



To Hon David Parker, Minister for the Environment, CC Hon Eugenie Sage Minister of Conservation			Tracking #: 9814056 18 -B -04172
Security Level	In-confidence	Number of Attachments: Two	Appendix I: Letter from Regional Councils and draft reply Appendix II: Data indicating councils' adaptability to implement the first set of National Planning Standards
Date Submitted:	2 March 2018	Response needed by:	14 March 2018
MfE Priority:	Non-Urgent	Action Sought:	Decision

National Planning Standards – implementation timeframes and support for implementation

Key Messages

- 1. The National Planning Standards (the Planning Standards or Standards) are a new tool in the national direction toolbox. They provide national consistency around the structure, format and some content of resource management plans to make them more efficient to prepare and use. The first set of Planning Standards must be gazetted by April 2019.
- 2. This briefing seeks your agreement on implementation timeframes for the first set of Planning Standards. The Resource Management Act 1991 (RMA) contains default deadlines for councils to implement the Standards following their gazettal. The deadlines are one year (for 'mandatory' Standards) and five years (for all other Standards). These can be varied by specifying alternative timeframes in the Planning Standards. It would help inform consultation on the substance of the Planning Standards if any changes are signalled alongside the draft due for consultation in May 2018.
- 3. Feedback from Councils is that allowing the Planning Standards to be implemented at the time of a councils' next plan review would minimise costs for councils and maximise their resources. However, the benefits of the Planning Standards will take much longer to accrue.
- 4. We have concerns with the ability of some councils to meet the default RMA deadlines. In particular, we consider the one year default timeframe for mandatory standards to be extremely challenging for some councils under any scenario. While parts of the Electronic Accessibility Standard could be implemented within one year, it would be especially difficult for many councils to implement the Definitions Standard as these could result in unworkable plan provisions if amended outside of a plan review process. Some councils will be in a good position to meet the deadlines, but many others won't, even with significant Ministry support.
- 5. You have asked us to consider an implementation approach which prioritises structure and formatting changes to make plans visually similar within a short timeframe. While such an approach would achieve alignment of common chapter and section headings in

- plans, there is a risk that it will result in the poor usability of more complex plans. Our research and testing suggests that taking a staged approach to the implementation of the standards may result in unusual outcomes such as lengthy and repetitive plans.
- 6. We have considered a range of options which seek to achieve a balance of the costs and benefits from more consistent plans. We recommend:
 - a. an implementation deadline of one year from gazettal for the baseline Electronic Functionality and Accessibility Standard.
 - b. you agree that all other Standards should have one implementation deadline of five years, and a seven year deadline for councils in Group E in Appendix II. These are councils that have recently settled plans.
 - c. you support our intention to provide enhanced MfE support for council transition to the new RMA plan structure, format and ePlans via a budget bid for the 19/20 financial year.

Recommendations

- 7. We recommend that you:
 - a. **Note** that we consider the default RMA implementation timeframe of one year for most mandatory standards could lead to unworkable provisions in some plans.

Yes/No

b. **Note** we have received considerable feedback from councils regarding the implementation impacts of the planning standards. The impacts are significantly greater for those councils that have recently completed plan reviews and are concerned about opening up the plan again to submissions.

Yes/No

c. Note you have received a letter from a group of Regional Councils about the implementation of the planning standards. We have attached a draft reply for your consideration.

Yes/No

d. **Agree** that the proposed first set of the National Planning Standards include an implementation deadline of **one** year from gazettal for the baseline components of the Electronic Functionality and Accessibility Standard.

Yes/No

e. Agree with Option 3 that there is a five year deadline for most councils to implement the mandatory and discretionary standards, except for baseline electronic accessibility standards (one year), and that a two year extension (ie, 7 years) is offered to councils listed in Group E in Appendix II.

Yes/No

f. Note our intention to prepare a budget bid for the 19/20 financial year for a contestable fund to support councils to implement new plan structure, format and ePlans.

Yes/No

Signature

Katherine Wilson

Director, Resource Management

Hon David Parker

Minister for the Environment

Date

Ministry for the Environment contacts

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Purpose of the Planning Standards and default implementation timeframes

- 8. RMA planning documents are currently inconsistently formatted and drafted, and are time and resource-intensive to prepare. This is because Councils have generally developed their plans and policy statements independently of each other, and without any standard structure or format as a reference point.
- 9. The National Planning Standards are a new tool created to address these issues. The Planning Standards will bring national consistency to the structure, format and some content of RMA plans. The first set of Planning Standards must be Gazetted by April 2019. We are working towards consultation of draft Standards in May [BN 18-B-04175 refers].
- 10. The RMA's default deadlines for councils to implement the first set of Planning Standards are one year from gazettal for 'mandatory' changes that don't need an RMA plan change, and five years from gazettal for 'discretionary' Standards requiring an RMA plan change¹. Discretionary standards must still be implemented by councils, but councils have the scope to make choices based on local circumstances, resulting in the need for a First Schedule plan change process appropriate (eg, to implement the proposed zone framework).
- 11. "Implementation" means that a council has notified **decisions** on the relevant plan changes (excluding any appeals).
- 12. Alternative deadlines for Planning Standards implementation must be set out in the Planning Standards themselves.² We recommend specifying alternative deadlines in the draft Planning Standards notified for submissions, so councils and plan users are aware of the implementation context when submitting on the proposed standards. You can revise the deadlines in light of submissions.
- 13. The main determinant of council support for the Planning Standards is the date of their most recent plan review. Councils that are due to review their plans are enthusiastic about the Planning Standards as they will save time and conflict when drafting and consulting on their new plan. On the other hand, councils that have just completed plan reviews have concerns about opening up hard-fought structure, format and content decisions³, and the cost of this. An example of these concerns is set out in a letter sent to you by the Bay of Plenty, Canterbury, Taranaki and Wellington regional councils. We have included the letter with this briefing, along with a draft response for your consideration (Appendix I).

Analysis and Advice

We are supporting 'early adopter' councils now to increase likelihood of having some exemplar plans available soon after gazettal

14. We expect around a quarter of councils will be able to implement the first set of Planning Standards within three years of gazettal. Many of these councils are either due for a

¹ The exact deadlines vary for proposed RMA planning documents. The deadlines are set in RMA Sections 58I, 58J.

² RMA Section 58J(1)(a) and Section 58I(3)(b)

³ Full plan reviews usually take 2 to 6 years to complete, including pre-notification consultation and appeals. Average RMA plan costs were \$3.5 million in 2014/15.

review or have been delaying notifying their new plan until the Planning Standards become more certain. Working alongside these councils early might increase the likelihood of having some exemplar plans available soon after gazettal.

Problems with the default one year RMA timeframe for implementing 'mandatory' standards for some councils

- 15. The Act links the type of Standard (mandatory or discretionary) with the timeframe available for implementation. Having now drafted the Standards and explored the practical implementation of them, we consider most of the mandatory standards may take more than one year to implement. The main problems identified with the default timeframes are summarised below.
 - a. Default timeframes may result in perverse outcomes (ie, less user friendly plans)

 Councils with larger, complex plans or with plan structures that are significantly different from the Planning Standards (eg, Auckland, Christchurch, Dunedin, Wellington Region) and small councils (refer to Appendix II) will struggle to meet the one year deadline and still have a usable, legally robust plan.
 - b. Definitions are likely to trigger plan content changes

Definitions are 'mandatory' Planning Standards; requiring implementation within one year without a First Schedule process. Objectives, policies and rules are written around planning terms and their definitions. Changes to these will trigger multiple consequential changes, prompting extensive review and testing of all affected plan provisions. These changes risk legal challenges from plan users who may consider the changes are substantive and should go through a First Schedule plan change process.

In some cases, effective implementation of the definitions may require broader content review and potentially an RMA plan change.

- c. Resourcing is a concern for many small councils and councils with complex plans

 Twenty district councils have less than 15,000 residents and have resourcing constraints affecting their ability to implement the Standards quickly (see Appendix II). These and other councils with large, complex plans will struggle to complete and notify changes within one year.
- d. Councils face mounting expectations to implement a range of national direction
 - Our recent briefing note [2017-B-04009 refers] on the National Direction Programme highlighted the challenges for councils to implement a fast-growing regulatory framework. As well as the Planning Standards, plan changes may be necessary to implement NPS Freshwater Management, NPS Urban Development Capacity, possible spatial planning direction, and NPS Biodiversity. National direction or guidance on natural hazard management and versatile soils may also prompt the need for plan changes. The default Planning Standards deadlines may create inefficiencies in having to do multiple plan changes.
- 16. Given these issues, and the ability for you to vary the statutory timeframes, we have considered a range of implementation options.

Options for implementation deadlines

17. The options set out below are organised by the timeframes because this is what needs to be published in the draft Planning Standards. Our approach has been to provide a range of choices informed by the age of current plans, council capacity to implement changes, cost of plan reviews, and likely impact on plan quality. You have also asked us to

- develop an option that would see RMA planning documents aligned with structure and format Standards as soon as possible (Option 2).
- 18. Four main options for implementing the first set of Planning Standards were explored (see also Table 1 below). These include:

Option 1 – Status quo

- Option 2 Staged approach to implementation. Initial focus on structure, format (three years) and electronic accessibility (one year) and a seven year deadline to implement all other Standards.
- Option 3 Five year deadline for most councils, except for baseline electronic accessibility Standards (one year), plus a two year extension offered to councils listed in Group E in Appendix II (ie, 7 years).
- **Option 4** Seven year deadline for all councils and for all Standards, except for baseline electronic accessibility standards (one year). Seven years is close to when most councils would be due for a full review of their plan.
- 19. For any of the options, we recommend that councils are required to implement the baseline electronic accessibility and functionality standards within one year. This provides 'quick-win' efficiency gains for plan users. Few councils currently meet all twelve baseline electronic accessibility and functionality standards (ie, hyperlinks between provisions in plans, cross references to provisions in other relevant plans, location of plan on council website). However, these standards would not be overly onerous to implement, would not affect plan content, and will not have a significant flow-on effect on plan structure and format.
- 20. Table 1 sets out the advantages and disadvantages of the various options and the implementation success rate based on the scheduled plan review. This assumes the level of support that the Ministry can provide comes from existing budgets and that our understanding of councils' situations in Appendix II is accurate.

Table 1: Advantages and disadvantages of implementation deadline options for the first set of National Planning Standards

Option	Explanation	Advantages	Disadvantages	Anticipated Implementation Rate
Option 1:	1 year for 'mandatory' standards	Plans structure aligns quickly = earlier benefits for	Out of cycle plan changes required resulting in	10% of councils meet the 1 year deadline
Status quo	(structure and format, definitions,	multiple plan users.	additional costs to most councils for extra plan changes	& 60% meet 5 year deadline.
	noise metric, electronic accessibility	.00	- especially under-resourced councils and complex	50% of councils who implement structure
	and functionality)		plans.	& format standard first have some
	5 years for standards that require a		Some amended provisions maybe complex and difficult	usability issues.
	RMA plan change (eg, zone		to use if not worked through a full review.	
	framework, mapping)			
Option 2:	1 year for baseline electronic	Plans structure aligns quickly = earlier benefits for	Costs to most councils for extra plan changes	75% of councils meet the 1 and 7 year
Staged	accessibility and functionality	multiple plan users.	Some amended provisions will be complex and difficult	deadlines, but only around 25% meet the
approach	3 years for structure, format &		to use.	3 year deadline for structure and format.
	eDelivery			50% of councils who implement structure
	7 years for other standards.			& format standard first have some
			-	usability issues.
Option 3:	1 year for baseline eDelivery.	Standards that trigger content changes have time to	Risk of perception of unfairness by giving extensions to	75% of councils meet the deadlines.
Five years,	5 years for all councils to implement	complete full RMA plan change processes.	only some councils.	Around 20% of plans have useability
plus two year	all other standards except 7 years	Contributors to multiple plans (iwi authorities,		problems.
extension as	for councils in Group E in Appendix	industry sector groups etc.) can space out		
needed	JI.	submission workloads.	.2	
		The government is assured that national	102	
6 N		standardisation won't drag on unnecessarily.		
		Less risk of recently settled plans being challenged	€	
	4	soon after finalisation.		
Option 4:	1 year for baseline eDelivery.	In addition to advantages from Option 3:	Benefits of national standardisation delayed.	80% of councils meet the deadlines.
Seven year	7 years for all councils & all	Most councils can use existing allocated resources to	Some of the Planning Standards, particularly e-delivery,	Plan usability is good.
deadline	standards	amend plans, reducing additional cost burden.	may become out of date and need updating before all	
	This is close to when most councils	More comprehensive plan changes to adopt planning	councils complete implementation.	
	would have been due for a full	standards improve plan usability from the outset.		2
	review.	Total Section		

- 21. Both Options 1 and 2 would need a much higher level of support from central government to increase the likelihood of success in these timeframes. However, we do not recommend either of these due to their potential negative effect on plan useability from changing only the structure and format.
- 22. We recommend Option 3. This implementation approach favours a comprehensive review of the plan when implementing the Planning Standards as this will be more efficient and help to maintain plan quality. It also recognises the high investment made by some on large recently settled plans by providing a further 2 years.
- 23. Our economic analysis⁴ of the package of Planning Standards concludes the implementation deadline has a moderate effect on the benefit cost ratio, but that benefits continue to outweigh the costs across each of the three timeframes assessed (3, 5 and 10 years). If an early implementation deadline is chosen, the benefits to plan users are higher, but costs to councils are also higher as they must fund additional plan reviews and changes. This highlights that the shorter the implementation timeframes, the greater the need for additional Ministry support.

Enhanced MfE support with a budget bid

- 24. With your support, we can prepare a budget bid for 2019/2020 financial year to further incentivise implementation. An enhanced support programme that would likely include:
 - a. Additional staff or contractors to support councils for up to 5 years, either working in council offices or from the Ministry's Wellington or Auckland offices. A team of four FTEs could work with around 15-20 plans per year.
 - b. A contestable fund to pay half the costs of small councils' e-Plan purchase and setup.
- 25. The economic analysis undertaken for the Planning Standards shows that while the largest councils will incur the biggest implementation costs, it is the small councils who incur the largest proportional cost per capita⁶. On this basis, we recommend targeting our support to smaller councils (such as those on the West Coast).

Next steps

26. Once you have made decisions on the implementation timeframes, we can finalise the draft Planning Standards for consultation.

Table 3 Upcoming key decisions, milestones and dates

Key decision/project milestone	Proposed Date
Briefing containing draft Cabinet paper, the final draft set of standards, s32 Evaluation Report, Regulatory Impact Statement	10 April 2018
Ministerial Consultation	1-14 May 2018

⁴ Castalia (February 2018) Economic Evaluation of the Introduction of National Planning Standards

⁵ Defined as small councils with a ratings base of less than 20,000 people.

⁶ Council Costs of Implementation (Average Per Capita) Metro Councils: \$5.41, Provincial councils \$11.54, Rural councils \$34.26, Regional Councils \$3.88, Unitary councils \$3.35. Source: Castalia (2018)

DEV Cabinet Committee	Approx. 16 May 2018
Consultation on draft National Planning Standards	1 June – 17 th August
Briefing on submissions, a revised evaluation report and recommendations	December 2018
Changes made in response to Minister feedback	Jan – March 2019
Final Cabinet approval	March 2019
Gazettal of the first set of national planning standards.	18 April 2019

Appendix I:









15 December 2017

Hon David Parker Minister for the Environment d.parker@ministers.govt.nz

Dear Minister,

Implementation of RMA National Planning Standards

We are writing to advocate for a common-sense approach to implementation of the proposed National Planning Standards. Our councils are particularly focused on improving freshwater outcomes, and we want to ensure implementation of the proposed standards does not distract from this work. We understand your officials are considering timeframes for implementation, and we ask that implementation be guided by the need to do so cost effectively, with minimal disruption to existing planning priorities. We would welcome an opportunity to discuss this with you at an appropriate time.

We support efforts to bring greater coherency and alignment within the RMA planning framework, including across national direction. The proposed National Planning Standards provide opportunities to do this, particularly with eDelivery of RMA plans.

Earlier this year the Ministry for the Environment consulted on the key elements of the proposed National Planning Standards. This included a proposed Standard for the format of regional plans and policy statements, and proposed timeframes. These timeframes are set at either one or five years from Gazettal of the Standard, unless another time is specified with a Standard.

Any requirement to implement substantive Standards outside of a scheduled regional plan review will create significant costs to Councils and ratepayers, delay existing planning priorities and implementation work, and create further uncertainty for our stakeholders. This is particularly relevant for our freshwater work, and we need to be clearing roadblocks rather than adding new ones.

A Standard that requires a reformatting of a regional plan will be substantive, will necessitate a RMA Schedule 1 process, and experience shows costs can be significant. What's more, the benefits of consistent plan formatting across regions hasn't been articulated or

quantified, and we question whether any benefit will outweigh the costs associated with implementation outside of a scheduled plan review.

We ask that a decision on implementation recognise the cost implications to councils. We seek an approach where implementation of substantive changes can be aligned with existing work programmes as part of the normal plan review cycle. This would be a more efficient means by which to implement National Planning Standards, reduce costs to ratepayers, and importantly would allow critical environmental planning to be delivered within existing timeframes.

The attached slide illustrates the planning work and investment prioritised by our councils, the growing body of national direction that we are required to implement, and the implications of implementing proposed National Planning Standards outside a scheduled review. We understand that LGNZ has also raised this matter with you.

We are very willing to come and discuss this matter further with you or your officials.

Yours sincerely

Shott Lownser.

Steve Lowndes

Chair, Environment Canterbury

David MacLeod

Chair, Taranaki Regional Council

Chris Laidlaw

Chair, Greater Wellington Regional Council

Doug Leeder

Chair, Bay of Plenty Regional Council

Proposed National Planning Standards: We want to implement as part of the normal plan review cycle

Some regional councils are in the midst of significant planning work and implementation:

CANTERBURY CONTEXT:

- The Land and Water Regional Plan (LWRP) was madefully operative in 2017
- . We are now prioritising sub-region plans, focusing on urban waterways and alpinerivers
- Approx. \$30m invested over the past 6 years, \$20m budgeted for next 4 years

GREATER WELLINGTON CONTEXT:

- Proposed Natural Resources Plan notified in 2015
- · Current hearings culmination of a 7 year process integrating five existing first generation plans
- Approx. \$6m invested over the past5 years. Expected to double as the NPS-FM limit setting
 process is finalised and appeals are worked through

TARANAKI CONTEXT:

- Coastal Plan to be publicly notified in early 2018, considerable engagement already undertaken
- Freshwater and soil plans currently being reviewed
- Approx. \$4m Invested overthe past 6 years , \$2m budgeted for the next 4 years

BAY OF PLENTY CONTEXT:

- Regional Natural Resources Plan produced Nov 2017, designed to combine 6 existing plans over time, with two further plan changes to be notified in 2018
- Regional Coastal Environment Plan to be made operative in mid 2018
- Approx. \$16m invested over past 6 years, with \$12m budgeted for next 4 years

On top of regional planning work, regional councils also need to implement a considerable body of RMA national direction

- 2014 NPS Freshwater Management Progressive Implementation Programme
 2017 NPS Freshwater Management
- 2016 NES Urban Development Capacity
- 2017 NES Plantation Forestry

- 2018(?) NES Air
- 2018(?) NES Marine Aquaculture
- 2018(?) NPS Natural Hazards
- 2018(?) NPS Biodiversity

What are the implications if we are required to restructure our plans to incorporate National Planning Standards outside of a plan review process?

- Based on past experiences, reformatting plans can be expensive (e.g. the cost of reformatting and updating the Canterbury Natural Resources Regional Plan provisions into the LWRP was \$5 million).
- Costs will be over and above current planning costs, and will likely require costly Schedule 1 processes with the associated risk of appeals
- Work will be delayed on practical plan implementation e.g. delayed implementation of Good Management Practice in Canterbury's most over-allocated catchments
- A lack of stability revising, socialising and embedding plan changes takes time, and continual adjustments create uncertainty for communities and stakeholders
- Lose some of the gains we've made—revisiting plans at this stage will risk re-litigation, will carry costs to our communities, and will likely erode community/stakeholder goodwill
- Will constrain our ability to embed the current framework and evaluate performance—we need to know what works, and what doesn't

[DRAFT REPLY LETTER]

Mr Steve Lowndes
Chair, Environment Canterbury
Mr David MacLeod
Chair, Taranaki Regional Council
Mr Chris Laidlaw
Chair, Greater Wellington Regional Council
Mr Doug Leeder
Chair, Bay of Plenty Regional Council

Governance@ecan.govt.nz

Dear Mr Lowndes, Mr MacLeod, Mr Laidlaw and Mr Leeder,

Thank you for your letter of 15 December 2017 regarding implementation of the first set of National Planning Standards (the Standards). I apologise for the time taken to respond to your letter.

I acknowledge your concerns about the cost and impacts on current priorities associated with the implementation of the standards. I appreciate your support for the aim of the Planning Standards to create greater alignment within the planning system. The slide attached to your letter provides useful context of the investment and current workload of your councils.

I am considering carefully the points you raise given the significance of this issue. Successful implementation, which realises the benefits of the Standards, will need to carefully balance the time taken to adopt them and minimise disruption to the planning priorities of local authorities. This is made difficult due to the variation of plan review timeframes around the country. I also recognise that the level of support which central government provides during the implementation period is key to ensure the success of the Standards.

I am committed to working alongside local authorities to implement the standards and will look to communicate my preferred approach to implementation alongside the draft Planning Standards which I intend to release for consultation around the middle of 2018.

Yours sincerely

Hon David Parker
Minister for the Environment

Appendix II: Data indicating councils' adaptability to implement the first set of National Planning Standards

Districts with populations of less than 20,000 residents, ie, low ratepayer base.

Council Name	Population	Council Name	Population
Chatham Islands Territory	640	Buller District	10150
Kaikoura District	3710	South Wairarapa District	10250
Mackenzie District	4600	Gore District	12450
Kawerau District	6930	Ruapehu District	12700
Waimate District	7890	Hurunui District	12800
Wairoa District	8210	Grey District	13500
Westland District	8810	Central Hawke's Bay District	13850
Opotiki District	9010	Rangitikei District	15000
Carterton District	9060	Clutha District	17550
Stratford District	9420	Tararua District	17800
Waitomo District 9730		Hauraki District	19850
Otorohanga District	10100	Central Otago District	20300

Note:

- Carterton, Masterton and South Wairarapa District Councils have a combined district plan.
- The Local Government Commission has proposed that the Grey, Westland and Buller District Councils should have a combined district plan.

Categories of expected council implementation timeframes of Planning Standards

The table below classifies councils into when they are likely to implement the first set National Planning Standards based on when councils are next due to review their RMA plans. Additional support to implement the Planning Standards will increase the number of councils able to implement in shorter timeframes.

Group	Regional and Unitary Councils	District Councils
Group A: Able to implement Planning Standards within three years of gazettal. This includes councils that are delaying or soon notifying a full plan review or plan change so it can include the Planning Standards.	Gisborne, Nelson	Central Otago, Chatham Islands, Kaikoura, Masterton-Carterton-South Wairarapa (combined plan), Napier, New Plymouth, Opotiki, Porirua, Selwyn, Taupo, Waimate, Wairoa, Waitaki, Waitomo
Group B: Timing uncertain	Hawkes Bay, Otago, West Coast, Canterbury, Bay of Plenty	Central Hawkes Bay, Clutha, Hutt City, Mackenzie, Manawatu, Matamata-Piako, Palmerston North, Upper Hutt, Wellington City, Whangarei
Group C: Likely to implement within 3 – 5 years of Gazettal	Taranaki, Tasman, Waikato	Ashburton, Gore, Hauraki, Horowhenua, Kaipara, Otorohanga, Rangitikei, Ruapehu, South Waikato, Stratford, Tararua, Tauranga, Timaru, Waikato, Waimakariri, West Coast Councils (possible combined district plan), Western Bay of Plenty
Group D: Likely to implement within 5 – 7 years of Gazettal		Hamilton, Kawerau, Rotorua
Group E: Scheduled plan review is 7+ years.	Auckland, Marlborough, Northland, Southland Region, Wellington Region, Manawatu- Wanganui	Christchurch, Dunedin, Far North, Hastings, Hurunui, Invercargill, Kapiti Coast, Queenstown, South Taranaki, Southland District, Thames- Coromandel, Waipa, Whakatane, Whanganui

Note:

- Further verification of the councils in Group B and E will be required prior to gazetting the Planning Standards.
- Most regional councils have at least 2 plans, but often more than 2.