

## Minor changes to the National Planning Standards and delegation for future minor changes



Date Submitted:	27 September 2019	Tracking #: 2019-B-05820 DOC #: 19-B-0704
Security Level	In confidence	MfE Priority: Non-Urgent

Ministers	Action sought:	Response by:
To Hon David Parker, Minister for the Environment	Decisions	14 October 2019
To Hon Eugenie Sage, Minister of Conservation	Decisions	14 October 2019

Actions for Minister's Office Staff	<b>Return</b> the signed report to MfE.
Number of appendices 3	Titles of appendices: 1. Recommended changes that correct errors or make similar technical alterations 2. Recommended changes that have minor effect 3. Instrument of delegation - Hon David Parker
Note any feedback on the quality of the report	

### Ministry for the Environment contacts

Position	Name	Cell phone	1 <sup>st</sup> contact
Principal Author	Rose Feary		
Responsible Manager	Rebecca Lloyd		✓
Director	Jo Gascoigne	027 531 7202	

### Department of Conservation contacts

Position	Name	phone	1 <sup>st</sup> contact
Principal Author	Stephen Wynne-Jones		
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Director	Peter Brunt	027 551 9753	

## Key Messages

1. This briefing seeks your approval to make minor changes to the National Planning Standards (planning standards). It also seeks delegation of the Minister for the Environment's powers to make such changes.
2. Since the gazettal of the planning standards in April we have undertaken substantial engagement with councils, including meeting with 19 councils and answering over 50 email queries. Through this implementation work a number of minor changes to the planning standards have been identified (listed in Appendices 1 and 2).
3. The Resource Management Act 1991 (RMA) allows Ministers responsible for the planning standards to make changes without following the normal notification, submission and recommendation report process, if the change has an effect that is not more than minor, corrects errors or makes similar technical alterations.
4. Most of the changes proposed correct errors such as small typos or make technical alterations. However, one change alters the meaning of a definition. This change has been assessed and considered to have a minor effect.
5. We consider that the changes should be made now before the vast majority of councils implement the planning standards. If the definition is not changed policy statements and plans will need to include inefficient and unnecessary provisions to get around the definition. Making the changes now also shows that we are proactively responding to council feedback.
6. We expect similar changes may need to be made in the future. The RMA allows Ministers to delegate powers to make such changes.
7. We seek delegation of the Minister for the Environment's powers to make minor and technical changes so we can correct small errors and problems quickly in the future. If you agree to the delegation we will keep you informed of any future changes made to the planning standards.
8. The Minister of Conservation has already delegated power for such changes. However, we are seeking agreement to this first set of changes to the planning standards.

## Recommendations

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### Minister for the Environment and Minister of Conservation

9. We recommend that you:

a. **Either**

- i. **Agree** to make the changes to the planning standards set out in Appendices 1 and 2 as changes that have not more than minor effect, correct errors or make similar technical alterations

Yes/No

**Or**

- ii. **Discuss** with Ministry for the Environment and Department of Conservation officials the need for an alternative process for considering and making amendments to the planning standards

Yes/No



- b. **Agree** to give notice in the *New Zealand Gazette* of the approval of the changes to the planning standards set out in Appendices 1 and 2

Yes/No

- c. **Note** it is a requirement of Cabinet that regulations come into force at least 28 days after they have been notified in the *New Zealand Gazette*

- d. **Note** that following your approval, the Ministry for the Environment will publish the changes and updated planning standards on the Ministry for the Environment's website

- e. **Agree** that this briefing and appendices will be released proactively on the Ministry for the Environment's website

Yes/No

### Minister for the Environment

10. We recommend that you:

- a. **Agree** to delegate your functions, duties and powers under the following sections of the RMA, to enable the Secretary for the Environment:

- i. to make any change to the planning standards under section 58H(2) if it has not more than a minor effect, corrects errors or makes similar technical alterations, without following the process set out in sections 58D and 58E, other than to give notice of the changes in the *New Zealand Gazette* and on the internet site referred to in section 58F(2); and
- ii. to give notice in the *Gazette* and on an internet site referred to in section 58F(2) of the RMA

Yes/No

- b. **Agree** to sign the instrument of delegation in Appendix 3

Yes/No

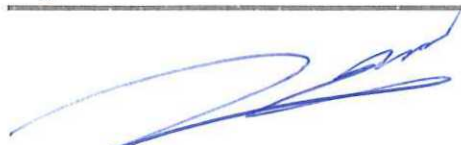
## Minister of Conservation

11. We recommend that you:

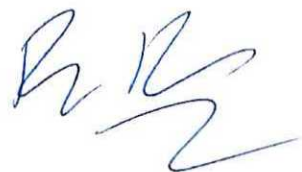
- a. **Note** that powers to change or replace a national planning standard, to the extent that those powers relate to the coastal marine area, are already delegated to the Deputy Director-General of Conservation, provided that the power may only be exercised where the change or replacement has no more than a minor effect or corrects errors or needs similar technical alterations.

## Signature

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Rebecca Lloyd  
Manager – National Direction  
Ministry for the Environment



Peter Brunt  
Director - Policy  
Policy and Visitor Group  
Department of Conservation

Hon David Parker  
**Minister for the Environment**

**Date**

Hon Eugenie Sage  
**Minister of Conservation**

**Date**

# Minor changes to the National Planning Standards and delegation for future minor changes

## Supporting material

### Purpose

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1. This briefing seeks your approval to make a number of changes to the National Planning Standards (planning standards) that are considered to have a not more than minor effect or correct errors or make similar technical alterations. This briefing also seeks the Minister for the Environment's approval to delegate the power to make similar changes in the future.

### Context

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*Implementation has found changes are needed*

2. The first set of planning standards took effect on 3 May 2019. They aim to make plans and policy statements more useable, accessible and easier to prepare.
3. Councils are required to implement the planning standards according to varying timeframes that range from one year for baseline electronic functionality, to 10 years for unitary councils to apply all the planning standards to their plans.
4. We are focusing our support efforts on councils who are drafting plans and plan changes to implement the standards. We are assisting by meeting with them, providing information and guidance, reviewing parts of plans and answering queries. Since gazettal, we have met with 19 councils to discuss implementation.
5. We have also answered over 50 email enquiries. Most enquiries have been resolved through our responses. However, some issues raised by councils cannot be resolved in this way and we consider small changes are needed to make the planning standards robust and workable. Given the length, complexity and interlinked nature of the planning standards the need to make changes is not unexpected.

### Analysis and Advice

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*You can make small changes to the planning standards*

6. Section 58H(2) of the RMA enables you, as the Ministers responsible, to make changes to the planning standards without following the full process set out for making new planning standards, which includes public notification, submissions and evaluation reports.
7. You can make amendments if the change "has not more than a minor effect or corrects errors or makes similar technical alterations".
8. The changes we recommend can be divided into two categories: those that we consider have no more than minor effect and those that correct errors or are similar technical alterations. The changes that correct errors or are technical are set out in Appendix 1 and include:
  - changes to map colours to enable better differentiation of items on planning maps
  - changes to a chapter identifier code to clearly differentiate it from another code
  - correction of errors in definitions taken directly from the RMA



- changes to the punctuation, grammar and layout of some definitions.

*We recommend a change that has a minor effect to one definition*

9. The change that has a minor effect relates to the definition of "net site area". We recommend the removal of an ambiguous clause from the definition to clarify that driveways, walkways and other accesses on regular shaped sites are included in the definition of net site area. The change meets the policy intent of the definition, aligns it better with existing plan definitions, is more certain and forms a consistent basis for other definitions such as "building coverage".
10. There is no definition in the RMA of what "minor effect" means and no case law on changes to planning standards. Therefore, in our consideration of this change, we used the following criteria to assess whether it would have an effect which is not more than minor:
  - the scale of the proposed change to the definition
  - the relationship to the original policy intent, including responses to submissions
  - the effect on rights of public participation.
11. We consider that the change to "net site area" only has a minor effect because it:
  - does not have any "on the ground" environmental effects
  - will have a neutral effect on policy statements and plans because the planning standards are not intended to change the effect or outcomes of policy statements and plans<sup>1</sup>
  - will have a neutral effect on rights of public participation. The change is consistent with the policy intent in response to submissions. No further submission or appeal rights existed which could be affected.
12. Appendix 2 sets out this change, its rationale and more specific consideration of the effect of the change and why it is considered to be minor.

*This change will avoid more complicated plan provisions*

13. As noted above, the proposed change does not have "on the ground" environmental effects as these are managed by councils through plan rules and standards and are not controlled by the planning standards. Without the recommended change, councils could still manage effects to ensure that the outcomes of policy statements and plans remain unchanged after implementation. Councils could do this by utilising sub-definitions, additional definitions, rules and/or standards.
14. This has the potential to result in unnecessarily complex and convoluted provisions and would be more complicated for plan users and councils. This would be contrary to the planning standards' aim to make plans more useable, accessible and easier to prepare. For example, if the definition is not changed, councils could develop additional rules to both clarify that pedestrian access is not excluded from net site area and provide a different building coverage requirement specifically for regular shaped sites.

*We consider it is appropriate to make the proposed changes now*

15. Making changes now is preferable because most councils have not yet implemented the planning standards. The first council to do so, New Plymouth District Council (NPDC) has

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<sup>1</sup> Section 58I of the RMA and the planning standards specifically enable consequential changes to be made to plans to ensure outcomes remain unchanged when the planning standards are applied



just recently notified its plan. There is also a series of councils who intend to notify plans that implement the planning standards from around March 2020. All of these councils are drafting their plans in accordance with the planning standards.

16. The NPDC Proposed District Plan does not use the definition of "net site area". We have consulted NPDC officials and they are comfortable they can accommodate all of the changes we recommend.

*The Minister of Conservation is responsible for changes that relate to the coastal marine area*

17. The Minister of Conservation is responsible for approving changes to the extent that they relate to the coastal marine area. The Minister for the Environment has responsibility for approving all other changes to the planning standards.

18. As there is a high degree of crossover for most standards, we recommend that you both agree to all the changes recommended rather than allocating specific decision-making responsibility for each change.

*We consider it efficient to make similar changes under a delegated power in the future*

19. It is possible that as more councils work to implement the planning standards other changes that have minor effect or correct errors or make similar technical alterations may be identified. We need to be able to respond quickly to these issues when raised and maintain the quality of the planning standards.

20. Other changes that are technical are likely to be needed in the future, including:

- adding new National Policy Statements, National Environmental Standards, regulations or water conservation orders to the tables in the national direction instruments heading of the planning standards
- minor changes made to RMA definitions that are adopted through the planning standards.

21. These kinds of changes are technical and procedural rather than involving any substantive RMA issues. By delegating decision making for future comparable decisions you would avoid future instances of a minor but time consuming administrative task.

22. The Minister of Conservation's power to make these kinds of changes is currently delegated to a Deputy Director-General of Conservation. This was done when the RMA delegations were updated following the passage of the Resource Legislation Amendment Act 2017. Despite the delegation already existing, in light of the Minister for the Environment making decisions, Department of Conservation officials considered it would be appropriate for the Minister of Conservation's decision in this particular case to also be made by the Minister, rather than under delegation.

23. We therefore propose that the Minister for the Environment delegates the power to make these kinds of changes in the future. Section 29 (1) (da) of the RMA only allows a Minister to delegate the power to make changes that have no more than minor effect, correct obvious errors or omissions or make similar technical changes.

24. Under section 28(1) and (2) of the State Sector Act 1988 (SSA) delegation must be in writing to the chief executive of the Minister's department. We have attached a form for you to sign approving the delegation if you agree to this (Appendix 3).

*We can mitigate the risks of delegation*

25. Under delegated power, we will make changes only after assessing them against the requirements of 58H(2) of the RMA. We will inform you at regular intervals of any changes we make.



26. There is a small risk that these decisions could be subject to judicial review. We consider the risk of this is low because when considering any proposed change, those delegated to will consider the scale of the proposed change, the original policy intent and the effect on public participation.
27. For any change that has more than minor effect, we will seek your approval to follow a full process to amend the planning standards.
28. You retain the right to revoke your delegation in writing at any time under section 29(3) of the RMA and section 29 of the SSA.
29. If you consider that it is not appropriate to delegate the power to make small changes like these, where we identify the need for such changes, we will seek your consent on a case by case basis. An alternative is for any future changes to be considered together with the development of future planning standards.

### **Consultation and Collaboration**

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30. This briefing was prepared by the MFE and the Department of Conservation (DOC). No other agencies were consulted in the preparation of this briefing.

### **Legal issues**

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31. Legal advice has been obtained from the MFE and DOC legal teams on the extent of what is considered a change that has not more than minor effect and on appropriate processes for delegation.
32. For the change to a definition proposed to the national planning standards (the amendment proposed to the definition "net site area"), section 58H enables the Minister(s) to amend the planning standards if the effect of the change is "not more than minor". As noted in this briefing, the planning analysis has determined that the effect of this proposed change will meet this requirement.
33. In this case, the change proposed to the definition for "net site area" is not neutral in the sense that it does change the meaning of the term and therefore how the term would be used within planning documents. However, it is 'neutral' in terms of the likelihood that someone would have been prejudiced from being involved in the process in developing the planning standards. This is because the aspect of the definition which is proposed to be changed was amended in response to submissions (ie, it was not included in the version of the planning standards which was put out for the public to make submissions on).
34. Furthermore, it is considered that the judicial review risk of making this change would be low given the timing of it being made. As set out in this briefing, the planning standards have only been incorporated into one very recently notified planning document, therefore the effect of changing the planning standards now would have minimal impacts on them being rolled out.
35. It is noted that there is the potential that a precedent may be set that changes of this kind may be made to the planning standards moving forward. As the timing of this change has contributed to the analysis of whether these definitions can be changed, caution should be taken in adopting that approach and any further changes to definitions should be considered on a case by case basis and backed up with appropriate analysis.
36. The changes in the nature of typos and/or minor formatting changes set out in Appendix 1 clearly fit within your powers to correct errors or make similar technical alterations in accordance with section 58H of the RMA.



## Next Steps

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37. Your response to this briefing note will be the official record of your decisions on the changes. If you agree to these changes, section 58H of the RMA requires no further steps to be taken other than to give notice in the *New Zealand Gazette* and on the MFE's website.
38. If you agree to the delegation, the instrument of delegation attached as Appendix 3 requires your signature.
39. We propose to provide a list of all changes with relevant explanations on the Ministry's website so they are clear to users. We will also provide an updated version of the planning standards. We will directly contact all councils to ensure they are aware of the changes.
40. If you consider that the recommended changes are not sufficiently minor to be made pursuant to section 58H(2) of the RMA, we will take no further immediate steps. We could address these through any future planning standards review or the development of any new planning standard.

Proactively released

## Appendix 1 – Recommended changes that correct errors or make similar technical alterations

Number	Recommended changes to the standard <i>Deletions shown struck out</i> <i>New insertions shown underlined</i>	Reason for recommended change
<b>6. Introduction and General Provisions Standard</b>		
1	<p><u>Direction 17c</u></p> <p>c. For each national policy statement or New Zealand Coastal Policy Statement insert one of the following options in the second column:</p> <p><del>iii.</del> <u>i.</u> The ['policy statement' or 'plan'] has been reviewed [insert any relevant review dates and references to relevant changes]</p> <p><del>iv.</del> <u>ii.</u> This national policy statement does not apply to the ['policy statement' or 'plan']</p> <p><del>v.</del> <u>iii.</u> The ['policy statement' or 'plan'] has not yet been reviewed.</p>	<p>Sequence of alphanumeric numbering corrected and a full stop added to the end of clause iii.</p>
<b>7. District-wide Matters Standard</b>		
2	<p>21. If the following matters are addressed, they must be located in the <i>Natural features and landscapes</i> chapter:</p> <p>(a) identification of features and landscapes that are outstanding, significant or otherwise valued</p> <p>(b) provisions to protect and manage outstanding natural features and landscapes <del>including from inappropriate subdivision, use and development</del></p> <p>(c) provisions to manage other valued features and landscapes.</p>	<p>Removed the text 'including from inappropriate subdivision, use and development' consistent with a decision to not directly repeat the words of the RMA and to be consistent with the changes made accordingly to other similar provisions in the draft planning standards.</p> <p>Removal of the reference here to inappropriate subdivision, use and development also avoids councils' confusion about the location of subdivision provisions.</p>
<b>10. Format Standard</b>		
3	<p>4. Activity status <del>and relevant matters of control or discretion</del> must be located with the specific rule <del>they it apply applies to</del>. <u>Relevant matters of control or discretion must be located with or cross referenced in the rule they apply to.</u></p>	<p>Many councils list matters of control or discretion in a separate table as they apply across several rules. This change allows a table to be cross referenced rather than set out in full in the rule. This is appropriate and should be provided for in the standards if councils wish to format their plans this way.</p>
4	<p><u>Table 16</u></p> <p>Unique identifier</p>	<p>Maintain a vertical list format of unique identifiers in Table 16.</p>



	EW – Earthworks <del>GEO – Geothermal</del> GEO – Geothermal	
5	<u>Table 16</u> <b>Unique identifier</b> <del>NC</del> NATC – Natural character	Some Councils noted that plan users may confuse the unique identifier 'NC' (used for the natural character chapter) with the acronym 'NC' required to be used for 'non-complying activity' under direction 5 of this standard.
6	<u>Direction 34</u> 34. Where schedules are grouped as appendices in the <i>Appendices and maps</i> part, <u>they may be included in a chapter labelled 'Schedules'</u> . Each schedule grouping must include a descriptive title.	This addition provides clarity for Councils regarding how to incorporate schedules in the <i>Appendices and Maps</i> part.
7	<u>Direction 42 and 43- Examples</u> O1(1)(a)(i) (brackets are optional <del>when the numbering is distributed across policy statement or plan text</del> ).	The example given for directions 42 and 43 is not clear and has been removed.
<b>13. Mapping Standard</b>		
8	<b>General rural zone</b> RGB: <del>181, 187, 125</del> 200, 202, 160  <b>Open space zone</b> RGB: <del>187</del> 184, 240, 156	The RGB descriptions have been corrected to accurately reflect the zone name colours.
9	<b>Heavy industrial zone</b> RGB: <del>132, 0, 168</del> 133, 80, 204	The RGB description for the heavy industrial zone is changed so it is distinguishable from the heritage area overlay, heritage item overlay, and the heritage item overlay extent.
10	<b>Coastal environment overlay</b> Polygon <u>Fill: None</u> Angle: 90.00 Line width: 1 pts Line separation: 80 pts RGB 28, 103, 148	The addition of the text 'Fill: None' in the description column in Table 20 will clarify that the corresponding symbols do not required a fill colour.

	<p>Outline width: 2 pts</p> <p><b>Heritage item overlay extent</b></p> <p>Polygon</p> <p><u>Fill: None</u></p> <p>Angle 1: 0, Angle 2: 90</p> <p>Line width 1 pts</p> <p>Line separation: 5pts</p> <p>RGB 132, 0, 168</p> <p>Outline width: 1 pts</p> <p><b>Noise control boundary overlay</b></p> <p>Polygon</p> <p><u>Fill: None</u></p> <p>Angle: 45.00</p> <p>Line width: 1 pts</p> <p>Line separation: 5 pts</p> <p>RGB 245, 130, 33</p> <p>Outline width: 2 pts</p>	
11	<p><b>Designation</b></p> <p>Polygon</p> <p>Fill: None</p> <p>RGB 20, 177, 231</p> <p>Outline width: 1.5 pts</p> <p>Designation <u>unique</u> identifier</p>	<p>The word" unique" is added to the text 'Designation identifier' for consistency with the reference in 9 <i>Designations Standard</i>.</p>
<p><b>14. Definitions Standard</b></p> <p>Corrections to RMA definitions</p>		



12	<p><b>allotment</b> has the same meaning as in section 218 of the RMA (as set out in the box below)</p> <p>(2) <u>In this Act, the term allotment means—</u></p> <ul style="list-style-type: none"> <li>(a) any parcel of land under the Land Transfer Act <del>1952</del> 2017 that is a continuous area and whose boundaries are shown separately on a survey plan, whether or not— <ul style="list-style-type: none"> <li>(i) the subdivision shown on the survey plan has been allowed, or subdivision approval has been granted, under another Act; or</li> <li>(ii) a subdivision consent for the subdivision shown on the survey plan has been granted under this Act; or</li> </ul> </li> <li>(b) any parcel of land or building or part of a building that is shown or identified separately— <ul style="list-style-type: none"> <li>(i) on a survey plan; or</li> <li>(ii) on a licence within the meaning of <del>Part 7A</del> subpart 6 of Part 3 of the Land Transfer Act <del>1952</del> 2017; or</li> </ul> </li> <li>(c) any unit on a unit plan; or</li> <li>(d) any parcel of land not subject to the Land Transfer Act <del>1952</del> 2017.</li> </ul> <p>(3) <u>For the purposes of subsection (2), an allotment that is—</u></p> <ul style="list-style-type: none"> <li>(a) <u>subject to the Land Transfer Act 2017 and is comprised in 1 record of title or for which 1 record of title could be issued under that Act; or</u></li> <li>(b) <u>not subject to that Act and was acquired by its owner under 1 instrument of conveyance—</u></li> </ul> <p><u>shall be deemed to be a continuous area of land notwithstanding that part of it is physically separated from any other part by a road or in any other manner whatsoever, unless the division of the allotment into such parts has been allowed by a subdivision consent granted under this Act or by a subdivisional approval under any former enactment relating to the subdivision of land.</u></p> <p>(4) <u>For the purposes of subsection (2), the balance of any land from which any allotment is being or has been subdivided is deemed to be an allotment.</u></p>	<p>The definition has been amended to accurately reflect the definition of <b>allotment</b> as stated in section 218 of the RMA.</p> <p>Brackets inserted around and end dot removed from all alphanumerics</p>
13	<p><b>historic heritage</b> has the same meaning as in section 2 of the RMA (as set out in the box below)</p>	<p>Restarting roman numeral numbering for clause b.</p> <p>Brackets inserted around and end dot removed from all alphanumerics</p>

	<p>(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:</p> <ul style="list-style-type: none"> <li>(i) archaeological:</li> <li>(ii) architectural:</li> <li>(iii) cultural:</li> <li>(iv) historic:</li> <li>(v) scientific:</li> <li>(vi) technological; and</li> </ul> <p>(b) includes—</p> <ul style="list-style-type: none"> <li>(i) <del>vii</del> historic sites, structures, places, and areas; and</li> <li>(ii) <del>viii</del> archaeological sites; and</li> <li>(iii) <del>ix</del> sites of significance to Māori, including wāhi tapu; and</li> <li>(iv) <del>x</del> surroundings associated with the natural and physical resources.</li> </ul>	
14	<p><b>network utility operator</b></p> <p>has the same meaning as in s166 of the RMA (as set out in the box below)</p> <p>means a person who—</p> <ul style="list-style-type: none"> <li>(a) undertakes or proposes to undertake the distribution or transmission by pipeline of <u>natural or manufactured gas, petroleum, biofuel, or geothermal energy; or</u></li> <li>(b) operates or proposes to operate a network for the purpose of— <ul style="list-style-type: none"> <li>(i) telecommunication as defined in section 5 of the Telecommunications Act 2001; or</li> <li>(ii) radio communication as defined in section 2(1) of the Radio Communications Act 1989; or</li> </ul> </li> <li>(c) is an electricity operator or electricity distributor as defined in section 2 of the Electricity Act 1992 for the purpose of line function services as defined in that section; or</li> <li>(d) undertakes or proposes to undertake the distribution of water for supply (including irrigation); or</li> </ul>	<p>Clause a. of the definition of <b>network utility operator</b> was incomplete and the remaining text has been added.</p> <p>Brackets inserted around and end dot removed from all alphanumerics</p>



	<p>(e) undertakes or proposes to undertake a drainage or sewerage system; or</p> <p>(f) constructs, operates, or proposes to construct or operate, a road or railway line; or</p> <p>(g) is an airport authority as defined by the Airport Authorities Act 1966 for the purposes of operating an airport as defined by that Act; or</p> <p>(h) is a provider of any approach control service within the meaning of the Civil Aviation Act 1990; or</p> <p>(i) undertakes or proposes to undertake a project or work prescribed as a network utility operation for the purposes of this definition by regulations made under this Act,—</p> <p>and the words network utility operation have a corresponding meaning.</p>	
15	<p>road has the same meaning as in section 2 of the RMA (as set out in the box below)</p> <div> <p>has the same meaning as in section 315 of the Local Government Act 1974; and includes a motorway as defined in section 2(1) of the Government Roading Powers Act 1989</p> <p>Section 315 of the Local Government Act 1974 road definition:</p> <p>road means the whole of any land which is within a district, and which—</p> <p>(a) immediately before the commencement of this Part was a road or street or public highway; or</p> <p>(b) immediately before the inclusion of any area in the district was a public highway within that area; or</p> <p>(c) is laid out by the council as a road or street after the commencement of this Part; or</p> <p>(d) is vested in the council for the purpose of a road as shown on a deposited survey plan; or</p> <p>(e) is vested in the council as a road or street pursuant to any other enactment;—</p> <p><del>f.</del> and includes—</p> <p><del>g.</del>(f) except where elsewhere provided in this Part, any access way or service lane which before the commencement of this Part was under the control of any council or is laid out or constructed by or vested in any council as an access way or service lane or is declared by the Minister of Works and Development as an access way or</p> </div>	<p><u>Definition of road in section 315 of the local government Act.</u></p> <p>Remove alphanumeric f. from before the phrase “and includes”</p> <p>Apply correct numbering to the clauses that follow.</p> <p>Brackets inserted around and end dot removed from all alphanumerics</p> <p><u>Definition of motorway in Section 2(1) of the Government Powers Act 1989</u></p> <p>Insert brackets around, and remove dot from, all alphanumerics</p> <p>Brackets inserted around and end dot removed from all alphanumerics</p>

	<p>service lane after the commencement of this Part or is declared by the Minister of Lands as an access way or service lane on or after 1 April 1988:</p> <p><del>It</del> (g) every square or place intended for use of the public generally, and every bridge, culvert, drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within the limits thereof;—</p> <p>but, except as provided in the Public Works Act 1981 or in any regulations under that Act, does not include a motorway within the meaning of that Act or the Government Roding Powers Act 1989</p> <p>Section 2(1) of the Government Roding Powers Act 1989 motorway definition motorway—</p> <p>(a) means a motorway declared as such by the Governor-General in Council under section 138 of the Public Works Act 1981 or under section 71 of this Act; and</p> <p>(b) includes all bridges, drains, culverts, or other structures or works forming part of any motorway so declared; but</p> <p>(c) does not include any local road, access way, or service lane (or the supports of any such road, way, or lane) that crosses over or under a motorway on a different level</p>	
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#### 14. Definitions Standard

##### Changes to non RMA definitions.

Where definitions contain a list, semi colons are used at the end of list items whether or not there is a conjunction (and, or, but) following. Colons are used at the end of the introductory phrase preceding a list.

Brackets have been inserted around all alphanumerics.

16	<p><b>bore</b></p> <p>means any hole drilled or constructed in the ground that is used to—;</p> <p><del>i-</del> (a) investigate or monitor conditions below the ground surface; or</p> <p><del>ii-</del> (b) abstract gaseous or liquid substances from the ground; or</p> <p><del>iii-</del> (c) <b>discharge</b> gaseous or liquid substances into the ground;</p> <p>but it excludes test pits, trenches, soak holes and soakage pits.</p>	<p>Colon replaces em-dash at the end of the introduction to the list.</p> <p>Alphanumeric numbering corrected.</p>
17	<p><b>building</b></p> <p>means a temporary or permanent movable or immovable physical construction that is:</p>	<p>Commas at the end of list items replaced by semicolons</p> <p>Redundant 'is' deleted.</p>



	<p>(a) partially or fully roofed; and</p> <p>(b) is fixed or located on or in <b>land</b>; but</p> <p><del>e-</del></p> <p><del>but</del> excludes any motorised vehicle or other mode of transport that could be moved under its own power.</p>	Layout reconfigured for grammar and meaning
18	<p><b>cultivation</b></p> <p>means the alteration or disturbance of <b>land</b> (or any matter constituting the <b>land</b> including soil, clay, sand and rock); for the purpose of sowing, growing or harvesting of pasture or crops.</p>	Unnecessary comma after the end bracket is removed.
19	<p><b>drain</b></p> <p>means any artificial watercourse; designed, constructed, or used for the drainage of surface or subsurface <b>water</b>, but excludes artificial watercourses used for the conveyance of <b>water</b> for electricity generation, irrigation, or water supply purposes.</p>	Unnecessary comma after the word "watercourse" removed.
20	<p><b>educational facility</b></p> <p>means <b>land</b> or <b>buildings</b> used for teaching or training by child care services, schools, and or tertiary education services, including any ancillary activities.</p>	"And" replaced by "or"
21	<p><b>green infrastructure</b></p> <p>means a natural or semi-natural area, feature or process, including engineered systems that mimic natural processes, which are planned or managed to:</p> <ul style="list-style-type: none"> <li>(a) provide for aspects of ecosystem health or resilience, such as maintaining or improving the quality of <b>water</b>, air or soil, and habitats to promote biodiversity; and</li> <li>(b) provide services to people and communities, such as <b>stormwater</b> or flood management or climate change adaptation.</li> </ul>	The gap between the words "storm " and "water" removed and hyperlink applied.
22	<p><b>gross floor area</b></p> <p>means the sum of the total area of all floors of a <b>building</b> or <b>buildings</b> (including any void area in each of those floors, such as service shafts, liftwells or stairwells), <u>measured</u>:</p> <ul style="list-style-type: none"> <li>i. (a) where there are exterior walls, <del>measured</del> from the exterior faces of those exterior walls;</li> <li>ii. (b) where there are walls separating two <b>buildings</b>, <del>measured</del> from the centre lines of the walls separating the two <b>buildings</b>;</li> </ul>	<p>Colon inserted preceding the list.</p> <p>Semi colons placed at the end of each list item except the last one.</p> <p>Alphanumeric numbering corrected.</p> <p>The word "measured" has been removed from each clause and inserted at the end of the introduction to the list to remove repetition.</p>

	<p>iii.(c) where a wall or walls are lacking (for example, a mezzanine floor) and the edge of the floor is discernible, <del>measured</del> from the edge of the floor.</p>	
23	<p><b>ground level (for the purposes of district plans and the district plan component of combined plans)</b> means—i</p> <p>(a) the actual finished surface level of the ground after the most recent <b>subdivision</b> that created at least one additional <b>allotment</b> was completed (when the record of title is created);</p> <p>(b) if the ground level cannot be identified under paragraph (a), the existing surface level of the ground;</p> <p>(c) if, in any case under paragraph (a) or (b), a retaining wall or retaining <b>structure</b> is located on the <del>boundary boundary</del>, the level on the exterior surface of the retaining wall or retaining <b>structure</b> where it intersects the <del>boundary boundary</del>.</p>	<p>Incorrect hyperlink for the term <b>boundary</b> within the definition of <b>ground level (for the purposes of district plans and the district plan component of combined plans)</b> removed</p> <p>Em – dash at the end of the introduction to the list removed and replaced with a colon</p> <p>Semi colons at the end of clauses (a) and (b) added.</p>
24	<p><b>height in relation to boundary</b> means the <b>height</b> of a <b>structure, building</b> or feature, relative to its distance from either the boundary of a:</p> <p>(a) a <b>site</b>; or</p> <p>(b) <del>other</del> <u>another</u> specified reference point.</p>	<p>Semi colon replaces comma at the end of the list item, after the word “site”.</p> <p>Wording change to improve grammar</p>
25	<p><b>home business</b> means a <b>commercial activity</b> that is:</p> <p>(a) undertaken or operated by at least one resident of the site; and</p> <p>(b) <del>is</del> incidental to the use of the <b>site</b> for a <b>residential activity</b>.</p>	<p>Redundant “is” removed.</p>
26	<p><b>land disturbance</b> means <u>the</u> alteration or disturbance of <b>land</b>, (or any matter constituting the <b>land</b> including, soil, clay, sand and rock); that does not permanently alter the profile, contour or <b>height</b> of the <b>land</b>.</p>	<p>Commas removed from after:</p> <ol style="list-style-type: none"> <li>1. the word “land”</li> <li>2. the word “including”</li> <li>3. the end bracket.</li> </ol> <p>Missing “the” inserted to improve clarity.</p>
27	<p><b>net floor area</b> means the sum of any <b>gross floor area</b>; and</p>	<p>Em-dashes at the end of phrases that introduce the lists i.e after the words “includes” and “excludes”, replaced by colons.</p>



	<p>(a) includes—<sup>2</sup></p> <ul style="list-style-type: none"> <li>(i) both freehold and leased areas; and</li> <li>(ii) any stock storage or preparation areas; but</li> </ul> <p>(b) excludes—<sup>2</sup></p> <ul style="list-style-type: none"> <li>(i) void areas such as liftwells and stair wells, including landing areas;</li> <li>(ii) shared corridors and mall common spaces;</li> <li>(iii) entrances, lobbies and plant areas within a <b>building</b>;</li> <li>(iv) open or roofed outdoor areas, and external balconies, decks, porches and terraces;</li> <li>(v) off street loading areas;</li> <li>(vi) <b>building</b> service rooms;</li> <li>(vii) parking areas and basement areas used for parking, manoeuvring and access; and</li> <li>(viii) non-habitable floor spaces in rooftop <b>structures</b>.</li> </ul>	<p>Layout reconfigured (clause (a) moved up to the lead phrase) and subsequent alphanumerics adjusted.</p>
28	<p><b>notional boundary</b></p> <p>means a line 20 metres from any side of a <b>residential unit</b> or other <b>building</b> used for a noise sensitive activity, or the legal <b>boundary boundary</b> where this is closer to such a <b>building</b>.</p>	<p>Incorrect hyperlink for the term <b>boundary</b> removed.</p>
29	<p><b>reclamation</b></p> <p>means the manmade formation of permanent dry <b>land</b> by the positioning of material into or onto any part of a <b>waterbody</b>, <b>bed</b> of a <b>lake</b> or <b>river</b> or the coastal marine area, and<sup>2</sup></p> <ul style="list-style-type: none"> <li>(a) includes the construction of any causeway<sup>2</sup> but</li> <li>(b) excludes the construction of <b>natural hazard</b> protection <b>structures</b> such as seawalls, breakwaters or groynes except where the purpose of those <b>structures</b> is to form dry <b>land</b>.</li> </ul>	<p>Colon inserted at the end of the introductory phrase preceding the list.</p> <p>Comma at the end of the list item (a) replaced with a semi colon.</p>
30	<p><b>sign</b></p> <p>means any device, character, graphic or electronic display, whether temporary or permanent<sup>2</sup> which<sup>2</sup></p> <ul style="list-style-type: none"> <li>(a) is for the purposes of—<sup>2</sup></li> </ul>	<p>Replace semi colon with a comma, after the word “permanent”.</p> <p>Insert colon at the end of the introductory phrase preceding the list (ie, after the word “which”).</p>

	<p>(i) identification of or provision of information about any activity, property or <b>structure</b> or an aspect of public safety;</p> <p>(ii) providing directions; or</p> <p>(iii) promoting goods, services or events; and</p> <p>(b) is projected onto, or fixed or attached to, any <b>structure</b> or natural object; and</p> <p>(c) includes the frame, supporting device and any ancillary equipment whose function is to support the message or notice.</p>	<p>Insert colon at the end of the introductory phrase preceding the list in clause (a) ie, after the phrase "for the purpose of").</p> <p>Remove unnecessary comma after the word "any" in clause (b).</p>
31	<p><b>site (for district plans and the district plan component of combined plans)</b></p> <p>means:</p> <p>(a) an area of <b>land</b> comprised in a single record of title <del>as per</del> <u>under the</u> Land Transfer Act 2017; or</p> <p>(b) an area of <b>land</b> which comprises two or more adjoining legally defined <b>allotments</b> in such a way that the <b>allotments</b> cannot be dealt with separately without the prior consent of the council; or</p> <p>(c) the land comprised in a single <b>allotment</b> or balance area on an approved survey plan of <b>subdivision</b> for which a separate record of title <del>as per</del> <u>under the</u> Land Transfer Act 2017 could be issued without further consent of the Council; or</p> <p>(d) <del>except that in relation to each of sub-clauses (a) to (c) despite paragraphs (a) to (c),</del> in the case of <b>land</b> subdivided under the Unit Titles Act 1972 or the <u>Unit Titles Act 2010</u> or a cross lease system, <del>a site is</del> the whole of the land subject to the unit development or cross lease.</p>	<p>Improved wording as follows:</p> <ul style="list-style-type: none"> <li>the words "as per" removed and replaced by "under the".</li> <li>Unit Titles Act 2010 set out in full.</li> <li>spelling of Unit Titles Act 1972 corrected</li> <li>phrase in paragraph (d) replaced for clarity</li> </ul>
32	<p>For all definition:</p> <p>brackets inserted around all alphanumerics – and the end dot removed;</p> <p>punctuation corrected; and</p> <p>hyperlinks amended, removed and/or applied where relevant.</p>	

## Appendix 2 - Recommended change that has minor effect

Definition	Proposed change	Rationale	Scale of effect
<p><b>Net site area</b></p> <p>means the total area of the site, but excludes:</p> <p>(a) any part of the site that provides legal access to another site;</p> <p>(b) any part of a rear site that provides legal access to that site;</p> <p>(c) any part of the site used for access to the site;</p> <p>(d) any part of the <b>site</b> subject to a designation that may be taken or acquired under the Public Works Act 1981.</p>	<p><b>Net site area</b></p> <p>means the total area of the site, but excludes:</p> <p>(a) any part of the site that provides legal access to another site;</p> <p>(b) any part of a rear site that provides legal access to that site;</p> <p><del>(c) any part of the site used for access to the site;</del></p> <p><del>(d) —</del></p> <p><u>(c)</u> any part of the <b>site</b> subject to a designation that may be taken or acquired under the Public Works Act 1981.</p>	<p><u>Reasons for change</u></p> <p>This definition is used in plans as a basis for rules requiring a proportion of a site to be free of buildings. It excludes areas of a site unavailable for development because they may be used for access or are subject to a designation which may take the land.</p> <p>Clause c. is ambiguous and could be interpreted to mean all driveways and walkways on a site. If not removed, it will lead to a reduction in the land available for development and to many existing sites exceeding building coverage rules. To avoid this councils would need to include additional plan rules, standards or definitions to clarify that pedestrian access is not excluded from net site area and to provide a different building coverage requirement for regular shaped sites.</p> <p><u>Consistency with policy intent</u></p> <p>The change is consistent with the policy response to submissions to align with definitions in most plans. Most plans do not exclude driveways on regular shaped sites. It corrects an error based on an unclear submission.</p> <p><u>Effect on rights of public participation</u></p> <p>No effects on public participation rights because it returns the definition to exactly the same as the notified draft definition. It is consistent with submissions and the policy intent formulated in response to those. No further submission or appeal rights existed.</p>	<p>Minor because:</p> <p>The change will not affect any access to sites, as the sites the exclusion would have applied to generally front onto legal roads. On these sites buildings can be reconfigured and access can still be available</p> <p>It is more consistent with current plans because most include driveways on normal sites within the definition of "net site area"</p> <p>Because most district plans do include driveways within the definition of "net site area", it's also anticipated that councils could draft rules to include this area within site coverage calculations within rule frameworks</p>



**Appendix 3 - Instrument of delegation - Hon David Parker**

Proactively released

**RESOURCE MANAGEMENT ACT 1991- INSTRUMENT OF DELEGATION**

Under section 28 of the State Sector Act 1988,

I, **Hon David Parker**, Minister for the Environment, delegate to the holder of the position:

**Chief Executive of the Ministry for the Environment**

and any person acting as the Chief Executive of the Ministry for the Environment

all of the functions, duties, and powers of the Minister for the Environment under the following provisions of the Resource Management Act 1991 (the Act):

Section of the Act	Summary of functions, duties, or powers delegated
Section 58F	Publication of the national planning standards, and associated reports and recommendations.
Section 58H(2)	The ability to make changes to national planning standards that have a not more than minor effect, correct errors or make similar technical alterations by giving notice of the change in the <i>Gazette</i> and on the relevant website referred to in section 58F of the Act (ie, rather than requiring the process set out in sections 58D and 58E of the Act).

This delegation is made in accordance with section 29(1) of the Act.

DATED at Wellington this      day of      2019

SIGNED by      )

Hon David Parker      )

Minister for the Environment

\_\_\_\_\_  
Hon David Parker