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**Submitted to:** [planningstandards@mfe.govt.nz](mailto:planningstandards@mfe.govt.nz)

## **Submission on the Ministry for the Environment draft National Planning Standards**

Please find enclosed the Greater Wellington Regional Council's submission on the Ministry for the Environment's draft National Planning Standards.

Please feel free to contact me on [REDACTED] or [REDACTED] if you have any questions or concerns.

Yours sincerely

Lucy Harper  
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Encl: Submission



# The Ministry for the Environment draft National Planning Standards

## Opening statement

Thank you for the opportunity to comment on the Ministry for the Environment draft National Planning Standards (planning standards). We are grateful for the opportunity to provide further input on the planning standards, and acknowledge the changes already taken into account from earlier consultation. In particular, we appreciate the extended timeframe to implement the standards, which would allow Greater Wellington Regional Council (GWRC) up to 7 years to make the required changes. We also note and support the flexibility of the regional policy statement (RPS) and regional plan (RP) structures proposed for these regional planning documents.

However, GWRC is concerned that the planning standards as currently designed will not achieve the stated outcome of 'less time and fewer resources required to prepare and use plans'. The economic benefits of the planning standards do not sufficiently outweigh the actual costs for regional councils, and the associated risks from the significant mandatory changes. Any requirement to implement substantive standards outside of a scheduled regional planning documents review will create significant costs to Councils and ratepayers, delay existing planning priorities and implementation work, and create further uncertainty for our stakeholders. This is particularly relevant for our freshwater work, and we need to be clearing roadblocks rather than adding new ones.

We are disappointed to see that the Ministry's own analysis confirms that there will be **no benefit to the natural environment** with these changes. In addition, it was confirmed in the consultation workshops that the main beneficiaries of the standards are large infrastructure providers and corporates who work across multiple plans. Regional councils will be faced with a choice to invest in either complying with the planning standards or continuing our efforts to improve land and water management. We cannot do both at the same time.

## Recommendation

We ask that MfE:

- a. Remove the requirement for regional planning documents to be part of the mandatory planning standards as the benefits have not been shown and the costs are substantial.
- b. If regional policy statements and regional plans remain part of the standards, then we ask that our concerns are addressed and our recommendations (below) accepted.

## Principal issues

We raise three principal issues with the standards as currently drafted for your consideration.

## 1. Evaluation of economic efficiency

*The costs and risks to regional councils have been seriously underestimated*

We appreciate that the planning standards enable plan changes without the associated time and financial costs of following the Schedule 1 process. We recognise that a cost-benefit analysis of the planning standards has been undertaken by Castalia, showing considerable savings in time and resources once implemented, however, we do not believe this analysis adequately reflects the actual additional costs to regional councils. It is further interesting to note that the Ministry has adopted the sub-optimal timeframe that was not the preferred option in the cost-benefit analysis (the 10-year timeframe).

It seems that the analysis has adopted an approach that has grouped councils together meaning that the costs and benefits between district and regional planning cannot be separated out. The greatest benefits lie with district planning and not regional planning. This is a serious shortcoming of the analysis.

One omitted cost will be the time and resources needed to undertake further significant engagement with our community, for the purpose of explaining what the changes are and why these changes are required. Despite the mandatory changes being effected without requiring a Schedule 1 process, and as reflected in subsequent sections of this submission, the Proposed Natural Resources Plan (PNRP) in its current form has been developed through 6 years of review, stakeholder and community engagement and working closely with our iwi partners. We consider therefore that we have a duty to inform the community on the changes. Having to repeat this process outside of the usual planning cycle will not only induce community concern, but also waste scarce resources that could be put to better use.

We consider that there will be significant planning costs associated with detailed analysis and restructure of the GWRC RPS and PNRP to ensure there are no gaps and especially, no unintended consequences of implementing the standards. We appreciate and are willing to forego the Schedule 1 process until required to do so; however given the significance of some of the required changes, particularly around some definitions, we believe that this will ultimately lead to a Schedule 1 process being followed. This is essentially requiring a re-write of our resource management planning documents (and the PNRP is still in hearings).

As well as costs, the standards impose greater risk for regional councils if changes are made out of the usual planning cycle. There is an enhanced litigation risk from two aspects:

- The risk of litigation from choosing to not follow the Schedule 1 process for plan restructuring and insertion of definitions
- The risk of required hearing time and appeals to redraft and notify planning documents using a Schedule 1 process.

The current costs of the PNRP development and hearings are very significant. The PNRP was notified in 2015 and the current hearings are the culmination of a seven year process integrating the five existing first generation plans. There has been

approximately \$6 million invested over the past five years. This figure is expected to double in the next years as the NPS-FM limit setting process is finalised and appeals are worked through. In their current form, the draft standards will **increase** litigation risks and costs, not reduce them. Timing is crucial in order to fully realise the benefits of the standards (as the Castalia analysis showed).

We note that there is a more compelling argument for the planning standards to guide district plans only. The planning standards have recognised that there are fewer district plans available, with less cross boundary issues, and an integral difference in the way the RMA is addressed. We do not see the proposed benefit to regional planning should such consistency between planning documents be made mandatory. We would like to reiterate that the perceived benefits of these planning standards will have the greatest impact on smaller councils, or for any council starting the plan process from scratch.

When aggregated across all regional councils we see this as a very expensive exercise with no demonstrable benefit to the environment, as stated in purpose of the planning standards – *'to help achieve the purpose of the RMA: promoting the sustainable management of natural and physical resources'*. In fact in their present form and at the stage GWRC is at in the regional plan development, we will be forced to make a choice when implementing national direction; the national planning standards or the National Policy Statement for Freshwater Management (NPS-FM) obligations to maintain and improve water quality. A substantial increase in work load and costs and a subsequent resourcing shortfall leads to the inevitability that we may no longer be able to meet the deadline of 2025 for implementing the NPS-FM.

While there may be wider benefits that the planning standards are trying to show, we request an approach is taken that minimises the potential risk and cost to regional councils. It has become clear through the consultation process that MfE has not tested a regional policy statement or a regional plan through the standards. We consider it would be highly desirable for this to occur **before** the standards are gazetted.

A further option to consider to reduce risk and cost would be to align the mandatory requirements for regional planning documents with the review cycle in the RMA. This would leave the option for regional councils to implement any planning standards changes which are assessed as being low risk without using the Schedule 1 process, and to implement the others as part of the plan review cycle. This would then align with the findings of the Castalia analysis.

## **Recommendation**

We ask that MfE:

- c. Undertake an exercise to test the planning standards for regional policy statements and regional plans.
- d. Consider aligning the mandatory implementation of the planning standards to the regional planning review cycle, prior to the implementation of the standards.

## 2. Suitability of definitions for regional policy statements and regional plans

### *Definitions will result in reviews and re-writes of regional planning documents*

It is clear that a considerable amount of time and effort has spent on creating the standardised list of definitions for the planning standards. We recognise that through current regional and district planning processes there is a large and diverse range of definitions utilised by each council, making it difficult to find common ground. We understand that this was particularly the case for regional council plans, with a lot of variation seen between them.

We support the use of definitions which are provided in the RMA in principle. We note however that this may lead to further repetition within plans as the exceptions which apply to a particular region or district will need to be repeated in the rule structure.

Due to the complexity of this issue, and from the examples provided in workshops, it is clear that a lot of definition analysis was based on the range of district plan definitions in use. We note that this has caused some definitions to become irrelevant or unusable in their current wording for regional planning, given that regional planning documents are designed to cover specific environmental effects from an RMA perspective. If the planning standards definitions were to become mandatory in their current form, while written from a district plan perspective, this could cause perverse outcomes for regional plans in particular.

More detailed comments on the definitions are included in the appendix but in particular we draw your attention to three definitions of concern to GWRC:

1. **Site:** The definition of site is used purely in a legal sense around land tenure, titles and lots. Site in a regional plan and the rules it applies to sometimes refers to an area where an activity is occurring and in that sense is not incongruent with the definition as proposed. However site is also commonly used to define areas which have a common value, for example, 'sites of significance' and where the property boundary is only relevant for a resource consent application. If retained in its present definition, regional plans and probably regional policy statements would have to use some other term to refer to these areas, as 'overlay' does not suit.
2. **Stormwater:** The definition of stormwater captures all precipitation, i.e. water, not just precipitation or runoff which has been concentrated in some form. As written the definition would exclude rain and stormwater which enters common stormwater management devices such as a soakage pit, or stormwater retention areas which are not necessarily a waterbody.
3. **Intensive primary production:** The definition does not take into account the environmental effects caused by intensification that occurs outside of buildings. It may be suitable for district plan land use effects, but would not be sufficient to allow provisions to address the effects on water in particular, arising from the increased intensification of farming methods. The issue was also not addressed by the previous proposed definitions of 'factory farming' and 'primary production'. A definition which includes the concepts of intensifying by importing of resources or of reducing the soil to a substrate on which animals stand has some merit, but still is

difficult to define as some extra resource is often brought into the farming cycle over the seasons.

We consider that new definitions used in regional planning, which are not consistent with the wording of the RMA should be subject to further review and are not made mandatory at this stage for regional planning documents.

### **Recommendation**

We ask that MfE:

- a. Review new definitions used in regional planning and/or provide for their non-mandatory for regional planning documents.
- b. Undertake an exercise to test the new definitions for regional policy statements and regional plans.

### **3. Status of Māori concepts**

*The standards still need to reflect the integrated nature of regional planning*

We are pleased to see that the idea of a separate tangata whenua chapter is not mandatory in the planning standards. We wish to emphasise that resource management partnership with mana whenua requires that the plans reflect that partnership in both form and content. This approach is consistent with the intent of National Policy Statement for Freshwater Management (NPS-FM) Section D, which requires council to ensure mana whenua are actively involved in the management of freshwater and that their values and interests are reflected in management and decision making.

The NPS-FM prioritises a localised spatial approach to management under matters of national significance, Te Mana o Te Wai. The framework asks communities and mana whenua to focus on the health of individual water bodies and that councils develop “tailored responses for freshwater management that work within their region”. The NPS-FM provisions also now requires councils to engage with hapū. This is consistent with the tighter requirement to implement at a freshwater management unit (FMU) scale. Together these requirements demand flexibility in planning documents to reflect and respond to the increased specificity of local conditions and relationships. Councils must retain the necessary flexibility to ensure that community and mana whenua values can be managed and described appropriately in planning documents.

While we can see the benefits of having a separate chapter to cover administrative provisions, we are concerned about the overall status the mana whenua chapter and how it will be represented throughout a council plan. At the request of Te Upoko Taiao, Natural Resources Plan Committee, GWRC uses the term “mana whenua” rather than “tangata whenua” in its plans and publications. This clearly differentiates GWRC’s mana whenua partners who have recognised kaitiaki responsibilities within their own rohe boundaries and across shared statutory acknowledgement areas from the other tangata whenua of Aotearoa who reside in the Wellington region and are usually referred to as mātāwaka or taurahere. We recommend that minor editorial changes of this kind do not require a national standard and should be waived in favour of Councils working with mana whenua to agree how they wish to be identified in plans.

The PNRP for the Wellington region in its current form has been developed through 6 years of review, stakeholder engagement and working closely with our iwi partners. This has enabled GWRC to develop a framework that allows for expression of that iwi partnership *throughout* the provisions in the plan, rather than in separate provisions or a separate chapter.

Our submission on the draft ideas for tangata whenua provisions emphasised that with our methodology we have established a very good working practice with the iwi of our region. A single integrated plan recognises the multiple overlapping strategies needed to achieve effective outcomes and reflects how our community wants to engage with resource management. We expect considerable criticism from our partners and stakeholders should this change, and as mentioned previously, considerable costs from this and support the flexibility to provide for both integration of provisions, but also whitua or rohe specific provisions.

### **Recommendation**

We ask that MfE:

- a. Provide for councils working with mana whenua to agree how they wish to be identified in plans.
- b. Ensure that plans are able to retain flexibility in how mana whenua information is presented in order that mana whenua perspective and values are able to be expressed in both form and content.
- c. Ensure that all plans state how and where mana whenua perspective is expressed and provide clear direction to plan users as to how to access and interpret the information through provision of glossaries, guides and explanatory text.

### **Conclusion**

We appreciate the opportunity to comment on the planning standards from a regional council perspective. We request that the planning standards strive for flexibility, ease of use and decreased costs and consider that this can be best achieved by removing regional planning documents from the regulations and concentrating the effort on the district plans where the benefits are greatest in the short term. In the event that the draft planning standards for regional documents proceed, GWRC requests that our recommendations are considered and amendments as sought in the appendix. GWRC welcomes the opportunity to clarify and further discuss the matters raised.

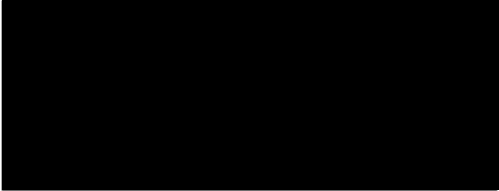


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**Chris Laidlaw**  
**GWRC Council Chair**



**Address for service:**

**Lucy Harper**



Attached: Appendix - Specific issues and recommendations



## Appendix - Specific issues and recommendations

Standard type	Reference or definition	Issue identified	Recommendation
Regional plan structure (S-RP)		Confirmation that there are two potential structures for a regional plan- objectives, policies, methods, rules as separate chapters, or integrated into theme chapters	Support and retain the flexibility of alternate structures
Tangata Whenua (S-TW)		Confirmation on the status of the tangata whenua chapter	Support and retain option that tangata whenua provisions can be provided across the plan
Schedules, Appendices, Maps (S-SAM)	Table 17 Pt 6 (pg. 48)	Schedule Table – final column 'reference to study/material used for identification'. This is potentially the same for the entire table so the reference will be the same for each row in the column. This refers only to district wide overlays – is that intentional?	Consider making the final column optional when there is a common reference to avoid repetition. Amend to include RPS and regional plans
Electronic Functionality & Accessibility (F-1)	Table 18, Pt7, (pg. 50)	Requirement to provide a 'note' within any district or regional plan rule (and hyperlink to relevant plan) that clarifies an activity may also require consent from another plan. Though we understand the intent, this is potentially an extensive exercise for a regional plan which covers a number of districts and could end up being confusing for plan users. A second concern is the method for updating and how risk and cost free the process can be made. Hyperlinks can easily get out of date.	Reconsider the necessity of this as a mandatory standard. Confirm the process for updating can be achieved without undue process.
Draft Mapping Standard (F-2)	Table 22 (pg. 55)	Refers to 'sites of significance to Maori' which may not fit the proposed definition of 'site'. These sites in our regional plan are a polygon rather than a point to show the area valued. Colour of hazard symbol may not be appropriate as blue colour may not be	Reconsider use of the word, or amend the definition of 'site' to be more applicable to the common usage in 'sites of significance'.

Standard type	Reference or definition	Issue identified	Recommendation
Spatial Planning Tools (Region) (F-3)		<p>seen when used on coastal areas</p> <p>We note that there is no symbols given for the regional plan spatial planning.</p>	<p>Provide for sites as appoint or polygon and a symbology for the latter.</p> <p>Reconsider colour of hazard symbol</p>
Status of Rules and other Text and Numbering Format (F-6)		<p>If the regional plan can have two different structures then this numbering may not work for the structure with chapters, provisions- objectives, policies, methods, rules. If there is a theme chapter it would be e.g. NH – O1. If there is no theme chapter but chapters by provisions, it is unclear if it would be NH- O1, NH-O2 or O1, O2, O3 etc. If the former does the numbering start again with the new prefix, e.g. AQ- O1. Our preference would be to keep the numbers sequential as starting new number sequences in the chapter proved difficult to navigate in a draft of our regional plan.</p> <p>We agree with the use of common abbreviations for activity status for the rules.</p>	<p>Clarify that an alphabetic prefix by theme does not have to be used as well as the provision prefix if grouping objectives, policies and rules in chapters, rather than themes.</p>
Status of Rules and other Text and Numbering Format (F-6)	Table 28 (pg71)	<p>A regional coastal plan is not provided for in the standards, only the coastal environment.</p>	<p>Provide for a regional coastal plan, either integrated in the regional plan with a common indicator, or as a separate plan with coastal marine area provisions.</p>
Consequential amendments		<p>Giving effect to the planning standards will inevitably led to consequential amendments. The standards and the implementation guidance is silent on the issue of the scope that would be acceptable for consequential amendments and whether they are major or minor changes.</p>	<p>Further guidance is provided based on legal advice to decrease the opportunities for legal challenge and litigation costs when giving effect to the mandatory requirements of the standard.</p>
Definitions (CM-1)	Abrasive blasting	<p>We note there has been very little confusion over the use of the term and query its usefulness in the National Planning Standard. Wet-abrasive blasting may not include any material, and use only 'water'.</p>	<p>Consider if the difference can be better defined in a rule.</p>

Standard type	Reference or definition	Issue identified	Recommendation
Definitions (CM-1)	Addition	<p>The current definition is not broad enough to cover regional plan requirements. Regional rules using the term 'addition' often to relate to additions to structures. The draft definition of 'addition' refers to the definition of 'building' which includes structures but requires them to be enclosed. This wouldn't include some structures which our 'addition to structures' rules apply to, for example, fords, sea walls, culverts.</p>	Amend definition so that 'addition' relates to structures controlled by regional rules.
Definitions (CM-1)	Boundary	<p>The definition refers to site, but boundary is commonly used in respect of the landward side of the CMA.</p>	<p>Make it clear in the definition of 'boundary' that the boundary of the CMA is defined elsewhere under the definition of 'coastal marine area'</p>
Definitions (CM-1)	Cleanfill	<p>The word "cleanfill" is more about the activity itself, rather than the material that goes into a cleanfill, which is often referred to as "cleanfill material". The definition provided is an excellent definition of "cleanfill material", but not of a "cleanfill", as the definition fails to capture the activity. Focusing on the activity rather than just the material may be beneficial in that it would align this definition more closely to the approach used for "landfill".</p>	<p>Acknowledge the linkage and overlap between cleanfill and landfill, and amend definitions so both are activity focused or material focused.</p>
Definitions (CM-1)	Drain	<p>The definition of 'artificial watercourse' takes it out of the RMA. There is still a need to define watercourses which, though highly modified and managed for stormwater or land drainage retain ecosystems values and are in essence the aquatic habitat remaining in the area. Providing such a definition has been difficult in our plan process.</p>	<p>Consider defining highly modified streams which have drainage and aquatic habitat or other values.</p>
Definitions (CM-1)	Drinking Water	<p>A regional plan may have different provisions relating to human and stock drinking water. Because the draft definition refers to 'human consumption' this would refer all references in our regional plans to stock or animal drinking water to be changed despite 'drinking water' being the most appropriate description. The RMA (s14) and NES distinguish between 'human drinking water' and</p>	<p>Consider distinguishing between human and animal/stock drinking water</p>

Standard type	Reference or definition	Issue identified	Recommendation
Definitions (CM-1)	Earthworks	drinking water for animals. As in this definition, earthworks without any exceptions are a relatively simple term to define. Individual plans can define variations of earthworks to be controlled through rules as opposed to a long list of exceptions, but this will lead to repetition in the rules.	Note concern about repetition
Definitions (CM-1)	Footprint	Draft definition refers to structures only. However, regional plan provisions are sometimes in relation to the footprint of an activity (rather than a structure).	Amend definition of 'footprint' so that it would also apply to the footprint of the activity
Definitions (CM-1)	Functional need	Functional need is referred to in a higher order document - the NZCPS (Policy 6). Functional need is an important term and means that certain activities have a requirement to locate in a particular environment or place; a port is the obvious example in the coastal marine area for marine shipping and activities.	Retain wording of provision
Definitions (CM-1)	Green infrastructure	The intent of using the terms 'natural ecosystems' and natural elements' appears to be to acknowledge the natural processes that are occurring in green infrastructure, but referring to natural ecosystems potentially confuses the application of provisions in a plan. The use of these terms could create more ambiguity than clarity. Our plan process has had difficulty using terms such as 'modified'.	Support the intent of the definition and recommend further detail
Definitions (CM-1)	Greywater	The definition could be read to mean all untreated liquid waste from sources so adding ' <u>domestic</u> sources' could be clearer.	Support intent of definition
Definitions (CM-1)	Ground level	It is possible the definition of "ground level" may constrain the common-sense application of the term. It defines ground level primarily in terms of when the last subdivision activity occurred and specifically excludes earthworks to create new buildings etc. "Ground level" in an engineering (and lay person's) sense is the current level of the ground as in (b)	Reverse the presumption of the definition so that existing ground level is the initial premise

Standard type	Reference or definition	Issue identified	Recommendation
Definitions (CM-1)	Height Regional Plan	<p>Sea level varies around the New Zealand coast and MSL has to be determined by local measurements and pegged to a local vertical datum. Because of this variation, the local vertical datum's are not compatible with each other. Because sea level is rising, it is important that the latest figures for surveying are used as published by LINZ, rather than pulling figures out of a tide chart. LINZ states in the nautical almanac that those figures are not be used for cadastral or administrative purposes.</p> <p>If the figure used is pegged to the local vertical datum it can then be linked to the national vertical datum NZVD2016 as maintained by LINZ. This ensures there will be nationwide consistency in these measurements which has not always been the case in the past.</p>	<p>Recommend that figures used for surveying are as published by LINZ</p> <p>Provide explanation and methodology in guidance material.</p>
Definitions (CM-1)	Intensive farming	<p>As in the body of the submission, the definition needs to address intensive farming land use that does not take place in buildings but which affects soil and water quality as it also does not rely solely on the physical properties of the site.</p>	<p>Amend definition to be applicable to regional plan concerns</p>
Definitions (CM-1)	Landfill	<p>Agree with the use of the umbrella term "waste", and the use of the phrase "primary purpose". See above comments on "cleanfill" – having one definition being activity focused and one being material focused is not ideal.</p>	<p>Align with cleanfill definition</p>
Definitions (CM-1)	Mana whenua	<p>At the request of our mana whenua partners through Te Upoko Taiao, GW uses the preferred term 'mana whenua' not 'tangata whenua'. This differentiates between iwi that have mana over and kaitiaki responsibilities within their own boundaries and statutory acknowledgement areas within our region and other tangata whenua of Aotearoa (also known as mātāwaka) who reside in our region</p>	<p>Retain flexibility in the use of mana whenua or tangata whenua</p>
Definitions (CM-1)	Site	<p>Concerns as identified in the body of the submission.</p>	<p>Consider using 'property' instead for this definition, or providing another definition for regional plans and regional policy</p>

Standard type	Reference or definition	Issue identified	Recommendation
Definitions (CM-1)	Stormwater	Concerns as identified in the body of the submission.	<p>statements.</p> <p>Consider the following alternative</p> <p>'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.'</p> <p>The <u>redline</u> version of the Plan also adds this note for further clarity:</p> <p>"For the avoidance of doubt, stormwater excludes the discharges associated with earthworks, vegetation clearance, break-feeding and cultivation."</p>
Definitions (CM-1)	Swale	The definition may distinguish a swale from an overland flow path which has formed naturally.	Consider if the distinction is necessary
Definitions (CM-1)	Water sensitive design	The definition as worded seems to be setting a policy approach within the definition - 'minimise adverse effects' which is not appropriate.	Consider deleting second half of definition or amending to general wording such as 'in order to achieve a desired environmental outcome'