To the Ministry for the Environment

In the Matter of the

Draft National Planning Standards

Submission by

Waimakariri District Council

16 August 2018

Jim Palmer, Chief Executive
1 Context

1.1 The Waimakariri District Council (the Council) has appreciated the opportunity provided by the Ministry for the Environment (the Ministry) to be a ‘pilot council’ in testing and providing feedback on the National Planning Standards (the Planning Standards) as they were drafted.

1.2 The Council welcomes the opportunity for further comment by way of a formal submission on the draft Planning Standards following their formal release by the Minister for the Environment on 6 June 2018 for public consultation. Please note the Council is also a contributor to the Canterbury Mayoral Forum submission, prepared jointly by several Canterbury Councils.

2. Submission

Overview

2.1 The Council broadly supports the concept of the Planning Standards, in that they have the potential to provide clarity and guidance to councils regarding what should be included, the ease of use, and consistency amongst plans and policy statements. The Council also supports the Planning Standards chapter template as it very closely accords with what the Council has already developed and is using in its current District Plan Review.

2.2 The Council’s submission mainly concerns a need for greater direction and guidance by the Ministry in the detail of how the Planning Standards should be interpreted and implemented, related to the context of Waimakariri District and the District Plan Review which will need to factor in the Planning Standards upon gazettal and ahead of Plan notification.

Circumstances for Notification/Non-notification

2.3 The Ministry’s Consultation document (p13) on the Planning Standards outlines circumstances when a formal consultation process (or public notification) under the First Schedule of the Resource Management Act 1991 (RMA) cannot be used and other circumstances when this must be used. However, it is considered the circumstances as to when notification must or cannot occur requires clarification. Many councils would find the prospect of not having to go through a public notification, submission and hearing process very attractive, however if there is any doubt many will opt to notify to make sure they are covered legally which may not give effect to what the Ministry intends and may contravene the Planning Standards.

Zones

2.4 Can additional zones be included, and do the zones used have to have exactly the same names as those in the draft Planning Standards? The purpose descriptions of the zones are overly brief and the differences in some cases are subtle, and consequently do not provide sufficient guidance on which zones should be used in what circumstances. The suite of zones as proposed in the Planning Standards may not satisfy many local concerns. The purpose descriptions of each zone need expanding to better distinguish between zones.
2.5 How are roads meant to be identified spatially? Earlier drafts of the Planning Standards contained reference to a Transport Zone yet this no longer appears in the current draft. Questions that this raises include why was a Transport Zone apparently discontinued? Can roads be zoned Special Purpose (Road)? Or shown by way of an overlay? Greater direction in this respect would be appreciated, as Council is currently considering the suite of options available to it as part of the District Plan Review. Roads traverse districts and regions. Different approaches to the treatment of roads across districts and regions may undermine the standardising intent of the Planning Standards.

Relationship between Zones, Precincts and Overlays

2.6 The relationship and differences between zones, precincts and overlays is not well explained, and the circumstances when precincts and overlays may or should be used and what these can include is unclear. The Planning Standards attempt to explain this, along with many other parts, with explanations that are overly brief. A fuller explanation is required to better understand when and how these aspects of the Planning Standards should be implemented, noting that the limitation on zones may mean greater use of the other options, with potential plan interpretation and complexity outcomes.

2.7 The Draft Area Specific Matters Standard provides for the use of ‘precincts’ as a planning tool where two or more additional provisions apply to a specific area and which modifies the approach to the underlying zoning. Precincts are shown in Table 5 of the Draft District Plan Structure Standard as a different chapter. However, the Draft Area Specific Standard states that precincts must be provided as a different section of the chapter. Accordingly, the Planning Standards contains contradictions as to whether precincts should be a separate chapter or a different section within the underlying zone chapter. It is understood that ‘precincts’ are a subset of a zone. If so, it is considered that ‘precincts’ should not need a separate chapter from the underlying zone, but only a separate section in the underlying zone chapter. To address this issue, amendment of the Draft District Plan Structure Standard is sought to make it clear that ‘precincts’ are a subset of the underlying zone chapter.

Sustainability

2.8 The RMA is about sustainable management, yet the focus of district plans in particular to date has essentially been forms of development control that are quite traditional and some might argue have failed the primary purpose of the RMA in this respect. The Planning Standards could be an appropriate time and method and opportunity to mandate greater direction as to how plans and policy statements should be working to achieve significantly more in this space. Yet the Planning Standards contains nothing that specifically relates to sustainability beyond the norm. It may be that the Ministry intends this to be addressed in subsequent, more content-oriented editions of the Planning Standards, or in other legislative amendments. Greater direction as to how plans and policy statements should be working to achieve significantly more in this space would be appreciated.

Mapping Standard

2.9 The Draft Mapping Standard provides a zone colour palette to be used for all planning maps. Some of the colours provided are too similar to one another and
therefore a revised colour palette is sought that includes colours that are more distinct from one another.

2.10 The Draft Mapping Standard provides only one symbol for Special Purpose zones yet 7 Special Purpose zones are mandated with the ability to add more – how would each different Special Purpose zone be distinguished from the other on maps – by text? This requires clarification. Alternatively, the ability to use different symbols for different Special Purpose zones is requested.

2.11 The Draft Mapping Standard for precincts is not specified. It is understood a precinct is a subset of a zone. That being the case, how is a precinct meant to be illustrated and differentiated from the ‘parent’ zone – by text? This requires clarification.

2.12 Table 22 provides the same symbol for coastal, flood, volcanic and fault hazards. We are concerned that this provides no differentiation between these natural hazards and makes interpretation and understanding of the plans and understanding of the extent and nature of natural hazards more difficult, especially if these hazards existed in the same area. Providing a text note is not considered sufficient enough to distinguish the different hazards especially on large scaled maps and would also be problematic when more than one hazard is present. An amendment of Table 22 is therefore sought to provide the option for different symbols for different natural hazards.

2.13 The symbol for ‘sites of significance to Maori’ says ‘Council to consult with tangata whenua’. Does that mean councils should consult with tangata whenua about whether/how these sites should be identified in a plan or just the symbol itself? It is assumed the latter, however clarification would be appreciated.

Designations

2.14 Many designation schedules in district plans contain significantly more information than the schedule prescribed by the Planning Standards. Further sections could be included to help aid interpretation e.g. rollover with/without modification; if with, what modifications; or is the designation a new requirement.

Transport

2.15 The Draft District Plan Structure Standard does not include a Transport section. The proposed Infrastructure and Energy section is to contain provisions on state highways and local roads. However, there are many other aspects of transport infrastructure not directly referred to which are typically provided outside transport corridors e.g. access, parking, loading, cycling and walking. Clarification/confirmation that all transport matters are to be included in the Infrastructure and Energy section would be appreciated.

Special Purpose Zones – Airport and Hospital

2.16 If a district has an Airport or Hospitals is it mandatory for these to be zoned Special Purpose? Or can these be provided for by other means, such as designation, or through the provisions of other zones? If these are provided for by designation, should the underlying zones be Special Purpose? Or is it up to each district? More direction would be appreciated.
Quarrying and Gravel Extraction

2.17 These are significant issues in many rural districts. These can include excavation, processing (including crushing), and movement of material on site, stockpiling, the removal of gravel or rock by truck, and the rehabilitation of the site. It is unclear whether provisions for these should be included in the District-wide ‘Earthworks’ section (where they might have traditionally appeared) or in the District-wide ‘Mining’ section? Could these be provided for in a ‘Rural Production’ zone? Or is it up to a Council to decide? It is requested the Planning Standards provide better guidance and direction in this matter.

Landforms

2.18 The Planning Standards include the term ‘landforms’ as a District-wide section heading along with the terms ‘landscape’ and ‘natural character’. The concern is that ‘landform’ is not a term referred to in Section 6 of the RMA and therefore its relevance is questionable as ‘landform’ is not a matter of national significance. Section 6 of the RMA does provide for the protection of outstanding natural features and landscapes as a matter of national importance, but not landforms. It is suggested either use of the term ‘landforms’ be deleted, or clarification or justification be provided for its inclusion.

Rural Residential

2.19 The sustainability of rural-residential land use is a topical and concerning issue in many parts of the country including north Canterbury. The operative Canterbury Regional Policy Statement (RPS) currently contains specific direction on rural-residential land use in the Greater Christchurch area. There is a concern that new zoning provisions in proposed new district plans drafted in response to the Planning Standards, and formulated prior to future amendment of the RPS, may run counter to the directions of the current RPS and drive the direction of future amendments to the RPS. This raises an issue regarding the relative timing of the implementation of the Planning Standards, future RPS amendments, and the development of new rural-residential provisions in new district plans. It would not be efficient for new district plans to be proposed then subsequently amended once RPS processes have caught up. Clarification is sought as to how this might be addressed.

Definitions

2.20 The draft definitions standard does not appear to allow Council to choose which definitions may apply; it seems all are mandatory (even if not required; for example some relate specifically to regional and not district councils). Further, Council may have situations where more detailed definitions are required or where exemptions or departures are required. Discretion is sought by way of change to direction 3(b) in the Definitions standard to allow for such situations to meet local needs, and in order to avoid challenge as to whether a definition is a synonym or not.

Submissions

2.21 It is unclear from the Planning Standards how councils are meant to manage those parts of a proposed plan on which submissions are not able to be lodged, as they are matters prescribed by the Planning Standards and cannot be changed by council decision, and other parts of the plan that might be dependent on matters prescribed by the Planning Standards but open to submission. An example might be a definition prescribed by the Planning Standards. A suite of objectives, policies and rules might be based on, and depend on, a Planning Standards definition. If the definition
cannot be challenged, to what extent can submissions on objectives, policies and rules that are dependent on a Planning Standards definition be considered? In this situation amendment to provisions might tempt (or require) amendment to the definition on which the provisions are based. It would be helpful for the Ministry to address how councils should manage this situation to avoid any potential for subsequent legal challenge regarding what matters were dealt with in decisions and how they were dealt with.

**Timeframe to Implement the Planning Standards**

2.22 It is suggested the timeframe stipulated to implement the Planning Standards be amended from 5 years or, in the case of some Councils, 7 years, to 10 years for all Councils. This aligns with the current RMA timeframe of 10 years for reviewing policy statements and plans. It also affords more time for those Councils who have recently completed a review of a policy statement or plan, and would allow those Councils to implement the Planning Standards in a timeframe that fits in with when they would normally be undertaking a ten-yearly review of their policy statement or plan. It is also understood the cost benefit analysis commissioned by MfE to assess the cost to Councils of implementing the Planning Standards, recommended a 10 year implementation timeframe, and this is supported.

3. **Relief Sought**

3.1 The Council broadly supports the draft National Planning Standards, but requests the following within the Planning Standards:

a. Clarify the circumstances when a formal consultation process under the First Schedule of the RMA cannot be used and other circumstances when this must be used;

b. Clarify whether additional zones be included, and whether zones used have to have exactly the same names as those in the draft Planning Standards;

c. Expand the purpose descriptions of each zone to better distinguish between zones;

d. Clarify how roads are meant to be identified spatially;

e. Better explain the relationship and differences between zones, precincts and overlays, and the circumstances when precincts and overlays may or should be used and what these can or should include;

f. If precincts are a subset of a zone, make provision to include these in the zone chapter instead of in a separate part of the plan;

g. Mandate greater direction as to how plans and policy statements should be working to achieve significantly more with regards sustainability, to achieve the purpose of the RMA;

h. Revise the mapping standard colour palette to provide colours that are more distinct from one another;

i. Clarify the mapping standard for special purpose zones, so it is clear how each different special purpose zone will be distinguished from the others on maps;
j. If a precinct is a subset of a zone, clarify the mapping standard so it is clear how a precinct is to be distinguished from a ‘parent’ zone (there is currently no mapping standard for precincts);

k. Amend the mapping standard to provide different symbols for different natural hazards;

l. In the mapping standard, where the symbol for ‘sites of significance to Maori’ says ‘Council to consult with tangata whenua’, clarify/confirm if this means just the symbol itself or if councils should consult with tangata whenua about whether/how these sites should be identified in a plan (which occurs anyway), and identify how this should be achieved;

m. Provide for the ability for councils to include additional information in designation schedules as appropriate, over and above what is being prescribed;

n. Clarify/confirm that that all transport matters, including aspects of transport infrastructure typically provided outside transport corridors (such as access, parking, loading, cycling and walking), are to be included in the Infrastructure and Energy section of plans;

o. Clarify whether it is mandatory for airports and hospitals to be zoned Special Purpose, or whether these can be provided for by other means, such as designation, or through the provisions of other types of zones and, if these are provided for by designation, whether the underlying zones are to be Special Purpose;

p. Clarify whether quarrying and gravel extraction are to be managed through District-wide ‘Earthworks’ rules, District-wide ‘Mining’ rules, or through the provisions of other rules such as a ‘Rural Production’ zone;

q. Delete reference to the term ‘landform’ as it is not a Section 6 RMA matter;

r. Provide greater guidance regarding the relative timing of the implementation of the Planning Standards, future RPS amendments, and the development of new district plans, for the purpose of achieving more efficient resource management of rural-residential land use;

s. Provide discretion within the draft definitions standard to address the matter set out in 2.20 above;

t. Clarify how councils are meant to manage those parts of a proposed plan on which submissions are not able to be lodged, as they are matters prescribed by the Planning Standards and cannot be changed by council decision, and other parts of the plan that might be dependent on matters prescribed by the Planning Standards but open to submission;

u. Amend the timeframe to implement the Planning Standards from 5 / 7 years to 10 years;

v. The Ministry continues to work with pilot councils including Waimakariri District in further development of the Planning Standards prior to gazettal, including testing.
Address for Service:

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