

Draft first set of National Planning Standards

SUBMISSION FORM

The Government is seeking views on the draft first set of National Planning Standards.

For more information about the Government's proposals read our National planning standards consultation document available at <http://www.mfe.govt.nz/consultation/draft-national-planning-standards>.

Submissions close at 5:00 pm on Friday 17 August 2018.

Making a submission

You can provide feedback in three ways:

1. Use the online submission form available at <http://www.mfe.govt.nz/consultation/draft-national-planning-standards>. This is our preferred way to receive submissions.
2. Complete this submission form and send it to us by email or post.
3. Write your own submission and send it to us by email or post.

Publishing and releasing submissions

All or part of any written submission (including names of submitters) will be published on the Ministry for the Environment's website www.mfe.govt.nz. Unless you clearly specify otherwise in your submission, we will consider that you have consented both your submission and your name being posted to the Ministry's website.

Contents of submissions may be released to the public under the Official Information Act 1982 following requests to the Ministry for the Environment. Please advise if you have any objection to the release of any information contained in a submission and, in particular, which part(s) you consider should be withheld, together with the reason(s) for withholding the information. We will take into account all such objections when responding to requests for copies of, and information on, submissions under the Official Information Act.

The Privacy Act 1993 applies certain principles about the collection, use and disclosure of information about individuals by various agencies, including the Ministry for the Environment. It governs access by individuals to information about themselves held by agencies. Any personal information you supply to the Ministry in the course of making a submission will be used by the Ministry only in relation to the matters covered by this consultation. Please clearly indicate in your submission if you do not wish your name to be included in any summary of submissions that the Ministry may publish.

Submission form

The questions below are a guide only and all comments are welcome. You do not have to answer all of the questions. To ensure your point of view is clearly understood, please explain your rationale and provide supporting evidence where appropriate. The structure of this form is in line with the draft first set of national planning standards as shown in the overview section tables 1 and 2.

Contact information

Name*	Jackie St John
Organisation (if applicable)	Oceana Gold (New Zealand) Limited
Address	[REDACTED]
Phone	[REDACTED]
Email*	[REDACTED]

Submitter type*	Individual	<input type="checkbox"/>
	NGO	<input type="checkbox"/>
	Business / Industry	<input checked="" type="checkbox"/>
	Local government	<input type="checkbox"/>
	Central government	<input type="checkbox"/>
	Iwi	<input type="checkbox"/>
	Other (please specify)	<input type="checkbox"/>

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* Questions marked with an asterisk are mandatory.

Draft first set of National Planning Standards

1. Do you support the draft first set of National Planning Standards?

- Yes
- No

Oceana Gold (New Zealand) Limited (OGNZL) understands that a first set of national planning standards must be developed and gazetted by April 2019. Most of the matters contained in the draft first set of standards appear reasonable and sensible, and when given effect to through policy statements and plans around the country will assist plan users like OGNZL to navigate the instruments.

There are however two principal areas relating specifically to extractive primary industry in which OGNZL submits the draft needs to be amended in order to avoid confusion or unintended outcomes. Those areas are:

- the importance of providing for special purpose extractive zones to enable mineral development and restrict incompatible land use activities (and related to that the need to address the draft standard's current requirement that mining is to be addressed as a district-wide rather than location-specific matter);
- some overlaps, inconsistencies and omissions in the draft definitions standard, particularly in relation to "mining", "primary production" and "quarry".

OGNZL is New Zealand's largest gold mining company, producing the vast majority of New Zealand's gold exports from its two operating mines at Macraes (principally in the Waitaki District) and Waihi (in the Hauraki District). Each of the Macraes and Waihi mines deliver significant social and economic benefits to the districts within which they operate (as demonstrated in an independent report "OceanaGold's contribution to New Zealand" KPMG, October 2017), and they do so with the enabling assistance of special purpose extractive (mining) zones in the relevant district plans (Waitaki and Hauraki), as well as with the benefit of suites of regional and district resource consents. As with the majority of larger scale extractive land uses throughout the country, the Macraes mine is in a rural environment. The Waihi mine is in an urban environment. OGNZL therefore has considerable experience in dealing with the planning issues that arise in relation to extractive industry in both rural and urban contexts.

From OGNZL's reading of the documents that have been published by the Ministry for the Environment to support the draft standards, it appears that there has not been any direct consultation with the extractives area within the primary sector. Reference is made to consultation with a Rural Sector Interest Group in relation to Spatial Planning Tools (SPTs) and Zones which does not appear to have included representatives from the extractives sector. Reference is made to consultation with industry groups including infrastructure providers, rural sector representatives, and the NZ Airports Association in relation to Definitions, but as far as OGNZL is aware the consultation did not include representatives from the extractives sector as part of either the infrastructure providers or rural sector representative groups. It also appears that the various pieces of research commissioned by the Ministry (Boffa Miskell; PLANZ and 4Sight) to analyse the way district plans use different zone types and other spatial planning tools have not considered the Waitaki and Hauraki District Plans.

OGNZL provides specific comment on aspects of the draft standards in the form requested by the submission template, but given the apparent lack of consultation with our sector to date we would welcome the opportunity to meet with officials charged with the ongoing development of the first set of national planning standards to further discuss the matters of concern.

2. S-RPS: Regional policy statement structure standard

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- a. Parts 3 and 4 – Core policy statement provisions

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- b. Part 5 – Evaluation and Monitoring

[Click here to enter text.](#)

3. S-RP: Regional plan structure standard

[Click here to enter text.](#)

- a. Parts 3, 4 and 5 – Core plan provisions

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- b. Part 6 – Evaluation and Monitoring

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4. S-DP: District plan structure standard

Part 4 – District-Wide Matters makes it mandatory for district plans to include a section on “mining” in a general district-wide section of the plan if this is an activity that needs to be managed by a local authority. It is unclear why mining is included as a general district-wide matter as it does not sit well with the other matters included under this heading (temporary activities, noise and light, earthworks, signs, and activities on the surface of water). Those other matters can all be considered as generic effects of land use that will have application district-wide, whereas mining is a specific land use activity that may give rise to some of the effects covered by specific and general district-wide matters. By way of contrast it is noted that other specific activities that may or may not be addressed by special purpose zoning such as ports, stadiums and education areas are not also required to be addressed as general district-wide matters. There is therefore an apparent inconsistency in the treatment of mining as a land use activity compared with all other land uses. Why is this? The land use effects of mining are not unique and are in common with many other land uses. Questions of the scale and significance of those effects will vary from place to place and from one proposal to another, just as is the case with other types of land use. There is no sound basis for singling out mining in district wide matters. Where mining constitutes an especially significant activity in a district it is able to be enabled (and potentially conflicting land uses controlled) via zoning.

OGNZL suggests that further consideration needs to be given to whether ‘mining’ fits appropriately in this section of the standard.

Part 5 – Area-Specific Matters includes Special Purpose Zones, listing eight specific zones that are available for a local authority to choose (such as Port, Hospital and Stadium), and an ability to have zones for additional special purposes.

In the National Planning Consultation Document at page 18 it is noted that “Councils can create other ‘special purpose’ zones, but only in unique circumstances for specific one-off purposes that do not overlap with the purposes of the other zones, for example an ‘Open-cast Mining Zone’.”

As discussed later in this submission in connection with the Definitions Standard, there is an overlap between the definitions of ‘mining’ and ‘quarry’ that needs to be reconciled. OGNZL submits that it would be more helpful to include in the list of Special Purpose Zones a ‘Mineral extraction’ zone. This will make it clear that, as is presently the case in the Waitaki and Hauraki

districts, inclusion of special purpose zoning to enable mineral extraction is appropriate to promote sustainable management.

By not explicitly listing 'Mineral extraction zone' as a permissible special purpose zone a local authority will have to include such a zone as an additional special purpose zone, and this is subject to an additional and unclear test contained in Direction 7 of the Area Specific Matters Standard (S-ASM):

"An additional special purpose zone must only be created when the proposed land use activities and anticipated development within the defined area:

- a. are significant to the district or region
- b. could not be enabled by any other zone
- c. could not be enabled by the introduction of an overlay, precinct, designation, development area, or specific control."

Given that such zones already exist in various plans (albeit not plans that appear to have been analysed for the purpose of developing the list of allowable zones in the draft Standards) OGNZL is not aware of any reason why a decision to include a mineral extraction zone in a plan should be subject to a different test than a decision to include a port, hospital or stadium zone.

OGNZL understands that there may be a broad concern that if a zone is listed in the Standard that may set up an expectation that it has to be used. OGNZL does not consider that listing 'Mineral extraction zone' as a permissible special purpose zone will result in any districts that do not need to manage mineral extraction activity being compelled to have such a zone in their plan.

5. S-CP: Combined plan structure standard

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6. S-IGP: Introduction and general provisions standard – Part 1 of all plans and policy statements

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a. Introduction chapter

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b. How plan works chapter

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c. Interpretation

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d. Plan integration

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e. Formation of standards with tangata whenua

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f. National direction

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7. S-TW: Tangata whenua structure standard – Part 2 of all plans and policy statements

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a. Recognition of iwi/hapū chapter

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b. Tangata whenua local-authority relationships chapter

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c. Iwi and hapū planning documents chapter

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d. Consultation chapter

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e. Use of te reo Māori

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8. S-SD: Strategic direction structure standard – Part 3 of District plans

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9. S-DWM: District wide matters standard – Part 4 of District plans

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a. Natural Environment Values Chapter (S-NEV)

There is a reference in Direction 6c to safeguarding the life supporting capacity of 'these systems' but there is no indication what systems are being referred to. The same comment applies to Direction 7b.

Direction 7a refers to "landscapes, landforms and natural character that are outstanding, significant or valued by the community". 'Landforms' is not defined in the Standard and is not a term used in the RMA. The phrase "features and landscapes" is used in Directive 7c, suggesting maybe 'natural features' as is referenced in s6(b) RMA is what is meant by 'landform'. Consideration should be given to providing clarity, for instance by changing 'landform' to 'natural features' or by defining 'landform' if it means something other than 'natural features'. 'Significant' and 'valued by the community' are not terms ordinarily associated with landscapes or natural character – please consider whether use of this terminology aligns with the RMA.

Local authorities must implement the Definitions Standard therefore we submit the defined terms should reflect the way that components of the environment are described in Part 2 of the RMA because the meanings of those terms are well understood and have a body of jurisprudence behind them. This approach should be taken in preference to using the more generic but less certain terms set out in s31 RMA to describe territorial authority functions – the extent of these functions is not as well understood.

Direction 9 refers to "biodiversity" which is not a term used in the RMA. Consider clarifying that "biodiversity" means the same as 'biological diversity' as defined in the RMA.

b. Environmental Risks Chapter

'Hazardous substances and contaminated sites' are listed as Environmental Risks. The Resource Legislation Amendment Act 2017 removed references to "the prevention or mitigation of adverse effects from the storage, use, disposal or transportation of hazardous substances" as a function of territorial authorities under s31 of the RMA. These functions are addressed by other regulators under other legislation and duplication of this responsibility is unhelpful. It seems inconsistent that this responsibility should be re-introduced via the Standard. We submit that 'Hazardous substances and contaminated sites' should be removed.

c. Community Values Chapter

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d. Infrastructure and Energy Chapter

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e. Subdivisions Chapter

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f. General District Wide Matters Chapter

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10. S-ASM: Draft area specific matters standard – Part 5 of District plans, Part 6 – Combined plans

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a. Zone framework (individual and range)

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b. Purpose statements

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c. Additional special purpose zones and criteria

Zone Chapters (S-Zones) Direction 7 requires that additional special purpose zones can only be included in a plan when the land use is significant to the district or region, and it cannot be enabled by any other zone or spatial planning tool.

OGNZL submits that this is not an appropriate test for the following reasons:

- an activity can always be enabled to an extent in a zone that is primarily directed toward enabling other land uses by using various SPT's and rules, but the question is whether in a section 32 sense a special purpose zone to enable the activity is more appropriate. The test in Direction 7 appears inconsistent with the requirements of section 32 and could lead to situations where less appropriate planning techniques are employed.

- there is no apparent justification for why additional special purpose zones should have to meet the test in Direction 7 when the listed special purpose zones do not. In both cases OGNZL submits the test should be whether the proposed zoning is the

most appropriate way, in terms of efficiency and effectiveness, to give effect to the plan's relevant objectives and policies.

- the test in Direction 7 is vague and uncertain. What exactly does 'enable' mean in this context? How is significance to the region or district determined?

-it is not clear if one or all criteria in Direction 7a., b., and c. must be met to qualify for a special purpose zone. Clarification is desirable.

d. Precincts chapter

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e. Development areas chapter

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f. Designations chapter

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11. S-SAM: Schedules, appendices and maps standard – Part 6 – Regional policy statements, Part 7 – Regional plans, Part 6 – District plans, Part 8 – Combined plans

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12. F-1: Electronic accessibility and functionality standard

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a. Standard baseline requirements

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b. Level 5 requirements

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13. F-2: Mapping standard

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a. Zone colour palette

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b. Symbology

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14. F-3: Spatial planning tools (Regional) standard

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a. **Range of tools**

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b. **Zone**

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c. **Overlay**

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d. **Specific control**

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e. **FMU**

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f. **Airshed**

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g. **Area**

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15. F-4: Spatial planning tools (District) standard

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a. **Range of tools**

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b. **Zone**

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c. **Overlay**

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d. **Precinct**

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e. **Specific control**

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f. **Development areas**

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g. Designation

16. F-5: Chapter Form standard

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a. Chapter form

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b. Rules

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c. Rule tables

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17. F-6: Status of rules and other text and numbering form standard

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a. Status of rules and other text

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b. Numbering

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18. CM-1: Definitions standard

a. Individual definition

There is some further clarity needed around the definitions of 'mining' and 'quarry'.

The definition of 'mining' is the same as that contained in the Crown Minerals Act. The definition excludes prospecting and exploration, which each have defined meanings in the CMA but are not defined in the draft Definitions standard. What is the purpose of defining mining in terms of the CMA definition while not also defining prospecting and exploration? Typically, these latter activities have minor or less than minor adverse effects and should be enabled in most areas within districts. The actual extraction and processing of minerals (i.e. mining or quarrying) is more likely to be associated with effects that require management, thereby lending this activity to enabling zoning and/or controls on adverse effects while at the same time giving rise to the need to protect extractive activities from reverse sensitivity issues.

It would be helpful in avoiding confusion if it was clear in the definition that 'mining' includes the processing of minerals and the storage or disposal of overburden and waste material.

The term 'quarry' is defined, but not otherwise referred to in the draft Standards so it is unclear to OGNZL what purpose the drafters intend that the definition should

serve. As defined the term 'quarry' covers all land where any 'mining' activities occur, other than when the 'mining' is in relation to liquid or gaseous minerals (the definition of 'quarry' refers to solid natural substances). The planning justification for the distinction between solid and other state minerals is unclear.

As with the definition of mining it would be helpful, assuming the definition of 'quarry' is retained, to make it clear that the term also includes the storage and disposal of overburden and waste material.

Colloquially, 'quarrying' is generally understood as the mining and processing of rocks, stones and gravels whereas the more generic term 'mining' refers to the same activity but relating to other minerals. The important point to understand is that the environmental effects of a quarry and a mine (assuming for example the former relates to the extraction of aggregate and the latter to extraction of another mineral such as gold) may be very similar, and both are best seen as examples of mineral extraction.

OGNZL submits that in the absence of some planning justification (and none is provided in the documents that support the draft standards) the definition of 'quarry' should be removed and replaced with an expansion of the definition of 'mining' that clarifies that a 'mine' is an area of land where mining occurs. As discussed above, the definition needs to encompass extraction, processing and disposal of overburden and waste material.

The definition of 'primary production' is problematic. Mineral extraction is excluded from the definition even though minerals are a primary product and mining is clearly part of the primary sector (see for example the analysis of the primary sector's contribution to the New Zealand economy as reported on The Treasury website [<https://treasury.govt.nz/publications/wp/contribution-primary-sector-new-zealands-economic-growth-pp-05-04-html#child-15>]). No adequate justification is provided for this exclusion. The reference to the RMA definition of 'production land' in the Evaluation Report Proposed National Planning Standards – Definitions [at page 116] and the statement that the definition of 'primary production' attempts to 'link' to the RMA definition of 'production land' is unhelpful. As far as OGNZL is aware the only reference to production land in the RMA is found in the section 2 definition of 'industrial and trade premises'. That definition excludes production land, with the consequence that the section 15(1)(c) and (d) restrictions on the discharge of contaminants do not apply to production land. This provides no proper basis for excluding mineral extraction from the definition of primary production.

While the Standards do not provide any indication of the purpose of defining 'primary production' OGNZL presumes it is intended to be a convenient shorthand way of describing activities that may typically be provided for or enabled in rural areas. On the basis that this is correct, OGNZL submits it is important that the definition is inclusive of all primary production activities, including those relating to mineral extraction. Primary production, including relating to minerals, is important to the social and economic wellbeing of New Zealand's people and communities. Most primary production, including mineral extraction, occurs in rural areas. There is no planning justification for excluding mineral extraction from the definition.

If the exclusion of mineral extraction activities from the definition of primary

production is being made on the basis that these activities necessarily have different and significantly more adverse effects on the environment than other forms of primary production OGNZL submits that this is untrue. While mineral extraction can and does have effects on other values such as landscape and biodiversity, those effects are typically much less when measured at a district or regional scale than the effects of other primary production activities such as agricultural, pastoral or forestry activities.

The recent Christchurch District Plan Review provides an example of mineral extraction (in this case quarrying, which is the primary extractive activity in the city) being included as a rural productive activity. A major part of the Christchurch District Plan Review focused on the definition of 'rural productive activities' and the role of quarrying within this definition. The outcome was that quarrying was considered appropriate to include within the definition of 'rural productive activities' ("rural productive activities means farming, plantation forestry, intensive farming and quarrying activities") and is a legitimate activity within the Rural Zones. The Standards definition of 'primary production' captures all elements of the Christchurch District Plan Review 'rural productive activities' definition except quarrying. The list is exhaustive therefore there is no opportunity to argue that quarrying is 'primary production'. As the definition of 'rural industry' in the Standards only includes industrial activities where the principal function supports 'primary production' it is not clear where quarrying would fit under the planning framework.

Consideration should be given to extending the definition of 'Industrial activity' to include reference to 'industrial or trade premises' (and consequentially 'industrial or trade process') as defined in s2RMA. This will ensure that the full variety of industrial activity is encompassed by the Definition standard.

b. Additional definitions

Consideration should be given to providing Crown Minerals Act definitions of 'prospecting' and 'exploration'.

19. CM-2: Draft noise and vibration metrics standard

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a. Technical support

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20. Implementation

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a. ePlanning implementation

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b. Timing

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c. **Support**

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d. **District plan structure guidance**

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e. **Regional policy statement and regional plan structure guidance**

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f. **District plan spatial planning tools and zone framework guidance**

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g. **Regional plan and policy statement spatial tools guidance**

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h. **Chapter form and status of rule and other text numbering guidance**

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i. **Additional guidance materials required**

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21. Future content for standards

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a. **Utilities provisions**

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Other comments

22. Do you have any further comments you wish to make about the Government's proposal?

A significant concern is that the draft Standards appear to have been developed without adequate consultation with the extractives part of the primary production sector, and without considering the existing district plans that make use of zoning for extractive industry. The result is that the draft Standards make inadequate provision for the needs of extractive industry.

OGNZL welcomes the opportunity to provide this submission and would welcome the opportunity to engage further with Officials in relation to the way the Standards provide for extractive industry.

Releasing submissions

Your submission may be released under the Official Information Act 1982 and will be published on the Ministry's website. Unless you clearly specify otherwise in your submission, we will consider that you have consented to both your submission and your name being posted on the Ministry's website.

Please check this box if you would like your name, address, and any personal details withheld.

Note that the name, email, and submitter type fields are mandatory for you to make your submission.

When your submission is complete

If you are emailing your submission, send it to PlanningStandards@mfe.govt.nz as a:

- PDF
- Microsoft Word document.

If you are posting your submission, send it to National Planning Standards, Ministry for the Environment, PO Box 10362, Wellington 6143.

Submissions close at 5:00 pm on Friday 17 August 2018.