

21 July 2017



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National Planning Standards Submission 2017
Ministry for the Environment

Email: planningstandards@mfe.govt.nz.

Dear Sir or Madam,

Environment Canterbury submission: Proposed National Planning Standards 2017

Thank you for the opportunity to provide comment on the key elements of the proposed first set of National Planning Standards. Please find Environment Canterbury's submission attached.

Environment Canterbury acknowledges the intent of the National Planning Standards. We question, however, whether any benefit delivered through greater consistency in RMA plans will outweigh implementation costs to councils and ratepayers. To reduce these costs, we consider that where National Planning Standards are approved, implementation be guided by the need to do so cost effectively, with minimal disruption to existing planning priorities, and should balance the need for public participation.

We would welcome the opportunity to work further with the Ministry for the Environment to address the matters identified in the submission. We also seek to be included as part of the targeted feedback phase of National Planning Standards development.

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Yours sincerely

A handwritten signature in black ink that reads "Steve Lowndes".

Steve Lowndes
Acting Chairman

Encl: *Environment Canterbury Submission to the Ministry for the Environment on the key elements of the proposed National Planning Standards*

SUBMISSION to the MINISTRY FOR THE ENVIRONMENT

NATIONAL PLANNING STANDARDS CONSULTATION 2017

July 2017

Summary

1. Environment Canterbury's key submission points are:
 - Environment Canterbury acknowledges the intent of the National Planning Standards, but questions whether the benefits of greater consistency in the core structural elements of RMA plans will outweigh implementation costs to councils and ratepayers.
 - Environment Canterbury **recommends** that implementation of substantive changes, at least in respect of regional plans, be at the point of plan or plan provision review, so that changes are made efficiently and current planning priorities are not disrupted.
 - Environment Canterbury **recommends** that the Ministry further engage with Environment Canterbury to discuss experiences gained through the ongoing roll-out of a significant body of planning work.
2. Environment Canterbury appreciates the opportunity to comment on the key elements of the proposed first set of National Planning Standards.
3. This submission is presented in relation to Environment Canterbury's roles, functions and responsibilities under the Resource Management Act 1991 (RMA) and the Local Government Act 2002 (LGA).
4. Environment Canterbury acknowledges the intent of the proposed National Planning Standards. In the absence of clear national direction on the core structural elements of RMA plans there are considerable variations across councils. Environment Canterbury is, however, unclear on what benefits greater consistency will deliver, or whether these benefits will outweigh implementation costs.
5. Environment Canterbury wishes to highlight the complexities of making existing plans consistent with new National Planning Standards, and the impact this may have on existing planning priorities. Depending on required implementation timeframes, the extent to which new Standards differ from existing plans, and the process for adjusting existing plans, implementation of the National Planning Standards has the potential to slow or even stall existing work.

6. The size of this task and the complexities involved should not be understated. In the case of Environment Canterbury, this may mean delaying or stalling the significant body of work implementing the National Policy Statement (NPS) for Freshwater Management.
7. Environment Canterbury considers that decisions on how and when to implement National Planning Standards should be guided by the need to do so cost effectively, with minimal disruption to existing planning priorities, and should balance the need for public participation. Consistent with this, Environment Canterbury **recommends** that substantive changes to plans e.g., plan restructuring or substantive definition changes, can be implemented when a plan or plan provision is reviewed.
8. Environment Canterbury is well placed to speak to some of the experiences gained through significant planning work over the past 6 years, and we are already progressing several key elements being proposed within the discussion papers. As such, we can provide the Ministry with experiences gained through this work. For example, Environment Canterbury is in the process of deploying eDelivery of RMA plans, and ePlans will be integrated with our Geographic Information System (GIS) based Canterbury Maps.
9. Environment Canterbury's analysis of the discussion papers for our region has identified several key areas of interest. The submission will focus on these issues:

- Timeframes for implementing National Planning Standards
- Process for implementing National Planning Standards
- Structure of regional plans and policy statements
- Formatting plans and policy statements
- Zones, Overlays and Mapping standards
- Definitions
- Electronic functionality and accessibility of plans

Timeframes for implementing National Planning Standards

10. Environment Canterbury acknowledges the intention for greater national consistency of the core structural elements of RMA plans. Environment Canterbury is not, however, convinced that greater national consistency will deliver material benefits to the Canterbury community, nor whether any benefits will outweigh the costs to councils and ratepayers of adjusting existing plans. Environment Canterbury wishes to draw the Ministry's attention to the implications of adjusting existing plans, and especially the implications if strict implementation timeframes are set for substantive changes.
11. Environment Canterbury is part way through a significant phase of planning work, and, consistent with Government priorities, is focusing primarily on implementation of the NPS for Freshwater Management to improve the health of Canterbury's freshwater resource.
12. The Canterbury Land & Water Regional Plan (LWRP) sets the framework to implement community aspirations for the management of freshwater through the Canterbury Water Management Strategy, a community led, collaborative approach to improving water outcomes throughout the region. The LWRP became operative in September 2015.
13. The LWRP operates at two levels – a region-wide section and 10 sub-region sections. The policies and rules in the sub-region sections can apply instead of, or in addition to, policies and rules in the region-wide section. The sub-region sections implement the region-wide objectives in the plan in the most appropriate way for particular catchments. In some cases they are effectively new plans, in others they incorporate and update older

plans which are still operative. The work programme for incorporating more sub-region sections to the LWRP continues.

14. This planning process began in 2011, and is expected to run through to 2025. Environment Canterbury and Canterbury ratepayers have invested approximately \$30 million (including staff costs) over the past 6 years in plan making and plan changes, and another \$20 million is budgeted for the next four years. This is a significant investment in a collaborative plan-making process that is seeing results, such as the newly adopted Plan Change 5 which has established a comprehensive nutrient management framework for the region. Environment Canterbury is committed to seeing this work through to completion in 2025.
15. Any requirement to implement substantive National Planning Standards in the near term may delay or stall this work, as implementation will require reallocating planning resource, and in some cases public participation processes. While Environment Canterbury does not oppose the move to more standardisation in plans, this should not be at the expense of existing high priority planning work. In the case of Canterbury, our current priority is having appropriate planning documents in place to better manage freshwater.
16. The costs of restructuring our regional plans, in terms of community commitment and council's budgets, should not be under-emphasised. While we are unable at this point to provide estimates, we can look at past experiences. Reviewing, reformatting and updating the Canterbury Natural Resources Regional Plan (NRRP) provisions into the LWRP cost \$6 million. The updating and reformatting was driven directly out of community and stakeholder consultation which demanded a more user-friendly and approachable format. The potential cost of repeating this exercise to align with National Planning Standards is likely to be higher than this, as coastal and air plans would also be included, as would the Canterbury Regional Policy Statement (CRPS).
17. We note that where a mandatory direction for a Planning Standard is issued, the timeframes for amending plans can be specified in the Planning Standard. Environment Canterbury **recommends** that this flexibility be provided for where substantive changes are required. At this stage, Environment Canterbury sees changes to structure and form, and some definitional changes, as substantive. Introducing a suite of standard regional overlays also has the potential to require substantive changes.
18. Environment Canterbury **recommends** an approach where implementation of substantive changes can be aligned with existing work programmes and priorities i.e. when a plan or plan provision is reviewed. This would be a more efficient means by which to implement Planning Standards, reduce costs to ratepayers, and importantly would allow critical environmental planning to be delivered within existing timeframes.

Process for implementing National Planning Standards

19. The new RMA provisions regarding National Planning Standards require that, for mandatory directions, councils must include specific provisions into their policy statements and plans, and that these changes must be made without using any of the processes set out in Schedule 1 of the RMA. Environment Canterbury also notes that decisions about which Planning Standards are mandatory will be made as part of developing the Planning Standards.

20. Environment Canterbury considers it unlikely that substantive changes can be implemented without using any of the processes set out in Schedule 1. Implementing a new structure, and rewriting rules to fit within this, will likely be a complex task if existing plans differ significantly from those proposed by the Ministry (as Environment Canterbury's do with regard to plan structure and form). Less substantive changes or restructuring some district plans may not require Schedule 1 processes, however this is very unlikely for Environment Canterbury's complex suite of planning documents.
21. Where a Schedule 1 process is required, Environment Canterbury **recommends** that the Ministry develop a streamlined planning process (or processes) for councils to use to modify their plans. That process should include an element of public participation where aligning the existing plan with the National Planning Standards will significantly change the application of a plan provision, or where significant rewriting of provisions is necessary to achieve consistency with the National Planning Standards.
22. Environment Canterbury would welcome the opportunity to discuss this further with the Ministry, in order to develop a plan that best and most efficiently implements Planning Standards, while also delivering on existing planning priorities.

Structure of regional plans and policy statements

23. Environment Canterbury notes the proposal to combine regional policy statements and regional plans into one document with the intention to assist with the integrated management of resources. Environment Canterbury supports the integration of regional plans, but recommends that regional policy statements (RPS) are able to remain as standalone documents.
24. The CRPS sets the direction for resource management in Canterbury. Environment Canterbury and territorial authorities have an equal obligation to give effect to the CRPS through their regional and district plans. It is for this reason that, while the preparation of the CRPS was led by Environment Canterbury, territorial authorities had significant collaborative and consultative input into its development.
25. Environment Canterbury does not view the CRPS as a purely regional council document, but rather as a document providing an overarching framework for the integration of land use and infrastructure across the region – it is maintained by the Regional Council but applies to, influences and directs planning processes in the districts as much as for the regional council. Maintaining a RPS that sits outside of regional plans is important to underscore this point.
26. Given that the RPS is as relevant to district plans as it is to the regional plan or plans, Environment Canterbury **recommends** that regional councils be able to choose whether or not to combine RPSs and regional plans into one document. Our preference is that the CRPS remains completely self-contained. There needs to be an ability for an RPS as a document to be considered alongside district plans, which is essential for hearings on a district plan, and in Environment Court hearings. While we acknowledge that this rationale may not apply in a unitary council setting, it is very relevant in a regional/district council setting.
27. We would also note that having the RPS as a self-contained document does not in any way prevent well integrated regional planning documents – structure and format and

terminology could all be consistent across the RPS and combined regional plan (and indeed the district plan).

Formatting plans and policy statements

28. Environment Canterbury has undertaken a significant restructure of all its regional plans over the last 6 years. This was, in part, in response to criticism that our earlier regional plan, the NRRP, was difficult to understand and apply. Objectives and policies in the NRRP were presented in a narrative text based format, while rules were presented in a text-table hybrid format.
29. The character of regional plans, where the general presumption is that provision must be made for an activity, and the desire of Environment Canterbury to manage its water and land resources in a holistic and integrated manner, means that the task of reformatting its existing and partially completed plans into a non-narrative format will be difficult and time consuming. This situation does not apply, at least to the same extent, to district plans where the founding presumption is that activities are permitted unless they are controlled by plan provisions. District plan provisions (particularly rules) are more amenable to a tabular format.
30. The restructure of Environment Canterbury's regional plans into the present narrative format is a direct result of some very specific feedback from consultation with stakeholders and the community at the time the LWRP development process commenced. That feedback was highly critical of the tabular format used in the NRRP (the predecessor to the LWRP). While we are not opposed to increased format consistency across regional and district plans, our communities now have an expectation and understanding of how our plans are structured, and how they operate. Broadly speaking, Environment Canterbury now applies a narrative text based format to plans and policy statements. Objectives are grouped, Policies are grouped around topic areas, and Rules are grouped around the same topic areas. This has proved to be a simple structure for our community to follow.
31. Critical to the architecture of the LWRP and in accordance with the collaboration principles within the CWMS, this narrative format has enabled Environment Canterbury to develop its LWRP in a two-tier format – region-wide provisions and sub-region or catchment specific provisions. This has fostered appropriate solutions for water management and has enabled integration and consistency across the region and between the sub-region sections without diminishing local solutions. Any required reformatting of the LWRP may undo that collaborative work, along with the community buy-in critical to the successful implementation of the plans.
32. Should the National Planning Standards direct a different plan format than that used by Environment Canterbury, transitioning to this would require significant resourcing. Because of the degree of community involvement in regional planning, the change risks losing community engagement if the community are then required to learn and familiarise themselves with a new structure and format. In addition, restructuring our plans may lead to unintended consequences – we need to ensure amendments do not unintentionally change the way provisions function.
33. Environment Canterbury **recommends** that National Planning Standards for formatting of plans and policy statements should be implemented at the time a plan is reviewed. This

would enable new formats to be implemented cost-effectively, with minimal disruption to existing planning priorities, and enable public input into the process.

Zones, Overlays and Mapping Standards

34. Environment Canterbury supports the concept of standardising spatial zones and their display/mapping. Environment Canterbury uses a number of different zones and overlays within plans. As is likely typical of all regional plans, our zones tend to be designed to manage the protection or allocation of a particular resource within a spatial area specific to that resource (e.g. water catchment, airshed).
35. This is different to district plan zones which tend towards spatially defining areas where a particular type of development is anticipated to occur (e.g. residential or industrial zones). The overlays we use assist in the identification of areas or features that exist in specific locations but occur across the region (e.g. wāhi tapu, soil erosion risk areas, salmon spawning sites).
36. Environment Canterbury offers Canterbury Maps as a benchmark for standardised mapping and display of spatial zones and overlays (<https://canterburymaps.govt.nz>). Environment Canterbury and the ten Canterbury territorial authorities have collaboratively built and invested significant resource in Canterbury Maps, and Canterbury Maps is considered to be the leading source of locally developed geospatial information in the Canterbury region.
37. Environment Canterbury also **recommends** that for regional plans the Ministry restricts standardisation to resource allocation and protection zones (e.g. clean air, nutrient discharge, groundwater, surface water, soil conservation), and provides for flexibility beyond a standard list of overlays. Environment Canterbury needs to retain the ability to introduce a new zone or overlay to respond to local issues as they arise (e.g. crop residue burning buffer area overlays are unique to Canterbury).
38. Environment Canterbury notes that, like other elements, there may be implementation issues for zone, overlay and mapping standards. In particular, the process for adopting a new zones and overlays National Planning Standard has potential to require re-notification of fundamental components of our plans, which may lead to re-litigation of the size and shape of the zones and layers that exist. For example, our nutrient allocation zones are assigned colours to indicate where freshwater outcomes are being achieved or not. Our rules then correspond to the zone colours – there are limits on winter grazing that apply in red and orange zones – should those zone colours change, the expression of the rules would also need to be changed.

Definitions

39. Environment Canterbury acknowledges the intention of greater consistency in definitions across RMA plans. We note the majority of terms within the discussion paper relate to district plans, and also that through subsequent discussions the Ministry has received feedback that more consistency across regional plans would be welcomed.
40. There are a number of terms identified in the discussion paper that are used and/or defined within Environment Canterbury's regional plans and the CRPS. We also note that it is likely that terms used widely in regional plans will be included in a final list of standard definitions. Consistent with our comments on other papers, Environment Canterbury's

main concern is around implementation timing and process for making any required changes.

41. Should National Planning Standards impose a different meaning to terms used in Environment Canterbury plans, the way our plan provisions apply will be changed. For some terms, this change could be significant. For example, the Proposed Canterbury Air Regional Plan defines the term 'sensitive activities' and applies setbacks to activities occurring near sensitive activities. If the definition of 'sensitive activities' changes, some permitted activities may require consent or vice versa.
42. We also note that "noise sensitive activities" is a term likely to be defined. In the CRPS "sensitive activities" includes "noise sensitive activities", and consequential changes that will result from standardisation of the two definitions will occur throughout regional and district plans in Canterbury. There is a risk that the applications of these definitions may become inconsistent across Canterbury if those consequential changes lead to local authorities applying the terms in a manner that is inconsistent with the intent of the CRPS.
43. The RMA has, at its core, a participatory system for the development of regulation at the district and regional level. In terms of process, the imposition of new definitions to be adopted through this participatory process would be onerous and costly without delivering an obvious benefit to affected communities except in the very long term. However, the imposition of new definitions within existing plans without the participatory process would be contrary to the spirit of the RMA and would undermine the integrity of those plan provisions that use the terms for which definitions have been imposed. This is especially the case where revised definitions change policy intent of existing definitions.
44. Environment Canterbury **recommends** that if National Planning Standards impose standardised definitions, that it is specified that standard definitions can be implemented at the time when a plan or plan provision is reviewed. However, to ensure regional consistency in the application of definitions, there should be opportunity for regional policy statements to be updated before definitions are implemented in regional and district plans. This would ensure a more efficient process, but also better enable councils to test the practical implications of definitional changes.

Electronic functionality and accessibility of plans

45. Environment Canterbury supports the electronic delivery of policy statements and plans, and is in the process of developing and deploying an eDelivery system for our plans. To date, we have invested a significant amount of time, money and resource into this programme. The system being developed is integrated with Canterbury Maps and will eventually integrate with other Council systems.
46. A number of Canterbury territorial authorities have also invested in eDelivery and have worked together with Environment Canterbury to ensure consistency. Of the Canterbury local authorities who have or intend to have eDelivery, all but one are using the same supplier and are seeking integration with Environment Canterbury-led systems such as Canterbury Maps.
47. Environment Canterbury is on track for eDelivery by June 2018. This will include an interactive GIS presentation of our plans, and we expect that this would meet the Ministry's mature eDelivery standard.

48. Environment Canterbury invites the Ministry to discuss further the challenges we have faced in deploying eDelivery, including resource requirements and how the concept of property scale searching can be problematic at the regional scale.
49. As we work towards eDelivery, Environment Canterbury intends that ePlans will simplify the decisions and hearing process (ePlans will become the 'single truth' for those seeking to identify planning provisions). This will be problematic, however, while Courts expect plans to be provided in hard copy. We **recommend** the Ministry considers including some guidance with the National Planning Standards to indicate the legal status of ePlans.

For further enquiries:

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