

**Planning & Strategy Committee
2 August 2018**

Report for Agenda Item 1

Department: Planning & Development

Council submission on the draft first set of National Planning Standards

Purpose

- 1 To seek agreement to lodge a Council submission on the draft first set of National Planning Standards.

Recommendation

That Council:

1. **Note** the contents of this report and;
2. **Authorise** the submission appended as Attachment B to be submitted to the Ministry for the Environment; and
3. **Authorise** officers, in consultation with the Planning and Development Portfolio Leader or Deputy Leader, to make minor and inconsequential changes as necessary (including the use of case study examples) to the submission prior to lodging it.

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19/07/2018

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Background

- 2 The Ministry for the Environment (MfE) is consulting on a draft set of National Planning Standards. The consultation document is appended as Attachment A.
- 3 The purposes of the National Planning Standards are to standardise Resource Management Act (RMA) plan format and definitions and to:
 - make RMA plans simpler to prepare and easier for plan users to understand, compare and comply with
 - help achieve the purpose of the RMA: promoting the sustainable management of natural and physical resources
 - set out requirements or other provisions relating to any aspect of the structure, format, or content of RMA policy statements and plans to address any matter that the Minister for the Environment considers:
 - requires national consistency
 - is required to support the implementation of a national environmental standard, a national policy statement, a New Zealand coastal policy statement, or regulations made under the RMA
 - is required to assist people to comply with the procedural principles set out in section 18A of the RMA.
- 4 Under section 58G of the RMA, the first set of National Planning Standards must, as a minimum, include:
 - a structure and form for RMA plans, including references to relevant national policy statements, national environmental standards, and regulations made under the RMA
 - definitions
 - requirements for the electronic functionality and accessibility of plans.
- 5 MfE also propose some additional planning standards to complement the minimum requirements of the first set, and make them more effective in achieving genuine standardisation. For example, a standardised structure that directs where 'zone' and 'overlay' provisions sit (a minimum requirement) is not useful if each plan still has a different interpretation of what zones and overlays are, how they work, and how they are shown on maps. For this reason, the first set of planning standards also includes:
 - spatial planning tools
 - a zone framework
 - mapping
 - metrics.
- 6 There are two types of National Planning Standard – mandatory and discretionary. Incorporation of mandatory planning standards into plan documents cannot use a formal consultation process under the RMA (in Schedule 1). The Council just needs to publicly notify to inform that the new

standard structure, format, text etc, has been implemented, along with any consequential changes. However, if the Council decides to change other plan content beyond what the mandatory directions need, these changes need to follow a formal public consultation process under the RMA. Most of the directions in the first set of planning standards are mandatory.

- 7 The second type of planning standard is 'discretionary'. A discretionary planning standard provides a set of options, and Councils must select at least one of the options to apply in their plans. The Council must use a formal consultation process under the RMA to decide which options to select and how they should be applied in the plan. The only planning standard in this set that contains discretionary directions is the Zone Chapter Structure.
- 8 The National Planning Standards do not determine the full content of plans or policy matters at this time (other than some definitions, the range of zones that can be used and map symbols / colours), although this is possible in the future. The standards are intended to enable Councils and plan users to focus their time and resources on the local content important to them.
- 9 MfE propose that the National Planning Standards will help plans be more concise, with less formal, elaborate explanations needed. The key outcomes anticipated by MfE are listed below:
 - Less time and resources are required to prepare and use plans.
 - Plan content is easier to access, and relevant content is easier to find.
 - National direction is consistently incorporated in plans, resulting in better implementation on the ground.
 - Councils focus their resources more on plan content that influences local resource management outcomes and is important to the community.
 - Good planning practice is applied quickly across councils through the National Planning Standards.
- 10 MfE are now seeking submissions on the draft first set of National Planning Standards. A MfE workshop session was held in Queenstown on 13 July 2018. Submissions are due on Friday 17 August 2018.

Comment

- 11 The full draft submission is appended as Attachment B. The submission addresses the 24 questions set out in the discussion document (Attachment A), plus a section of additional comments.
- 12 Many of the submission points are technical in nature, and this agenda item focuses on the main points of concern with the draft first set of National Planning Standards from a Queenstown Lakes district perspective.
- 13 Where issues arise is where the National Planning Standards also start dictating the *content* of RMA plans. At this time direction around content is limited to:
 - a. the suite of 27 zones that the Council will have to use,

- b. standardised definitions
- c. standardised mapping.

14 The 27 proposed zones include:

- Residential zones: low density residential, residential, medium density residential, high density residential
- Rural zones: rural, rural production, rural residential, rural settlement
- Commercial zones: neighbourhood commercial, local commercial, commercial, mixed use, town centre, city centre
- Industrial zones: light industrial, industrial, heavy industrial
- Open space and recreation zones: open space, sport and active recreation, conservation
- Special purpose zones: airport, port, hospital, education, stadium, future urban, Māori cultural.

15 Eight key areas of comments from the detailed submission are summarised below:

- a) Support for standardising the form, structure, numbering and mapping of RMA planning documents across the country, so that a district plan in the Queenstown Lakes district looks and feels the same as a district plan in any other district.
- b) While an extended 7 year timeframe to implement the National Standards for Council's currently engaged in a plan review process is supported, it is not considered that a seven year deadline would provide sufficient time for a number of authorities currently undertaking reviews to implement the standards. Given the litigious nature of the plan making process in the Queenstown Lakes District, and the staged District Plan Review approach being adopted, it is possible that all appeals will not be resolved prior to the standards needing to be implemented. QLDC would then have to embark on a District Plan Review almost immediately after completing its current review. MfE should amend these timeframes so that the 7 years commences from when the RMA plan under review is made fully operative, or that the National Planning Standards are required to be implemented as part of the next plan review process (i.e. every 10 years). These amended implementation timeframes will avoid significant monetary burden on the District's ratepayers who have already absorbed substantial costs associated with the existing plan review and appeal process and allow the Council to more effectively resource and prepare for the required standardisation processes.
- c) For *discretionary* National Planning Standards (i.e. the Council decides what option to choose and how they are implemented), Council's should be able to change their plans to address the National Planning Standards without having to go through a First Schedule process as currently proposed. Transitioning

to the new system should be made easy and able to be done without further formality and cost. Due to the full legal process of the Environment Court enabled through the First Schedule process, and the ease of lodging appeals, the First Schedule process can add significant time delays and cost implications for local government, and will slow down the transition to National Planning Standards by many years. If the Government seeks to have an appeal process for how plans are converted to meet the National Planning Standards, this should not be a Court based system with legal representation but rather a more 'planning tribunal' based approach without lawyers.

- d) With regard to the 27 zones specified, the consultation document outlines that Councils can create other 'special purpose' zones, but only in unique circumstances for specific, one-off purposes that do not overlap with the purposes of the other zones. QLDC note that a limited number of special purpose zones are identified and include airport, port, hospital, education, stadium, future urban, and Māori Cultural. QLDC would question if the purpose of some of these land uses are more efficiently and effectively provided for through the use of designations, in particular, airport, port, hospital and education uses are already frequently designated at present. If zones are used instead of designations, this may have significant cost implications for requiring authorities such as the Ministry of Education who currently designate rather than seeking a zoning. MfE should describe how the use of a zone for these unique uses is better suited than that of a designation. Further, it is not clear if these zones would need to replace designations in due course.
- e) Table 5 of the Draft National Standards sets out the range of zones that may be applied to District Plans. Four residential zones are identified, three relating to a specific type of residential density (i.e. low, medium and high). An additional unspecified residential zone is also identified. It is not clear how this additional unspecified residential zone adds value to the intent of the National Planning Standards in terms of consistency. The Council does not consider that this zone is needed. Each residential zone should direct the application of provisions based on a desired type of density. It is acknowledged that some Regions or District's may not be able to make density based distinctions within their residential areas, however, this is not a sufficient reason to not specify the overall density that an urban area has taken on over time or is seeking to achieve.
- f) Officers have some concerns with regard to definitions because defined terms appear in objectives, policies and rules, and the proposed definitions would have unintended consequences. Further, it is not clear to what extent sub-definitions can be created to address the specific issues and effects that specific activities generate in different parts of the country. Details of the definitions of concern are discussed in further detail in Attachment B.
- g) With regard to the e-plan standard, the requirement to achieve Level 5 would provide a high degree of functionality but will have significant cost implications for smaller Councils who typically use PDFs (Level 2 or 3) at present. Central Government funding should be provided for these costs. QLDC consider

Level 3 would be adequate and more affordable for smaller local authorities, i.e. a less ambitious approach.

- h) MfE should issue a range of legal opinions concerning implementation of the prescribed standards alongside guidance concerning issues that may arise from consequential amendments and where a Council may need to depart from the standards. It would be more efficient and effective to have a centralised set of opinions on these matters than each Council obtaining its own legal advice. Councils are also likely to incur significant costs in obtaining legal opinions where necessary.

Options

16 This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002:

17 Option 1 - Lodge a submission on the draft National Planning Standards

Advantages:

18 Communicates Council feedback on the draft proposals and implications for the Queenstown Lakes district.

Disadvantages:

19 None.

20 Option 2 – Do not lodge a submission on the draft National Planning Standards

Advantages:

21 None

Disadvantages:

22 Would not convey Council feedback on the draft National Planning Standards and implications for the Queenstown Lakes district.

23 This report recommends Option 1 for addressing the matter because it will allow the unique perspective of the Queenstown Lakes district to be communicated to the Ministry for the Environment.

Significance and Engagement

24 This matter is of high significance, as determined by reference to the Council's Significance and Engagement Policy because as a fast growing district in a sensitive environment the proposed reforms to the RMA have the potential to impact on the environment, culture and people of the district, and could have significant cost to the community if not considered appropriately.

Risk

25 This matter relates to the strategic risk SR1 'Current and future development needs of the community (including environmental protection)', as documented in the Council's risk register. The risk is classed as high. This matter relates to this risk because the district plan making process, as well as the current resource consenting process, are central to the current and future development needs of the community. Proposed changes to the RMA affect both these matters.

26 The recommended option 1 considered above mitigates the risk by:

Treating the risk - putting measures in place which directly impact the risk. By submitting on the proposals, Option 1 mitigates the risk of the less desirable aspects of the proposals being accepted into the final National Planning Standards.

Financial Implications

27 If the requirement to change to the National Planning Standards within 7 years of adoption is progressed as proposed, this would have significant cost implications for the Council as a First Schedule review process would be required relatively soon after completing the current District Plan Review.

Council Policies, Strategies and Bylaws

28 The Operative and Proposed District Plans are relevant to this proposal as the National Planning Standards will directly affect these documents. No other Council policies, strategies and bylaws are considered relevant to the submission.

Local Government Act 2002 Purpose Provisions

29 The recommended option:

- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses by ensuring Councils unique perspective is communicated to the Ministry for the Environment;
- Can be implemented through current funding under the 10-Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

Consultation: Community Views and Preferences

30 No consultation was undertaken. The submission is being made within a formal statutory process, and other parties also have the opportunity to make a submission on Council's submission.

Attachments

- A MfE Consultation document
- B Draft QLDC Submission on the proposed first set of National Planning Standards