

Draft first set of National Planning Standards

SUBMISSION

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

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

Submission form

The structure of this submission is in line with the submission form provided by the Ministry for the Environment for giving feedback on the first set of National Planning Standards. Only those questions of interest to the Oil Companies are addressed in the submission below, along with more general comments.

BACKGROUND

Mobil Oil New Zealand Limited, Z Energy Limited¹ and BP Oil New Zealand Limited (*the Oil Companies*) receive, store and distribute refined petroleum products.

The Oil Companies have commercial, shore and marine based, aviation and bulk storage facilities (which are regionally and nationally significant infrastructure). They are also owners of retail outlets (service stations and truck stops) and suppliers of petroleum products to individually owned (branded) retail outlets and other privately owned commercial and other facilities.

The Oil Companies have a unique history and perspective on the Resource Management Act (*RMA*):

- The Oil Companies have, for over twenty years, been acting collegiately in terms of inputs/submissions and appeals on environmental matters arising from various resource management plans and issues. This is managed through the Oil Industry Environmental Working Group (*OIEWG*). OIEWG currently comprises the Oil Companies, New Zealand Oil Services Limited² and the Motor Trade Association are associate members. OIEWG works collegiately on environmental issues where it is appropriate to have a common approach by individual players within the industry. OIEWG has made submissions on just about every district and regional plan in the country and on other relevant resource management issues (e.g.: Bylaws, NES and National Policy Statements).
- The nature and function of the Oil Companies networks provides a national perspective – in that the Oil Companies have assets in every region in New Zealand and therefore have had experience with the resource management and other relevant plans and consenting processes of virtually every local authority. That experience spans many years (including pre-RMA implementation) and there is not only considerable experience, but also considerable corporate memory as a result.
- The Oil Companies core assets effectively operate and function in the same or similar way irrespective of location. Fuel supply is a critical lifeline function and industry bulk storage facilities are lifeline utilities and regionally significant infrastructure. Maintaining the fuel supply into each region is a significant issue for each region, and is one which involves a number of cross-boundary and strategic considerations.
- OIEWG is interested in promoting a sound and responsible resource management framework for the key issues that impact on its business through a shared and collective approach to regional and district policy development.
- OIEWG is also an advocate of industry good practice. To this end, the oil industry, in concert with MfE and other parties, has developed a number of appropriate and relevant guidelines that apply to various aspects of its activities. These guidelines include:

1. "Guidelines for Assessing and Managing Petroleum Hydrocarbon Contaminated Sites in New Zealand" (MfE 2011) (updated in relation to the Resource Management

¹ On behalf of the wider Z Group including the Z and Caltex operations in New Zealand.

² The Joint Venture Company that looks after a number of BP / Z terminals.

(National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (**NESCS**));

2. "*Above-Ground Bulk Tank Containment Systems - Environmental Guidelines for the Petroleum Marketing Oil Companies*" (MfE 1995); and
3. "*Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand*" (MfE 1998) (**the Water Discharge Guidelines**).

- OIEWG is currently collecting additional data, with a view to enabling the latter guideline to be updated. In some locations, plans have explicitly recognised the value of these guidelines. For example, in the Waikato Regional Plan, compliance with the Water Discharge Guidelines is deemed to comply with the permitted activity conditions for stormwater discharges. In Auckland, under the Unitary Plan industrial and trade discharges can be permitted where they comply with the Water Discharge Guidelines.
- The oil industry supports the recent removal of the hazardous substances function from District Councils under the RMA. OIEWG invested considerable effort in submissions to planning documents arguing to Councils that duplication of hazardous substances regulations was unnecessary and inappropriate, given that hazardous substances are already tightly and appropriately controlled (primarily under HSNO). That said; OIEWG recognises that there is a land use planning gap in relation to land use planning around major hazard facilities and to this end it has been promoting restrictions on sensitive land uses in proximity to such facilities, based on risk assessment.
- The Oil Companies have specific experience with the provision and interface issues with district plan provisions around the implementation of the NESCS which makes specific provision for removal and replacement of underground fuel storage systems. This has given the Oil Companies a broad perspective on the interface between plan provisions and national standards.

Draft first set of National Planning Standards

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

Yes

No

The Oil Companies are generally supportive of the draft national planning standards. They consider there is benefit in standardising the structure of plans and some plan content, noting that caution is needed in determining what content is suited to standardisation.

2. Draft Structure Standards – general

The structure standards as drafted provide time periods for authorities to gazette documents in accordance with the national standards. Seven rather than five year terms are provided for implementation where councils have recently concluded a major plan process. These lists need to be updated to include the full list of authorities that are currently in, or have recently completed, major plan changes, for instance Otago RPS, Northland Regional Plan, Palmerston North District Plan. MfE recognises in the consultation documentation that it may have missed some of these plans and asks Councils to advise it accordingly.

3. S-DP: District plan structure standard

District Wide Matter Section (S-DWM) 'hazardous substances and contaminated sites'

The draft district plan structure standard sets out mandatory headings (i.e. part, chapter or section headings), which must be adopted in the order provided in the draft National Planning Standard. This includes Part 4 – District Wide Matters, which includes a chapter titled 'Environmental risks'.

The Oil Companies support the chapter heading 'environmental risks' and agree that this is appropriately located as a district wide matter. However, the naming of the 'hazardous substances and contaminated sites' section, within the 'environmental risks' chapter, is not supported.

The reference to 'hazardous substances' is inappropriate. It conflicts with the recent removal from the RMA of the explicit function for local authorities to regulate hazardous substances in RMA plans. The intent of that change was to *'remove the perception that councils must always place controls on hazardous substances under the RMA, and to ensure councils only place additional controls on hazardous substances if they are necessary to control effects under the RMA that are not covered by the HSNO or HSW Acts.'*³

A requirement to include a section titled 'hazardous substances' as part of the prescribed district plan structure directly contradicts that intent and will encourage councils to include controls on hazardous substances as a matter of course rather than promoting robust section 32 analysis to demonstrate why existing HSNO or Worksafe controls are not adequate and additional controls on hazardous substance use under the RMA are required.

As such, the Oil Companies consider the reference to 'hazardous substances' should be deleted from the list of mandatory section headings.

The Oil Companies recognise there may be situations in which additional controls on hazardous substance use under the RMA are appropriate and are not opposed to this being highlighted in

³ Resource Legislation Amendments 2017 – Fact Sheet 2 - MfE

the District Wide Matters Standards. This could be appropriately addressed by way of a comment in the third column of Part 4 District-Wide Matters (refer p 16 of the Draft National Planning Standards) under the statement ‘Local authorities must consider whether other sections should also be included in this chapter and include them if they are required’, along the following lines:

If matters relating to hazardous substances use are to be addressed in the plan, they should be located in a section titled ‘risks associated with hazardous substances use’ in the Environmental risks chapter.

As a minimum, the section title should be amended to ‘risks associated with hazardous substances use’ rather than simply ‘hazardous substances’ to better describe the nature of controls that may be appropriate to include in RMA plans.

The reference to ‘contaminated sites’ in the section heading is also inappropriate. This part of the structure standard should be renamed to refer to ‘contaminated land management’. It is important to draw a distinction between ‘contaminated land’ and ‘contaminated sites’ to avoid potentially blighting large areas of uncontaminated land within a site. For example it is not appropriate to consider a whole farm contaminated when there may only be an issue in relation to an old sheep dip, or to consider a whole airport to be contaminated when there may only be an issue in relation to a refuelling, washdown or servicing area.

In summary, the Oil Companies seek the following changes to Part 4 – District-Wide Matters of the District Wide Matter Section (S-DWM) (additions underlined; deletions in ~~strikethrough~~).

Chapter	Section	Instruction
PART 4 – DISTRICT-WIDE MATTERS		Local authorities must implement the District Wide Matters Standard (S-DWM).
Environmental risks	Natural hazards	Local authorities must consider whether other sections should also be included in this chapter and include them if they are required.
	Hazardous substances and Contaminated sites <u>land management</u>	... <u>If matters relating to hazardous substances use are to be addressed in the plan, they should be located in a section titled <i>risks associated with hazardous substances use</i> in the <i>Environmental risks</i> chapter.</u>

4. S-CP: Combined plan structure standard

Region Wide Matter Section (S-DWM) ‘hazardous substances and contaminated sites’

As per the draft district plan structure standard, the draft combined plan structure sets out mandatory headings (i.e. part, chapter or section headings), which must be adopted in the order provided in the draft National Planning Standard. This includes Part 4 – Region Wide Matters, which specifies that if the combined plan includes a district plan then local authorities must implement the District Wide Matters Standard (S-DWM), including a section titled ‘hazardous substances and contaminated sites’ within the ‘Environmental risks’ chapter.

For the reasons detailed above in relation to the District Plan structure standard, the Oil Companies oppose the section heading ‘hazardous substances and contaminated sites’ and seek that it be amended along the following lines (additions underlined; deletions in ~~strikethrough~~):

Chapter	Section	Instruction
PART 4 – REGION-WIDE MATTERS		Local authorities must implement the District Wide Matters Standard (S-DWM) to the extent it is relevant.
Environmental risks	Natural hazards	If the combined plan includes a district plan then local authorities must implement the District Wide Matters Standard (S-DWM).
	Hazardous substances and <u>Contaminated sites</u> <u>land management</u>	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). <u>If matters relating to hazardous substances use are to be addressed in the plan, they should be located in a section titled <i>risks associated with hazardous substances use in the Environmental risks</i> chapter.</u>

5. S-DWM: Draft District Wide Matters Standard

a. Environmental Risks Chapter (S-ER)

The draft district wide matters standard provides the following guidance on what should be included in the ‘hazardous substances and contaminated sites’ section of district and combined plans:

If the following matters are to be addressed in the plan, they should be located in the Hazardous substances and contaminated sites section:

- a. *any provision required to manage the land use aspects of hazardous substances where this is not covered by other legislation or regulation*
- b. *provisions relating to the use, storage and disposal of hazardous substances on land and in the coastal marine area that presents a specific risk to human or ecological health and property*
- c. *any provision required to address managing contaminated sites where this is not covered by existing legislation or regulation (ie, This section must not replicate the requirements of the Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011).*

The guidance is generally supported. However, in relation to clause b, the Oil Companies consider this should be further qualified by noting that provisions relating to risk issues should only be included where these matters are not adequately addressed by other legislation or regulation. For example, it is widely recognised, including by MfE⁴, that for service stations and truck stops compliance with the HSNO Act and associated regulations

⁴ e.g. the Ministry for the Environment, Land Use Planning Guide for Hazardous Facilities, 2002

and industry codes of practice is adequate to contain the risks associated with these activities in the short and the long term. Additional requirements in RMA plans for risk assessment associated with these activities are unnecessary.

In addition, the Oil Companies consider there is a regulatory gap in addressing land use planning around major hazard facilities. This means such facilities may be at ongoing risk of encroachment by sensitive activities, which will have the potential to compromise safety and result in reverse sensitivity effects. Similarly a significant expansion of a major hazard facility could extend the risk footprint onto nearby sensitive activities resulting in unacceptable level of risk. This issue has been recognised in both the recent Auckland and Christchurch planning processes, whereby both independent panels recommended the introduction of overlay provisions to address risk management and land use compatibility issues in a defined area around significant fuel storage infrastructure i.e. the Wiri Oil Terminal in Auckland and the Woolston bulk fuel facilities in Christchurch.

As such, the Oil Companies consider the district wide matters standard should be amended to draw attention to the potential need to regulate land uses around major hazard facilities in order to address risk and reverse sensitivity issues.

As such, the following amendments are sought (additions underlined, deletions in strikethrough):

If the following matters are to be addressed in the plan, they should be located in the risks associated with hazardous substances use and contaminated sites land management section:

- a. any provision required to manage the land use aspects of hazardous substances where this is not covered by other legislation or regulation*
- b. provisions relating to the use, storage and disposal of hazardous substances on land and in the coastal marine area that presents a specific risk to human or ecological health and property where this is not covered by other legislation or regulation*
- c. provisions required to manage land use in close proximity to major hazard facilities in order to manage risk and reverse sensitivity issues*
- ed. any provision required to address managing contaminated ~~sites~~ land where this is not covered by existing legislation or regulation (ie, This section must not replicate the requirements of the Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011).*

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

a. Zone purpose statements

The Oil Companies seek to ensure the zone purpose statements do not cut across the ability to provide for service stations in a range of zones. Service stations across the country are located in a broad range of zones including residential, rural, commercial, industrial and special purpose zones. This is because service stations provide a service to the community and are required to be strategically distributed across districts and regions to provide convenient and useful services in close proximity to the user.

In terms of effects, individual service station operations can typically be managed to protect the amenity and character of surrounding activities and risk issues are widely recognised,

including by MfE⁵, as being appropriately managed compliance with the HSNO Act and associated regulations and industry codes of practice.

Furthermore, the Oil Companies are (inter alia) entities carrying on certain businesses that are classed as lifeline utilities under the Civil Defence Emergency Management Act, Schedule 1, Part B(7)⁶. The National Civil Defence Emergency Management Fuel Plan⁷ recognises that:

... [Fuel products] “are essential for everyday life and the economy of New Zealand. They are also critical resources in the event of an emergency, with response agencies, businesses and the community all reliant to some extent. The oil industry has a national footprint which exposes various parts of its supply chain to the whole suite of New Zealand’s hazards. Disruptions to fuel distribution networks in an emergency and disaster are a real possibility and planning and coordination between the fuel sector and civil defence emergency management is vital in order to ensure the impacts of any disruptions are minimised and well managed.” ...

It is important, therefore, that service stations are able to locate in dispersed locations such that they are readily accessible when required and are not confined to one particular area, or suite of zones.

The zone purpose statements in the draft national standard appear broad enough to not preclude the establishment of service stations and in that context are not opposed.

The Oil Companies also seek to ensure the zone purpose statements make appropriate provision for bulk fuel storage facilities in heavy industry, port and airport zones.

The purpose statements for the Industrial, Light Industrial and Heavy Industrial Zones read as follows:

Light industrial zone	The purpose of the <i>Light industrial zone</i> is to provide primarily for a limited range of industrial activities that are more compatible with sensitive activities.
Industrial zone	The purpose of the <i>Industrial zone</i> is to provide primarily for a range of industrial activities. It also provides for associated activities that are not sensitive to the effects generated from industrial activities.
Heavy industrial zone	The purpose of the <i>Heavy industrial zone</i> is to provide primarily for industrial activities that may be incompatible with sensitive activities.

The Oil Companies consider these statements to be descriptive of the type of activities that may occur in those zones rather than describing the purpose of the zone. The Heavy Industry Zone, for example, should provide a location for a full range of industrial activities that generate potentially significant effects. The zone should enable such industry to operate efficiently and not be unreasonably constrained by other activities.

The Oil Companies consider the purpose statement for the Heavy Industrial Zone should be amended to focus on the role of the zone. This could be achieved by making amendments as follows or to the same effect:

⁵ *ibid*

⁶ The Oil Companies (and associated distribution companies) are defined as lifeline utilities as: *An entity that produces, processes, or distributes to retail outlets or bulk customers any petroleum products used as an energy source or an essential lubricant or additive for motors for machinery.*

⁷ Supporting Plan [SP03/12] June 2012 Version 1, Page 7

Heavy industrial zone The purpose of the *Heavy industrial zone* is to provide primarily for industrial activities that may be ~~incompatible with sensitive activities~~ generate potentially significant effects and to enable such industry to operate efficiently and not be unreasonably constrained by other activities.

b. 'Initial guidance for draft National Planning Standards: F-4 Spatial planning tools (district), S-ASM Area-specific matters – zone framework'.

The Oil Companies do, however, have some concerns with the guidance on specific zones set out in the accompanying guidance document titled *'Initial guidance for draft National Planning Standards: F-4 Spatial planning tools (district), S-ASM Area-specific matters – zone framework'*.

In relation to the **residential zones**, the guidance generally recognises that activities may include small-scale non-residential activities where they service the immediate and wider neighbourhood and are compatible with residential amenity. The Oil Companies consider this guidance is broad enough to enable the appropriate consideration of service stations within residential zones.

In the **Rural Zone** and **Rural Production Zone**, identified activities include that *'there may be large scale infrastructure (e.g. electricity transmission, irrigation networks, transport corridors, airports) present'*. It is uncertain that this reference provides adequate recognition of the potential need for service stations to locate in these zones, as, while fuel pipelines are included in the definition of 'infrastructure', service stations are not typically considered to be 'infrastructure'. As such, the Oil Companies seek an amendment to the activity description to acknowledge that lifeline utilities may also be appropriately located in these rural zones. This could be achieved by making the following amendments (additions underlined):

- *there may be large scale infrastructure (e.g. electricity transmission, irrigation networks, transport corridors, airports) and lifeline utilities present*

Guidance on the **Rural Residential Zone** indicates only that residential or associated primary production activities may occur in that zone. In contrast to the guidance given on the residential zones and the rural and rural production zones, no acknowledgement is made that certain other non-residential activities or infrastructure / lifeline utilities may appropriately occur. As such, the Oil Companies seek that an additional bullet point is included in the 'activities' list for the Rural Residential Zone to recognise that certain other activities, such as service stations, may appropriately occur. This could be worded along the lines of the reference to non-residential activities in the residential zones, as follows:

- *Small-scale non-residential activities where they service the immediate and wider neighbourhood*

The **commercial zones** all recognise the expected presence of commercial activities, which could include service stations and this guidance is supported.

In the **industrial zones** reference is made to the potential presence or use of hazardous substances. The Oil Companies do not support this reference as it infers, by default, that the presence or use of hazardous substances will not be appropriate in any other zones. This is inappropriate as hazardous substances are ubiquitous and used in a broad range of activities and will be present in all zones (e.g. fuel in vehicles and small engines such as lawnmowers, household chemicals, LPG bottles). Further, it would be inappropriate to restrict the location of service stations to industrial zones on the basis that they store hazardous substances, where the overall location of such zones may have little relationship to the needs of the community and/or

commuters and risk issues are appropriately managed by compliance with the HSNO Act and relevant regulations, standards and Codes of Practice.

The Oil Companies acknowledge that major hazard facilities may be more appropriately located in industrial zones and consider the reference to hazardous substances should be amended accordingly. This could be achieved by making the following amendments (additions underlined; deletions in strikethrough):

- *There may be the presence ~~or use of~~ major hazardous facilities ~~substances~~*

Both the Special Purpose: Airport Zone and the Special Purpose: Port Zone contain reference to fuel storage and refuelling activities and this is supported.

7. CM-1: Definitions standard

The Oil Companies consider there will be benefit in standardising some definitions. However, they do not support the approach proposed by the draft National Planning Standards, which has seen the definitions developed in isolation. Definitions must be considered in the context in which they will be used and should have been developed as part of an analysis which involves the identification of relevant issues, objectives, policies, rules and associated definitions.

At the very least, the Oil Companies consider that there is a need to provide a transitional exclusion for words which do not currently have a high degree of commonality in their existing definition between existing district and regional plans and to allow councils to adopt standardised definitions at the appropriate time (i.e.: when a plan is reviewed).

The definition of words such as 'earthworks', 'alteration' and 'height' vary markedly between plans with these differences having evolved in response to different local problems and situations, to the community's response to those situations and, often, because of the way the rules have been drafted. Accordingly, the outcome of these rules may not be too different, but there are differences in the expression of the definition and the associated rule. Changing those definitions (to a standardised one) is likely to then require significant changes to associated rules which have developed from and in association with those definitions.

It is not clear how the consequences of replacing such definitions will be appropriately recognised by councils in the absence of a consultation process and potentially significant consequential amendments to maintain the intent of the relevant planning document. Where a council needs to adopt a different definition for a transitional period, it should be able to do so – subject to appropriately justifying that approach.

Notwithstanding the above, the Oil Companies make the comments set out in Table 1 below in relation to the individual definitions contained in CM-1: Definitions standard.

a. Individual definition

Table 1: Oil Company comments on individual definitions

Term	Proposed definition	Oil Companies position	Comment	Relief Sought
Abrasive blasting	<i>means the cleaning, smoothing, roughening, cutting or removal of part of the surface of any article by the use, as an abrasive, of a jet of sand, metal, shot or grit or other material propelled by a blast of compressed air or steam or water or by a wheel</i>	Support	The definition is supported.	Adopt the definition as proposed.
Bore	<i>(a) means any hole constructed into the ground that is used to— (i) investigate or monitor conditions below the ground surface; or (ii) abstract liquid substances from the ground; or (iii) discharge liquid substances into the ground; but (b) it does not include test pits and soak holes</i>	Support subject to amendment	<p>The wording is problematic as it could result in tank pits or other excavations that require dewatering (e.g. for building foundations) being classed as a ‘bore’. That is, the tank pit could be considered to be a ‘<i>hole constructed into the ground that is used to</i>’... ‘<i>abstract liquid substances [dewatering water] from the ground</i>’.</p> <p>This is inappropriate as tank pits (dug out to facilitate installation, removal or replacement of a tank) are temporary and do not ‘fit’ within the context of regional plan rules that control bores. Such rules typically focus on controlling bore casings, drilling etc.</p> <p>This could be addressed by amending clause (a) of the definition to clarify that the hole has</p>	<p>Adopt the definition subject to changes as follows or to the same effect (additions <u>underlined</u>; deletions in striketrough):</p> <p><i>(a) means any hole constructed into the ground <u>for the purpose of</u> that is used to—</i></p> <p><i>(i) <u>investigating</u> or <u>monitoring</u> conditions below the ground surface; or</i></p> <p><i>(ii) <u>abstracting</u> liquid substances from the ground; or</i></p> <p><i>(iii) <u>discharging</u> liquid substances into the ground; but</i></p> <p><i>(b) it does not include test pits and soak holes</i></p>

			been constructed <i>'for the purpose of'</i> undertaking the activities listed in clauses (i)-(iii), rather than the current wording which includes any hole in which those activities occur.	
Building	<i>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</i>	Support	<p>As noted in the s32 report, the definition of building is extremely significant for many district plans and influences the application of many rules. The introduction of a new standardised definition of 'building' will therefore require significant consequential amendments to plans to retain the same outcomes that are currently established by the specific relationships between plan definitions and rules for buildings.</p> <p>This definition, is therefore, particularly difficult to comment on in lieu of the associated rules that may be affected. However, it is not opposed.</p>	Adopt the definition as proposed.
Cleanfill	<i>means an area used for the disposal of exclusively inert, non-decomposing material</i>	Support	<p>The s32 report explains that the definition of 'cleanfill' has been intentionally limited to cleanfill as an activity and is not intended to include cleanfill material.</p> <p>This approach can be supported as the definition is considered too absolute to allow even for naturally occurring organic material in otherwise 'clean' soil (i.e. the definition requires that material must be exclusively inert and non-decomposing).</p>	Adopt the definition as proposed.

			The Oil Companies note, however, that the term 'cleanfill' is used in the definition of 'land disturbance' as if it was a material, rather than an activity. This conflicts with the intent described above and is addressed further below in relation to the definition of 'land disturbance.'	
Coverage	<i>Means the percentage of the net site area covered by the footprint of structures as identified in the relevant rule</i>	Oppose	The Oil Companies do not support the definition of coverage. In the Oil Companies experience, rules relating to coverage currently address a range of issues including building coverage, impervious area coverage (e.g. for stormwater runoff purposes) or vegetation coverage. The proposed definition is limited to addressing issues associated with building coverage and anticipates that councils will refine what is or is not included as 'coverage' (e.g. eaves, bay windows, fences, decks etc) through the rule framework. Given the detail of what may or may not be included in 'coverage' rules will need to be provided in plan rules in any case, there seems to be little benefit in the definition, and potentially some disadvantages where plans that currently use the term 'coverage' in a different context will need to develop alternative terminology so as to avoid using a defined term in the wrong context.	Delete the definition and rely on the ordinary meaning of the term.
Earthworks	<i>means any 'land disturbance' that changes the existing ground contour or ground level</i>	Support	The Oil Companies support the distinction that has been made between 'earthworks' that result in changes to ground contour or ground	Adopt the definition as proposed.

			level and 'land disturbance', where the finished ground contour or level is not changed, such as for trenching or underground tank installation / replacement.	
Footprint	<i>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</i>	Oppose	<p>The Oil Companies consider the definition to be unclear and uncertain. It is uncertain, for example, how the definition would apply to structures such as a service station canopy, a rubbish enclosure or a car wash, none of which would ordinarily be considered to have a 'ground floor'. The phrase 'at ground floor level' could be interpreted as applying to habitable buildings only.</p> <p>Further, it is unclear how the phrase 'protrude directly above ground' is intended to apply, particularly for a structure that may not be considered to have a 'ground floor'.</p> <p>The Oil Companies consider the ordinary meaning of this term could be used, being the outline from above on the ground.</p> <p>Alternatively, assuming the intent is not to limit a 'footprint' to a habitable building, the reference to 'ground floor level' should be amended. A term such as 'ground surface' could be used, noting that 'ground level' is specifically defined and would not be appropriate in this context.</p>	<p>Delete the definition and rely on the ordinary meaning of the term or amend to clarify that the definition will apply to all structures, not just habitable buildings. This could be achieved by making changes along the following lines:</p> <p><i>means the total area of structures at ground floor level surface and the area of any section of any of those structures that protrudes directly above the ground</i></p>
Functional need	<i>Means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment</i>	Support	The Oil Companies have concerns that the requirement that activities '...can only occur in...' a particular environment may be too absolute and unduly onerous in certain situations. For example, it is uncertain whether	Adopt the definition of functional need provided a complementary concept of 'operational need' is adopted to provide for activities that may technically be able to occur in

			<p>activities such as the fuel pipelines (including wharflines and bunkerlines) used by the Oil Companies to convey fuel between ships at a Port and adjoining land based bulk storage terminals would be considered to have a ‘functional need’ to locate in the coastal marine area (CMA) as, technically, they also occur in alternative environments.</p> <p>The Oil Companies’ acknowledge that MfE is working with a utilities group on model provisions and that this includes discussion around the concept of ‘operational need’, whereby an activity may be able to operate in an alternative location (e.g. not in the CMA) but there is some reason why it must be in a particular location (e.g. to connect between a ship and a fuel terminal). The Oil Companies are not party to those discussions but seek to ensure any concept of ‘operational need’ adopted through those discussions is broad enough to provide for the situation of a fuel terminal (and associated infrastructure) having an operational need to locate adjacent to a Port, notwithstanding that it may not have a functional need to locate in the CMA, or coastal environment.</p>	<p>alternative locations, but which have a technical, logistical or operational need to locate in a particular environment.</p>
Industrial activity	<p><i>means an activity for the primary purpose of—</i> <i>(a) manufacturing, fabricating, processing, packing, storing, maintaining, or repairing goods; or</i></p>	Support subject to amendment	<p>It is important the integrity of industrial areas is not undermined by the encroachment of inappropriate sensitive activities that constrain the operation and development of industrial activities and result in reverse sensitivity</p>	<p>Amend the definition to exclude educational activities, in order to avoid undermining the integrity of industrial areas and the creation of reverse sensitivity effects. This could</p>

	<p><i>(b) research laboratories used for scientific, industrial or medical research; or</i> <i>(c) yard-based storage, distribution and logistics activities; or</i> <i>(d) any training facilities for any of the above activities</i></p>		<p>effects. The proposed definition of ‘industrial activity’ can be supported, provided the reference in clause (d) doesn’t facilitate the establishment of ‘educational facilities’ as an industrial training activity. Educational facilities can involve large numbers of people and a range of associated activities (e.g. preparation and sale of food, child care, accommodation etc), that are inappropriate in industrial areas and can generate reverse sensitivity effects. The Oil Companies’ note that the definition of ‘educational facility’ specifically excludes ‘industrial activity’ and consider the definition of ‘industrial activity’ should be amended to similarly exclude educational facilities. For reference, ‘educational facility’ is defined as follows: <i>Educational facility</i> <i>(a) means the use of land or building for the primary purpose of regular teaching or training in accordance with a pre-set syllabus by suitably qualified or experienced instructors; but</i> <i>(b) does not include any industrial activity</i></p>	<p>be achieved by changes as follows or to the same effect (additions <u>underlined</u>; deletions in striketrough): <i>means an activity for the primary purpose of—</i> <i>(a) manufacturing, fabricating, processing, packing, storing, maintaining, or repairing goods; or</i> <i>(b) research laboratories used for scientific, industrial or medical research; or</i> <i>(c) yard-based storage, distribution and logistics activities; or</i> <i>(d) any training facilities for any of the above activities, <u>but does not include any educational facility.</u></i></p>
Land disturbance	<p><i>means the alteration to land, including by moving, cutting, placing, filling or excavation of soil, cleanfill, earth or substrate land</i></p>	Support subject to amendment	<p>The term ‘cleanfill’ is used in the definition of ‘land disturbance’ as if it was a material, rather than an activity. This conflicts with the definition of ‘cleanfill’, which (as detailed in the s32 report) has been specifically limited to cleanfill as an activity and not to cleanfill</p>	<p>Amend the definition to delete the reference to ‘cleanfill’ as follows (additions <u>underlined</u>; deletions in striketrough): <i>means the alteration to land, including</i></p>

			<p>material. Further, in relation to the definition of 'land disturbance' the s32 report states (refer p106) 'we have used the umbrella terms of soil, earth and substrate. We consider that these terms include all likely substances necessary.'</p> <p>The reference to 'cleanfill' is out of context and appears to be unnecessary. It should be deleted.</p>	<p><i>by moving, cutting, placing, filling or excavation of soil, cleanfill, earth or substrate land</i></p>
Official sign	<p><i>means all signs required or provided for under any statute or regulation, or are otherwise related to aspects of public safety</i></p>	Support	<p>The definition is supported, noting that unlike many existing plan definitions of 'official signs', it is not limited to council and/or road signs. The Oil Companies are required under other legislation to display health and safety signage and hazardous substances signage at their facilities. It is important to recognise the unique nature of such signage and to enable it to be managed separately to more general advertising type signage.</p>	Adopt the definition as proposed.
Reverse sensitivity	<p><i>means the potential for the operation of an existing lawfully established activity to be compromised, constrained or curtailed by the more recent establishment or alteration of another activity which may be sensitive to the actual, potential or perceived adverse environmental effects generated by an existing activity</i></p>	Support	<p>The definition is supported, particularly to the extent that it is not a complaints based definition.</p>	Adopt the definition as proposed.
Sign	<p><i>(a) means any device, character,</i></p>	Support	<p>The definition is supported.</p>	Adopt the definition as proposed.

	<p><i>graphic or electronic display, whether temporary or permanent, that is visible from beyond the site boundary, for the purposes of—</i></p> <p><i>(i) identification of and provision of information about any activity, site or structure:</i></p> <p><i>(ii) providing directions:</i></p> <p><i>(iii) promoting goods, services or forthcoming events; and</i></p> <p><i>(b) includes the frame, supporting device and any associated ancillary equipment whose principal function is to support the message or notice; and</i></p> <p><i>(c) may be two- or three-dimensional, and manufactured, painted, written, printed, carved, embossed, inflated, projected onto, or fixed or attached to, any structure or natural object; and</i></p> <p><i>(d) may be illuminated by an internal or external light source</i></p>			
Stormwater	<p><i>means water from natural precipitation (including any contaminants it contains) that flows over land or structures (including in a network), to a waterbody or the coastal marine area</i></p>		<p>The definition of stormwater is not supported for the following reasons:</p> <ul style="list-style-type: none"> • The definition classifies stormwater as water that flows ‘...to a waterbody or the coastal marine area’. Waterbodies and the CMA are receiving environments for stormwater and it is unclear why they have been used as a means of defining 	<p>Amend the definition of stormwater consistent with that used by Greater Wellington Regional Council in its Proposed Natural Resources Plan and Northland Regional Council in its Proposed Regional Plan for Northland (refer s42A report), which reads as follows:</p>

			<p>what stormwater is. The Oil Companies do not consider the receiving environment to be an appropriate or necessary factor in defining what stormwater is – that is something that can be managed by councils through discharge rules. Further, no reference is made to ‘land’ or ‘groundwater’ as a receiving environment, with the implication that councils seeking to manage issues such as ground soakage or overflow of stormwater to adjoining properties (e.g. to manage flooding, sedimentation or erosion issues) will not be able to rely on the national standard definition of ‘stormwater’. The Oil Companies do not consider there to be any merit or basis in excluding these types of runoff from the definition of stormwater.</p> <ul style="list-style-type: none"> • The definition specifies that stormwater is water ‘...that flows over land or structures (including in a network)’. The use of a general reference to ‘land’ means runoff from all land, whether modified by human activity or not, will be classified as stormwater and subject to plan rules. That could lead to an interpretation requiring runoff on a mountainside from rainfall to a river to be considered as stormwater and subject to associated rules. That is considered to be 	<p><u>Runoff that has been intercepted, channelled, diverted, intensified or accelerated by human modification of a land surface, or runoff from the external surface of any structure, as a result of precipitation and including any contaminants contained therein.</u></p>
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			<p>inappropriate and an outcome that councils are unlikely to seek to manage.</p> <p>The Oil Companies consider a more appropriate definition of stormwater, which appropriately addresses these issues, is that used by Greater Wellington Regional Council in its Proposed Natural Resources Plan and Northland Regional Council in its Proposed Regional Plan for Northland (refer s42A report), which reads as follows:</p> <p><i>Runoff that has been intercepted, channelled, diverted, intensified or accelerated by human modification of a land surface, or runoff from the external surface of any structure, as a result of precipitation and including any contaminants contained therein.</i></p> <p>The Oil Companies consider amendments are needed to the proposed definition of 'stormwater' and would support adoption of the definition above.</p>	
Structure	<i>means any building, equipment, device or other facility made by people and which is fixed or located on or to land; and includes any raft, but excludes motorised vehicles that can be moved under their own power</i>	Support	The definition is supported.	Adopt the definition as proposed.

Questions from Consultation Document

Q1: What are your thoughts on this proposed package of planning standards? If you consider changes necessary, how would these affect the anticipated outcomes?

The views of the Companies have already been expressed and various amendments proposed. It is not considered that the proposed amendments will affect the proposed outcomes but rather assist in their implementation.

Q2: What topics or matters should be investigated for future planning standards?

The Oil Companies consider there are a number of issues where standardised outcomes are appropriate, that are well justified from a resource managing perspective and have been refined over time through multiple planning processes.

- **Contaminated land** – the NESCS is intended to provide national direction on contaminated land management. However, there is significant variation in how the NESCS has been adopted and interpreted by councils across the country and an absence of national level policy guidance on this topic to assist in decision making. A planning standard could support more consistent application of the NESCS in district plans.
- **Utilities** – the consultation document identifies utilities as a topic for future standards on the basis that little variation is needed in how utilities are managed across districts and regions. The Oil Companies support the development of a future planning standard for utilities provisions and understand that work on such a standard is currently underway. The Oil Companies note that elements of their facilities are utilities and seek to ensure they are recognised as a stakeholder in this topic and are given the opportunity to participate as appropriate.
- **Managing land use around Major Hazard Facilities (MHF)** – WorkSafe acknowledged in its consultation on the MHF Regulations that the regulations do not address land use compatibility issues and that councils should be doing this. The Oil Companies have experienced inappropriate development in close proximity to MHF's and have been actively promoting appropriate land use planning approaches through council plan making / plan change processes as they arise. The failure at a national level to recognise and provide some regulatory guidance on these issues will run the long term risk of compromising MHF businesses, which in many cases can be considered regionally significant infrastructure and lifeline utilities. A national planning standard should be developed to address this regulatory gap.
- **Earthworks** – There may be a number of opportunities to standardise earthworks provisions, as the outcomes sought are typically the same (e.g. management of silt and sediment runoff, dust, land stability and amenity etc). This includes through exemption of certain activities – many types of earthworks are well regulated and managed through means other than RMA plans, such that requirements to obtain consent results in unnecessary duplication / regulation e.g. utilities (code of practice, RON etc) and tank pits (NESCS etc). In addition, there is broad variation in earthworks measurements, including over particular timeframes, height and depth measurements in relation to existing or natural ground levels,

measurement of soil volumes in situ or upon excavation. Earthworks provisions stand to benefit significantly from improved clarity in metric measurements.

- **Dewatering during construction** – Temporary dewatering is commonly required during construction activities including for utilities / infrastructure installation and maintenance, building foundations and the installation / replacement of underground tanks at service stations. Effects can be readily managed through water take, treatment train and discharge requirements. However, there is currently broad variation in approach to dewatering activities in plans. It is a temporary activity that should be managed in a consistent manner across districts and regions to minimise adverse effects.
- **Stormwater and other operational discharges** – There are many common elements in the management of stormwater and other operational discharges (e.g. abrasive blasting and spray painting) across the country. These activities have the same effects that could be dealt with by the same standards across all regions. As a minimum, a permitted activity framework could be developed to manage such activities. For example, stormwater discharges from sites storing or using hydrocarbons are typically permitted where an interceptor is in place to ensure appropriate water quality outcomes.
- **Zone provisions for Oil Company activities** – As noted in relation to the zone purpose statements, service stations are widely dispersed across the country and located in a broad range of zones. The effects of service station establishment, operation, maintenance and upgrade (e.g. tank replacement) are generally the same irrespective of their location and there is little need for variation in how such effects are managed across districts and regions (acknowledging that different effects thresholds may apply dependent on the underlying zone).

Structure standards

Q4: Are there other topics that would benefit from a chapter structure standard?

- As identified in relation to S-DWM: Draft District Wide Matters Standard and question 2 above, there is a regulatory gap in managing land use compatibility issues in and around Major Hazard Facilities. While zoning can be used to promote land use compatibility, experience is that it is not effective in all instances as it will not necessarily draw attention to risk and reverse sensitivity issues associated with proximity to MHFs. Further, any person can apply for land use consent and, depending upon activity status and how the plan works, Councils will not necessarily notify all applications. Consequently MHFs run the risk of being undermined over time by third party activities that create potential land use compatibility issues. The potential for reverse sensitivity effects and restrictions on facility operation alter the obligations of MHF operators under the MHF Regulations.

The risk management provisions included in the Auckland Unitary Plan have been drafted as 'Auckland wide' provisions such that they can be adapted to apply to other MHFs. Currently they apply to the Wiri Oil Terminal, the adjoining Liquigas Terminal and the Refinery to Auckland pipeline, noting that the extent of the management area around each facility has been determined by way of site specific risk assessment work.

These provide a good example / framework that could be used to develop national guidance

on the issue of managing risk and land use compatibility in relation to MHFs and to ensure Councils address these issues seriously.

Q8: Is the inclusion of purpose statements for zones useful for guiding how they may be used?

- The purpose statements are useful if they are accurate. However, as detailed in relation to the zone purpose statements above, the industrial zone purpose statements provide more of a description of the type of activity that may locate in those zones. In particular, the purpose statement for the heavy industrial zone should acknowledge that the purpose of such zones is to provide for industry that generates potentially significant effects and to enable such industry to operate efficiently and not be unreasonably constrained by other activities.

Content and metric standards

Q18: Are these drafting principles suitable for definitions? Should they be changed or expanded?

- The drafting principles are supported.

Q19: What other definitions should be standardised in future sets of planning standards?

- Definitions should not be developed in isolation. Any additional definitions should be developed and considered in the context of particular issues and as part of an analysis which involves the identification of relevant issues, objectives, policies, rules and associated definitions.

Q20: Is it appropriate to use NZ Standards as the basis for noise metric and vibration standards?

- There is a potential public information issue with using NZ Standards as the basis for noise metric and vibration standards as these standards are not freely available to the public and must be purchased. In addition, the Oil Companies are cautious about the extent to which standards may change outside the RMA plan framework and consequential effects on compliance with planning documents. These matters may be suitably addressed if all details are available in RMA plans.

Q21: Should the planning standards set noise limits for certain zones?

- Such an approach is not supported. Appropriate noise standards will depend on the receiving environment, which may include a range of activities within a particular zone.

Implementation

Q23: What sort of guidance and support would be useful to plan users and councils? What guidance should we prioritise?

- Clear direction should be provided on the nature and circumstances in which councils should include controls on the use of hazardous substances and to clearly distinguish between what needs to be controlled in a RMA sense as opposed to what is already adequately managed

through compliance with HSNO and Worksafe legislation.

- Guidance should be provided on managing land use around Major Hazard Facilities and appropriate mechanisms for doing so.
- MfE should prioritise providing ongoing guidance / support to councils to ensure the national standards are interpreted and applied in a consistent way. There are numerous examples to date of how councils have interpreted and applied NES's differently, despite the intent that such documents would ensure national consistency.

Q24: Should MfE target its implementation support to smaller councils with fewer resources?

- Not necessarily – experience to date is that one of the largest councils in the country is interpreting and applying the permitted soil disturbance provisions in the NESCS in quite a different way to most other councils.

Releasing submissions

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

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

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

When your submission is complete

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

- PDF
- Microsoft Word document.

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

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