

Tasman District Council

Submission on Draft National Planning Standards

August 2018

1 INTRODUCTION

Tasman District Council thanks the Ministry for the Environment for the opportunity to make this submission in relation to the suite of Draft National Planning Standards. The Council supports the intention of the proposed standards to make plans simpler and cheaper to prepare and easier to navigate for users of multiple plans. Council welcomes the drive for improved accessibility through E-planning requirements. Our analysis shows that the vast majority of plan users access Tasman's plans online. However, the imposition of a large number of prescriptive structure standards that are founded on a paper based system are archaic and unnecessarily costly given the functionality, efficiency and user focussed nature of the proposed electronic standards.

The scale of change that the suite of standards will introduce represents the most significant changes to planning since the introduction of the RMA in 1991. The standards come at a time when there is a large volume of national direction in the form of National Policy Statements that require timely implementation.

As a small unitary authority Tasman District Council does not have the capacity to implement the suite of planning standards at the same time as implementing current National Policy Statements, including the National Policy Statement for Freshwater Management and the National Policy Statement for Urban Development Capacity. In the absence of any clear guidance from Government, the Council will have to make a choice about which national direction it should prioritise.

The lack of testing of the text standards on any existing plans by MFE is perplexing. The complexity of this exercise and the simplistic assumptions that underpin the policy analysis means it is certain the costs and time for compliance with the proposed standards have been substantially under-estimated.

2 TIMING

Tasman District Council (TDC) is about to commence a review of its Tasman Regional Policy Statement and the district plan part of its combined resource management plan. It is likely the associated plan changes will be notified in approximately three to four years. The Council accepts the proposed plans will need to be compliant with the National Planning Standards when they are notified. However, if there is a time requirement to convert the existing plan and policy statement content into the planning standards format, this would be a huge and costly exercise for limited benefit. Producing a revised version of the existing plan just before notifying a proposed plan will create significant confusion for existing plan

users and the community. In addition, if TDC is required to convert its existing plan into the new format then it will have to delay the review of the RPS and district plan (and implementation of national policy statements) as there is not the capacity or budget to achieve both at the same time.

Given the significance of some of the required changes, particularly around structure of chapters, the co-location of rules in each chapter and some definitions, combined with the narrow scope of consequential changes allowed by s58I(3)(d), a Schedule 1 process will be required alongside consequential amendments to translate existing plans to comply with the planning standards.

This will mean it is unlikely that the planning standards can be fully implemented within the expected five year time frame.

As an example, a recent change to the Tasman Resource Management Plan that also involved moving plan text without change resulted in a significant number of submissions to Council that were considered out of scope. This was despite Council being very clear that moving text was out of scope of a plan change. It is likely the same thing would happen with implementing the planning standards on existing plans given the need to use a schedule 1 process for some changes. Submissions that are out of scope still require significant work within the Schedule 1 process, due to the need to report on them prior to decisions being made.

Relief sought:

1. Government provide clear guidance on the relative order of priority for implementing national direction including Planning Standards and National Policy Statements.
2. To reduce the costs and litigation risks of having to use a schedule 1 process to implement the planning standards, it is recommended that the mandatory requirements for plans are aligned with the plan review cycle and transitional provisions provided for (refer section 11 below). This would align with the findings of the cost-benefit analysis. Or alternatively, amend the RMA to allow greater use of consequential amendments [s58I(3)(d)].

3 COMBINED PLAN STRUCTURE STANDARD C-PS

Tasman District Council is a unitary authority. It currently has a separate Tasman Regional Policy Statement (TRPS) and a combined Tasman Resource Management Plan (TRMP). A review of the TRPS and the District plan parts of the TRMP is scheduled to commence in late 2018. The intention is to completely integrate the RPS with the Regional, Coastal and District components into one unitary combined plan. The Coastal components of the TRMP will require review (s79) in three years' time. The fresh water components of the TRMP are currently being changed as the National Policy Statement for Freshwater Management is progressively implemented.

The layering of the draft planning standards in the Combined plan structure, including a separate RPS chapter, make a unitary combined plan subject to significant duplication between higher level plan provisions and district and regional plan provisions. As currently drafted, this issue is an example of where the planning standards have focused on a paper-based structure of plans, rather than fully embracing how electronic plans can and should function in the future.

For an integrated single plan for a unitary authority, scope should be provided to allow RPS level objectives and policies to sit alongside regional and district level objectives and policies for any particular theme or issue. This approach will reduce duplication, and provide clear line of sight for these tiers of provisions. Objectives and policies can easily be identified as either RPS, regional or district level through simple coding and an extension of standard F-6. This approach has been adopted effectively in the proposed Marlborough Environment Plan and is the preferred approach for the next generation Tasman plan.

Further, the standard indirectly prescribes content packaging (eg. infrastructure and energy; not all energy issues are relevant to infrastructure, especially in a unitary plan context); which may lead to further duplication. In addition, there are several mutually conflicting prescriptions on structure and spatial layers where there are unitary jurisdictions in the plan. For Example: (S-VEV) The Coastal Environment section **must** include objectives, policies and methods including rules (if any) to give effect to the NZCPS. Policies 24, 25, 26 and 27 of the NZCPS concern coastal hazards. The Environmental Risks chapter requires the objectives, policies, and methods, including rules (if any) for natural hazards to be located in that chapter.

In short, content should drive structure, not a blanket hierarchy that may not be relevant, so that RPS content should be able to be co-located with RP/DP level content.

Relief sought:

3. Provide flexibility in the combined plan structure to allow complete (vertical) integration of RPS, Regional and district objectives, policies and methods. Put simply, provide an option within the standard to allow RPS provisions to sit alongside Regional and district objectives, policies and methods rather than in a separate chapter.
4. Further clarify where issues are to be addressed within the combined plan standard to avoid duplication of provisions and legal challenge.

4 COASTAL ENVIRONMENT

The Planning Standard provides for the Coastal Environment as a specific chapter/section or even as a separate plan. There is ambiguity as to how councils should deal with regional/district matters that occur both within and outside the Coastal Environment, for example landscape, buildings and land use activities. There is also uncertainty as to how plans should

address land use matters within the Coastal Environment that are separated between land and the CMA, for example, S-ASM requires the Port Zone to be located within Part 6 of the Plan but it is assumed that the seaward portion of the Port Zone should be located in Part 4. There are other coastal uses which straddle the boundary including; marinas, jetties, boatsheds and coastal protection structures. The Planning Standard enables this issue to be addressed in a separate Coastal Environment Plan, but provides no further guidance as to what form the plan will take.

There are no regional zones specified in the Planning Standard; there may be some benefit in providing for common zones, like coastal marine area and marina. Common mapping colours and symbols may also be useful.

Relief sought:

5. That coastal provisions from an existing unitary plan be worked through the draft Planning Standards to evaluate the ease of transfer and the outcome regarding usability. Suggest the Proposed Marlborough Environment Plan would be a useful test plan.
6. Clarity is given regarding where provisions are to be located for the coastal environment, particularly where they straddle the boundary for the coastal environment and between the CMA/land (Part 4/Part 6).
7. Consider including mapping/symbology for commonly used zones (CMA)/areas (Aquaculture)/features (CMA/River boundaries).

5 INTEGRATION

The standards require co-location of rule sets within theme chapters containing objectives and policies where the rules are not zone, precinct or development area rules. As well, each zone, precinct and development area chapter appears to require all provisions from objectives to rules to be included. The consequence of this is that all rules that are overlays or specific controls will have to be forced into potentially competing chapter themes, where any one rule set implements provisions across more than one theme. As well, zone, precinct and development area rules cannot be grouped.

The lack of flexibility to horizontally integrate or group some or all rule sets as a separate structural element whether they apply to any of the spatial planning tool categories in the menu for combined plans as well as regional and district plans, is a needless and arbitrary prescription. Further, there is inconsistency between the listing of allowed spatial planning tools for district and regional plans (F3, F4) and the menu given in the combined plan structure standard (S-CP) under area-specific standards, where overlays and specific controls are not listed.

Where rules are required to be placed next to related objectives, policies and methods, this ignores the networked relationship between sets of rules and the higher plan provisions, and ignores the functionality available in E-plan format. This will lead to arbitrary and misleading packaging where rules implement several sets of higher provisions. There is no

choice provided to allow the best expression of linkages by co-location of provisions. This highlights the weaknesses of the paper-based thinking behind the plan structures that do not reconcile with the ability of E-plans to provide a clear and consistent user experience.

The principle that related objectives, policies and rules should appear together so users can see line-of-sight is a good policy outcome – however this needs to be achieved within the E-Plan functionality – rather than through a specific structural standard as to where any specific rule ‘lives’ within the (paper based) document.

The multiple linkages between modules or single hierarchies of plan provisions at all levels of content can be shown easily by E-plan systems.

Relief Sought:

8. Provide greater horizontal integration flexibility where rules that implement more than one theme can be grouped together – this appears to be rules that are overlay and specific control rules, as these are not listed as separate structural elements in the structure standards under area-specific matters (S-CP, S-RP and S-DP).
9. Provide flexibility in the plan structure standards to allow the best expression of linkages by co-location of rule provisions.

6 URBAN GROWTH AS A SIGNIFICANT ISSUE

The theme of ‘land’ for region-wide matters is huge, when compared with other discrete matters such as air quality, historic heritage, etc. There is a mandatory section for ‘Infrastructure and energy’, but no section relating to urban growth.

The recent insertion of S30(1)(ba) that requires regional councils to establish, implement and review objectives policies and methods to ensure there is sufficient housing and business land capacity has elevated the importance of growth. In addition, all councils are required to meet the requirements of the National Policy Statement on Urban Development Capacity (NPS-UDC) and establish a policy framework within their policy statements and plans to address the matters in this particular national policy statement. TDC is currently a medium growth council on the cusp of the high growth threshold under the NPS-UDC. The absence of a separate Growth theme is a shortcoming given the significance of this issue for councils with growth pressures. To locate this topic, as a special topic, at the end or buried within the ‘land’ section (as implied by the Standard) does not reflect the priority central government and Council, have given this issue.

Relief sought:

10. Allow for further themes or chapters to address urban growth and other significant land issues.

7 DRAFT AREA SPECIFIC MATTERS STANDARD S-ASM

7.1 ZONE FRAMEWORK (INDIVIDUAL AND RANGE)

The draft standard does not provide sufficient choice for the complexity of zones that exists. The number of zones that will be lost will require the Council to re-visit its policy framework that underlies these zones at significant time and cost. It is likely to create a significant reliance on special purpose zones or overlay/precinct provisions to address the limited zone choices. For example Tasman has industrial zones in the rural environment that have specific controls that allow only industries that service the rural sector and production sector to operate. This allows appropriate services for the rural environment while encouraging non-rural industry to locate within the urban environment.

Relief sought:

11. Provide a greater suite of zoning options across residential, rural and industrial.

8 F1: DRAFT ELECTRONIC ACCESSIBILITY AND FUNCTIONALITY STANDARD

8.1 GENERAL SCOPE AND APPLICABILITY OF E-PLANNING FUNCTIONALITY

The vast majority of plan users access plans online. Many councils no longer produce paper based plans. It is vital that the Ministry's thinking around E-plans and E-plan functionality considers what E-plan platforms could and should be capable of in the future, rather than what current E-plans can do. This field is in its relative infancy and new functionality is being created with each new version released by the current range of providers.

In addition, given there are several providers in the industry and the potential for new ones in the future, this may be a source of divergent planning in the future, which may need further consideration in the E-plan accessibility and functionality standard.

It is also important to consider that the efficacy of E-planning is not just about the end user interface for one type of plan end-user (eg resource applicants), but also for plan making processes and policy developers. A single nationally-based E-platform could provide ongoing plan and user-interface consistency, but also the ability for assessment and interrogation of the underlying national database of plan provisions. This could greatly improve the efficiency of the plan making process for every council, and provide the Ministry with means to rapidly assess the efficiency of plans at a national scale. This would be a significant improvement on the current National Monitoring System's reliance on large spreadsheets that are laborious and time consuming for councils to complete for limited value. It could also provide the means for direct implementation of relevant provisions of National Environmental Standards and Policy Statements that do not require Schedule 1.

There are also clear benefits from a cost efficiency perspective of a single platform, compared to every council doing this.

Relief sought:

12. Consider the E-plan and planning functionality in the context of all plan and plan cycle users, and consider the national context and potential benefits of a nationally provided and supported platform.

8.2 PLAN ACCESSIBILITY AND FUNCTIONALITY

The draft standards require 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 to be available from the local authority website (in PDF format).

It is unclear whether this includes a requirement to hold a copy of all data at every plan change stage of the TRMPs life. In Tasman there are several plans that were prepared in the 1990s and which are now of no legal effect as they are superseded by later generation operative plan provisions in the TRMP. In addition the current TRMP since first operative is up to plan change 68 and plan update 60. The draft standard F-1 could be interpreted to mean that there is a requirement to have all historical inoperative plans as well as 68 PDF versions of the plan or 68 plan changes, online. This seems to be largely unnecessary and time consuming to re-create this information for little apparent benefit. The Council is required to hold only operative and proposed plan records (RMA s 35). We have historical plan records in print form to deal with resolving such matters as existing uses and buildings. The very small number of such matters does not justify the requirement in the draft standard F-1 to store electronically all these historical documents.

Relief sought:

13. Clarify the text and mapping requirements and scope for previous plan versions or limit to currently operative and proposed plans not historical, inoperative plans.

8.3 STANDARD BASELINE REQUIREMENTS

The draft standards require the upload of publically accessible, existing digital plan data such as plotted features, polypoints and polygons to www.data.govt.nz in machine readable format in accordance with Open Data principles 2. Setting this up will involve a lot of staff time and it is unclear where the ongoing responsibility for that data resides.

Relief sought:

14. Clarification as to which datasets need to be uploaded, and who has overarching responsibility for data uploaded to this site.

9 MAPPING STANDARD F-2

9.1 ZONE COLOUR PALETTE

The colour palette used for 'low density residential' and 'medium density residential' are too similar.

9.2 HAZARDS SYMBOLOGY

Hazards (coastal, flood, volcanic, fault) are lumped into one generic category which is problematic when displayed spatially. One generic category means that it is impossible to distinguish multiple hazards on one site when overlaid together.

Relief sought:

15. Each hazard should have its own symbology, and recognise that there are several types of hazards within each category of hazard. For example, 'flood hazard' could include freshwater pluvial flooding, seawater inundation, or secondary flow paths.

9.3 ZONES

Councils use different methods for applying zones to roads. This varies from zoning roads separately to extending any particular zone boundary to the centreline of any road.

Relief sought:

16. Confirm that the standard enables discretion for plans to show zones to the centreline of any road, or to show road whether formed or unformed as a separate zone or other spatial planning tool such as an overlay.

10 DEFINITIONS

The definitions standard introduces mandatory definitions that will replace the current plan definitions. This will change the interpretation and application of plan rules that currently rely on those definitions.

This will lead to re-writing plan provisions resulting in repetition and changes to policy and rules in order to comply with the required definitions. The changes required to incorporate definitions will fall outside the scope of consequential amendments and will require a schedule 1 process.

For example the definition of land disturbance applies to soil or clean fill. The current TDC land disturbance definition includes destruction or removal of vegetation, soil disturbance, or earthworks.

Relief sought:

17. Further review and testing of new definitions is undertaken before inclusion in the standards. This is particularly important for regional relevant definitions. Ensure that changes to rules to incorporate plan definitions can be considered as a consequential amendment.

11 IMPLEMENTATION

Greater clarification on how MfE will support local government to implement the proposed standards is essential.

E-Planning implementation

The draft standard requires councils to comply with the initial electronic accessibility standard within one year and further E-plan and E-planning requirements within five years.

Implementation of E-plan will require significant commitment from a large number of key staff within the organisation.

Baseline accessibility and functionality within 12 months of the standards being gazetted is achievable but will draw resources away from the more significant and comprehensive job associated with the full E-plan functionality requirements.

Relief sought:

18. Given the scale and cost of the E-plan task, the 12-month baseline accessibility requirement is withdrawn to allow the resources to be dedicated to the full functionality requirements of the proposed standard.

11.1 TRANSITIONAL PROVISIONS

As requested in Section 2 Council's preferences is for the planning standards to be implemented in alignment with the council's plan review cycle to avoid unnecessary costs and confusion for plan users. This would necessitate the provision for transitional arrangements for both the structure of plans and use of E-plans until the planning standards are fully implemented.

Additionally the financial impact of planning standards has not been accounted for in the current LTP period due to uncertainty of requirements and timing of consultation coming after LTPs had been finalised. This creates difficulties for Councils to find additional funds to implement the proposed standards under current LTPs.

Relief sought:

19. Allowances in implementation time frames should be made to align Planning Standards implementation with the LTP planning cycle so Councils can plan for and obtain the additional funds that will be required to implement the standards.

12 FUTURE CONTENT FOR STANDARDS

The consultation document “draft national planning standards” talks about the draft standards being the first set of planning standards (page 14). Future sets of planning standards could be content based and some are identified e.g. method to identify outstanding natural features and landscapes. How would local authorities be expected to incorporate any future standards where they have operative plans? What would the timing be for those? Are councils going to go through a huge process incorporating the standards and then be faced shortly after with plan changes to incorporate new standards? Or worse still future standards coming out while we are notifying the proposed plan?

Relief Sought:

20. A clear timetable for future standards is provided and a commitment from Government that adequate time will be provided for implementation of future standards that will not lead to continuous changes to plans as standards are rolled out.

13 CONCLUSION

The paper based thinking of the standards requirements are an out of date, misplaced imposition on all local communities with costs vastly greater than benefits. Government as an alternative could invest in future-oriented support for faster and better development of electronic data systems to manage plan text and spatial datasets as E-plans and linked E-planning (development process) functionalities. Instead all councils will spend significant money to rewrite their current plans to comply with the layered, prescriptive requirements of the planning standards. The purpose of "national consistency" in the RMA is vague and is likely to mean only small benefits of slightly reduced consent processing time for some users. By contrast, the costs are significant for all councils whether or not the re-writing of plans can be done within the 5-year window in association with plan reviews.

If the drivers of the standards are greater consistency and usability for plan users then the focus should be on a design led approach that specifies a nationally consistent set of accessibility and usability requirements for electronic based plans that meet users' expectations and needs.

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