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Introduction

1. Waitomo District Council (WDC) thanks the Ministry for the Environment for this opportunity to provide feedback on the Draft National Planning Standards. WDC supports the development of a cohesive national direction to assist with alignment and consistency in the development of planning documents. Our submission relates to the standards within the context of District Plans.

2. This submission represents the views of the Mayor and elected members of the Waitomo District Council.

General Comments

3. While WDC supports a consistent structure for district plans and the ability for Councils to add locally derived sections as required, we request that further consideration is given as to how the Standards might better support innovation and adaptive planning practices. For example, new zones might be required to extend and operate in a three dimensional manner to accommodate and protect biodiversity. WDC believes that flexibility is required in the Standards to provide for changes that will undoubtedly offer significant environmental and societal benefit. Without the ability to adapt, the Standards could delay innovative practices which might address some of our most pressing issues.

4. WDC supports a five year mandatory timeframe.

5. WDC notes that it is unlikely that any District Council could give effect to the mandatory directions without significant consequential amendments. We note that ‘consequential amendment’ is not defined in the Resource Management Act 1991 (RMA), therefore it is difficult to assess what ‘consequential amendments’ would go beyond the scope of that authorised by section 58I (3)(d). Where RMA Schedule 1 amendments are required, this imposes a significant cost and resourcing burden on Councils. Many Councils will therefore run the risk of re-litigating matters that have already cost their ratepayers large amounts of time and money.

6. Often the wording of the mandatory directions state “if the following matters are addressed in policy statements and plans, they must be located/included in...". This wording does not clearly direct Councils as to whether the matter listed is optional or mandatory. Here is an example from S-TW:

6. If the following matters are addressed in policy statements and plans, they must be located in the Consultation chapter:
   – any specific consultation processes with tangata whenua, (as required by the RMA)
   – any relevant consultation processes from iwi and hapū planning documents
   – a description of best practice consultation and engagement processes as agreed with specific iwi or hapū
   – a flowchart of the consultation process used or supported
   – a link/reference to external best practice processes documents
   – an explanation of the purpose of any consultation processes
   – reference to how the consultation processes are given effect to.

7. WDC suggests that the wording should be amended as follows:
6. Policy statements and plans must include a Consultation chapter. The items in red text are mandatory. The items in black text are optional:

- any specific consultation processes with tangata whenua, (as required by the RMA)
- any relevant consultation processes from iwi and hapū planning documents
- a description of best practice consultation and engagement processes as agreed with specific iwi or hapū
- a flowchart of the consultation process used or supported
- a link/reference to external best practice processes documents
- an explanation of the purpose of any consultation processes
- reference to how the consultation processes are given effect to.

8. As a general observation, WDC notes that the range of matters that must (?) be included in response to the National Planning Standards will significantly increase the size of District Plans. WDC understood that the intention was to make District Plans more concise and user friendly. The Standards seem cumbersome in places, and require Councils to include a lot of information that doesn't necessarily help users to interpret the Plans.

9. The following statement 'this chapter and any section in this chapter must include objectives, policies and methods including rules (if any)' requires clarification. It appears from the wording that methods must be included, but rules are optional. Perhaps this is because the Standard is accommodating Regional Policy Statements as well as Plans. It is suggested that this is reworded as follows:

   ‘this chapter and any section in this chapter must include objectives and policies, and where relevant, rules and methods’

   It is noted that methods are optional in District Plans and are not widely used because they have no statutory enforceability.

10. WDC seeks clarification on the issue of appeals to matters covered by the National Planning Standards. Are we correct that the RMA disallows appeals where these are related to the National Planning Standards? Or could an appeal be made to the definitions (for example) set out in the Standard? If an appeal could result in a decision that materially affects a definition, what are the consequences for other local authorities?

National Planning Standards

S-DP: Draft District Plan Structure Standard

11. Introduction: In the interests of streamlining planning documents, WDC considers that the ‘Introduction’ and ‘Purpose’ could be amalgamated.

12. How the plan works: ‘Legal effect of rules’ – clarification is required as to whether this section can be removed once a District Plan is fully operative (i.e.: when the legal effect of rules no longer has relevance). WDC considers that once a District Plan is fully operative, the section should be able to be removed without using Schedule 1 of the RMA. Alternatively, it is suggested that this section is not mandatory.
13. Community Values: WDC supports the ‘Protected Trees’ chapter being optional in the community values section.

14. General District Wide Matters: WDC does not support mining activities being managed in the district-wide section. It is considered that these areas and activities are better managed in the Zone chapters. If mining activities are to be set apart, why are other major activities not provided for separately e.g.: a dairy factory section or an intensive farming chapter?

15. General District Wide Matters: WDC would prefer that temporary activities, noise/light, earthworks and signs are addressed in the Zone chapters. In our experience, this is more user-friendly for plan users.

16. Area Specific Matters – ‘future urban zone’: District Plans often need to have future Rural Residential, Open Space or Rural Settlement Zones. These are not necessarily urban in nature. In our view, the title should be amended to ‘future zones’, rather than referred to as ‘urban’.

S-IGP: Draft Introduction and General Provisions Standard

17. Update Tables: The update tables (7, 8 and 9) will become very long and unwieldy over time. WDC’s preference is that this is not mandatory. However, if it is to remain it is suggested that this information is located in a schedule or appendix so as not to clutter the introduction section.

18. How the Policy Statement/Plan Works Chapter (S-HPW) – ‘Legal effects of rules’ section: This will simply repeat what is stated in the RMA, which has little value and is unlikely to be useful to the public using the Plan. Furthermore, once a District Plan is fully operative, it becomes obsolete.

19. Table 11: states ‘Abbreviations must be listed numerically (if relevant) and then alphabetically from A–Z’. Does this mean Councils don’t have to list them numerically if we don’t think listing them numerically is relevant? Or is it meant that:

‘If the plan or policy statement uses abbreviations they must be numbered, and then listed alphabetically from A–Z

WDC also suggests that numbering these entries is not necessary.

20. Te Reo Terms: WDC suggests that Clauses 18 and 19 are merged so it is clear what terms belong in the definitions and what terms belong in the glossary.

21. Te Reo Terms: WDC suggests that numbering these entries is not necessary.

22. Table 13 – National Directions: it is noted that the District Plan will be required to provide a hyperlink to the national direction instrument document. This assumes that the URL addresses on the Ministry for the Environment website will remain static, or is it anticipated that changes to URLs will be able to be undertaken using clause 20A of the RMA?

23. Table 14 – National Policy Statement Table: In WDC’s view, Clause 4 a) and c) require clarification as their intent is not clear. For example, in respect of 4a) if a Council is undertaking a full District Plan Review, would the table state “full District Plan Review”?
24. Table 15 – National Environment Standard Table: WDC suggests that the title ‘details on which rules are more lenient or stringent than the NES’ should be amended to state ‘Are there rules more lenient or stringent than the NES?’ This then makes the answers 8a) ‘none’ and 8b) ‘yes’, make sense.

25. Regulations: Is this section mandatory for District Councils?

**S-TW: Tangata Whenua Structure Standard**

26. Where the Standards require District Plans to list Iwi and Hapu Planning Documents and participation arrangements, co-management agreements, joint management agreements etc.; does this mean that those documents become formally incorporated by reference? (i.e. Part 3 of the RMA: ‘Incorporation of documents by reference in plans and proposed plans’)?

27. Is it intended that ‘iwi and hapū planning documents’ mean Iwi Environmental Management Plans? Does this mean documents pursuant to section 74 (2)(A) of the RMA?

**S-DWM: Draft District Wide Matters Standard**

**Natural Environment Values chapter (S-NEV)**

28. Coastal Environment: WDC considers that an example of how the coastal environment might be identified by a narrative would be of assistance to Councils for drafting purposes.

29. Landscape, landforms and natural character: For clarification purposes, is it intended that natural character of the coastal environment is included in the ‘coastal environment’ chapter or the ‘Landscape, landforms and natural character’ chapter?

**Environmental Risks chapter (S-ER)**

30. Clause 12 states: ‘If matters relating to natural hazards are to be addressed in the plan, they should be located in the Natural hazards section.’ WDC notes that by the use of the term ‘should’, it suggests that including natural hazards in the Natural Hazards section is not mandatory. Is this what is envisaged? The wording of this (if ‘should’ was intended to mean ‘must’) raises potential unintended consequences. For example, if a subdivision rule is a Restricted Discretionary Activity (RDA), and one of the matters of discretion is ‘natural hazards’, would referencing this in the subdivision chapter be acceptable (noting that all RDA matters must be listed in the rule or they cannot be considered). All zones are likely to have rules or RDA criteria that need to include references to natural hazards. For example, in the Residential Zone, setbacks from a flood overlay might be required.

31. WDC is also concerned that the outline and approach proposed for the Natural Hazards section has failed to adequately consider the Coastal hazards and climate change: Guidance for local government 2017. This document proposes an adaptive and multidisciplinary approach, and planning approaches developed under this guideline may be constrained by the requirement to place all hazards provisions in one chapter, and by the limited hazard symbology proposed. It is our concern that the inflexible nature of the Standards might stifle innovation.

32. ‘Hazardous substances’: District Councils have previously been advised by the Ministry for the Environment that hazardous substances no longer need to be
Community Values chapter (S-CV)

33. Archeological sites: WDC suggests clarification is required as to whether these sites are to be addressed in the historic heritage section or in the sites of significance to Māori section. WDC also seeks to understand if these are to be cross referenced to a schedule.

34. Clause 17(d) and 18(d): WDC suggest these require clarification. The wording is complicated. We suggest:

17(d) cross reference to a schedule in the schedule chapter that provides:
• a list of the specific location of historic areas and sites identified as requiring management, with a description of why or what in each area/site requires management.
• a list of the sites subject to a heritage protection order with a description of why or what in each site requires management.

18(d) cross reference to a schedule in the schedules chapter that provides:
• a list of the specific location of areas and sites of significance to Māori identified as requiring management, with a description of why or what in each area/site requires management

35. Clause 19 – S-DP: The Draft District Plan Structure Standard suggests that Protected Trees are optional – it would be helpful to make this clear in Clause 19. Leading on from our general comments, it is essential that the Standards make it very clear what is optional and what is mandatory.

Infrastructure and Energy chapter (S-IE)

36. Clause 23 states: 'If relevant to a local authority, the following matters must be addressed in the Infrastructure and energy chapter unless provided in a special purpose zone, requirement or designation’. Does ‘requirement’ mean ‘notice of requirement’, and if so why is designation (which is also a notice of requirement) listed separately?

37. Clause 23: WDC is unsure which ‘noise related metrics’ are anticipated in this chapter? Does this conflict with the General District-Wide Matters chapter (Clause 31), which requires all noise matters to locate in the General District-Wide Matters chapter?

General District-Wide matters chapter (S-GDW)

38. WDC does not consider it appropriate for temporary activity provisions to be contained in this chapter. For ease of use for plan users, these provisions should be included in the zones to which they relate.

39. WDC does not consider it appropriate for noise and light provisions to be contained in this chapter. For ease of use for plan users, noise provisions should be included in the zones to which they relate.

40. WDC does not consider it appropriate for earthwork provisions to be contained in this chapter. For ease of use for plan users, these provisions should be included in the zones to which they relate.
41. WDC does not consider it appropriate for signs provisions to be contained in this chapter. For ease of use for plan users, these provisions should be included in the zones to which they relate.

42. Mining activities – the S-DP: Draft District Plan Structure Standard requires mining activities to be managed in the district-wide section. There is no provision made for this in Standard S-GDW. To reiterate, WDC considers that mining activities are better managed in the zone chapters.

**S-ASM: Draft Area Specific Matters Standard**

43. Rural Zone – the purpose of the zone: WDC agrees that the purpose of the Rural Zone is to provide primarily for primary production activities. WDC considers the zone should also provide for tourism activities, particularly where these rely on a rural environment or setting.

44. Rural Settlement Zone: WDC supports the approach and mix of activities provided for in this zone.

45. Future Urban Zone: District Plans often need to have future Rural Residential, Open Space or Rural Settlement Zones. These are not necessarily urban in nature. In our view, the title should be amended to ‘future zones’, rather than referred to as urban.

46. Precincts: Standard S-DP requires standalone sections for Precincts and Development Areas. The mandatory directions in S-ASM refer to modifying the policy approach of the underlying zone(s). Should the Precincts sit in the zones they relate to? Would these not be used in the residential zone to manage character or the rural zone to manage a site of rural industry? WDC considers that Development Areas might sit across different zones but Precincts are generally used within a zone.

47. Development Areas: WDC observes that it is difficult to remove text from plans without plan changes as required by Clause 17. WDC is concerned by the approach of this chapter – WDC has concept plans and structure plans that apply to whole towns. It may be a terminology issue but it would be useful to better understand the approach suggested in Clauses 13-17.

48. Designations: WDC seeks clarification on the difference between a unique identifier and a map identifier.

49. Designations: WDC considers that including the designation conditions in Table 16 will make this chapter unwieldy, particularly as complicated designations can have 30+ conditions. WDC therefore submits that conditions should not be included in the District Plan. Additionally, Clause 21 states that the designation conditions must be included as a schedule. WDC suggests that should the inclusion of conditions remain mandatory, this should be clarified. On balance, WDC feels that the designations in their entirety, should be in a schedule.
S-SAM: Draft Schedules, Appendices and Maps Standard

50. Table 17: WDC considers that the columns in this table are too limiting and the information needs to be unique to the schedule it is representing. For example, in a heritage schedule, Councils would need to add the HNZ category, and perhaps a description of the building and maybe a District Plan Category to cross reference to the rules. For SNAs, the significance ranking is the primary reason for listing them e.g.: is it international, national, regional or local? Also the protection status of the SNA is crucial. Despite the move to E-Plans, a map number is also useful in these tables. See also paragraph 49 above – the designations conditions schedule cannot follow the format proposed in Table 17.

51. Appendix: The requirement to only include technical and/or descriptive specifications required to be complied with to meet a rule requirement means that voluntary guidelines cannot be included. Is it the intention of the Standard to remove the ability for Councils to add guidance colour charts for heritage buildings and landscapes, design guidelines for towns and precincts, guidelines for property design to improve driveway safety etc? WDC strongly submits that this flexibility should be maintained as these guidelines greatly assist plan users.

F-1: Draft Electronic Accessibility and Functionality Standard

52. Table 18 (7): In respect of the requirement to provide a ‘note’ within any district plan rule (and hyperlink to relevant plan) that clarifies an activity may also require consent from another plan. WDC strongly opposes this proposal. The potential for Districts and Regions to make errors interpreting each other’s plans and to fail to keep up with changes to these documents is likely to cause significant issues and overly complicate matters. In addition, this would create significant and unnecessary administrative burden for little gain.

53. Table 18 (11 and 12): WDC is unsure what will be achieved by requiring a copy of all previous plans under the RMA both at the time they first became operative and the final version before being superseded by the replacement plan on the local authority website; as well as providing all versions of the current plan since first becoming operative on the local authority website. It is our view that it is a pointless exercise to keep historical versions or superseded versions once a plan is operative. Copies of historic plans can be made available on request, and this can be noted on Council websites. WDC therefore strongly opposes this requirement. In our view this will simply confuse people, and introduce risk (and cost) should people accidentally use and refer to an incorrect version of a district plan.

54. Table 18 (13 and 14): WDC is unsure what will be achieved by requiring this digital data to be uploaded. It is unclear what this data will be used for and how it will be managed and kept up to date. WDC opposes this provision.

55. Table 19 and 20, E-Plan standards, accessibility and functionality: WDC considers that if the government wishes to achieve consistency across the whole country, then an E-plan package should be developed or commissioned by the Ministry so that all Councils use the same platform.
F-2: Draft Mapping Standard

56. Table 21 Zone colour palette table: WDC opposes the colour of the Rural Zone. It is our experience that the Rural Zone is where the majority of the overlays sit. We consider that the Rural Zone should be left white so that all overlays and features are easy to read and identify.

57. Table 21 Zone colour palette table: WDC opposes the colour of the Rural Residential and the Rural Settlement Zones. The colours are too similar and will likely be adjacent to one another in some areas of our District.

58. Table 22 Symbology table: WDC opposes the Heritage item symbol and requests it is amended to reflect Heritage items in the New Zealand context.

59. Table 22 Symbology table: WDC notes that the Standard only allows for point features in terms of sites of significance to Māori. WDC requests the ability to use a polygon for some sites rather than a point, as not all sites will logically be displayed as points.

60. Table 22 Symbology table: WDC notes that there is no symbology for gas pipelines. WDC understands that we may add additional symbols but this is a matter that could easily be consistent across the country.

61. Table 22 Symbology table: WDC notes that there is no symbology for archaeological sites. WDC understands that we may add additional symbols but this is a matter that could easily be consistent across the country.

62. Table 22 Symbology table: WDC opposes the Hazard notation – there is only one symbol for Coastal Hazard, Flood Hazard, Volcanic and Fault Hazards. This will be very complicated where there are overlapping hazards (which often occurs). WDC is also concerned that the single notation approach has failed to adequately consider the Coastal hazards and climate change: Guidance for local government 2017. This document proposes an adaptive and multidisciplinary approach, and planning approaches to address it may be constrained by the limited hazard symbology proposed.

63. Table 22 Symbology table: WDC notes that there is no hazard symbology for unstable land.

64. Table 22 Symbology table: WDC notes that the hazard notations do not allow for different hazard risks from a single hazard e.g.: Coastal Hazard A and B, Flooding Hazard A and B, Land Instability Hazard A and B. These areas have to be mapped showing the different areas so that Councils can manage the different risks and effects appropriately. WDC submits that these different hazard risks must be taken into account.

65. Table 22 Symbology table: WDC notes that the statutory acknowledgement polygon areas are too similar to the heritage polygon areas.

66. Table 22 Symbology table: WDC opposes the coastal environment symbology. The Waikato Regional Policy Statement requires a line not an area of coverage.

67. Table 22 Symbology table: WDC notes that there are no symbols for SNAs and Outstanding Natural Features and Landscapes (ONFLs); there is no notation for a
development area or a precinct; there is no notation for a designation (NoR) stage; there is no notation for District and Regional Boundaries; Urban limits; Strategic roads; formed or indicative roads; service lanes; railway line; esplanade reserves / strip requirements etc. WDC understands that we may add additional symbols but these are matters that could easily be consistent across the country.

68. WDC requests that the point symbols be provided in .svg format.

**F-5: Draft Chapter Form Standard**

69. Clauses 7-10: WDC opposes the separation of objectives and policies. WDC considers that it is a more coherent and disciplined planning practice to group the objective directly with the subservient policies to ensure a robust relationship exists within the policy framework.

70. Clauses 13 and 14: WDC opposes locating the anticipated environmental results and monitoring text within the chapters. WDC considers that these headings do not assist users in understanding the plan, and in fact could cause confusion. These matters are a Council function and accordingly have a place in the appendices rather than in the day to day functioning of a Plan.

71. Table 26 Rule Table: Councils would benefit from an example of a zone formatted in this manner.

**F-6: Draft Status of Rules and Other Text and Numbering Form Standard**

72. Numbering form: WDC observes that the numbering form is very complicated and should be simplified.

73. Table 28: WDC notes that there are no abbreviations in the ‘Sections’ part of Table 28 (District Plans) for the Part 2 – Tangata Whenua provisions (Recognition of iwi and hapū, Tangata whenua – local authority relationships, Iwi and hapū planning documents and Consultation). There is also no FMIHI– for Foreword/mihi for District Plans.

**CM-1: Draft Definitions standard**

WDC makes the following comments:

74. Accessory buildings: Are garages and carports considered to be accessory buildings? Most district plans define garages and carports as accessory buildings.

75. Dust: Amend the definition to add ‘rock’ to the list.

76. Home business: Consider excluding nuisance activities from the home business definition eg: panel beating, spray painting, motor vehicle repair or wrecking, fibre glassing activities, sheet metal work, wrought iron work, activities involved scrap metal or demolition materials or hazardous waste substances, activities involving processing fish or meat, boarding and/or breeding kennels or catteries, or funeral parlours etc. These activities generally create nuisance issues in our experience.

77. Industrial activity: Amend the definition to exclude mineral extraction activities/mining.
78. Intensive primary production: Amend the definition to include glasshouses/greenhouses.

79. Outdoor living space: amend as follows: “means an area of open space for the exclusive use of the occupants of the residential unit or units to which the space is allocated. This excludes outdoor service and storage areas, driveways, manoeuvring areas and parking spaces”.

80. Primary production: Amend the definition to exclude 'Intensive primary production'. Is it envisaged that bee keeping will fall under this definition?

Thank you for the opportunity to make this submission. For enquiries regarding this submission please contact:

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