

SUBMISSION ON THE DRAFT NATIONAL PLANNING STANDARD

Under Section 58D(3), Resource Management Act 1991

To: **Planning Standards**
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1 Introduction

This submission is made by Mercury in relation to the draft first set of National Planning Standards (“Standards”) and accompanying documentation.

Mercury is one of New Zealand’s largest electricity generators and retailers providing energy services to homes, businesses and industrial consumers throughout New Zealand. We have a long heritage in renewable energy in New Zealand serving about 1-in-5 homes and businesses under the Mercury brand and other speciality brands. We also have proven capability and technical expertise in smart metering services and solar. Our goal is to be the leading energy brand in New Zealand, inspiring our customers, owners and partners by delivering value, innovation and outstanding experiences.

100% of the Mercury’s generation comes from renewable resources, which includes the Waikato Hydro Scheme on the Waikato River and five geothermal power stations in the Waikato and Bay of Plenty regions, with several of these geothermal power stations being joint ventures with Maori Land Trusts. In addition, Mercury holds consents for two large windfarm developments (currently unbuilt) in the Manawatu-Wanganui region. These existing generation assets and consented development rights are spread across three regions and eight districts.

Ensuring that Mercury has a licence to operate, including through the operation, maintenance and upgrading of its assets, the ability to re-consent its existing assets and operations, and to plan for, consent and develop new generation capacity, are pivotal to Mercury’s business. To achieve this Mercury seeks to ensure that statutory planning documents recognise the resource use requirements of renewable electricity generation activities, and give effect to the requirements of the National Policy Statement on Renewable Electricity Generation 2011 (“NPS-REG”) in an integrated manner. Likewise, there is a need for statutory planning documents to recognise the Government’s renewable energy targets and climate change commitments as New Zealand transitions to a zero-carbon economy.

It is for the reasons mentioned above, that Mercury has an interest in the Standards and the proposals to refine the structure of statutory planning documents and align the use of definitions in these documents.

Mercury’s submission is structured as follows:

- Section 2 covers the need for integrated management of electricity generation activity in planning documents with other resources and values, which may potentially compete or conflict with electricity generation. This is followed in section 2.5 by proposed amendment to several of the Standards to achieve integrated management.
- Section 3 relates to the Definitions Standard, including definitions that Mercury supports (section 3.1) and definitions that Mercury considers require amendment (section 3.2).
- Section 4 covers other matters relating to the Standards, including the Noise and Vibration Metrics Standard (section 4.3).
- Section 5 addresses the question of content for future planning standards.

2 Integrated Management for Electricity Generation

For the reasons set out in sections 2.1 to 2.4 below, Mercury considers that amendments to the Standards are needed to better provide for the integrated management of electricity generation. Specifically, Mercury seeks that:

- The Structure Standards for the Regional Policy Statement (S-RPS), Regional Plan (S-RP), District Plan (S-DP), and Combined Plan (S-CP) be amended to include a dedicated Electricity Generation chapter and a dedicated Geothermal chapter (where relevant to a region).
- The District Wide Matters Standard (S-DWM) be amended to provide direction on the matters to be included in the new Electricity Generation chapter.
- Greater flexibility be introduced within the Standards to ensure integrated management; and
- An electricity generation zone be added to the list of special purpose zones.

Specific changes are proposed in section 2.5 below.

2.1 The Integrated Management Outcome for Electricity Generation

Providing for integrated management of electricity generation activities in planning documents will ensure there is a clear articulation across the whole objective, policy, and rule framework on how electricity generation activities are to be provided for across different resources and values, including values which sometimes compete or conflict with electricity generation activities. In addition, Mercury (and other generators) need to be involved in plan changes and plan reviews around the country, to ensure that the NPS-REG is appropriately given effect to in planning documents.



The NPS-REG is intended to confront two major energy challenges for New Zealand as it meets growing energy demand. The first is to respond to the risks of climate change by reducing greenhouse gas emissions caused by the production and use of energy. The second is to deliver clean, secure, affordable energy while treating the environment responsibly. The contribution of renewable electricity generation, regardless of scale, towards addressing the effects of climate change plays a vital role in the wellbeing of New Zealand, its people and the environment.

Therefore, proper integration of the NPS-REG into the Standards would lead to greater efficiencies. This will provide increased certainty for the on-going operation and authorisation of existing generation assets and the consenting and development of new generation capacity to assist meeting New Zealand's increasing electricity demands, Government targets for renewable electricity generation, and related climate change goals.

2.2 Prescribed Structure in the Draft Standards

The Standards set out a proposed structure for planning documents that will influence how electricity generation activities are to be provided for in planning documents. This includes the Structure Standards for Regional Policy Statements (S-RPS), Regional Plans (S-RP), District Plans (S-DP), Combined Plans (S-CP), and the District Wide Matters Standard (S-DWM) that direct the adoption of a compartmentalised structure based on prescribed themes (except a Regional Plan (S-RP) developed on a catchment basis).

This compartmentalised structure requires that infrastructure and energy matters are to be grouped together and contained in an *Infrastructure and Energy* chapter (except a Regional Plan (S-RP) developed on a catchment basis), along with other theme-based chapters, such as the coastal environment, landscapes landforms and natural character, ecosystem and indigenous biodiversity, environmental risk, land, and water (as relevant to the type of plan). Some of these chapters relate to natural resources and values for which section 6 of the RMA prescribes the adoption of a more protective approach, such as for natural character, outstanding landscapes, and significant indigenous biodiversity.

The draft implementation guidance for the Structure Standards provides that plan provisions are to be included in the most relevant theme chapter, or within a catchment chapter. For example, rules relating to protecting biodiversity in wetlands, can be located in the water chapter, the ecosystem and indigenous biodiversity chapter, or a relevant catchment chapter. Furthermore, the guidance notes that the infrastructure and energy chapter may include objectives, policies, and methods including rules that set clear outcomes for and manages the region's infrastructure and energy resources.

2.3 Implications of the Draft Standards for Integrated Management

In theory, the structure of a planning document should not drive outcomes, but requiring the adoption of a compartmentalised theme-based structure where plan provisions are included in the most relevant chapter could inadvertently emphasise or promote the protection of the environment in those chapters which address natural environment values (e.g. landscapes landforms and natural character) in isolation of enabling appropriate use and development to provide for social, economic, and cultural wellbeing. This will likely contrast with more enabling provisions for renewable electricity generation activities contained in an infrastructure and energy chapter.

The separation of those protective and enabling elements in theme-based chapters could lead to a fragmented objective, policy, and rule framework resulting in provisions which do not clearly articulate how electricity generation activities are to be provided for across different resources and values. This would not achieve integrated sustainable management under the RMA. The management of the geothermal resource is a useful case study to demonstrate this.

Case Study: Geothermal Resource

The Waikato and Bay of Plenty regions are responsible for sustainable management of 90 percent of New Zealand's geothermal resource. The issues regarding the management of geothermal water are different from those for freshwater, and consequently the Regional Policy Statements and Regional Plans for Waikato and Bay of Plenty regions contain separate chapters for the management of the regional geothermal resource, including specific objectives, policies, rules, and other implementation methods. These geothermal chapters provide for the integrated management of geothermal systems to enable the use and development of some of the geothermal resource to meet energy needs, through to the protection of some of the geothermal resource and some geothermal features.

The Structure Standard for Regional Policy Statements (S-RPS) states that "*If water matters are addressed in the regional policy statement (RPS) they must be included in the water chapter. Local authorities must consider whether to combine this chapter with the land chapter.*" A similar provision is included in the Structure Standards for Regional Plans (S-RP) and Combined Plans (S-CP). The definition of 'water' in the RMA includes freshwater, coastal water and geothermal water. Consequently, it is not clear that geothermal water can be dealt with in a *Special Topics* chapter. Requiring geothermal water to be dealt with in the same chapter as freshwater cuts across the intent of the RMA that



resource management issues specific to a region should be dealt with by that region. Geothermal water is recognised by the RMA as having different management issues from freshwater and needs to be treated differently.

Geothermal features and geothermal vegetation are specific attributes of geothermal resources directly linked to and influenced by geothermal water. Like the issue noted above for water and geothermal water, the Structure Standards (S-RPS, S-RP and S-CP) would require geothermal features to be addressed in the chapters for *landscape, landform and natural character* or *water* (depending on the type of feature), while geothermal vegetation would be addressed in the chapter for *ecosystem and indigenous biodiversity*.

Because of the different issues that geothermal water and land uses face, and because of the integrated nature of the effects of use of geothermal water and land, Mercury supports the current structure in the Waikato and Bay of Plenty Regional Policy Statements and Regional Plans of dealing with the geothermal resource issues together in a separate chapter. It is understood that this is also the preferred approach of Waikato and Bay of Plenty Regional Councils. However, this approach only need be applied to the regions where the geothermal resources are located.

The requirement for energy matters to be grouped together with other infrastructure in an *infrastructure and energy* chapter compounds the integration issues discussed above. Combining energy with infrastructure risks resulting in a generic framework being applied to all infrastructure without recognising specific differences of some forms of infrastructure. For example:

- Lineal infrastructure, such as roads, railway lines, electricity and telecommunication lines, does not share many characteristics found with electricity generation.
- There is a high degree of variability between and within types of electricity generation that makes it difficult to manage through provisions applying to other types of infrastructure.
- Unlike most infrastructure operators, an electricity generation operator is unable to be a requiring authority under the RMA and therefore electricity generation infrastructure cannot be provided by way of designation.
- It would not recognise the national significance and particular benefits and differences of renewable electricity generation under the NPS-REG in comparison to other infrastructure. In particular, the NPS-REG recognises a number of practical implications and constraints of operating, upgrading, and developing renewable electricity generation activities to achieve New Zealand's targets for renewable electricity generation.

These issues require a more targeted planning framework for electricity generation from that provided for other infrastructure. That may include spatial recognition of generation activities in plans through zones, overlays, precincts, or other methods in order that specific objectives, policies, and rules can be applied to them. It is considered there are several options to amend the Standards to achieve appropriate integration for electricity generation activities, as detailed in section 2.5 below.

2.4 Integrated Management Solution for Electricity Generation

2.4.1 Inclusion of a Separate Electricity Generation Chapter in Planning Documents

Mercury considers there is a strong case for electricity generation, including renewable electricity generation, to be contained in its own self-contained chapter in planning documents, separate from other infrastructure, while also acknowledging that matters related to the management of electricity generation may also need to be addressed in other theme chapters. This will better recognise the national significance, benefits, and differences of renewable electricity generation activities under the NPS-REG in comparison to other infrastructure through the inclusion of more targeted provisions. This will provide increased certainty for existing generation assets and the development of new generation capacity to meet demand and Government targets. Specific changes are proposed in section 2.5 below.

2.4.2 Inclusion of a Separate Geothermal Chapter in Planning Documents

Mercury considers there is a strong case for all geothermal matters to be contained in its own self-contained chapter in regional planning documents, or otherwise included in a special topics chapter. This would include all matters relating to geothermal water, energy, features and vegetation, which are unique features and elements to the regions where the geothermal resource is located. This will ensure that geothermal matters can be managed as a distinct resource in the same way that the Standard anticipates regional authorities will manage the air, coastal environment or water resources. However, it is acknowledged that matters related to the management of geothermal electricity generation may also need to be addressed in the Electricity generation chapter to the extent that this is relevant. This integrated approach will ensure the continuation of the management of the geothermal resource in the Waikato and Bay of Plenty regions according to the classification systems established by those regional authorities (e.g. development geothermal systems through to protected geothermal systems). Specific changes are proposed in section 2.5 below.



2.4.3 Providing Flexibility and Connections to Ensure Integrated Management

The purpose of a Regional Policy Statement is to provide an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region (section 59 RMA). Several existing Regional Policy Statements have 'Integrated Management' as a significant matter addressed through objectives and policies. This is partially achieved through the Structure Standards for the Regional Policy Statement (S-RPS), Regional Plan (S-RP), and Combined Plan (S-CP) by allowing local authorities to consider whether to combine the *Land* and *Water* chapters, but otherwise the only place to address this in the Standards is the *Special Topics* chapter.

Providing greater flexibility and connectivity in the Structure Standards for objectives, policies, methods, and rules across the different compartmentalised theme chapters will better achieve integrated sustainable management, including for electricity generation activities, by making it clear what provision takes precedence where there is a conflict between the outcomes sought. This will better ensure the protection of natural resources and values is not considered in isolation of enabling appropriate use and development to provide for social, economic, and cultural wellbeing. This integrated approach was demonstrated in the case study for the geothermal resource in section 2.3 above. One of the ways in which this could be achieved is through a specific theme chapter in a regional policy statement for integrated management, and the theme chapters in regional planning documents being connected in an integrated manner (e.g. the chapter on electricity generation may need to be connected to provisions in water chapter with respect to hydro electricity generation).

Specific changes to address this issue are proposed in section 2.5 below.

2.4.4 Spatial Tools for Energy Generation

Mercury considers that an option should be provided in the Standards for a specific zone for electricity generation. This could be for a particular type of generation relevant to a district (e.g. a hydro-electricity generation zone) or for multiple generation types. However, a specific zone may not be the best approach for all generation types, e.g. a windfarm site may be best managed as a rural zone where the land continues to be used for a rural production purpose alongside the windfarm activity.

Electricity generation shares many common features with other infrastructure that has been afforded a special purpose zone under the standards, specifically the airport zone and port zone. In addition, renewable electricity generation is nationally significant under a national policy statement, and often crosses multiple regional or district boundaries (such as a hydro power scheme that traverses territorial or regional boundaries).

Enabling the creation of a special purpose [energy generation] zone would also support inclusion of more targeted provisions for renewable electricity generation in a specific zone. For example, provisions which are more enabling for renewable generation given its national significance and benefits could be applied, which recognise the practical implications and constraints of operating and developing generation activities.

Specific changes to address this issue are proposed in section 2.5 below.

2.5 Proposed Amendments to Standards to Address Integrated Management

2.5.1 Regional Policy Statement Structure Standard (S-RPS)

Amend Part 4 of Table 3 as follows (proposed additions underlined and proposed deletions ~~struck through~~):

PART 4 – THEMES		
<u>Integrated management</u>		<u>If integrated management matters are address in the regional policy statement, they must be included in the <i>Integrated management</i> chapter.</u>
...		...
Infrastructure and energy		If infrastructure and energy matters are addressed in the regional policy statement they must be included in the <i>Infrastructure and energy</i> chapter.
<u>Electricity generation</u>		<u>If electricity generation matters are addressed in the regional policy statement they must be included in the <i>Electricity generation</i> chapter, <u>acknowledging that matters related to the management of electricity generation may also need to be addressed in other theme chapters.</u></u>
<u>Geothermal</u>		<u>If geothermal matters are relevant to a region (including geothermal water, energy, features and vegetation) and addressed in the regional policy statement they must be included in the <i>Geothermal</i> chapter, or otherwise included in a <i>Special topics</i> chapter, and acknowledging</u>



		that matters related to geothermal electricity generation may also need to be addressed in the <i>Electricity generation</i> chapter.
...		...

2.5.2 Regional Plan Structure Standard (S-RP)

Amend Part 4 of Table 4 as follows (proposed additions underlined and proposed deletions ~~struck through~~):

PART 4 - THEMES		If the local authority chooses to address matters on a theme basis, this part and any of its relevant accompanying chapters must be used.
...		...
Infrastructure and energy		If the local authority chooses to address matters on a theme basis and infrastructure and energy matters are addressed in the regional plan they must be included in the Infrastructure and energy chapter.
<u>Electricity generation</u>		If the local authority chooses to address matters on a theme basis and <u>electricity generation matters are addressed in the regional plan they must be included in the <i>Electricity generation</i> chapter, acknowledging that matters related to the management of electricity generation may also need to be addressed in other theme chapters.</u>
<u>Geothermal</u>		If the local authority chooses to address matters on a theme basis and <u>geothermal matters are relevant to a region (including geothermal water, energy, features and vegetation) and addressed in the regional plan they must be included in the <i>Geothermal</i> chapter, or otherwise included in a <i>Special topics</i> chapter, and acknowledging that matters related to geothermal electricity generation may also need to be addressed in the <i>Electricity generation</i> chapter.</u>
...		...

2.5.3 District Plan Structure Standard (S-DP)

Amend Part 4 of Table 5 as follows (proposed additions underlined and proposed deletions ~~struck through~~):

PART 4 – DISTRICT WIDE MATTERS		Local authorities must implement the District Wide Matters Standard (S-DWM)
...		Local authorities must consider whether other sections should also be included in this chapter and include them if they are required.
Infrastructure and energy		
<u>Electricity generation</u>		...
...		<u>Electricity generation matters may also be addressed via special purpose zones [e.g. electricity generation zone] or other provisions [spatial planning tools] that are applicable to the circumstances relating to specific electricity generation matters.</u>

Amend Part 5 of Table 5 as follows (proposed additions underlined and proposed deletions ~~struck through~~):

PART 5 – AREA SPECIFIC MATTERS		Local authorities must implement the Area Specific Matters Standard (S-ASM) as specified below.
...
Special purpose zones	...	
	<u>Electricity generation zone</u>	
	[Additional Special Purpose] Zone	
...	...	



2.5.4 Combined Plan Structure Standard (S-CP)

Amend Part 3 of Table 6 as follows (proposed additions underlined and proposed deletions ~~struck through~~):

PART 3 – REGIONAL POLICY STATEMENT		If a regional policy statement is part of the combined plan this part must be used
Significant resource management issues for the region	Significant resource management issues and discussion	Local authorities must include sections where the matters raised are relevant as significant resource management issues for the region.
Themes	<u>Integrated management</u>	<u>If integrated management matters are address in the regional policy statement on a theme basis, they must be included in the <i>Integrated management</i> section.</u>

	Infrastructure and energy	If infrastructure and energy matters are addressed in the regional policy statement on a theme basis they must be included in the <i>Infrastructure and energy</i> chapter.
	<u>Electricity generation</u>	<u>If electricity generation matters are addressed in the regional policy statement on a theme basis they must be included in the <i>Electricity generation</i> chapter, acknowledging that matters related to the management of electricity generation may also need to be addressed in other theme sections.</u>
	<u>Geothermal</u>	<u>If geothermal matters are relevant to a region (including geothermal water, energy, features and vegetation) and addressed in the regional policy statement on a theme basis they must be included in the <i>Geothermal</i> chapter, or otherwise included in a <i>Special topics</i> chapter, and acknowledging that matters related to geothermal electricity generation may also need to be addressed in the <i>Electricity generation</i> chapter.</u>
...

Amend Part 4 of Table 6 as follows (proposed additions underlined and proposed deletions ~~struck through~~):

PART 4 – REGION WIDE MATTERS		Local authorities must implement the District Wide Matters Standard (S-DWM) to the extent it is relevant
...		...
Infrastructure and energy		If the combined plan does not include a district plan, and the local authority chooses to address infrastructure and energy matters on a theme basis this chapter must be used.
<u>Electricity generation</u>		<u>If the combined plan does not include a district plan, and the local authority chooses to address electricity generation matters on a theme basis this chapter must be used, acknowledging that matters related to the management of electricity generation may also need to be addressed in other theme chapters.</u>
<u>Geothermal</u>		<u>If geothermal matters are relevant to a region and the local authority chooses to address geothermal matters (including geothermal water, energy, features and vegetation) outside of the regional policy statement on a theme basis, they must be included in the <i>Geothermal</i> chapter, or otherwise included in a <i>Special topics</i> chapter, and acknowledging that matters related to geothermal electricity generation may also need to be addressed in the <i>Electricity generation</i> chapter.</u>
...		...
Infrastructure and energy		If the combined plan includes a district plan then local authorities must implement the District Wide Matters Standard (S-DWM).
<u>Electricity generation</u>		
...		<u>If the combined plan includes a district plan, electricity generation matters may also be addressed via special purpose zones [e.g. electricity generation zone] or other provisions [spatial planning tools] that are applicable to</u>



		<p><u>the circumstances relating to specific electricity generation matters.</u></p> <p>If the combined plan includes a regional plan, regional plan provisions may be integrated with the implementation of the General District Wide Matters Standard (S-DWM).</p> <p>The Noise and Vibration Metrics Standard (CM-2) must be implemented through the <i>Noise and Light</i> section.</p>
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Amend Part 6 of Table 6 as follows (proposed additions underlined and proposed deletions ~~struck through~~):

PART 6 – AREA SPECIFIC MATTERS		If the combined plan includes a district plan, the local authority must comply with this part. Local authorities must implement the Area Specific Matters Standard (S-ASM).
...
Special purpose zones	...	
	<u>Electricity generation zone</u>	
	[Additional Special Purpose] Zone	
...

2.5.5 District Wide Matters Standard (S-DWM)

Amend Directions 21 - 25 as follows (proposed additions underlined and proposed deletions ~~struck through~~) or similar (e.g. separate district wide directions specific to an *Electricity Generation* chapter):

Infrastructure ~~chapter~~ and Electricity Generation chapter (S-IE)

- 21 The Infrastructure ~~and energy~~ chapter and the Electricity Generation chapter must, to the extent relevant contain provisions that give effect to:
- a. National Policy Statement for Renewable Electricity Generation 2011
 - b. National Policy Statement on Electricity Transmission 2008.
- Notwithstanding the above, the National Policy Statements place obligations on other land use activities (e.g. avoiding reverse sensitivity effects) that will need to be given effect through other chapters, as relevant.
- 22 The Infrastructure ~~and energy~~ chapter must be consistent with the:
- a. Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009
 - b. Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016.
- 23 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:
- a. objectives, policies and methods including rules if any, relating to the operation, maintenance, upgrading and development of infrastructure including where relevant:
 - i. state highways and local roads
 - ii. railways
 - iii. airports
 - iv. ports
 - v. ~~electricity generation~~, transmission and distribution
 - vi. wastewater, stormwater and drinking water infrastructure
 - vii. other network utilities not listed



- viii. bulk storage and transmission of fuel or energy
 - ix. street furniture
 - x. any buffer corridor area provisions required for the national grid
- b. a statement about the zoning status of roads; eg, the adjoining zoning applies to the centre line of the road
 - c. provisions to manage reverse sensitivity effects between infrastructure and other activities.

23A If relevant to a local authority, the following matters must be addressed in the Electricity Generation chapter:

- a. objectives, policies and methods including rules if any, relating to the operation, maintenance, upgrading and development of electricity generation activities and structures, including in particular renewable electricity generation activities and structures.
- b. provisions to manage reverse sensitivity effects between electricity generation activities and other activities.

24 Any noise related metrics must be consistent with the Noise and Vibration Metrics Standard (CM-2).

25 The Infrastructure ~~and Energy~~ chapter and the Electricity Generation chapter must refer to any relevant applied Special Purpose Zone (eg, Airport zone, Port Zone, Hydro-electricity Generation Zone).

2.5.6 Area Specific Matters Standard (S-ASM)

In addition to, or as an alternative to providing a specific electricity generation zone through Direction 8 (below), amend Direction 7 as follows (proposed additions underlined and proposed deletions ~~struck through~~):

- 7 An additional special purpose zone must only be created when the proposed land use activities and anticipated development within the defined area:
 - a. are nationally significant or otherwise significant to the district or region; or
 - b. could not be enabled by any other zone; or
 - c. could not be enabled by the introduction of an overlay, precinct, designation, development area, or specific control; or
 - d. involves cross-boundary issues with another district or region.

Amend Direction 8 as follows (proposed additions underlined and proposed deletions ~~struck through~~):

Discretionary direction	
8 The local authority must choose at least one of the following zones to use in their Plans. Each zone option contains a purpose statement which the zone provisions must fulfil.	
Zone	Purpose Statement
...	...
Electricity generation zone	<p>The purpose of the <i>Electricity generation zone</i> is to:</p> <ul style="list-style-type: none"> • <u>enable the ongoing operation, maintenance, upgrading and future development of electricity generation facilities and activities</u> • <u>recognise the national significance and benefits of renewable electricity generation activities</u> • <u>enable ancillary activities associated with electricity generation, including the system of electricity conveyance to the transmission or distribution network</u> • <u>enable electricity storage technologies.</u>
[Additional special purpose] zone	...
...	...



3 Definitions Standard

This section relates to the Definitions Standard (CM-1). The definitions that are supported are listed first and these definitions should be retained. This is followed by the definitions where amendments are sought.

3.1 Definitions that are Supported

All definitions in the Standard that adopt and carryover the same meaning as in the RMA are fully supported.

In addition, the following listed definitions are supported without change.

- Accessory building
- Ancillary activity
- Notional boundary
- Official sign
- Reclamation
- Setback
- Sewage
- Small scale renewable electricity generation
- Wastewater

3.2 Definitions Requiring Amendment

The following section sets out the definitions that are not supported in their current form and proposed amendments to address the matter of concern.

3.2.1 Definition of 'addition'

The term 'addition' is adequate in so far as it relates to a building addition, however, the term has a common English usage that can be applied in contexts other than for buildings. The term '*building addition*' or similar is considered more appropriate.

Amendment sought

Retain the definition but amend the term as follows (proposed additions underlined and proposed deletions ~~struck through~~):

'building addition – means...'

OR, in the alternative, the definition could be amended as follows (proposed additions underlined and proposed deletions ~~struck through~~):

'means, for the purpose of a building, any works...'

3.2.2 Definition of 'aquifer'

In the case of a geothermal system, an aquifer also yields geothermal water (which includes steam) and energy and this should be added to the definition, given that geothermal water and geothermal energy are themselves defined terms in the RMA.

Amendment sought

Amend the definition as follows (proposed additions underlined and proposed deletions ~~struck through~~):

'means a permeable geological formation, group of formations, or part of a formation capable of receiving, storing, transmitting and yielding water and/or geothermal water and energy'

3.2.3 Definition of 'bore'

As noted above for the definition of 'aquifer', in the case of a geothermal system, a bore is also used to abstract or inject gas (steam) as well as liquid (water). This gas component should be added to the definition. In the alternative, this could refer to 'geothermal water' rather than gas as this is defined in the RMA as including steam.

For clarification purposes, the definition should also refer to a hole that is drilled or constructed.

Amendment sought

Amend the definition as follows (proposed additions underlined and proposed deletions ~~struck through~~):

- (a) means any hole drilled or constructed into the ground that is used to—
- (i) investigate or monitor conditions below the ground surface; or



- (ii) abstract liquid or gas substances from the ground; or
 - (iii) discharge liquid or gas substances into the ground; but
- (b) it does not include test pits and soak holes'

3.2.4 Definition of 'building'

There is a potential issue with the 'building' definition specifying "...enclosed with two or more walls and a roof, **or any structure that is similarly enclosed**" (emphasis added). The reference to "similarly enclosed" is unclear and relatively subjective, and Mercury is concerned that it will lead to uncertainty for plan users. The reference to "similarly enclosed" may also unintentionally capture structures that are not buildings by any ordinary sense of the word. For example, hydro dams can include internal rooms that are enclosed but these rooms are not the principle purpose of the structure. That is, a dam (and its internal components) should be classified as a 'structure' more specifically rather than being captured by the 'building' definition. The same would apply to other enclosed structures, such as tunnels, pipelines, and wind turbine towers. This issue would be remedied by the definition not referring to '*any structures that are similarly enclosed*'.

Amendment sought

Amend the definition as follows (proposed additions underlined and proposed deletions ~~struck through~~):

'means any structure, whether temporary or permanent, moveable or fixed, that is enclosed, with 2 or more walls and a roof, or any structure that is similarly enclosed

3.2.5 Definition of 'footprint'

The proposed definition refers to 'ground floor level'. For consistency with other defined terms and to avoid confusion, it is considered the definition should simply refer to 'ground level'.

Amendment sought

Amend the definition as follows (proposed additions underlined and proposed deletions ~~struck through~~):

'means the total area of structures at ground ~~floor~~-level and the area of any section of any of those structures that protrudes directly above the ground'

3.2.6 Definition of 'functional need'

The definition of 'functional need' in the Standards does not suitably account for the operational needs of activities to locate in a certain area. In this regard, the definition of 'functional need' is considered to only focus on the nature of the activity related to the siting of an activity (i.e. the activity can *only* occur in that environment, such as a geothermal generation facility locating in a geothermal field) and does not appropriately consider the operational needs of activities (such as the need for a new generation facility to link in with existing transmission or distribution networks). In some cases, an activity will have both a 'functional need' and an 'operational need' to locate in a particular area.

The Ministry for the Environment Evaluation Report (Part 2C – Definitions, page 93) notes that the concept in 'functional need' is recognised in Policy C of the NPS-REG, but it does not acknowledge that logistical or technical practicalities and constraints (being the concepts in 'operational need') are also recognised by Policy C of the NPS-REG. Logistical or technical factors are those that would make it very difficult to construct a structure or carry out an activity in any other way.

Examples of technical, logistical or operational characteristics or constraints may include:

- The ability to transmit electricity from where it is generated to where it is used (i.e. proximity to suitable transmission or distribution infrastructure);
- A site having suitable transportation routes and access for construction, maintenance and upgrade projects to accommodate oversize or overweight loads, e.g. proximity to a suitable port for unloading equipment, strength of road bridges for heavy vehicles, and the tightness of road curves (e.g. transporting wind turbine blades);
- The design and placement of wind turbines within a windfarm to minimise turbulence effects; and
- The management of the flows and levels of lakes and rivers associated with hydro-electricity reservoirs to meet operational design and electricity market conditions;

Mercury also notes that more recent statutory planning documents include policies that refer to 'functional needs' and 'operational needs'. This includes the Auckland Unitary Plan, which considers whether the infrastructure has a functional or operational need to be located in, or, traverse a proposed location. Both functional need and operational need are separately defined in that Plan.



Amendment sought

Provide a new definition for 'operational need' as follows (proposed additions underlined):

'operational need – means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints'

An alternative, although less preferred approach, would be to merge the concepts of 'functional need' and 'operational need' into a single definition (e.g. a definition for 'functional or operational need').

3.2.7 Definition of 'geothermal water'

It is suggested that the RMA definition of geothermal water is added to the Standards, as the term is used in Mercury's proposed amendment to the definition of 'aquifer'. We note that the RMA definition of 'water' and 'freshwater' is in the draft Standard; the definition of 'water' includes geothermal water, while 'freshwater' excludes geothermal water. The inclusion of the geothermal water definition would clarify the meaning of the 'water' and 'freshwater' definitions also.

Amendment sought

Provide a new definition for 'geothermal water' as follows (proposed additions underlined):

'has the same meaning as in section 2 of the RMA (as set out in the box below)

means water heated within the earth by natural phenomena to a temperature of 30 degrees Celsius or more; and includes all steam, water, and water vapour, and every mixture of all or any of them that has been heated by natural phenomena

3.2.8 Definition of 'height' [in relation to a district plan]

The Standard proposes two definitions for 'height'; one for district plans that uses 'ground level' as the reference point; and the other for a regional policy statement or regional plan that uses different reference points, being either:

- a. the 'ground level' outside the coastal marine area; or
- b. other reference point stated in a rule outside the coastal marine area; or
- c. mean sea level inside the coastal marine area.

It is the district plan definition for 'height' with the 'ground level' reference point that is problematic for hydro power schemes and possibly other lake bed or riverbed structures. Under clause (b) of the 'ground level' definition, the existing surface level becomes the default where there is no subdivision involved, "*except areas of cut or fill associated with the construction or alteration of a building*". This exclusion applies to a 'building' only, whereas the reference point in the 'height' definition applies to all 'structures' relative to 'ground level'. This is problematic for some hydro power schemes where there are different types of 'structures' (e.g. dam, spillway, transformers and transmission structures) and 'buildings' (e.g. powerhouse and maintenance buildings), all of which are integrated and transition from a land environment to a lake bed or riverbed environment. Assessing 'ground level' in these circumstances becomes unworkable. A similar problem may also exist for other structures, such as bridges.

Part of the issue stems from the overlapping jurisdiction for lake beds or riverbeds whereby district councils control land use which can extend to land covered in water that amounts to the bed of a lake or river. As an example, the Waikato Hydro Scheme traverses through five districts and each of the respective district plans control land use within the beds of lakes and rivers through district plan zoning controls. It is in these circumstances where an alternative reference point becomes appropriate, for example using the existing hydro dam crest for the construction of a minor structure on top of the dam, as 'height' assessments relative to 'ground level' become somewhat meaningless. Other alternative reference points include a reduced level elevation (RL) or a water level datum.

To address this matter different reference points are required to measure 'height' of 'structures' where it is not practical to use 'ground level' and this will ensure the 'height' definition does not unnecessarily modify an existing permitted activity framework, i.e. where the district plan currently uses a different reference point. It is considered that a 'height' definition in district plans that differs from that in a RPS/regional plan only adds unnecessary complexity. It is further noted that a combined plan is required to adopt the RPS/regional plan 'height' definition, which demonstrates that the RPS/regional plan is fit for use in a district plan (with minor modification). Mercury's suggested amendments will provide 'ground level' as the default reference point but allow bespoke height rules to be drafted to address the complexities of measuring the height in relation to water bodies, and any other scenario where a bespoke approach is needed.



Amendment sought

Amend the district plan definition of height as follows (proposed additions underlined and proposed deletions ~~struck through~~):

~~'means the vertical distance between ground level at any point and the highest part of the a structure immediately above that point and a reference point. The reference point is ground level, unless otherwise stated in a rule.'~~

3.2.9 Definition of 'industrial activity'

Mercury considers that this definition is too narrow in scope and would potentially exclude many existing industrial activities. Clause (a) needs to be broader than just applying to "goods". For example, a wastewater treatment plant does not involve goods, but the processing of waste materials is industrial in nature and effects.

The definition should include a reference to "*industrial or trade process*" as defined in the RMA. The Ministry for the Environment Evaluation Report simply claims the RMA terms were too narrow and circular. However, by including references to these RMA terms it expressly captures the chain of process from receipt of raw materials through to dispatch or use in another process, and acknowledges that an industrial activity can involve the use, storage, treatment or disposal of waste material, and the discharge of contaminants (e.g. air discharges) associated with the industrial or trade process.

To help support this change, it is noted that the definition for 'sewage' states that it includes "...*any waste in water from industrial or commercial processes*".

Amendment sought

Amend the definition as follows (proposed additions underlined and proposed deletions ~~struck through~~):

'means an activity for the primary purpose of:

- (a) manufacturing, fabricating, processing, packing, storing, maintaining, or repairing goods; or
- (b) research laboratories used for scientific, industrial or medical research; or
- (c) yard based storage, distribution and logistics activities; or
- (d) undertaking an industrial or trade process (as defined in section 2 of the RMA); or
- ~~(e)~~ any training facilities for any of the above activities'

3.2.10 Definition of 'reverse sensitivity'

The term 'reverse sensitivity' is now well entrenched in resource management policy statements, plans, and case-law but there are two potential issues with the proposed definition.

The first issue is the definition applies to existing lawfully established activities but not unimplemented consented activities. In particular, Policy D of the NPS-REG requires decision makers to "...*manage activities to avoid reverse sensitivity effects on consented and on existing renewable electricity generation activities*" (emphasis added). This avoid policy is a strong directive and its application to consented activities (renewable electricity generation) is unique amongst the current NPS documents. The Ministry for the Environment Evaluation Report (Part 2C – Definitions, page 120) states that "*such [consented but unimplemented] activities form part of the existing environment, and therefore are caught by the term "existing activity".*" Although case law confirms that unimplemented consents do form part of the existing "environment", the current proposed definition of reverse sensitivity refers to "an existing lawfully *established* activity". Mercury is unclear on whether a consented (but unimplemented) resource consent will meet the establishment test. This is a significant issue needing to be addressed in order to give effect to the NPS-REG.

The second issue is that the definition implies a new activity sensitive to an existing activity must be recently established for there to be a reverse sensitivity effect. It is common for plans to seek the avoidance of reverse sensitivity effects (and is also the requirement in Policy D of the NPS-REG) which may mean the sensitive activity is not established in a particular locality. The definition should therefore refer also to the "*potential establishment*" of new activities.

Given that many electricity generation projects have a long lead time from consenting to construction / implementation, it is important that they are protected from reverse sensitivity effects caused by new land uses or activities occurring in close proximity or in an inappropriate location. This characteristic would be common to many infrastructure projects. For example, the establishment of a new dwelling in close proximity to a consented infrastructure project that is consented to emit higher noise levels (e.g. a wind farm, a road, a railway line, a port or airport), with the resultant effect that the new dwelling may have its amenity affected by the infrastructure project if constructed.



Amendment sought

Amend the definition as follows (proposed additions underlined and proposed deletions ~~struck through~~):

'means the potential for the operation of an existing lawfully established activity or a consented (but unimplemented) renewable electricity generation activity to be compromised, constrained or curtailed by the more recent establishment, or potential establishment or alteration of another activity which may be sensitive to the actual, potential or perceived adverse environmental effects generated by an existing activity or consented (but unimplemented) renewable electricity generation activity'.

OR, in the alternative, the definition could be amended to more broadly relate to existing or consented infrastructure (which would encompass renewable electricity generation).

3.2.11 Definition of 'sewage'

The definition is supported in so far as it refers to "...any waste in water from industrial or commercial processes". 'Sewage' is referred to in the definition for 'wastewater' which is also supported. Any change to the definition for 'sewage' may require a consequential change to the 'wastewater' definition to ensure it continues to capture the liquid waste from an industrial or trade premises/process.

3.2.12 Definition of 'site'

Mercury considers there are flaws in the proposed definition that will need to be remedied for the definition to be workable. This is considered important as the term 'site' is embedded in many of the other definitions in the Standard and would result in unintended consequences in other definitions. Some of the problems with the definition are:

- the definition essentially defines property (and an alternative to the RMA definition of 'allotment') but in plans 'site' can mean a spatial feature or area, a permitted activity or a consent area, all of which may not align to property boundaries;
- it is unclear how the definition would be applied in the coastal marine area;
- clause (a) to (e) of the definition all refer to 'land' but the RMA definition of 'land' does not include the bed of a lake or river for the purpose of a regional council function or a regional rule. This is problematic when defining some activities, such as a bridge or dam.
- The definition for 'setback' refers to "...the boundary of its site, or other feature specified in the Plan". It is considered that "other feature" should be able to be defined as a site, e.g. a SNA, or outstanding landscape which in many cases do not align to property boundaries.

The proposed amendments below are only considered a partial fix to the problems with the definition. Further changes to the definition may be necessary to address the issues raised here and should be done so after considering other similar submissions on the definition. Alternatively, the definition could be deleted so that a local authority can define 'site' to suit their particular circumstances.

Amendment sought

Amend the definition as follows (proposed additions underlined and proposed deletions ~~struck through~~):

'means:

a)...

...

e)...

unless otherwise stated in a rule'

OR, in the alternative, delete the definition.

3.2.13 Definition of 'small scale renewable electricity generation'

The definition is supported. The 20kW limit is considered a reasonable threshold to accommodate 'small scale' for the many different forms of renewable electricity generation that may support an individual activity or site.

3.2.14 Definition of "special audible characteristics"

The definition does not currently provide sufficient certainty, such as the location where its "subjective acceptability" is applied or how it is assessed. Any 'special audible characteristics' should only be applied at a 'notional boundary' (as defined by the draft Standard) and its assessment should be in accordance with a relevant Acoustic New Zealand Standard.



Amendment sought

Amend the definition as follows (proposed additions underlined and proposed deletions ~~struck through~~):

'means sound that has a distinctive characteristic such as tonality or impulsiveness which affects its subjective acceptability assessed (unless otherwise stated in a rule) at the notional boundary in accordance with the applicable New Zealand Acoustical Standard.'

3.2.15 Definition of 'structure'

The Ministry for the Environment Consultation Document notes that when deciding which terms to standardise and define, those which were defined in the RMA were excluded. It goes on to note that definitions from the RMA were used where they considered to be fit for purpose.

The inclusion of a definition of 'structure' in the Standard that differs from the RMA raises issues with respect to which definition takes priority. The Ministry for the Environment Evaluation Report (Part 2C – Definitions, page 125) fails to provide any evaluation for the term 'structure' (e.g. that the RMA definition is not fit for purpose, or why the definition differs from that in the RMA).

If the definition of structure in the RMA is no longer considered to be fit for purpose, then the Standard should not be used as the vehicle to effect changes to legislative definitions. If there are activities that are not considered structures (based on the definition in the RMA) or buildings (based on the definition in the Standards), then there is still the ability for district councils to regulate these activities without amending the definition of 'structure'. In this regard, section 9 of the RMA applies to the use of land and enables rules to be established that relate to objects that are not 'structures' or 'buildings'.

If the definition of structure is to be changed it should specifically include 'dams' to put this beyond doubt. Currently it can be inferred that they are structures from the restrictions under section 13(1)(a) of the RMA.

Amendment sought

Amend the definition as follows (proposed additions underlined and proposed deletions ~~struck through~~):

'has the same meaning as in section 2 of the RMA (as set out in the box below)

<p><u>'means any building, equipment, device, or other facility made by people and which is fixed to or located on land; and includes any raft, but excludes motorised vehicles that be moved under their own power.'</u></p>

3.2.16 Definition of 'wastewater'

The definition is supported in so far as it refers to 'sewage' which itself is defined as "...any waste in water from industrial or commercial processes". Any change to the definition for 'sewage' may require a consequential change to the 'wastewater' definition to ensure it continues to capture the liquid waste from an industrial or trade premises/process.

4 Other Matters

4.1 Introduction and General Provisions Standard (S-IGP)

The Introduction and General Provisions Standard, relating to all policy statement and plans, is generally supported, and in particular Direction 9, which requires a section dealing with cross boundary issues, including the processes to be used to manage matters that cross local authority boundaries. Many of New Zealand's electricity generation facilities cross local authority boundaries so it is important that Direction 9 is retained.

4.2 District Wide Matters Standard (S-DWM)

Direction 31 of the Standard relates to noise and light matters in a district plan, including in clause (d) the sound insulation requirements or location of noise sensitive activities relative to noise generating activities. This element is supported.

Direction 7 of the District Wide Matters Standard refers to objectives, policies and methods, including rules (if any) that will ensure the life supporting capacity of landscapes, landforms and natural character systems are safeguarded. This does not reflect the requirements of the RMA, which focus on the protection of natural character and outstanding natural features and landscapes from inappropriate development (as well as the maintenance and enhancement of amenity values). Mercury considers that the direction to safeguard the "life supporting capacity" of such values is an inaccurate summary of the obligations on decision-makers under sections 6 and 7 of the RMA.



Mercury therefore requests that Direction 7 be amended as follows (proposed additions underlined and proposed deletions ~~struck through~~):

- 7 If the following matters are to be addressed in combined plans or district plans, they must be located in the *Landscape, landforms and natural character* section:
 - a. the identification of landscapes, landforms and natural character that are outstanding, significant or valued by the community
 - b. objectives, policies and methods, including rules (if any) that will protect outstanding natural features and landscapes from inappropriate subdivision, use and development ~~ensure the life supporting capacity of these systems are safeguarded~~
 - c. objectives, policies and methods, including rules (if any) that will manage those features and landscapes.

4.3 Noise and Vibration Metric Standard (CM-2)

The Noise and Vibration Metrics Standard requires rules in planning documents which manage emission of noise to be consistent with the acoustic New Zealand Standards. Mercury is supportive this requirement, and in particular the inclusion of New Zealand Standard 6808:2010 Acoustics – Wind Farm Noise in the standard.

However, the specific wording under Direction 3 which requires any plan rule to manage an emission of noise must be consistent with the noise measurement methods of the New Zealand Standards and accordingly, there is no requirement in the Standard for plan rules to adopt the corresponding noise metrics contained in the New Zealand Standards. Furthermore, while Directions 24 and 32 of the District Wide Matters (S-DSM) Standard do require any noise related metrics to be consistent with the Noise and Vibration Metrics (CM-2) Standard, those Directions do not require the measurement methods to be consistent with the New Zealand Standard. These inconsistencies between the various noise related Directions in the Standards appear to be unintended.

There also appears to be a conflict within Noise and Vibration Metrics Standard (CM-2). Table 30 of the Standard references several acoustic New Zealand Standards, but Direction 4 immediately below, states that all plan noise rules need to be consistent with NZS 6802:2008 Acoustics – Environment Noise. It is our understanding that many of the specific acoustic Standards referenced in Table 30 have been developed as they don't fit within the requirements of NZS 6801 and NZS 6802, so forcing them to be consistent with NZS 6802 through Direction 4 is at odds with their purpose.

The following amendments are proposed to Standards to appropriately implement the relevant acoustic New Zealand Standards.

4.3.1 Noise and Vibration Metrics Standard (CM-2)

Amend Directions 3 and 4 as follows (proposed additions underlined and proposed deletions ~~struck through~~):

3. Any plan rule to manage an emission of noise must be consistent with the noise related metrics and noise measurement methods in the New Zealand Standards listed in table 30: Acoustic New Zealand Standards below.

Table 30: Acoustic New Zealand Standards referenced

...

4. ~~Any plan rule to manage an emission of noise must be consistent with the assessment methods in section 6 Rating Level and section 7 LMAX in New Zealand Standard 6802:2008 Acoustics – Environment Noise.~~

4.3.2 District Wide Matters Standard (S-DSM)

Amend Direction 24 (for Infrastructure and Energy) and Direction 32 (for General District-Wide Matters chapter) as follows (proposed additions underlined and proposed deletions ~~struck through~~):

Any noise related metrics and measurement methods must be consistent with the Noise and Vibration Metrics Standard (CM-2).



5 Future Planning Standards

The final part of this submission is in response to one of the questions presented in the Ministry for the Environment Consultation Document, *What topics or matters should be investigated for future planning standards?*

One of the key findings of the Productivity Commission's draft report into transitioning to a low-emissions economy was that an efficient and well-functioning electricity system will play a central part in the transition. New Zealand's largely decarbonised electricity sector is a major international advantage for New Zealand, and considerable scope exists to further increase the supply of electricity from renewable sources which will create opportunities elsewhere in the economy, most notably in the areas of transportation and industrial processes where we currently rely on emissions-intensive energy sources.

There is a growing consensus that additional renewable electricity generation will be required as electricity becomes the fuel of choice in more sectors of the economy, particularly as the use of electric vehicles (EVs) becomes widespread. The Productivity Commission's analysis suggests that nearly 50% more renewable electricity will be required by 2050 to power more EVs and shift process heat to electricity. Transpower in its recently released Energy Futures Whitepaper (Te Mauri Hiko) estimates that electricity demand is likely to more than double from 40 TWh per annum to 90 TWh by 2050 requiring significant and frequent investment in both grid connected technologies such as wind and hydro and distributed technologies such as solar and batteries. EVs are expected to reach 40% of market share by 2030 and 85% by 2050.

While the NPS-REG is broadly consistent with the Government's climate change goals it has not led to greater consistency across regional and district, policy statements and plans for the provision and management of renewable electricity generation activities. Often the supporting rules that exist to implement policy are not sufficiently enabling. There remains a high degree of variability in local government planning documents that has not increased the level of certainty for renewable electricity generation projects. There remains conflict between the NPS-REG and other matters of national importance in Part 2 of the RMA and with other NPS documents. For these reasons, Mercury considers that future planning standards should specifically address content relating to energy and electricity generation, including its connection to transmission and distribution networks. We understand this view is shared by other major electricity generation companies.

