



To Hon David Parker, Minister for the Environment and Hon Eugenie Sage, Minister of Conservation			MfE Tracking #: 2018-B-04385 DoC Tracking #: 18-B-0398
<u>Security Level</u>	In-confidence	Number of Attachments: 6	Appendix I: Draft Cabinet paper Appendix II: Regulatory Impact Statement Appendix III: Draft National Planning Standards Appendix IV: Draft consultation document on the draft planning standards Appendix V: Section 32 evaluation report Appendix VI: Economic evaluation of the draft first set of National Planning Standards
Date Submitted:	17 April 2018	Response needed by:	1 May 2018
MfE Priority:	Non-Urgent	Action Sought:	Decision
DoC Priority	Non-Urgent	Action Sought:	Decision

National Planning Standards: approval for consultation

Key Messages

1. This briefing seeks your feedback on, or agreement to, the attached consultation package for the draft first set of National Planning Standards (planning standards) to enable consideration at the Cabinet Environment, Energy and Climate Committee on 22 May 2018.
2. The planning standards provide national consistency for the structure, form, definitions and electronic accessibility of Resource Management Act 1991 (RMA) plans to make them more efficient and easier to prepare and use. They will also allow councils to focus on substantive issues such as urban growth, housing and freshwater.
3. The Minister for the Environment has previously agreed to a comprehensive scope of draft planning standards. Namely planning standards with mandatory directions for the structure and form of policy statements and plans, definitions, spatial planning tools, mapping and a noise and vibration metric. A zone framework planning standard with mandatory and discretionary directions for district and combined plans is also included (2018-B-04175 refers).
4. The Minister of Conservation must approve planning standards to the extent that a matter relates to the coastal marine area (CMA)¹. While no draft planning standards in the first set have been prepared to apply solely to the CMA, a number contain aspects that are relevant, while others are relevant to all areas of council jurisdiction, including the CMA.

¹ Resource Management Act 1991, s58B(2)

5. The Minister for the Environment has previously agreed to vary the default implementation timeframes in the RMA of one year for mandatory directions and five years for discretionary directions. Instead, consultation will include an approach that specifies a five year deadline for councils to implement all planning standards, except for baseline electronic accessibility standards (one year). The approach also proposes a two year extension (ie, seven years) to councils who have notified decisions on a plan between April 2016 and April 2019 (2018-B-04172 refers).
6. This approach seeks to minimise costs to councils and offers the opportunity to most councils to implement the planning standards at, or very near to, the time of their next scheduled plan review. We recommend you both agree to this implementation approach as it will also apply to planning standards which relate to the CMA.
7. The Minister for the Environment has previously agreed to a 10-week consultation period for written submissions (2018-B-04175 refers). Officials are planning a roadshow and hui around the country on the planning standards during this time. We recommend you both agree to this consultation approach as it will also apply to planning standards which relate to the CMA.
8. An attached draft Cabinet paper (Appendix 1) seeks approval of the draft planning standards for public consultation, along with a regulatory impact statement (Appendix 2).
9. The draft planning standards (Appendix 3) and supporting draft consultation document (Appendix 4) are attached for your approval or comment. Before making your decision to publically notify the draft planning standards, you must have particular regard to an RMA section 32 evaluation report. This is attached (Appendix 5), along with an independent economic evaluation (Appendix 6) which has informed the section 32 evaluation.
10. Overall, the RMA section 32 evaluation report demonstrates that each of the draft planning standards and the proposed implementation approach are the most efficient, effective and reasonably practicable options. The preferred options achieve the optimal balance between certainty for plan users as a result of greater consistency in plans, and flexibility for plans to manage local environmental conditions and respond to community aspirations. The implementation costs of the standards, which largely fall on councils, are part of this evaluation.
11. Given the scale of change to planning practice these proposals will bring, we expect substantive feedback on the scope of the draft first set (particularly the zone framework and spatial planning tools standards) and the implementation cost and timeframes.
12. To meet the statutory timeframe in the RMA for gazetting the final planning standards by 19 April 2019, public consultation needs to begin in June 2018. Consideration at ENV on 22 May will enable this to happen. We propose to report back to you on the results of consultation in December 2018 and seek final policy approval from Cabinet in March 2019.
13. We recommend that you meet on 1 May 2018 to discuss draft planning standards that relate to the CMA as detailed in Table 1 (page 9).

Recommendations

Minister for the Environment and Minister of Conservation

We recommend that you:

- a. **Note** that the Minister for the Environment intends to present a Cabinet paper seeking in principle agreement to the draft first set of planning standards and approval to release the consultation package at a meeting of Cabinet Environment, Energy and Climate Committee on 22 May 2018.

Yes/No

- b. **Authorise** officials to make minor changes to the draft planning standards that do not affect their substance prior to their presentation to Cabinet.

Yes/No

- c. **Note** that you must have particular regard to the section 32 evaluation report before deciding to publicly notify the draft planning standards. This report finds that the preferred options achieve an optimal balance between certainty for plan users as a result of greater consistency in plans, and flexibility for plans to be able to effectively respond to local environmental conditions and community aspirations.

Yes/No

- d. **Note** the attached regulatory impact statement and economic evaluation of the draft first set of National Planning Standards.

Yes/No

- e. Either:

- a. **Approve** the attached draft consultation document, including Ministerial foreword.

or

Yes/No

- b. **Provide** feedback by 10 May 2018.

Yes/No

- f. **Agree** to consult on an implementation timeframe of five years post-gazettal (plus a two-year extension for these councils: Auckland, Marlborough, Northland, Southland, Wellington, Christchurch, Dunedin, Hurunui, Invercargill, Kapiti Coast, Queenstown-Lakes, South Taranaki, Thames-Coromandel) for all planning standards except for baseline eDelivery standards which have a one year post gazettal timeframe for all councils.

Yes/No

- g. **Agree** that a 10-week consultation period with events held by officials around the country will allow adequate time and opportunity for the general public, local authorities and iwi authorities to make a submission.

Yes/No

- h. **Note** that officials will provide you with a briefing on submissions, an RMA section 32AA further evaluation report and recommendations on submissions to the draft planning standards in December 2018.

Yes/No

Minister of Conservation

We recommend that you:

- i. **Note** that while no draft planning standards in the first set have been prepared to apply solely to the CMA, a number of planning standards contain aspects that are relevant, while others are relevant to all areas of council jurisdiction, including the CMA.

Yes/No

- j. **Agree** to the draft planning standards to the extent that they relate to the coastal marine area and to publically notify the draft planning standards and supporting documents.

Yes/No

Minister for the Environment

We recommend that you:

- k. Either:

- a. **Approve** the attached draft Cabinet paper for lodgement.

or

Yes/No

- b. **Provide** feedback by 1 May 2018.

Yes/No


- l. **Agree** to publically notify the draft planning standards and supporting documents.

Yes/No

Signature



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Date

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Proactively released

Context

The National Planning Standards are a new national direction tool

14. The planning standards were introduced in the recent reforms to the Resource Management Act 1991 (RMA). They have a broad potential scope which includes the ability to specify the structure and content (ie, objectives, policies, rules) of RMA plans.
15. The planning standards aim to create greater consistency and standardisation across council planning documents to make them faster and easier to develop and use. More specifically, the purpose of the planning standards under section 58(B) of the RMA are:
 - to assist in achieving the purpose of the RMA
 - to set out requirements or other provisions relating to any aspect for the structure, format, or content of RMA policy statements and plans to address any matter that the Minister for the Environment considers:
 - requires national consistency
 - is required to support the implementation of a national environmental standard, a national policy statement, a New Zealand coastal policy statement, or regulations made under this Act
 - is required to assist people to comply with the procedural principles set out in section 18A of the RMA.
16. The Minister for the Environment must approve the first set of planning standards by 19 April 2019. To the extent that matters in planning standards relate to the coastal marine area (CMA) they must be approved by the Minister of Conservation².
17. When preparing a planning standard, you may have regard to a number of factors, including whether it is desirable to have national consistency in relation to a resource management issue and/or whether it will support national direction. You may also consider the extent to which it is important to allow for local circumstances and whether a standard should only apply to parts of the country³.
18. Greater consistency across council planning documents will improve the efficiency of the planning system through more aligned plans. Planning standards will help to deliver broader environmental objectives by enabling councils to focus on the substantive issues such as urban growth, housing and freshwater.

Analysis and advice

A comprehensive set of planning standards is proposed for consultation

19. The Minister for the Environment has agreed to consult on a comprehensive first set of planning standards (2018-B-04175 refers) which includes planning standards for:
 - structure and form for policy statements and plans
 - definitions
 - requirements for the electronic functionality and accessibility of policy statements and plans

² Resource Management Act 1991, s 58B(2)

³ Resource Management Act 1991, s 58D(2)

- spatial planning tools
 - noise and vibration metric
 - mapping
 - zone framework.
20. Under the RMA planning standards can either make 'mandatory' directions, 'discretionary' directions, or direct 'other changes'.
21. Mandatory directions must be implemented by councils without a RMA Schedule 1 plan change process. Councils only need to notify that the changes have been made, along with any consequential changes. Discretionary directions must be implemented, but provide councils with choices and a Schedule 1 process must be used to apply the planning standard to local circumstances. 'Other changes' directed by a planning standard must also follow a Schedule 1 process.
22. The draft planning standards in the first set only have mandatory directions except for the zone framework standard which includes discretionary directions. None of the draft planning standards direct 'other changes'.

The proposed package will assist to achieve meaningful consistency and optimise council resources

23. Implementing even the most basic structure planning standards will require significant changes to plans. This package of planning standards goes beyond the minimum requirements of the RMA and helps to ensure that the changes required effect more meaningful consistency across plans and policy statements and optimise the resources of councils and submitters during plan review processes.
24. We consider that the first set of draft planning standards meet the purpose of planning standards as set out in the RMA⁴ as they:
- assist councils to focus their resources on environmental outcomes and meaningful content, rather than the basic 'building blocks' of plans
 - set out requirements for the structure and form of policy statements and plans which:
 - require national consistency
 - support implementation of other national direction
 - assist people to comply with the procedural principles of the RMA⁵.
25. The attached section 32 evaluation report (Appendix 5) demonstrates this in more detail where we assess each planning standard and the implementation approach against objectives specifically derived from the purpose of the planning standards in the RMA.
- Structure and form planning standards (mandatory directions)*
26. The structure and form planning standards direct the layout of policy statements and plans and the way their provisions relate to each other. 'Structure and form' includes the topics within a plan and their order, key headings, and how plan provisions (ie, objectives, policies and rules) are laid out.
27. The **district plan structure planning standard** is the most prescriptive of the structure standards. It prescribes pre-named parts, chapters and sections for district plans. Many district plans already have similar structures, so the planning standard can be more

⁴ Resource Management Act 1991, s 58B

⁵ Resource Management Act 1991, s 18A

detailed. The district plan structure planning standard is a home for more directive 'chapter' standards, which when collated form a template for a plan.

28. The **regional plan structure planning standard** is comparatively less prescriptive. It only specifies headings to chapter level because there is currently wide divergence in the structure and form of regional plans. Even a moderate level of specificity will create large consistency gains. Less prescription recognises that regional councils are also starting to manage their natural resources in a more integrated manner but best practice is still evolving.
29. The regional plan structure planning standard recommends a single document containing the regional policy statement (RPS) and all regional plans. However, the planning standard allows councils to retain a separate RPS. This is because regional councils with multiple territorial authorities have found a separate RPS allows for a clearer 'line of sight' of provisions into district plans. Regional coastal plans may also remain separate as section 64(2) of the RMA (preparation and change of regional coastal plans) includes this option.
30. The **combined plan (unitary plan) structure planning standard** draws from both the district and regional plan structure standards into a form suitable for a unitary council context.
31. The **format planning standard** sets an alpha-numeric provision ordering system and a functional rule layout that is compatible with ePlans. It also requires plans to show the legal effect of provisions (eg, operative or legal effect while a plan is proposed).

Definitions planning standard (mandatory directions)

32. The **definitions planning standard** consists of 107 of the most common district and regional terms. Many of the terms are defined to have the same meaning as in the RMA itself, stopping variation in definitions for those terms. The standardised definitions will provide more consistent application of national direction and transfer of best practice in definition drafting.

Electronic accessibility and functionality planning standard (mandatory directions)

33. The **electronic accessibility and functionality standard** specifies minimum requirements for how plans should be displayed and used online. It requires councils to transition to a fully interactive online ePlan system (including text and GIS data). This supports the broader 'all of government' digital transformation. Some cost issues can be addressed with an implementation support programme that recognises councils that are least able to afford the transition.

Spatial planning tools standard (mandatory directions)

34. The **spatial planning tools standard** sets out the functions of tools such as zones, overlays and precincts and how they are to be represented in district and regional plans. Combined plans will use both district and regional sets of tools where needed. Councils and communities can manage local environmental issues or values using a consistent set of spatial planning tools in their plans. The planning standard will enable practitioners and plan users to 'speak the same language' when referring to spatial planning tools and locate the relevant provisions easier.
35. The consultation document specifically seeks feedback on the value of this planning standard.

Zone framework planning standard (mandatory and discretionary directions)

36. The **zone framework planning standard** specifies 27 land use zones that may be used in district plans and combined plans. Councils can choose which zones they wish to use. Each zone includes a purpose statement to guide the provisions set by individual

councils within that zone. Councils can also create 'special purpose zones' where justified by unique local circumstances through an RMA Schedule 1 process.

37. The zone framework planning standard helps 'bed in' the spatial planning tools approach to achieve more meaningful consistency of how local variation is structured in plans.

Mapping planning standard (mandatory directions)

38. The **mapping planning standard** sets out a colour palette for the proposed zone framework and symbols for a range of commonly mapped features (for example, notable trees, heritage features, hazard area). Standard colours and symbols will help users to understand land use maps at a glance and save costs for councils who often have to seek graphic design advice to develop their own colour palette and symbols.

Noise and vibration metric planning standard (mandatory directions)

39. The **noise and vibration metric planning standard** specifies that councils must the latest New Zealand Standard (NZS) noise and vibration metric. It does not set noise limits or thresholds to be included in plans, rather it reinforces best practice for noise and vibration measurement.

Aspects of some planning standards require approval by the Minister of Conservation

40. The Minister of Conservation is required to prepare and approve planning standards "if and to the extent that a matter relates to the coastal marine area" (RMA s58B(2)).

41. No draft planning standards have been prepared to solely apply to the CMA.

42. However, a number of planning standards do relate to the CMA for the following reasons:

- select aspects of a planning standard are relevant to the CMA
- a planning standard applies to all areas of council jurisdiction, including the CMA (ie, the CMA is no more or less affected by the planning standard than any other part of the environment).

43. Accordingly, the Minister of Conservation is required to approve these standards to the extent that they relate to the CMA.

44. Planning standards that we consider are relevant to the CMA to a greater or lesser extent are identified in Table 1 below. However, specific implementation approaches by councils may have effects on the extent to which these planning standards will apply within regional coastal plans.

Table 1: Planning standards that require approval by the Minister of Conservation

Planning standards with aspects relevant to the CMA
<p>Zone framework planning standard</p> <ul style="list-style-type: none"> • Of the 27 zones in the framework, the 'Port Zone' and its associated purpose statement may be considered relevant to the CMA.
<p>Mapping planning standard</p> <ul style="list-style-type: none"> • The majority of the mapping symbols within the planning standard are considered relevant as many may be used in maps of the CMA.
Planning standards that apply to all areas of council jurisdiction, including the CMA
<p>Definitions planning standard</p> <ul style="list-style-type: none"> • Many of the definitions are considered relevant to a greater or lesser extent as they

will be used in plans to manage all areas of council jurisdiction, including the CMA.
<p>Spatial planning tools standard for regional plans</p> <ul style="list-style-type: none"> The set of spatial planning tools available for regional plans is considered relevant as they will be used in plans to manage all areas of council jurisdiction, including the CMA.
<p>Noise and vibration metric</p> <ul style="list-style-type: none"> The standard metric to be used in noise and vibration provisions will be used in plans to manage all areas of council jurisdiction, including the CMA.
<p>Electronic accessibility planning standard</p> <ul style="list-style-type: none"> The requirements for accessing plans online and their functions will apply to plans that manage all areas of council jurisdiction, including the CMA.
<p>Combined plan structure planning standard</p> <ul style="list-style-type: none"> The consistent headings and titles will apply to chapters of the plan that manage all areas of council jurisdiction, including the CMA.
<p>Regional plan structure planning standard</p> <ul style="list-style-type: none"> The consistent headings and titles will apply to chapters of the plan that manage all areas of council jurisdiction, including the CMA.
<p>Format planning standard</p> <ul style="list-style-type: none"> The planning standard directs the layout of provisions within a plan and will apply to provisions that manage the CMA, as well as all other areas of council jurisdiction.

45. The only group of planning standards that do not relate to the CMA in any way are those which relate to district plan structure, including the chapter structure standards.
46. We recommend that you meet on 1 May 2018 and discuss these planning standards which relate to the CMA.

Implementation timeframes

47. The RMA sets out default timeframes⁶ and processes for implementing the standards, although these timeframes can be changed within the planning standards themselves. The Minister for the Environment agreed in principle to vary the default timeframes for implementation of the first set of planning standards (2018-B-04172 refers).
48. The proposed approach is a five year deadline for councils to implement all planning standards, except for baseline electronic accessibility standards (one year), and a two year extension (ie, seven years) to councils who have notified decisions on a plan, or most of a plan between April 2016 and April 2019. The revised timeframes balance the resource burden on councils and the benefits of more aligned plans.
49. This approach offers councils the opportunity to include planning standards implementation with a comprehensive plan review. This is more efficient and provides better integration with existing plan provisions. It also recognises the high investment made by councils who have recently notified or reviewed plans.
50. It would not be practicable for councils to implement the parts of the planning standards relevant to the CMA at a different time to other planning standards. Because of this, we recommend that all planning standards have the same implementation timeframes, whether relevant to the CMA or not.

⁶ Resource Management Act 1991, s58I and s58J specify default timeframes of one year from gazettal for mandatory directions and five years from gazettal for discretionary directions.

You must have particular regard to the attached evaluation report before deciding to notify the draft planning standards

51. Before deciding whether to publicly notify the draft planning standards⁷ you must have particular regard to the s32 evaluation report (Appendix 5) prepared for you.
52. The section 32 report examines the extent to which the draft planning standards are the most appropriate way to achieve the purpose and objectives of the planning standards in the RMA, at a level of detail corresponding to the scale and significance of the effects anticipated from implementation.
53. The attached evaluation report has three distinct sections. Part 1 introduces the purpose of a section 32 evaluation report and discusses the legislative requirements. Part 2 provides more detailed evaluations of each planning standard and stakeholder engagement processes. Finally, Part 3 discusses implementation. An economic evaluation has been prepared by Castalia Strategic Advisors to inform the section 32 evaluation report and we propose to release this report as part of the consultation materials. The economic evaluation concludes that the benefits of the proposed planning standards outweigh the costs with a positive benefit-cost ratio (BCR) of 1.53.
54. The section 32 evaluation report considers how implementation of the planning standards will impact on different groups. This assessment is strongly informed by the economic evaluation, which concludes that the costs of implementation mostly fall on councils whereas the benefits are largely felt by plan users. A longer implementation period reduces costs on councils as they can implement the planning standards at the time of their next plan review; however this greatly delays the benefits plan users will experience from plans being more aligned. It also shows that while the largest councils will incur the biggest implementation costs, it is the small councils who incur the largest proportional cost per capita.
55. Informed by this, the Ministry for the Environment (MfE) intends to target its support resources to smaller councils. An enhanced support programme, particularly to incentivise uptake of ePlans, or for additional staff or contractors to support councils, could be offered if additional funding is obtained through a budget bid for the 2019/2020 financial year.
56. The RIS (Appendix 2) assesses the draft planning standards as a package. This RIS considers the regulatory impact of these options and concludes that the proposed draft first set of planning standards is the most appropriate option to achieve the objectives of the planning standards.

There will be a 10-week consultation period, including an information 'roadshow'

57. The Minister for the Environment agreed in principle to have a ten week submission period during which we will hold a nationwide roadshow and a series of hui to explain the draft planning standards and how they work (2018-B-04172). This roadshow will engage councils, the general public and professionals alike. Following the ten week consultation period we will brief you on submissions and provide you with revised planning standards and a revised evaluation report in December 2018. You can make further changes to the planning standards in response to submissions before final Cabinet approval in March 2019.
58. It would not be practicable to use different consultation processes for planning standards relevant to the CMA and for those that are not. We therefore recommend the same consultation approach for all planning standards. The ten week submission period proposed is longer than the six week period usually recommended for draft national

⁷ Resource Management Act 1991, s58D.

direction instruments. This reflects the significant impact these standards will have on council plans. A longer consultation period would mean less time to refine the draft planning standards in response to submissions and gain your final approval before April 2019.

Consultation and collaboration

59. In developing the draft planning standards we have consulted with other central government and crown agencies where appropriate through a working group. This included the New Zealand Transport Agency (NZTA), Te Puni Kokiri (TPK), Department of Internal Affairs (DIA), Environmental Protection Authority (EPA), Ministry for Primary Industries (MPI), Land Information New Zealand (LINZ), Ministry of Education (MOE), Heritage New Zealand Pouhere Taonga (HNZPT), Ministry of Culture and Heritage (MCH), the Department of Corrections and the Ministry of Business, Innovation and Employment (MBIE).
60. A number of these agencies suggested how the planning standards could be refined to contribute to their work programmes. These have been incorporated into the ongoing work programme on the planning standards. In the future, building upon the advances of the first set, the planning standards may be used as a tool to achieve more targeted consistency and usability gains for other government purposes such as conservation, freshwater improvements and urban development.

Risks and mitigations

61. There are risks associated with the approval of the planning standards, which include:
- more councils wanting to have a seven year implementation timeframe, which if approved would reduce the benefits to be gained having more plans aligned sooner.
 - lack of MfE implementation support to help councils implement the standards. This may adversely impact on the constructive working relationship between central and local government needed to successfully implement the planning standards. An intention to seek additional resources in budget 2019 is signalled in the cabinet paper.

Legal risks

62. Before making a national planning standard, a number of statutory decisions are required to be made by the Minister for the Environment and Minister for Conservation under sections 58D and s58E of the RMA, which will be open to judicial review.
63. Judicial review may occur in relation to the statutory decisions relating to the process set out in sections 58D and s58E of the RMA, which the Minister(s) must follow before recommending the making of a planning standard. These include:
- preparing a section 32 report and having particular regard to that report when deciding whether to publically notify the draft planning standards
 - establishing a process the Minister(s) considers gives the public, local and iwi authorities adequate time and opportunity to submit on the draft planning standards
 - requiring a report and recommendation to be made to the Minister(s) on those submissions and the proposed subject matter of the planning standards
 - considering the report and recommendation

- carrying out a section 32AA further evaluation of the draft planning standards and having particular regard to that further evaluation when deciding whether to approve the draft planning standards.

64. It is considered that the risk of judicial review being brought or succeeding in relation to each of these decisions is low. This is because the process requirements of the RMA have and are expected to be followed and decisions are supported by an assessment of relevant statutory criteria.

Financial, regulatory and legislative implications

65. The implementation approach proposes MfE support to improve the uptake of the planning standards. Increased resources will enable the Ministry to work alongside councils to implement the planning standards sooner. We will prepare a budget bid for the 2019/20 financial year for additional financial resources. This could be to help councils transition to e-Plan systems and additional MfE staff or contractors to support councils, particularly small, poorly resourced councils as they restructure their plans to implement the planning standards.

Next Steps

66. Attached is a Cabinet paper for the Minister for the Environment to present at the Cabinet Environment, Energy and Climate Committee (ENV) on 22 May 2018 seeking agreement to consult on the first set of draft planning standards (Appendix 1). It also attaches a draft consultation document to be released with the draft planning standards (Appendix 4). This includes a Ministerial foreword.

67. We recommend that you meet on 1 May 2018 to discuss the draft planning standards and related consultation material.

68. Key dates for the draft first set of planning standards are set out in Table 2 below.

Table 2: Upcoming key decisions, milestones and dates

Key decision/project milestone	Proposed Date
Ministerial consultation on Cabinet paper	3 May 2018 – 17 May 2018
Cabinet paper lodged with ENV Cabinet Committee	17 May 2018
ENV Cabinet Committee	22 May 2018
Public notification of the draft first set of planning standards	31 May 2018
Consultation on draft planning standards including roadshow	1 June – 17 th August 2018
Briefing on submissions, a section 32AA further evaluation report and recommendations on the draft planning standards	December 2018
Final Cabinet approval	March 2019
Gazettal of the first set of planning standards.	19 April 2019

Appendices

Proactively released