

# Finally, a consistent approach to RMA plan making?

April 16, 2019

There are 17 Standards in total, which come into force on May 3, 2019, and are required to be implemented by councils across New Zealand over the next 10 years, without any public amendment. This means that the Standards will not affect new projects or applications immediately, and it is likely to be business as usual at least for the near future.

See our previous Newsflash on the draft Standards for further detail on the history behind the creation of the (now finalized) Standards. In short, the Standards are one of the key changes that came out of the Resource Management Act reforms in 2017 (and which the current Government is not planning to reverse).

## The Standards:

- do not aim to create consistency on the detail of planning documents – the focus is on structure and form; but
- do aim to create a broadly consistent and simple approach to RMA planning, so that they are able to be practically applied and implemented all over New Zealand, in very different receiving environments. For example, one of the key requirements in the Standards is for all council plans to be available through an e-plan.

Environment Minister David Parker in his recent address to the New Zealand Planning Institute Conference described the standards as a "step forward" in reducing compliance costs and addressing complexity concerns surrounding RMA planning processes.

## What are the Standards

The Standards apply to all district and regional plans and regional policy statements. All local, regional and unitary councils across New Zealand are responsible for applying the Standards by incorporating them into their plans. Most of the standards will be incorporated by councils without going through the formal Schedule 1 RMA process (i.e. no further public input), and this will most likely occur at the time of their next plan change or plan review. Many councils have been holding off changing their plans until after the Standards are released, so we can expect a number of changes to be progressed soon.

Although the Standards are a Government-led creation, they are limited largely to structure and form. The detail is left to councils, which in our view, is the correct approach. The Standards do not determine local policy matters, nor the substantive contents of plans and policies.

The Standards have been through a full public consultation process, and, as expected, the final Standards do contain some differences compared to the draft standards released last year – see our summary on the draft standards here. Many changes relate to workability, but in our view, the two most significant changes are:

- The timeframes for councils to implement the changes are now more "realistic". There are different timeframes for

a) different councils and b) different plans and c) different requirements under the Standards. The timeframes are mostly sensible, and include, for example, longer timeframes (up to 10 years) for regional plans and unitary plans to comply with the Standards, to reflect the complex nature of such plans. There are then shorter timeframes for specific (and more pressing) requirements, such as that all councils have 1 year to comply with the basic e-access requirements.

- In relation to the Standard specific to a policy statement, much more focus has been put on Part 2 RMA (and a new "integrated management" chapter has been introduced) in order to respond to submissions calling for greater focus on this for policy statements in light of recent case law, summarised in our recent article.

### **The Standards are broadly split into two categories:**

- Structure – this dictates how plans/policy statements should be structured in the sense of ordering, what chapters should be included etc. Example: "Parts" are introduced to form the backbone of a plan/policy statement. There are five parts in the policy statement structure and three in the regional plan.
- Form – this dictates how plans must be accessed, and provides consistency for definitions, mapping/zoning etc. Example: there is a list of 24 zones which a council may choose from, and a set colour palate for those zones. There is also a requirement for plans to be accessible online within 3 clicks of a council home page (with a strong preference for "one-click").

Not everything in the Standards is mandatory. There is a split between mandatory requirements, for example the "Parts" referred to above, and discretionary recommendations, for example some of the recommended chapter headings (which would only be relevant for some regions).

More detailed information can be found on the MFE website, which includes detail on all 17 Standards and helpful information for plan users here.

## **So what are the key takeaways?**

This is positive news for consistent RMA planning in New Zealand. In terms of useability, it will enable greater public access and visibility of plans and policy statements. Importantly, it will also result in efficiencies for professionals, particularly planners and lawyers. Court cases which resolve, for example, uncertainty of plan meaning, may be useful throughout the country. This consistency is also likely to benefit projects and networks that span a number of districts or regions.

The Standards are set and cannot be amended by the public. This is unlikely to be a major concern at this stage due to their focus on form rather than substance. The Standards are referred to by Government as the "first set". However, councils and the public may be more concerned if the Government decides to introduce a second set directing on the detail of planning documents.

Change to planning documents to incorporate the standards will take time. We are not likely to see the full benefits of the Standards until at least 8 to 10 years down the track, when all councils have finally managed to incorporate the changes. There is a risk that, due to the long timeframes, amendments might be required to the Standards before then. This, in our view, could create difficulties. The only way to make amendments (or add to) standards is via the long-winded process under §58H of the RMA, which, unless the change is merely corrective, is effectively the same process by which the Standards were created in the first place, and includes full public consultation.

Considering the long timeframe for implementation, and the fact that the timeframes will differ depending on council plan review processes, it is unclear whether there will be sufficient checks and balances to ensure that all councils

have in fact implemented the standards within their timeframe. §58I of the RMA creates the obligation for councils to apply the standards, but does not contain any process for enforcement. There is a risk that already overloaded councils will struggle to implement the standards, and that given the Standards focus on form over content, their incorporation may not be given immediate priority.

The Proposed New Plymouth District Plan, scheduled to be finalised in mid-2019, has been designed to be aligned with the Standards. So, keep an eye out for the notification of this plan if you would like to experience what the new approach looks and feels like.

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