



Ministry for the
Environment
Manatū Mō Te Taiao

National Planning Standards: Structure of regional plans and policy statements

Discussion paper D

New Zealand Government

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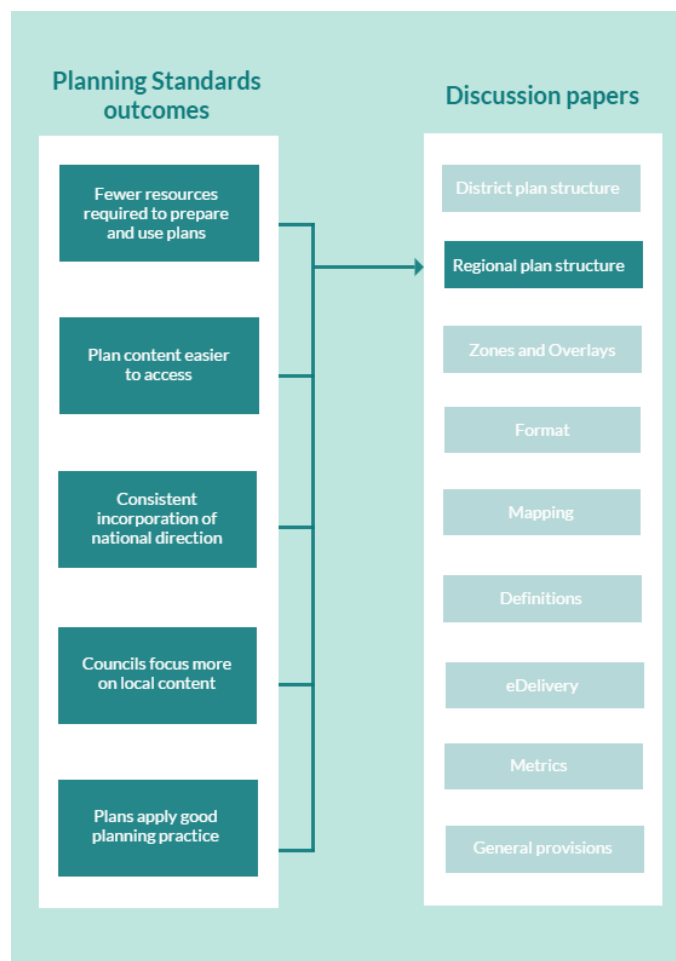
Context

Unnecessary plan variation affects the planning system by making plans difficult to interpret and onerous to prepare. The first set of national planning standards addresses this by including minimum requirements for structure, form and core content for policy statements and plans.

This paper focuses on regional planning *structure*. It sets out our ideas for how the National Planning Standards could provide a more consistent approach to regional planning documents, specifically the structure of regional policy statements (RPSs), plans and coastal plans. Regional planning sits at the crossroads of the resource management system – giving effect to national policy and setting direction for the district plans of the area. Policy Statements are required to identify and address significant issues for the region as a whole and set direction for regional and district plans. Given this hierarchy, a consistent approach to RPSs and plans is important for the success of the whole resource management system.

This paper seeks feedback on whether we should be integrating regional planning documents and what the preferred structure should be for the different components. It covers the structure of the RPS, regional plan objectives and policies and rule components. Figure 1 demonstrates which of the National Planning Standards outcomes can be addressed through the development of standards detailed in this discussion paper.

Figure 1: How the National Planning Standards outcomes can be addressed through standards in this paper



What do we mean by plan structure and why is it important?

Structure refers to the way that a plan is laid out, the order in which things appear in the plan, how they are grouped, and the way objectives, policies and rules relate to each other. Consistent plan structure and organisation are important to help the public and other plan users understand the principles of the Resource Management Act 1991 (RMA) system and find what they need. As well as the regional council that 'owns' the plan, this includes the staff of district councils who use the RPS and plans to inform their own plan. A standardised structure is also helpful to those who use the plans of many regions (eg, consultants and the Environment Court), allowing quick identification of similarities and differences between plans. Over time, a standardised structure should increase the 'precedent value' of court decisions, allowing an interpretation of one plan to more readily apply to others.

Exploring the problems and opportunities

In the absence of national direction on how regional documents should be structured, each council has developed its own approach. While this has benefits in terms of being responsive to local circumstances (eg by highlighting specialised issues), unnecessary inconsistency and 'compartmentalisation' has arisen over time. Unnecessary variation makes planning more complex for those who work across regions and for districts that share borders with more than one region.

A standardised structure will be more efficient for councils when they review plans and will increase the precedent value of court decisions arising from challenges to plans. It will also help reduce complexity and repetition in plans, making them easier to use. An important benefit for regional planning is that a standard structure helps support integrated resource management by including national direction and regional issues in one document.

Allowing councils to define resource management outcomes and how resources will be used is an important aspect of the devolved nature of the plan-making process under the RMA. It has, as expected, resulted in plans that reflect local values and content. However an unanticipated outcome is the extent to which the core structural elements of a plan and its terminology vary from plan to plan.

Our research showed that RPS and regional plan structure is variable despite them covering similar themes and topics. The biggest variation between plans occurs in how RPSs are structured and how the rules are formulated.

Unnecessary variation between plans has resulted in a resource management system that is overly complex and consequently difficult for plan users to navigate. Lack of a common, coherent structure results in confusion for plan users. This can result in greater costs to applicants, submitters and others as they seek to understand how a particular plan works compared with another plan.

The ability to make different decisions on plan structure leads to duplication of work for councils. It also contributes to a lack of integration between district and regional plans. There is also variation in how plans acknowledge and implement national direction, affecting the efficacy of those planning instruments.

Research results

Research on structure of regional policy statements

RPSs throughout the country largely cover the same major topic areas (water, air, land), but some councils add more specialised areas according to their needs, such as minerals or geothermal activity. The high-level structure of RPSs varies, but two main approaches can be discerned.

1. **Structure by theme**, for example: ‘mana whenua’, ‘freshwater’, ‘[place name] whaitua’, ‘growth management’, ‘built environment’. Within this structure were two trends for provision layout, either by:
 - (a) **provision type** – all the *issues* for the identified topic are together, then all *objectives*, all *policies* and so on. This kind of structure reflects a ‘horizontally integrated’ approach
 - (b) **sub-theme** – the chapter is divided into sub-themes and all the issues, objectives and policies are grouped together with that sub-theme. This is a ‘vertically integrated’ structure.
2. **Structure by RMA provision type**, for example: major chapters were ‘objectives’, ‘policies’, ‘methods’. This seemed to be an emerging structure in recent RPSs and is a fully horizontally integrated approach.

A third structure was identified where the RPS was structured by the ‘outcome sought’ (eg, ‘[Otago] has high quality natural resources and ecosystems’). This was used by one RPS and is not discussed further here.

Findings of Independent Hearings Panel on the Proposed Auckland Unitary Plan

The Independent Hearings Panel on the Proposed Auckland Unitary Plan noted it is important that the RPS be written and presented in a manner that enables it to be a distinct component of the unitary plan. The panel recommended that the RPS provisions remain separate from the regional plan provisions, to provide clear visibility for the high level overarching policy framework. The RPS describes the significant issues and sets the scene for regional and district provisions.

Research on structure of regional plans and policy statements

Most councils were moving towards combining their regional plans for managing land, water and air into a single plan structure. In some cases, the RPS is integrated into the plan, usually as a first chapter – this recognises the close relationship between the RPS and regional plan. Plans are increasingly likely to include a catchment-based approach, partly to give effect to national direction, such as the National Policy Statement for Freshwater Management (eg, Greater Wellington Regional Council’s Proposed Natural Resources Plan, Northland Regional Council’s Draft Regional Plan and Horizons Regional Council’s One Plan). All of the regional

plans contained objectives, policies and rules; but for integrated plans, the issues and methods sections tended to be placed in the RPS.

The regional plan research presents four structural options, but the main differences relate to how the rules are treated. In each case, the structure is for a combined resource plan that has an integrated RPS as the first chapter.

1. **Topic based:** structured according to environmental domain (land, water, air) with rules as a separate chapter and structured by domain.
2. **Activity based:** structured as per topic above but the rules are formulated according to RMA activity (eg, discharges, takes, use).
3. **Rules integrated:** also structured as above but the rules are integrated, that is, contained in each domain or topic chapter instead of being separate.
4. **Catchment based:** the chapter headings are based on catchments rather than topic or domain. As with number 3, the rules are integrated with the issues, objectives and policies for each catchment.

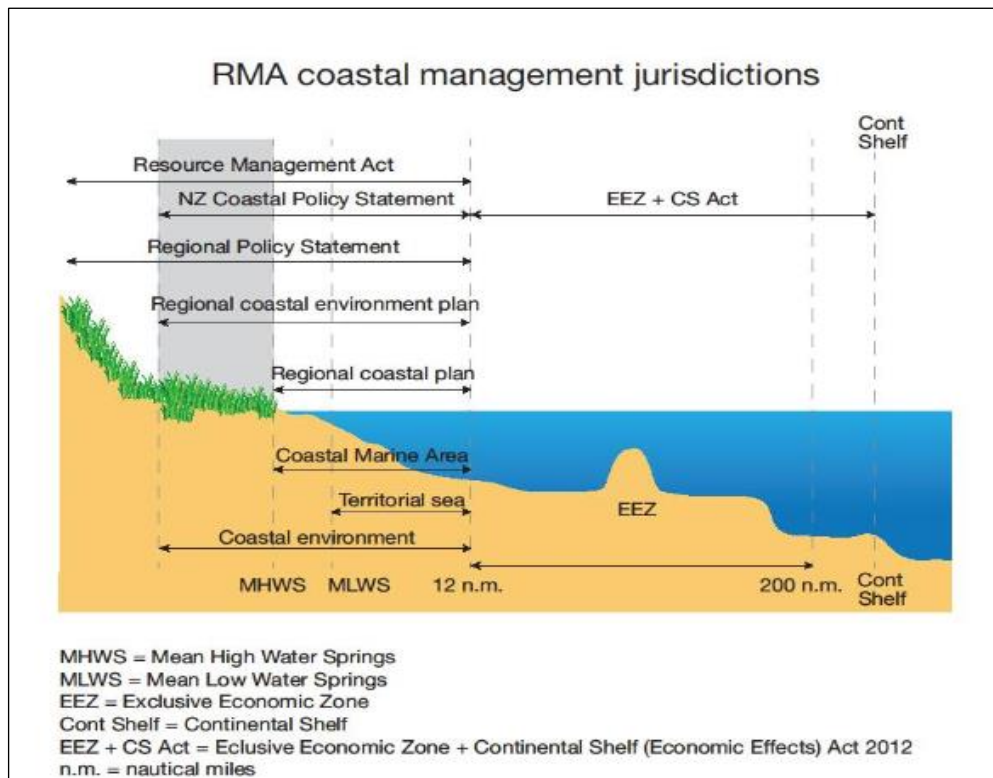
Rules were listed within the chapters, ranging from permitted to non-complying. Matters of control and discretion (for controlled and restricted discretionary activities) were placed either underneath the rules to which they relate or in a separate chapter. Some plans also used general permitted standards, which seemed to result in less duplication. Streamlining was also more evident where plans were written in an outcome-based way, because they did not require detailed explanations or reasons.

Research on coastal planning

Coastal planning is complex and differs from terrestrial planning in several ways. Activities in the coastal marine area generally require a resource consent, and permitted activity rules are not normally appropriate. Section 12 of the RMA addresses a prescriptive range of activities along with the right to 'occupy space' in the coastal marine area, a feature that does not appear in section 9.

The New Zealand Coastal Policy Statement (NZCPS) has a large bearing on how the coastal environment is managed, alongside Part 2 and Part 3 RMA matters. Regional councils are required to maintain a regional coastal plan to give effect to the NZCPS and consent authorities must have regard to it. The Minister of Conservation has responsibility for approving the coastal marine area component of regional coastal plans, in recognition of the Crown's and iwi special interests in the coastal marine area. (This has implications for how regional coastal plans are structured, in particular, the rule framework.) The NZCPS also overlaps with the jurisdiction of other RMA plans, such as district plans and land and water regional plans (see figure 2).

Figure 2: Overlapping coastal management jurisdictions under the Resource Management Act 1991



Source: Quality Planning (www.qualityplanning.org.nz)

The regional coastal plan may also form part of a regional plan to promote the integrated management of a coastal marine area and any related part of the coastal environment. Thus, it is possible (but not a requirement) to incorporate the wider coastal environment into the same plan. These wider plans are typically called ‘regional coastal environment plans’. The extent of the ‘coastal environment’ is something that is determined by each regional council based on local circumstances.¹

We undertook research, in conjunction with the Department of Conservation (DOC), on the structure of regional coastal plans. Of the 11 regional councils, 5 have operative first generation coastal plans that cover the coastal marine area only. These are also all standalone coastal plans, except for the Horizons Regional Council One Plan, which is a combined regional plan. Five councils had second generation plans at the proposed stage (including Auckland). Four of these plans cover the wider coastal environment, with Greater Wellington Regional Council’s Proposed Natural Resources Plan limiting the scope of the coastal provisions to the coastal marine area.

Of the five unitary councils, all contain the coastal provisions within their combined unitary plan, with the exception of Gisborne District Council, where there is a separate proposed coastal environment plan. Some plans, such as Tasman District Council’s, contain a largely standalone coastal chapter within the wider plan. The unitary councils also generally limit the coastal provisions to the coastal marine area, with the exception of the Auckland Unitary Plan, which covers the wider coastal environment.

¹ However, Policy 1 of the NZCPS 2010 does provide a list of areas and matters that are included within the coastal environment therefore implying that these must be recognised as such. There is no requirement to map the coastal environment. Before the NZCPS 2010, the definition of ‘coastal environment’ was a contested subject and there is much case law around this issue.

A workshop was also held with planners from the Coastal Special Interest Group to better understand the issues from a local government perspective. The Group, along with DOC, identified a number of possible 'content' areas, for example, model provisions on biofouling, which relate to the implementation of the NZCPS. As part of the broader implementation of national direction instruments, these issues are not discussed further here but may be suitable for a later standard. An important finding of the research was that there is great variation in how councils approach and structure their regional coastal plans. The main factors contributing to this are detailed below.

Structure of regional policy statement

The structure of the relevant RPS was found to have an influence on the corresponding structure of the coastal plan. RPSs tend to be structured around regionally significant issues, and associated plans (such as coastal plans) typically reflect the same structure.

Identification of values and activities

The research showed that plans structured around both the *values* and *activities* to be managed or protected work well for coastal issues, reflecting the inherent values and use of the coastal environment. Where the plan structure focuses solely on activities or solely on values, the separation makes navigating the plan more difficult for users who have a coastal focus. It is harder to identify where the coastal provisions are located in the plan. DOC noted that it is difficult to capture nationally significant issues (section 6 RMA matters) in activity-based plan provisions. Instead, a hybrid approach of identifying both activities and values in the plan is preferable, such as the Bay of Plenty Regional Coastal Environment Plan.

Scope of plan ('coastal marine' versus 'coastal environment')

The geographical scope of plans differs between regions. Some councils have a regional coastal plan that covers just the coastal marine area, while others have a regional coastal environment plan that extends landward of mean high water springs.

DOC advised that, from its perspective, there is no one 'preferred' approach to the scope of a coastal plan, this being primarily a decision made by the council. It may be influenced by the relationship between a regional council and its territorial authorities and the desired level of collaboration. A regional coastal environment plan generally encourages greater collaboration between councils and tends to result in better coastal management in relation to issues such as provision for certain land and water uses (eg ports), natural hazards, indigenous biodiversity, the protection of sites of significance to iwi and protection of heritage values.

Question

- D.1. Should the structure of regional planning facilitate the move towards broad 'coastal environment plans' to achieve better integrated management of resources?

Our approach to regional planning structure

When considering structure at the regional level, it is important to consider the relationship between RPSs and plans. This part of the planning system needs to both give effect to national direction and also set direction for district plans. The RMA requires regional councils to have an RPS that provides an overview of the resource management issues for the entire region. It also sets out the objectives, policies and methods to manage *regionally significant* issues. Regional plans fill in the details and provide the ‘bottom line’ in terms of enforceable rules.

We outline four main factors influencing the structure of regional planning documents and two main structural options that are presented on pages 16 and 18.

1 Integration of regional planning documents

Many councils are integrating their land, water, air and other plans into one document, and some are also including the coastal plan. A combined plan provides a single document where users can be confident that all regional resource management matters are found. Having one plan also helps achieve the main purpose of regional planning – integrated management of resources. There is also a move towards combining the RPS with other regional planning documents, either as a separate chapter or fully integrated throughout.

The integrated approach to regional plan provisions helps users working across ‘domains’ to quickly identify policy and consenting requirements. It also reduces the duplication of objectives, policies and rules.

Integration can happen on various levels. Basic integration would involve existing domain-based plans forming chapters within a single regional plan. A more sophisticated integration would review the interactions between the domains and seek to manage the effects of activities across those domains in a holistic way. In terms of rules, combining all aspects of an activity into one rule simplifies the consenting approach and enables the effects of an activity to be considered together.

We believe that an integrated approach is required to improve the usability of RPSs and regional plans. Greater integration will be achieved if the RPS forms the first substantive chapter of a combined regional planning document. Most councils are already combining their plans to some degree, and this proposed structure builds on that momentum.

Table 1: Components of an integrated structure

| Components of an integrated structure | |
|---------------------------------------|---|
| Regional policy statement (RPS) | <p>Integrated management of natural and physical resources</p> <ul style="list-style-type: none"> • must be given effect to by regional and district plans • sets scene for region- and district-wide functions <p>Therefore is based on broad themes, for example, growth management, coastal environment, landscape, biodiversity, infrastructure.</p> |

Components of an integrated structure

| | |
|-----------------------|---|
| Regional plan | <p>Covers functions under section 30 of the Resource Management Act 1991.</p> <p>Has objectives and policies that can be based on:</p> <ul style="list-style-type: none"> • domains (eg, coast, air, water, land) • a wide range of topics (eg, water quality, air quality, geothermal resources) • catchments • activities (eg, discharges to land, discharges to air, structures in the beds of lakes and rivers). |
| Regional coastal plan | Objectives, policies and rules for the coastal marine area (below mean high water springs). |
| Rules | <p>A component of the regional plan structure (not the RPS).</p> <p>Rules can be based on:</p> <ul style="list-style-type: none"> • domains (eg, land, air, water); or • activities (eg, discharges, structures in the bed of lakes and rivers, water takes, water allocation). |

Questions

- D.2. Do you agree that regional planning documents (regional policy statements, regional and coastal plans) should be combined into one document?
- D.3. Do you agree that the regional policy statement should form a separate chapter within that combined document?
- D.4. Does the regional policy statement structure need to be the same as the rest of the plan?

2 Omitting optional matters from plans (section 67)

Section 67 of the RMA specifies what must or may be in a regional plan. Objectives, policies and rules (if any) are the only matters that *must* be included. Other things, such as issues, other methods, principal reasons, anticipated environmental results and monitoring procedures are all optional. Second generation plans have tended to remove material no longer required by the RMA, reducing the overall length of plans and allowing the removal of entire chapters. However, there is less scope to omit material from the RPS because section 62 still requires the full range of matters to be included.

Providing placeholders for non-mandatory content, with best practice guidance on how that material should be incorporated, is one approach. Alternatively, non-mandatory content can be provided in an associated 'user guide' or other document that sits outside the plan.

3 Region-wide, domain- or catchment-specific matters

Traditionally, the policy and rule framework has operated on an 'environmental domain' basis through individual plans. While convenient, the distinction is somewhat artificial and, to achieve good resource management, integration of policies and rules across domains is required. Many matters apply region wide and across domains, for example, protecting biodiversity, for mana whenua values and protecting heritage. Being able to provide for these

matters in a way that reduces repetition is important. In addition, the Māori world view and national direction, such as the National Policy Statement for Freshwater Management, require resources to be managed on a catchment or other geographical basis. This is leading to 'catchment-based' chapters containing specific objectives, policies and rules, for example, relating to water take, allocation or discharges in that catchment, in addition to more general 'region-wide' objectives, policies and rules. Any plan structure needs to be flexible to accommodate both specific domain- and catchment-based provisions and fully integrated provisions.

4 National direction

Planning standards are required to provide a high-level 'home' for national direction documents, such as national policy statements and national environmental standards. We propose a 'national direction' section in the RPS to reference each document applying to the region, with an electronic link to each document and a summary of its purpose. The structure would then provide for each council to set out the key regional issues arising under the direction and the main ways in which the council gives effect to that direction. References to guidance or other content could also be included, but this is beyond the scope of this initial standard.

5 Coastal plans approved by the Minister of Conservation

The NZCPS 2010 is a mandatory piece of national direction produced under the RMA. The NZCPS sets out policies to achieve the purpose of the RMA in relation to the coastal environment (RMA sections 56 and 57). The Minister of Conservation has direct responsibility for preparing, implementing and monitoring the NZCPS and approving regional coastal plans prepared by regional and unitary councils.

The Minister of Conservation's sign-off on coastal marine area matters is still required, so objectives, policies and rules relating to the coastal marine area need to be clearly identified. Submitters to the Proposed Auckland Unitary Plan raised concerns about whether sections were RPS, coastal plan or regional plan provisions. The final plan contains a separate RPS and identifies the relevant coastal plan provisions by using the tag '[rcp]' at the end of the relevant objectives and policies.

Options for a combined RPS and plan

The plan structure chosen must be easy to create, review and use, support the system as a whole and facilitate integrated resource management. It also needs to be sufficiently flexible to be able to respond to regional needs and issues that vary throughout the country. We have combined the results of the research with our own thinking to outline two options for an integrated plan structure consisting of RPS, regional plan, coastal plan and rules.

We see value in the trend identified in the research of moving towards combined regional planning documents or ‘all-in-one’ plans, rather than bespoke plans addressing separate parts of the environment. These integrated plans provide more certainty for plan users. They make the linkages between objectives, policies and rules clear. Simple marking of a provision that would be otherwise contained in a separate coastal plan (eg the Greater Wellington Regional Council Proposed Natural Resources Plan) makes distinguishing these provisions relatively simple.

An important issue for national planning standards is to determine what aspects of variation in plan structure are results of different drafting approaches and what aspects directly relate to managing a local issue. Those that relate to drafting approaches can be addressed by a planning standard.

Option 1: Structure by policy provision (horizontal integration)

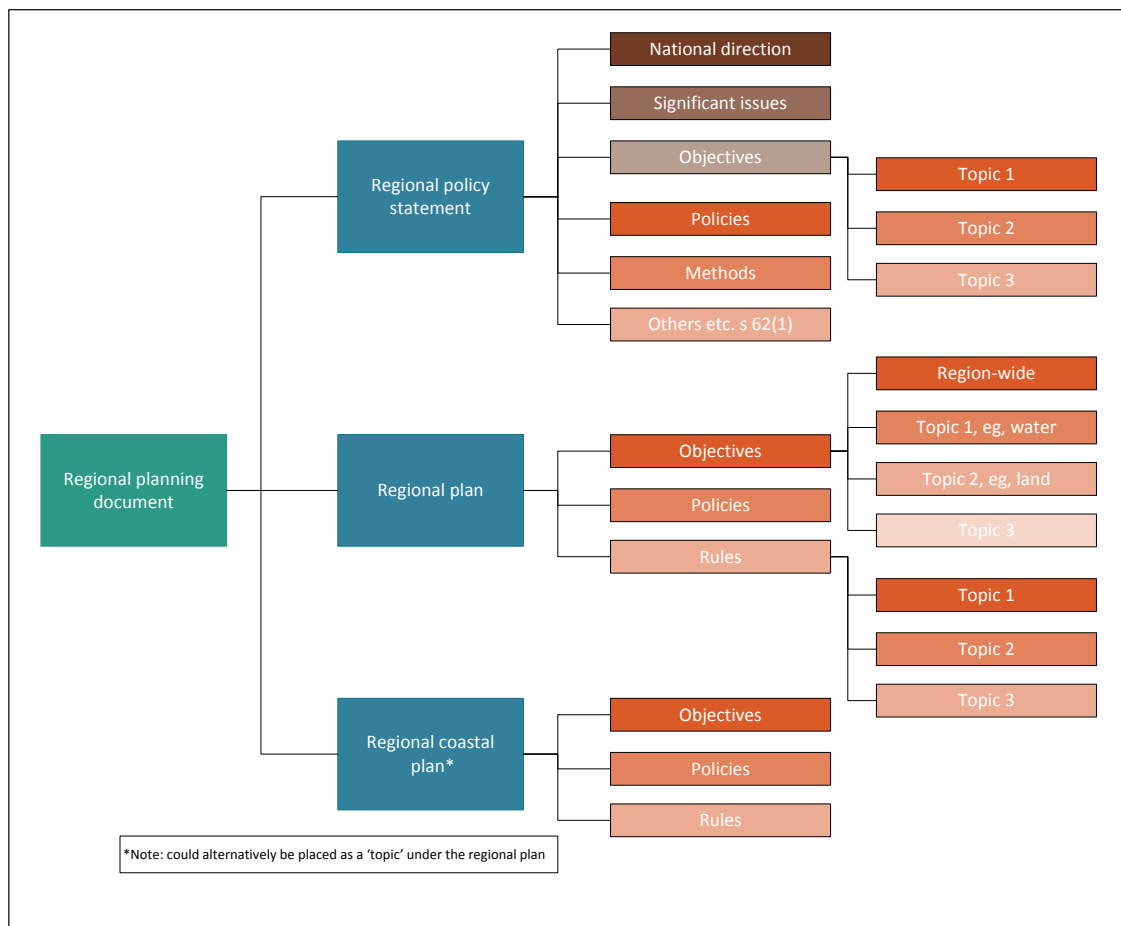
Option 1 relies on the types of policy provision listed in the RMA (issues, objectives, policies and so on) to form the high-level chapters and therefore structure of the combined integrated plan. This structure is said to be ‘horizontally integrated’ – that is, all the issues for a theme are together, then all the objectives and then all the policies. It provides a good overview in that the relationship between all the issues for a region are clear, but how each issue is dealt with takes more work to discern. This is an emerging trend for RPSs; in the regional plan context, it provides the opportunity to reduce repetition of objectives and policies for topics that cross domains. Linkages between different problems are clearer but are less so between a particular problem and its solution. This structure is outlined in table 2.

Table 2: Policy provision structure (full horizontal integration)

| Policy provision structure (full horizontal integration) |
|--|
| Issues: Theme 1, Theme 2, Theme 3 |
| Objectives: Theme 1, Theme 2, Theme 3 |
| Policies: Theme 1, Theme 2, Theme 3 |
| Rules |

In this structure, rules would always be in a separate chapter. They could be organised by domain or take an integrated approach and be based on activity (see for example the options in figure 3).

Figure 3: Policy provision based structure (indicative only)



| Option 1: Structure by policy provision | |
|--|---|
| Advantages | Disadvantages |
| Is a simple structure that provides a direct link with the empowering legislation. | Is not very 'descriptive'; does not easily reflect any differences between regions. |
| It allows strong horizontal integration of regional-level policy. | Line of sight between objectives policies and rules is not clear (vertical integration is not clear). |
| Is an emerging trend for RPS structure. | May be unfamiliar to many councils. |
| Is flexible allowing both region-wide and domain-specific provisions to be accommodated. | Does not accommodate a catchment approach very easily. |

Option 2: Structure by topic, domain or activity (vertical integration) – preferred option

This plan has high-level chapters structured according to their subject, whether by theme, catchment, environmental domain or even outcome (figure 4). Subserving chapters are then issues based, and the methods, objectives and other matters for that issue are placed in the same sub-chapter. For catchments, plan users can see which catchment their activity is located in and find the chapters that are relevant. Region-wide issues would need their own chapter or be repeated at the start of each catchment chapter.

The vertically integrated theme structure cascades each type of policy provision (objective, policy, method and so on) directly under each environmental theme. For example, Theme A, Issue 1: ‘Objective-Policy-Method-Principal Reason...’, Theme A, Issue 2: ‘Objective-Policy-Method-Principal Reason’ and so on (as shown in column 1 of table 3. This structure keeps the policy provisions tightly linked to each other and the issue. It allows users to see the relationship *within* an issue and how the provisions cascade to address it. But it de-emphasises the connections *between* issues.

Types of ‘subject’

Most regional plans are structured around topics or domains, with a few structured around activities. Structure by topic, activity or domain can include the rules nested within the chapter or as a separate ‘rule book’.

A structure by domain reflects the resources for which regional councils are responsible, and the individual plans for each of these domains characterise the early RMA years (eg a separate air plan or water plan). While it is a simple structure to understand it does not necessarily achieve integrated management across the domains. If a separate place is not provided for region-wide issues (eg, mana whenua, biodiversity or heritage), a high degree of repetition may be required for each domain.

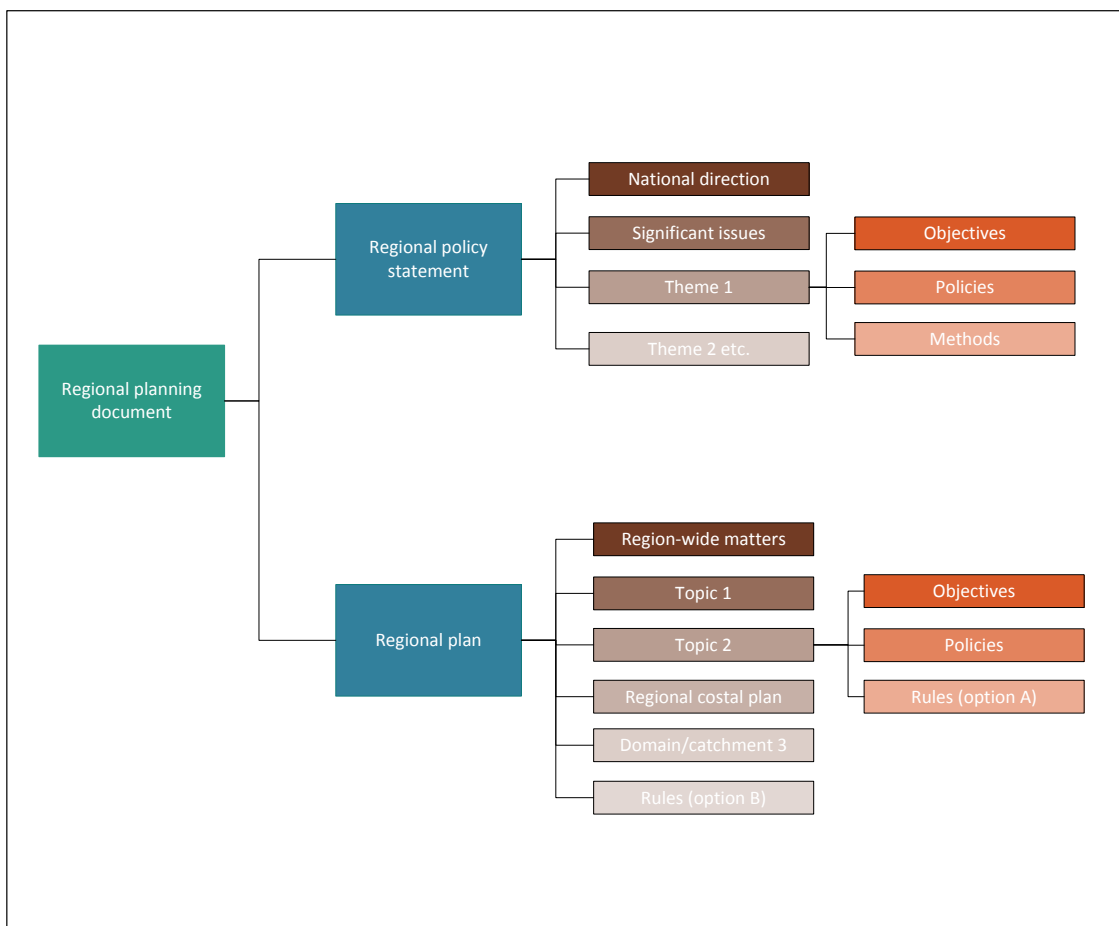
A structure by topic looks *across* the domains through a topic lens, for example, a topic-based chapter on biodiversity would cover all the domains for which the regional council had responsibility (land, fresh water, coastal and so on). This structure works well for objectives and policies by minimising repetition, but it is not such a great approach for rules.

A structure by activity looks at the types of activities that a council regulates (section 12 to 15 of the RMA) and structures the plan around those, for example, a chapter on discharges or a chapter on structures in the beds of lakes and rivers. This approach is user friendly because plan users can think about the types of activity they are likely to generate (eg a discharge to land) and go directly to the relevant rule. However, it does not encourage applicants to consider the wider environmental effects of their proposal. It may require a lot of repetition at the objective and policy level but works better for rules.

Table 3: Theme structure – vertical and horizontal integration

| Structure by subject matter – horizontally integrated | Structure by subject matter – vertically integrated |
|---|---|
| Theme: Freshwater | Theme: Freshwater |
| Issue: Contamination | Issue 1: Contamination |
| Sub-issue: Agricultural discharges | Issue 2: Allocation |
| Objectives | Issue 3: Biodiversity |
| Policies | Objectives: Contamination |
| Methods | Objectives: Allocation |
| Theme: Freshwater | Objectives: Biodiversity |
| Issue: Allocation | Policies: Contamination |
| Sub-issue: Water takes | Policies: Allocation |
| Objectives | Policies: Biodiversity |
| Policies | |
| Methods | |

Figure 4: Topic-based structure (indicative only)



| Option 2: Structure by topic, domain or catchment | |
|--|---|
| Advantages | Disadvantages |
| This structure is widely used now and can easily be replicated in both RPSs and regional plans, providing a clear link between these documents. | It can be harder to see the horizontal integration of policy across the whole plan (eg, ‘how does a freshwater objective relate to objectives for coastal rivers?’) |
| It has good vertical integration, facilitating a clear line of sight to the specific sub-issues that relate to a general theme. | For large or complex plans, this could impede a ‘big picture’ understanding of high-level environmental problems. |
| Users can easily see where a topic of interest and its policy provisions lie. Provides management transparency due to the direct relationship between the environmental issue and how that issue is addressed. | Careful links, cross referencing and some duplication of provisions may be needed to clearly show the relationship between them. |
| Sufficiently flexible to provide for a range of council planning approaches (catchment, domain and outcome based) and accommodate both region-wide or domain-specific provisions. | Division by one approach (eg, domain) does not necessarily express the relationship between domains. |

Questions

- D.5. Which structural option is the most suitable for your region and why?
- D.6. Apart from the regional policy statement, should there be any mandatory chapters within an Option 2 structure?
- D.7. Does the high-level structure outlined here strike the right balance between consistency and flexibility?

Regional coastal plans

As well as providing consistency on how the coast is addressed within plans, the National Planning Standards also provide an opportunity to facilitate the translation of NZCPS requirements into plans (as for other national direction) and to standardise the location of coastal provisions. To provide a more consistent approach to how the coast is addressed within regional plans, our proposed approach includes standardising some elements of coastal plans.

We agree with the research finding that plans structured around both the values and activities the council seeks to protect or manage work well for coastal issues. A hybrid approach makes it easier for plan users to understand if the activity they propose is permitted by the plan or not. Where regional councils develop a combined regional plan, having a separate coastal planning chapter or section is important so that the functions of the Minister of Conservation can be clearly identified. Practitioners have suggested that standalone sections should include links to other relevant parts of the combined plan.

All coastal plans need to clearly identify which aspects the Minister of Conservation is required to approve. This could be improved in practice, as noted by the Independent Hearings Panel on the Proposed Auckland Unitary Plan. Tagging or other identification of the coastal plan provisions adds clarity for plan users.

An important issue is the extent to which the new structure should encourage a shift towards broader 'regional coastal environment plans' that address the coastally influenced area landward of mean high water springs. These plans can foster greater collaboration on coastal management between districts and regions. However, they can be more challenging to create, due to the need to separate out the issues under the jurisdiction of the Minister of Conservation. There are also limits to the extent that a regional council can impose land use rules on the landward side of mean high water springs.

Placement and formulation of rules

For regional council functions, the presumption is that activities require a consent unless specifically provided for in a regional plan (which is the opposite to land use activities for district plans). This affects both the structure of rules and the number of rules required in a plan. There are two ways for rules to be included within the regional planning structure. Rules can be nested with the objectives and policies they give effect to or can be separated into their own 'rule book' chapter.

The Independent Hearings Panel on the Proposed Auckland Unitary Plan favoured placing rules with their objectives and policies because this provides context and a more obvious ‘cause and effect’ relationship. We take this approach in the [District Plan Structure paper](#) and also propose it for regional rules for consistency and because it allows easier integration for district and regional plans prepared by unitary authorities (table y below)

We acknowledge that many councils find advantages in providing a separate chapter for rules (table 4, p 20). For users, it means the rules are all in one place and therefore easier to find. It reduces the need for repetition and cross referencing, which may result in a more compact plan. It possibly also allows for a clearer distinction to be made between activity- and domain-based rules. Activity rules combine all relevant aspects of an activity in one rule, allowing the effects of the activity to be considered together. This can simplify the consenting approach but requires effects to be accurately forecastable when the plan is being prepared.

Fully interactive ePlans make the process of interrogating and searching plans more user friendly. The ePlanning software does not change the essential elements of the plan content but means that some of the traditional decisions regarding plan structure have become less significant. Use of ePlanning allows nested rules to also be pulled out and repeated in a section of their own.

The design of the rules themselves is discussed in the [Formatting plans and policy statements paper](#) which outlines the main elements for any rule format and sets out three alternatives for feedback.

Rules nested with objectives and policies

| Advantages | Disadvantages |
|--|---|
| Easy to track to link the rule to the policy framework by either a topic or domain. | A user may need to search multiple places in the plan to get all rules associated with a proposed activity. |
| If activity is associated with one domain or topic, rules and policy framework are easy to find. | May be easy to miss relevant rules. Repetition of rules across domains |

Rules in separate chapter

| Advantages | Disadvantages |
|--|---|
| Easy for plan users to find all the rules that apply within a region or parts of a region. | May be harder for lay people to identify the ‘policy’ story behind the rules. |
| Rules can achieve better integration across topics and domains. | |
| Less repetition of rules. | |

Questions

- D.8. Should rules be located with associated objectives, policies and rules or in their own chapter?
- D.9. Should rules be organised by activity type (eg, discharge, structure or water take), or by subject (eg, land, air, water)? Why?
- D.10. Should the structure of the regional policy statement and plan objectives and policies flow through to the rules (ie, if the objectives and policies are by topic then the rules should also be by topic)?

Unitary authorities

A unitary authority is a territorial authority that has the same responsibilities, duties and powers as a regional council. New Zealand has five unitary authorities: Auckland Council, Gisborne District Council, Tasman District Council, Nelson City Council and Marlborough District Council.

Unitary authorities are required to prepare resource management plans for both their district and regional functions under the RMA. Section 80 of the RMA provides for combined regional and district documents in a unitary authority context.

A unique feature of unitary authorities is their ability to develop fully integrated district and regional plan provisions. Increasingly, these councils are working towards fully integrated 'combined plans'. Any national planning standard relating to plan structure for district or regional plans will apply to these combined plans but will need to have a greater level of flexibility to work within this context. While unitary authorities should be able to use the overall structure being proposed for district and regional plans, we accept there may be situations relating to fully integrated plans that make it difficult to apply the planning standards without some flexibility.

Table 4 lists the main elements of plans and seeks feedback on questions we have about the practicality of applying a national planning standard to combined district and regional plans.

Table 4: Unitary authorities – combined district and regional plans

| Plan element or discussion paper | Implications for combined regional policy statement, regional and district plans | Questions |
|----------------------------------|--|--|
| Regional policy statement | Combined RPS and regional plan. Separate chapter for RPS at the front. | In this Regional structure paper. |
| Regional plan structure | Option 2 – Topic based with integrated objectives, policies and rules. | Does Option 2 provide a structure that will work for a combined plan? |
| District plan structure | Option 2 – Topic and zone based with integrated objectives, policies and rules. Elements of plan structure, such as 'district-wide' nationally significant matters, are relevant to both regional and district plans. | Which elements of the preferred proposed structure will not work for combined plans? |

| Plan element or discussion paper | Implications for combined regional policy statement, regional and district plans | Questions |
|----------------------------------|--|---|
| Zones and overlays | The common zones could be adopted for the district plan functions, but flexibility may be required to allow inclusion of additional regional plan content (eg, regional rules in traditional district plan zones). | <p>Would combined plans be able to use zone option 3 (ie, 27 zones)?</p> <p>What changes to the zone framework may be required for combined plans?</p> <p>Would combined plans map the regional council functions separately (see discussion in Zones and overlays paper), or use the district plan zoning framework to manage these functions?</p> |
| Definitions and metrics | Definitions and metrics are relevant to both regional and district plans. | Do you envisage any challenges in adopting the definitions that are different for a district or regional council? |
| Plan format | <p>Using a prescribed layout for objectives, policies and rules is relevant to regional and district plans.</p> <p>The principles that apply to standardising the use of plain English and plan navigational aids should also apply to combined plans.</p> | See Plan format paper. |
| Mapping standards | Currently, this paper focuses on district plan functions, but we anticipate that the principles adopted for district plans could equally apply to regional plan maps. | Are there any particular mapping challenges when preparing combined district and regional plans? |

Other issues

Terminology

We consider that a national planning standard could usefully standardise some of the terminology used in RPSs and plans. All RPSs and plans cover similar, if not the same, topic areas. Using standard terminology would simplify the use of planning documents across regions.

Consideration needs to be given to situations where councils wish to combine, or broaden, the scope of topic and/or theme areas. This is likely to be the case in a unitary plan context. For example, the Auckland Unitary Plan has a chapter labelled ‘natural resources’, which combines provisions relating to freshwater, air, soils, minerals and indigenous biodiversity. This is an area we will explore further as we develop the National Planning Standards. However, we would like to know what you think about the terminology in RPSs (and, by extension, regional plans) and whether the National Planning Standards should provide a common approach.

Question

D.11. Do you see benefit in standardising the terminology used to refer to topics and themes within regional policy statements and plans?

Implementation and monitoring

It is important that the final structure is both effective and efficient. The structure will be effective if it improves the usability of plans for council staff, the public and businesses working across regions. It will also be effective if plans are easier to update and review. We recognise these are longer term gains to a variety of stakeholders, while the costs of implementing the new structure will fall on councils and be more immediate. We are therefore interested in how these costs might be reduced through efficient implementation.

Questions

- D.12. Would you prefer to choose from several structures (with the choice implemented via an RMA Schedule 1 process) or be given one structure (to be implemented directly, without Schedule 1)?
- D.13. What challenges do you foresee with implementation, and how could the Ministry for the Environment help with these challenges?

Next steps

We are currently in a scoping phase for the National Planning Standards. The [‘Introduction to the National Planning Standards’](#) overview document details the process and engagement opportunities during each stage of development. The flow chart below shows each stage of the development process and the anticipated timeframes.



Feedback

We now welcome your feedback on the ideas and options we have presented in this paper. Please use the questions in this paper as a guide. You do not have to answer them all and can give other constructive comments where you wish. To ensure your point of view is clearly understood, please explain your rationale and provide supporting evidence where appropriate.

We encourage you to send us feedback throughout the initial engagement period, which closes on 31 July 2017. Please send feedback to the email address below.

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