themes, and recommended changes to order the topics alphabetically.

5.1.2   Analysis

We agree with submitters that a logical order to the arrangement of the chapters will help users in navigating planning documents.

We consider our recommended changes to the structure of Part 2[29] help in part by arrangement chapters in a logical order from 'broad to specific'. In addition, we consider arranging topics alphabetically underneath the 'domain', 'topic' and 'integrated management' headings will further help users to navigate the document. In addition, an added benefit of this approach is that arranging chapters alphabetically avoids any inference that one issue or topic is of greater significance than another.

We also consider the requirement to order topics alphabetically should apply to 'additional' or 'special topics'. Part 4 (Themes) of the draft Regional Plan Structure Standard directs that additional or 'special topics' are to be placed at the end of Part 4. However, given our recommendations above, we consider this would result in a confusing structure whereby some chapters are alphabetical and some are not. For this reason, we recommend the 'special topics' chapter is removed from Part 4 of the draft Regional Plan Structure Standard and a new direction inserted into the Regional Plan Structure Standard that requires 'additional topics' to be inserted in the correct alphabetical position underneath the 'topic' or 'catchments' heading.

5.1.3   Recommendations

We recommend the following amendments to the draft Regional Plan Structure Standard:

- arrange the order of themes under the 'domains' and 'topics' headings alphabetically

- insert a new mandatory direction that allows for a matter not covered by the Regional Plan Structure to be inserted as a new topic chapter, provided it is not a synonym or subset of the chapters in this Structure.

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[29]   That is, grouping chapter topics under headings named 'integrated management', 'domains', 'topics' and 'area-specific matters'.

5.2   Coastal environment

5.2.1   Submissions

Councils generally sought both greater clarity about the location of coastal marine area and coastal environment provisions but also flexibility in order to achieve integrated management. Submitters agreed that the coastal provisions should be more visible in the plan structure.

In their submission on Part 4, West Coast Regional Council sought the flexibility to have either a coastal environment chapter or a coastal marine chapter. Their proposed coastal plan only contains coastal marine area provisions and they did not want to run a schedule 1 process to incorporate coastal environment provisions into their proposed coastal plan.

Waikato Regional Council submitted that it will be difficult to provide clear guidance in their regional plan on the different statutory roles that the council has for the coastal marine area and coastal environment. They are seeking for the planning standards to provide for RPSs and regional plans to contain a coastal marine area theme if they address issues differently across the mean high water springs boundary.

Tasman District Council and Auckland Council both sought clarity on where to locate coastal environment and regional coastal plan provisions. Auckland Council stated that it is very unclear what goes in the coastal environment sections for matters that overlap with other sections. Coastal issues raised by Unitary Councils apply to the Regional Plan Structure Standard but are also dealt with in the Combined Plan Structure Standard section of this report.

Perception Planning also raised the absence of a separate regional coastal plan standard. However, under section 43AA a regional coastal plan is a regional plan and so the regional plan structure standard applies to regional coastal plans.

5.2.2   Analysis

The notified planning standards allowed coastal environment and coastal marine area provisions to be located throughout a regional plan. This reflected the emerging practice for increased integration of plans, including for topic specific coastal provisions to be located within their topic.

We agree the planning standards should give clearer direction for the location of coastal environment provisions. Providing for a coastal environment chapter would mean that councils have one location to identify their approach to managing the coastal environment. This could also be used to describe any high-level provisions applying to the coastal environment.

We think flexibility should be maintained through enabling cross-referencing for any coastal environment provisions that a council considers sit better within another topic chapter. This applies to cases where this is required to support integrated management.

Coastal marine area provisions should also be included in a section within the coastal environment chapter, except in the cases of a separate regional coastal plan (or proposed regional coastal plan). This will support clarity for councils and plan users in locating coastal marine area provisions.

A single zone for the coastal marine area is not appropriate to address activities that need to be separated or co-located. Activities that need to be managed across the entire coastal marine area should be addressed at the domain level. Coastal activities that should be grouped together, or activities that are not compatible with each other, are best managed through coastal zones or other area-specific management units. Provisions that apply to only a portion of the coastal marine area (such as a coastal zone) will still need to be located under the Area-specific matter heading.

An additional benefit of locating coastal marine area provisions in one section is that those provisions will be clearly identified for the Minister of Conservation's function to approve regional coastal plans.

5.2.3   Recommendations

The overall approach aims for a middle ground, with the coastal environment chapter setting out a plan's approach to managing the coastal environment and any other higher-level provisions. More targeted or specialised provisions can be placed within topic chapters and cross-referenced back to the coastal environment chapter. Coastal marine area provisions must be located in a section in the coastal environment chapter, except when there is a separate regional coastal plan.

We recommend the following changes are made to the Regional Plan Structure:

- provide for a coastal environment chapter under the 'Domains' heading

- require the coastal environment chapter to include a coastal marine area section, unless there is a separate regional coastal plan or proposed regional coastal plan

- require provisions that apply to the whole coastal marine area to be located in the coastal marine area section

- require the coastal environment chapter to set out the council's approach to managing the coastal environment and giving effect to the New Zealand Coastal Policy Statement

- require provisions that relate to coastal environment that are located in other topic chapters to be cross-referenced to the coastal environment chapter

- zones in the coastal marine area are located in the Coastal Zones chapter.

5.3   Landscape, landforms and natural character

5.3.1   Submissions

The reference to 'landforms' was opposed by the Canterbury Mayoral Forum, Transpower and Horticulture New Zealand, with submitters stating the term is not used or defined in the RMA. In addition, the Canterbury Mayoral Forum submitted the term could create a false impression that 'landforms' are a matter of national importance that councils are required to recognise and provide for within planning documents. All three submitters requested replacement of the term 'landforms' with the phrase 'natural features', stating this phrase would align with the terminology used in section 6 of the RMA.

Mackenzie District Council opposed a combined 'landscapes, landforms and natural character' chapter, stating 'natural character' is a concept distinct from 'natural features and landscapes'

as recognised by section 6 of the RMA.[30] To illustrate this point, Mackenzie District Council referred to Policy 13(2) of the New Zealand Coastal Policy Statement that directs people exercising functions and powers under the RMA to:

> Recognise that natural character is not the same as natural features and landscapes or amenity values and may include matters such as…:

For these reasons, Mackenzie District Council submitted that the Regional Plan Structure Standard should be amended to include separate chapters for 'natural features and landscapes' and 'natural character'.

Te Rūnanga o Ngāti Ruanui Trust submitted that 'landscape values' are influenced heavily by the perspective of the person undertaking the landscape assessment and their particular discipline. As a consequence, appreciation of the full range of values associated with a landscape (eg, cultural values) may not be fully understood and, therefore, the Regional Plan Structure Standard should include criteria to define landscapes.

5.3.2   Analysis

The term 'landforms' is not defined or used in the RMA and, therefore, we agree with submitters it should be omitted from the chapter title. We consider the suggestion by submitters to rename this chapter as 'natural features and landscapes' is appropriate, given the explicit recognition of outstanding natural features and landscapes in section 6 of the RMA.

However, we also recognise a 'natural features and landscapes' chapter may be used by regional councils in limited circumstances. Methods to protect values associated with natural features and landscapes most commonly take the form of land use controls included within district plans. While territorial authorities have broad functions[31] in respect of the control of land, regional councils are limited[32] to imposing land use controls for the purpose of soil conservation, maintenance of ecosystems, water quality and water quantity, and the avoidance or mitigation of natural hazards. An exception to this general limitation is that regional councils have much broader functions in respect of the coastal marine area.[33] Within the coastal marine area, land use controls may be imposed through a regional plan to protect natural features and landscape values. Given this point, we consider that retaining a 'natural features and landscapes' chapter is appropriate. Having its own chapter means that, if a council does not need to use this, then the chapter simply will not be used and it will not 'raise expectations' that there should be content there. We suspect that any methods to preserve these values are likely to be imposed only where fully integrated regional plans or regional coastal plans are produced.

We also agree with Mackenzie District Council that 'natural character' is a concept distinct from 'natural features and landscapes'. Regional councils have a function for the preservation of the natural character of the coastal environment, wetlands, land and margins, and those functions are exercised through a range of controls including restrictions on discharges,

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[30] Section 6(a) requires decision-makers to recognise and provide for the preservation of natural character, while section 6(b) relates to the protection of outstanding natural features and landscapes.

[31] Section 31(1)(b) of the RMA.

[32] Section 30(1)(c) of the RMA.

[33] Section 30(1)(d) of the RMA.

restrictions on the take and use of water and controls on land use within the beds of lakes and rivers. Therefore, in practice, we expect a chapter relating to 'natural character' is likely to be widely used by regional councils. We note here our recommendation from the regional policy statement report that natural character does form part of a broader chapter, along with natural features and landscape.

Finally, with respect to the request by Te Rūnanga o Ngāti Ruanui Trust to include criteria for landscape values, we do not consider this appropriate. In our opinion, any criteria would need to be developed with input from a range of stakeholders, with the final product (ie, listed sites) tested through a Schedule 1 process. For this reason, we do not recommend this criteria is included in the first set of National Planning Standards.

5.3.3   Recommendation

We recommend the following amendments to the draft Regional Plan Structure Standard.

- Replace 'landscape, landforms and natural character' with a chapter for natural features and landscapes and a chapter for natural character.

5.4   Ecosystems and indigenous biodiversity

5.4.1   Submissions

In general, submissions received in relation to 'ecosystems and indigenous biodiversity' requested greater integration of values across topic chapters. We have considered and addressed submissions relating to these points in section 3.3 of this report.

An additional matter raised by the RMLA related to the appropriateness of the chapter title. The RMLA requested the chapter be renamed as 'ecosystems and indigenous biological diversity', on the basis that the term 'biodiversity' is not used or defined in the RMA.

5.4.2   Analysis

While we agree with the RMLA that the term 'biodiversity' is not defined in the RMA, we note it is commonly understood to have the same meaning as 'biological diversity'. The term 'biodiversity' is in several instruments prepared, or in the process of being prepared, under the RMA, including the draft National Policy Statement for Indigenous Biodiversity (NPS-IB) and the New Zealand Coastal Policy Statement.[34]

For this reason, we do not consider the chapter title to be inappropriate and do not recommend any changes. Furthermore, our recommendations do not preclude councils from using the phrase 'indigenous biological diversity' within plan provisions. The chapter title is used primarily to help users in navigating the planning document and, in this regard, the more readily understood term of 'biodiversity' is preferred.

5.4.3   Recommendation

We recommend the chapter title is retained as 'ecosystems and indigenous biodiversity'.

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[34]   Policy 10(c), Policy 11, Policy 26 of the New Zealand Coastal Policy Statement.

5.5 Environmental risk

5.5.1 Submissions

The 'environmental risk' chapter was opposed by West Coast, Taranaki and Bay of Plenty regional councils and Marlborough District Council, with submitters stating the title did not provide guidance as to the type of content expected to be include in the chapter.

Marlborough District Council submitted that the title was unhelpful, stating all resource management issues present some form of risk that is required to be addressed. Similar comments were made in the submission by Taranaki Regional Council, which stated the inclusion of the chapter would create confusion as to where 'risks' associated with other themes should be addressed (eg, risks to ecosystems and indigenous biodiversity or risks to water quality).

Alternative chapter titles put forward by submitters included 'natural hazard risk' (Bay of Plenty Regional Council and Waikato Regional Council) and 'natural hazards' (Soil and Health Association and GNS Science).

5.5.2 Analysis

We acknowledge the concerns raised by submitters as to the generality of the chapter title. The term 'environment' is defined in section 2 of the RMA as:

> **environment includes—**
>
> (a) ecosystems and their constituent parts, including people and communities; and
>
> (b) all natural and physical resources; and
>
> (c) amenity values; and
>
> (d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters.

Given the breadth of matters addressed in this definition, we agree the term 'environmental' should be omitted. For this reason, we recommend its deletion and have considered alternative chapter titles put forward by submitters.

The management of significant risks of natural hazards is a matter of national importance[35] that must be recognised and provided for by all persons exercising powers and functions under the RMA. Regional councils and territorial authorities have joint functions with respect to the management of risks from natural hazards,[36] with individual responsibilities required to be set out in the relevant regional policy statement.[37] Within the beds of lakes and rivers and the coastal marine area, regional councils have sole responsibility for the avoidance or mitigation of the risks from natural hazards and, therefore, a chapter dedicated to natural hazards is appropriate.

Of the two suggestions put forward by submitters (natural hazards) and (natural hazard risk), we prefer the former. As noted by Marlborough District Council, all resource management issues present some form of risk that requires a management response. Other chapter titles in

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[35] Section 6(h) of the RMA.

[36] Section 30 and section 31 of the RMA.

[37] In accordance with section 63(i) of the RMA.

the draft Regional Plan Structure Standard do not include the term 'risk', despite these chapters containing provisions to avoid, remedy or mitigate the risks posed by activities. For this reason, and to maintain consistency with other chapter titles, we recommend the term 'risk' is not included in the chapter title.

For reference, we note that submissions on the regional policy statement and other plan structures also questioned the 'environmental hazards and risks' title. In those reports, we also recommend that the reference to 'environmental' is removed. We recommend for the district plan and combined plan structures that the term 'hazards and risks' is retained but only as a heading. This heading is used to group together a separate 'natural hazards' chapter and other similar 'hazards and risks' chapters. For example, district and combined plans sometimes have a chapter for contaminated sites, which would be grouped under the 'hazards and risks' heading.

Finally, we note in the future, there may be additional risks or hazards that councils are required to recognise and respond to in regional plans. At this stage, we consider it pre-emptive to try to anticipate what these may be, or where those functions may lie. However, we are satisfied the structure of the Regional Plan Structure Standard would enable any emerging resource management issue or risk to be inserted as an 'additional' topic. In this regard, the structure of the Regional Plan Structure Standard is suitably future-proof.

5.5.3   Recommendation

We recommend the following amendments to the Regional Plan Structure Standard.

- Replace the 'environmental risk' chapter with a 'natural hazards' chapter.

5.6   Historic heritage

5.6.1   Submissions

Otago Regional Council opposed the inclusion of a 'historic heritage' chapter, submitting that regional councils have limited responsibilities[38] with respect to the management of historic heritage. KiwiRail Holdings expressed similar views, stating regional councils may only include methods to manage effects on historic heritage, where activities occur within the coastal marine area.

Otago Regional Council raised an additional concern, stating the inclusion of a 'historic heritage' chapter could raise expectations for regional councils to be more active in the management and preservation of historic heritage.

Finally, Heritage New Zealand Pouhere Taonga submitted that a 'historic heritage' chapter should be a voluntary chapter included in regional plans where the matter is also addressed in the regional policy statement.

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[38] Regional councils have wide-ranging responsibilities in respect of the management of the coastal marine area. Functions extend to control of the coastal marine area for the purpose of managing any actual or potential effects arising from the use, development or protection of land.

5.6.2   Analysis

We agree with submitters that, given the division of functions under sections 30 and 31 of the RMA, regional councils have limited functions with respect to the preservation of historic heritage. Preservation of historic heritage is most commonly achieved through the imposition of land use controls applied through district plans.

However, within the coastal marine area, regional councils may impose land use controls to preserve historic heritage. There are examples of councils that have exercised these functions and identify heritage features in their regional plans. It is within this context that we consider a 'historic heritage' chapter to be appropriate and, for this reason, recommend its retention.

5.6.3   Recommendation

We recommend the 'historic heritage' chapter is retained as a chapter in the Regional Plan Structure Standard, to be included where the regional plan includes content relevant to that topic.

5.7   Energy and infrastructure

5.7.1   Submissions

The inclusion of an 'infrastructure and energy' chapter was supported by KiwiRail Holdings, Genesis Energy, Powerco and Transpower.

Contact Energy supported the inclusion of an 'energy' chapter but submitted it should be distinct and separate from the 'infrastructure' chapter. This, it submitted, would be appropriate, given the specific recognition of renewable energy as a matter of national significance that is recognised and provided for under the National Policy Statement for Renewable Energy Generation 2011.[39]

Mercury New Zealand also supported segregation of these two themes but requested changes to rename the chapters as 'infrastructure' and 'electricity generation', stating this would enable the benefits and differences of renewable electricity generation to be recognised and accommodated through targeted plan provisions.

5.7.2   Analysis

While we agree with submitters that renewable electricity generation is a matter of national significance, we do not consider this to be a compelling reason to separate the 'energy' and 'infrastructure' chapters. This issue has also been contemplated in the other regional policy statement and plan structure reports.

The grouping of chapter topics in the Regional Plan Structure Standard does not indicate, nor does it purport to indicate, the significance of a topic at a national or regional scale. Instead, the draft Regional Plan Structure Standard groups topics that are related or complementary to one another. The relationship between infrastructure and energy is explicitly recognised in Policy C1 of the National Policy Statement for Renewable Energy Generation, which requires

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[39] This national policy statement can be downloaded at: www.mfe.govt.nz/publications/rma/nps-renewable-electricity-generation-2011

decision-makers to have particular regard to the practical constraints associated with the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities. For this reason, we consider it is appropriate to group these topics under a single chapter heading. Furthermore, we note that including a single chapter heading does not preclude councils from inserting separate section headings for each topic and including targeted provisions for each beneath.

Finally, we consider the title 'energy and infrastructure' is more appropriate than 'infrastructure and electricity generation', as put forward by Mercury New Zealand. A more general chapter title recognises that energy is produced for a range of purposes (including supply of electricity), and that the benefits and effects need to be considered and addressed within a regional plan. Again, the inclusion of a general chapter heading does not preclude councils from including more specific section titles, where it is appropriate to do so.

5.7.3   Recommendation

We recommend the chapter title is renamed 'energy and infrastructure'.

We note here that this chapter title is intentionally different from the regional policy statement, district plan and combined plan chapters, which also reference transport in the chapter heading due to the expectation that transport management would need to be covered more explicitly in those policy statements or plans.

5.8   Land and water

5.8.1   Submissions

Submitters generally supported the inclusion of 'land' and 'water' chapters within the Regional Plan Structure Standard but commented on the need for an integrated approach to the management of resources. We have addressed this matter in section 3.3 of this report, and do not discuss it further here.

In addition to the above, Horticulture New Zealand requested the insertion of a new mandatory direction to require all councils to spatially map wetlands in their region. This, it submitted, would remove unnecessary confusion and debate as to which areas are classified as 'wetlands'.

5.8.2   Analysis

The Structure has been developed to standardise the structure and format of planning documents and reduce unnecessary variation in RMA planning documents.

We expect some councils may need to make substantial changes to their regional plans, to align the form of their plans with the structure of the Regional Plan Structure Standard. However, these changes are not anticipated to affect plan outcomes or impose new duties, functions or obligations on councils.

In contrast, a direction that requires identification and spatial mapping of wetlands would impose obligations beyond that required by the RMA, with significant cost and resource implications. While we note the requirement to identify wetlands is one of the recommendations in the Biodiversity Collaborative Group's recommendations on the draft

National Policy Statement for Biodiversity, this recommendation is still under consideration by the Government. It is appropriate to await decisions on any notified national policy statement before considering whether further obligations should be explicitly referred to in the Regional Plan Structure Standard.

5.8.3   Recommendation

We do not recommend including changes to the Regional Plan Structure Standard to require councils to identify and spatially map wetlands.

6 Additional themes

6.1 Overview

In addition to the standardised chapters in Part 3 and Part 4 of the draft Regional Plan Structure Standard, submitters requested the addition of a number of new chapters. Where these submissions relate to a matter already addressed in this report, we have not repeated the submission or our analysis below.

6.2 Additional theme – Geothermal resources

6.2.1 Submissions

Bay of Plenty Regional Council, Contact Energy, Mercury New Zealand, New Zealand Geothermal Association and Waikato Regional Council requested the inclusion of a separate 'geothermal' chapter in Part 4 of the draft Regional Plan Structure Standard. The specific relief sought by each submitter varied, with Bay of Plenty and Waikato regional councils requesting confirmation that a 'geothermal water' chapter could be included as a 'special topic', while Contact Energy and Mercury New Zealand requested the insertion of the chapter into the Regional Plan Structure Standard.

Bay of Plenty and Waikato regional councils and the New Zealand Geothermal Association stated a separate 'geothermal' chapter was appropriate for several reasons. First, the RMA recognises geothermal water as a distinct resource from freshwater and coastal water and it is subject to different resource management issues and pressures. Secondly, geothermal resources contribute substantially to the regional economy through industrial direct heat use and electricity generation and tourism, and thus a separate chapter that includes targeted management responses is appropriate. As a final point, these submitters stated substantial restructuring of their regional plans would be required if a 'geothermal' chapter was omitted from the Regional Plan Structure Standard.

The New Zealand Geothermal Association cited an additional reason for including a separate chapter for geothermal resources. In its submission, it stated sustainable management of geothermal resources requires a range of effects to be considered and appropriately managed together. These effects, it submitted, are not limited to management of the water resources but may extend to effects on landscape values and ecosystems. For example, protection of rare and highly vulnerable geothermal features and ecosystems may require land management practices to be specified.

6.2.2 Analysis

We agree with submitters that geothermal water is recognised in the RMA as a resource distinct from fresh water and coastal water and is subject to different and unique pressures. We also agree with the New Zealand Geothermal Association that there is a broad range of values[40] associated with geothermal resources, and potential risks and effects[41] that require

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[40] For example, natural character, ecosystems and biodiversity.

[41] For example, natural hazard risks, effects on the quality and quantity of water resources.

an integrated planning response. For these reasons, we consider it is appropriate to include a 'geothermal' chapter and recommend it is located under the 'domains' heading in Part 2 of the Regional Plan Structure Standard. This is consistent with our recommended approach for the Regional Plan Structure Standard.

We also consider the addition of a geothermal chapter to the Regional Plan Structure Standard will support regional councils that have developed plans that devote entire sections to the management of geothermal resources. By including a new chapter, we consider an efficient translocation of content from existing regional plans into the new standard is accommodated and the concerns of submitters[42] are addressed.

6.2.3   Recommendation

We recommend the inclusion of a new 'geothermal' domain chapter.

6.3   Additional theme – Minerals

6.3.1   Submissions

J Swap Contractors requested the addition of a new 'minerals' chapter to the Regional Plan Structure Standard, with separate chapters for 'quarries' and 'aggregate supply', stating their inclusion would recognise the "direct economic link between extraction of minerals and infrastructure development".

6.3.2   Analysis

We consider provisions that address and recognise the economic benefits of minerals can be accommodated within the existing 'integrated management' and 'domain-based' chapters. Furthermore, we consider the inclusion of 'activity-based' chapters (ie, chapters for quarrying and aggregate supply) would be inconsistent with the general approach of the Regional Plan Structure Standard, which includes chapters with titles that reflect domains or values. For this reason, we do not recommend the inclusion of a new 'minerals' chapter.

6.3.3   Recommendation

We do not recommend the insertion of a new 'minerals' chapter in the Regional Plan Structure Standard.

6.4   Additional theme – Urban growth

6.4.1   Submissions

Hastings District Council stated it was "not clear from the Regional Standards if urban growth is to be dealt with as a special topic or as a subset under the land section". In its submission, it referred to the objectives of the National Policy Statement on Urban Development Capacity

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42   Bay of Plenty Regional Council and Waikato Regional Council.

2016[43] (NPS-UDC), and the shared functions[44] of regional and territorial authorities, as reasons for including a new chapter related to 'urban growth'.

6.4.2 Analysis

We agree with Hastings District Council that both regional and territorial authorities have functions with respect to ensuring sufficient development capacity for housing and business land. However, in the context of a regional council's planning documents, the appropriate place to address this matter is through the regional policy statement. In that document, decisions need to be made at a strategic level about how competing land uses will be managed and/or prioritised and also how councils will work to resolve the challenges associated with responding to multiple forms of national direction.

The NPS-UDC requires regional councils to consider whether sufficient development capacity has been provided for within existing and proposed regional policy statements[45] and to include minimum targets for housing in high-growth urban areas.[46] These targets are then given effect to through district plans by the inclusion of new targets objectives, policies and methods to facilitate urban growth.

Given the division of functions under section 30 and section 31 of the RMA, the NPS-UDC is of less relevance in the context of a regional plan because there is no explicit function to manage land use for this purpose. We accept that, while the functions regional councils have[47] can influence the availability of land for development, the primary functions for managing land use rest with territorial authorities.

These wide-ranging functions in respect of the control of land may be exercised through zoning decisions and land use controls in district plans. Regional plan provisions that may affect urban growth are usually best placed within the other chapters and sections listed in Part 2 of the Regional Plan Structure Standard. However, there is still scope for a regional plan that addresses urban growth as a topic, by including a new topic chapter.

For these reasons, we consider an 'urban growth' chapter would usually not be used in a regional plan and do not recommend its inclusion as a specified topic chapter in the Regional Plan Structure Standard. However, we have recommended that any other matters addressed by the regional plan must be included as a new 'topic chapter'.

Note that we have recommended in the Regional Policy Statement Structure Report that urban growth is included as part of a topic called 'urban form and development'. Recommendations are also made for the regional policy statement, district and combined plan structure standards to have a new chapter or section called 'urban form and development'.

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[43] This national policy statement can be downloaded here: www.mfe.govt.nz/publications/towns-and-cities/national-policy-statement-urban-development-capacity-2016.

[44] Section 30(1)(ba) and section 31(aa) of the RMA require councils to establish, implement and review objectives policies and methods, to ensure that there is sufficient development capacity in respect of housing and business land to meet expected demands.

[45] Policy B3 of the National Policy Statement on Urban Development Capacity (NPS-UDC).

[46] Policy C5 of the NPS-UDC.

[47] For example, regional councils have limited functions with the ability to impose land use controls only for the purpose of soil conservation, the maintenance and enhancement of ecosystems and the quantity and quality of water, and the avoidance and mitigation of natural hazards.

6.4.3   Recommendation

We do not recommend the insertion of a new 'urban growth' chapter in the Regional Plan Structure Standard.

6.5   Additional theme – Beds of lakes and rivers

6.4.4   Submissions

The Forest Owners Association suggested adding a 'beds of lakes and rivers', because section 13 of RMA provides for uses of beds of lakes and rivers as a separate matter and there are legal presumptions concerning some of the uses that are different to the use of land.

6.4.5   Analysis

The revised regional policy statement, regional plan and combined plan structures have included a new 'land and freshwater' domain chapter. This chapter addresses a wide range of section 13 functions that are not a specific topic. Under this new organisation of plan provisions, provisions relating to management of the beds of lakes and rivers appears to fit better as a component of integrated land and freshwater management. Specific topics may apply in addition to this function, for example, aquatic biodiversity, natural character and other topics may be relevant to the beds of lakes and rivers

For these reasons, we consider a 'beds of lakes and rivers' topic chapter is not the optimal use of the provisions framework in the regional plan structure standards. However, councils may still decide that an aspect of management of beds of lakes and rivers is important enough to add as a new 'topic chapter'.

6.4.6   Recommendation

We do not recommend the insertion of a new 'beds of lakes and rivers' chapter in the Regional Plan Structure Standard.