

**Attachment B: QLDC Draft Submission on the draft first set of National Planning Standards**

<p><b>Questions considered for the submission regarding key parts of the draft first set of National Planning Standards</b> <i>(in accordance with the MfE consultation document)</i></p>	<p><b>Answers / Supporting Reasons</b></p>
<p>Q1: What are your thoughts on this proposed package of planning standards? If you consider changes necessary, how would these affect the anticipated outcomes?</p>	<ul style="list-style-type: none"> <li>• QLDC is generally supportive of standardising plan structure and numbering.</li> <li>• QLDC has concerns at the risk for unintended consequences arising from standardised definitions, for example the proposed definition of ‘addition’ would mean changes to heritage buildings that do not increase the GFA of that building would not trigger the need for consent, but which could significantly affect the heritage building, for example the addition of another storey or a dormer window.</li> </ul>
<p>Q2: What topics or matters should be investigated for future planning standards?</p>	<ul style="list-style-type: none"> <li>• MfE should also consider standardising report structure layout, in particular, section 32, 42a, right of reply and decision reporting structure.</li> </ul>
<p>Q3: Do you agree with the level of standardisation proposed in the plan structure standards?</p>	<ul style="list-style-type: none"> <li>• National Direction Instruments Chapter (S-NDI) would provide a useful commentary in regard to the relevant national documents (which are frequently missed) and assists plan users in understanding the hierarchy of planning documents which need to be considered as part of the plan making process and when considering proposals for subdivision and development.</li> <li>• Table 22 of the Draft National Standards setting out symbology has excluded the symbol relating to sites of significance to Maori, stating that Council is to consult with tangata whenua in regard to this specific symbol. MfE is encourage to identify an appropriate symbol for this feature.</li> <li>• Table 25 of the Draft National Standards sets out a rule overview table. It is not clear the value this provides to the structure of plans and could add considerable length to planning documents. This appears superfluous given that the following table identify the rules that apply to the zone. MfE should consider removing this table.</li> </ul>
<p>Q4: Are there other topics that would benefit from a chapter structure standard?</p>	
<p>Q5: Does the <i>tangata whenua part structure standard</i> help meet RMA requirements for iwi authorities and tangata whenua input into RMA plans? Will this help tangata whenua and councils to work together?</p>	<ul style="list-style-type: none"> <li>• The national standards place <i>Sites of Significance to Māori</i> in a different part of plans (Community Values Chapter) to the Tangata Whenua Structure Standard. MfE should consider if this is the most effective and efficient way to manage these matters. It is considered that these matters should be contained within the same part of the plan to ensure they are considered together.</li> </ul>

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Q6: Should we have a standard set of zones? Would this make plans across New Zealand easier to use?	<ul style="list-style-type: none"> <li>• QLDC accept that a standard set of zones would make plans across New Zealand easier to use but would come at significant cost in terms of the transition to that framework for discretionary standards, due to having to use the First Schedule process of the RMA.</li> <li>• At page 18 of the consultation document<sup>1</sup> it is outlined 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, 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 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.</li> <li>• The consultation document then appears to introduce a contradiction in terms of ‘unique zones’ which are described as problematic ‘as it does not focus on overall environmental effects and area characteristics, does not provide well for changes in markets, technology and community preferences, and risks being seen as protectionism for a particular land use or industry’.<sup>2</sup> QLDC would dispute that unique zones are not efficient or effective in terms of overall environmental effects or area characteristics. We have a large number of special zones across our District each of which have a geographically unique set of values which are specifically identified and provided for through objectives policies and rules of the special zones. Previous plan monitoring programmes have shown that these unique zones have resulted in better environmental outcomes than would have been possible if a unique zone had not been identified, e.g. a bespoke special zone versus if they had just been zoned Low Density Residential.</li> <li>• MfE should also explain in more detail its statement about how these zones result in protectionism for specific land uses. There seems to be tension in this particular statement with the function of zone based planning frameworks, i.e. it is the function of a zone to favour particular types of land uses over others and it is not clear how this is not the case with any of those standard set of zone proposed by the standards (i.e. the residential zones protect residential uses and the industrial zones protect industrial uses etc). QLDC would also ask MfE to consider the tension in this position with the requirements of the National Policy Statement on Urban Development Capacity, particularly in regard to those Districts and regions which are identified as high growth.</li> </ul>
Q7: Are some zones missing, or are some zones not needed?	<ul style="list-style-type: none"> <li>• Table 5 of the Draft National Standards<sup>3</sup> 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 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 of District’s may not be able to make density based distinctions within their residential areas, however, this is not considered a sufficient reason to not specify the overall density that an urban area has taken on over time or is seeking to achieve (i.e. a Low Density Residential Zone may be the most appropriate zone across the entire residential area of a low growth Region or District).</li> </ul>

<sup>1</sup> Draft National Planning Standards, Consultation Document, June 2018

<sup>2</sup> Page 17

<sup>3</sup> Draft National Planning Standards, June 2018

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Q8: Is the inclusion of purpose statements for zones useful for guiding how they may be used?	<ul style="list-style-type: none"> <li>• The zone purpose statements are very brief and do not provide any comment on the nature of the zone or the issues it faces. Can the MfE please confirm if this is deliberate? Is it noted that a section on issues is located within the draft chapter form<sup>4</sup>. MfE should consider if some context around issues should be provided within the purpose statement.</li> <li>• The purpose statement for the '<i>Low-density residential zone</i>' appears to rely on areas where there are '<i>constraints on urban density</i>'. It is not clear how such constraints necessarily determine if a zone should be low density. All residential zones have constraints on density.</li> <li>• The purpose statement for the '<i>Residential zone</i>' suggests that it relates to areas which are '<i>suburban in character</i>'. In comparison, the purpose statement for the '<i>Medium density residential zone</i>' relates to areas with an '<i>urban character</i>'. It is not clear what the distinction is between these terms and it is also noted that they are not defined by the National Planning Standards. This ambiguity does not achieve the intent of the National Standards.</li> <li>• The zone purpose statements appear to rely heavily on the use of the word '<i>primarily</i>'. This introduces unnecessary ambiguity and does not achieve the intent of the National Standards. The word primary should be removed where possible and replaced with additional explanation in terms of the type of activities which might be anticipated within the zone.</li> <li>• There appears to be a tension between the '<i>Town centre zone</i>' and the '<i>City centre zone</i>' purpose statements. The difference appears to be related to the size of the urban area being '<i>small urban areas</i>' for Town centre zones while there is no scale mentioned for a City centre zone. This introduces unnecessary ambiguity and it is not clear when and to what area each zone should be applied. MfE should either remove one of these zones or expand and clarify these purpose statements to provide more guidance on when and how they should be applied.</li> <li>• It is unclear what the difference is between the Special Zone option and a Development Areas Chapter. Every one of the existing 17 special zones in the Operative District Plan has a structure plan. When an area is suitable for a Special Zone or a Development Area Chapter could be clarified.</li> <li>• In regard to the '<i>Open space zone</i>', the purpose statement incorporates the phrase '<i>relaxing and socialising</i>'. These words are not defined and do not provide sufficient certainty in terms of what type of activity might be anticipated within the zone. They could imply that the operation of licenced premises etc are anticipated within the zone. These words should be removed from the purpose statement and replaced with the type of activities which might occur in the zone.</li> <li>• There are overlaps between the 'Open space zone' and the 'Sport and active recreation zone' – both refer to active recreation.</li> <li>• MfE should provide more detail on the extent to which these purpose statements can be amended, when amendments would become consequential changes that need to be notified, and what parameters exist when writing a purpose statement for a special zone which may not otherwise be provided for.</li> </ul>
Q9: Do the purpose statements help you understand which zones you currently have in your plan, and how they fit into the planning standard's zone?	<p>Yes at a high level although many of our special zones are mixed use and have characteristics that could be geographically split to fit into several of the proposed zones, or the proposed mixed use zone.</p>

<sup>4</sup> Page 63 of the Draft National Standards

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Q10: Is 'Level 5' of the Electronic Accessibility and Functionality Scale an appropriate standard for council ePlans? Should it be more or less ambitious? What would you include/exclude?	<ul style="list-style-type: none"> <li>• 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.</li> <li>• QLDC consider Level 3 would be adequate and more affordable for smaller local authorities, i.e. a less ambitious approach.</li> </ul>
Q11: For councils: what type of support would be useful to help you implement the ePlan standard?	<ul style="list-style-type: none"> <li>• Financial support to achieve Level 5.</li> </ul>
Q12: Does the mix of map colours and symbols function well for your plan(s)?	<ul style="list-style-type: none"> <li>• It is considered that the residential zone mapping colours look too similar to one another considering they are likely to be located directly adjacent to one another. This could result in uncertainty for plan users and inefficient plan administration. MfE should consider applying more distinct mapping colours to the residential zones.</li> <li>• A similar concern to that described above exists in terms of the open space, sport and active recreation, and conservation zones. MfE should consider applying more distinct mapping colours and / or hatching to these zones.</li> </ul>
Q13: Should other symbols or mapping instructions be included in the first set or future sets of planning standards?	<ul style="list-style-type: none"> <li>• Surface of Water could be a useful mapping instruction.</li> </ul>
Q14: Can these spatial planning tools be used to address the planning issues in your community?	Generally yes.
Q15: Should additional spatial planning tools be included?	

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Q16: Do you agree with the level of prescription in the chapter form standard?	QLDC comment as follows: <ol style="list-style-type: none"> <li>The Draft Chapter Form Standard includes reference to “Issues”, “Methods”, “Anticipated Environmental Results” and “Monitoring”. – in this regard the standard goes beyond section 75(1) of the RMA which only requires district plan to state objectives, policies and rules. QLDCs Proposed District Plan is generally limited to objectives, policies rules and assessment matters. The Draft Chapter Form Standard could have the unwanted effect of encouraging plan content from s75(2), rather than keeping plans concise as anticipated under s75(1).</li> <li>The Draft Chapter Form Standard is a mandatory requirement, but throughout it, it states ‘local authorities must consider <i>whether</i> ...xyz... is required’, suggesting it is not in fact mandatory.</li> <li>The Draft Chapter Form Standard<sup>5</sup> identifies a requirement for monitoring. It is not clear what this monitoring specifically relates to i.e. is this state of the environment monitoring or resource consent monitoring. Either way monitoring is better set out in a separate document rather than being included with the RMA plan.</li> <li>QLDC find assessment matters a useful tool, these have been set extensively through our Operative District Plan by the Environment Court. The Draft Chapter Form Standard does not refer to assessment matters.</li> </ol>
Q17: Would the acronym and alphanumeric code approach work well for your plans? If not, what changes would work better?	<ul style="list-style-type: none"> <li>While this standard will introduce consistency between District Plans, it could increase complexity for new plan users/lay people who will be required to constantly cross reference codes.</li> </ul>
Q18: Are these drafting principles suitable for definitions? Should they be changed or expanded?	<ul style="list-style-type: none"> <li>One of the drafting principles is that “definitions should be clear and concise, and avoid using subjective language, such as ‘high quality’, ‘appropriate’ or ‘approximate’”. The proposed definition of Visitor Accommodation then goes on to use the word “primarily”, and the zone purpose statements also continually use the term “primarily”.</li> </ul>
Q19: What other definitions should be standardised in future sets of planning standards?	
Q20: Is it appropriate to use NZ Standards as the basis for noise metric and vibration standards?	<ul style="list-style-type: none"> <li>Yes – QLDC had to deal with Environment Court appeals when it simply sought to update to the latest NZS for noise matters (Plan Change 27A).</li> </ul>

<sup>5</sup> Page 63 of the Draft National Standards

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Q21: Should the planning standards set noise limits for certain zones?	<ul style="list-style-type: none"> <li>• If it is accepted that the environments are sufficiently similar to have the same zoning then a standardised set of noise standards would also be useful.</li> </ul>
Q22: How will these implementation timeframes affect your council?	<ul style="list-style-type: none"> <li>• While an extended 7 year timeframe 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 to implement the standards. Given the litigious nature of the plan making process in the Queenstown Lakes District, and the staged approach being adopted, it is unlikely that all appeals will 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 one. MfE should amend these timeframes so that the standards are required to be implemented as part of the next plan review process. These timeframes would enable a more efficient transition, particularly for Council's which are undertaking a staged or rolling plan review.</li> <li>• Council's should be able to change their plans to address the National Planning Standards without having to go through a First Schedule process. Due to the full legal process and de novo hearings in the Environment Court, and the ease of lodging an appeal, the First Schedule process adds massive time delays and cost implications for local government, and will slow the transition down by many years. If the Government seeks to have an appeal process for how plans are converted to meet the National Planning Standards, the 'plaster needs to be ripped off quickly' to enable the transition, and this should not be a Court based system with legal representation but rather a less legal more 'planning tribunal' based approach.</li> </ul>
Q23: What sort of guidance and support would be useful to plan users and councils? What guidance should we prioritise?	<ul style="list-style-type: none"> <li>• Page 27 of the consultation document<sup>1</sup> briefly describes possible implementation guidance and support. MfE should provide an initial package of options for comment based on their past experience of national policy guidance.</li> <li>• 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 a wide range of conflicting opinions. Councils are also likely to incur significant costs in obtaining legal opinions where necessary.</li> <li>• At page 10, the consultation document<sup>1</sup> states that planning standards can be applied to specific regions or districts or to other areas of New Zealand. MfE should provide guidance as soon as practicable in regard to the application of regional or district specific standards and how this would achieve the intent of the National Standards. MfE should provide guidance as soon as practicable on any intent to standardise objectives, policies, methods or rules.</li> </ul>
Q24: Should MfE target its implementation support to smaller councils with fewer resources?	<ul style="list-style-type: none"> <li>• MfE implementation support does not usually involve undertaking the required work. Financial support to engage consultants to complete the work as a direct result of the National Planning Standards is the most effective way of assisting councils complete the work required on top of day to day RMA activities, particularly consent processing</li> <li>• MfE could establish a criteria to assist in channelling their implementation support. This criteria might be based on a measure of planning and legal resources against growth rates and development capacity requirements under the National Policy Statement on Urban Development Capacity.</li> </ul>

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Additional comments	<p>a) Has MfE considered how new NES and NPS documents might be incorporated into the National Standards?</p> <p>b) At page 13 of the consultation document, it is outlined that Council's need to publicly notify the standard structure, format, text etc, along with any consequential changes. MfE might want to clarify that this means notifying that the changes have been made, not publicly notifying them for submissions.</p> <p>c) In the absence of additional information, the Council would not support the development of nationally standardised objectives, policies or rules as is described within the consultation document.<sup>6</sup> The RMA was developed as method of devolving the management of natural and physical resources to local communities and this degree of standardisation would comprise the intent of the RMA. Although an 'optional' set of standardised objectives, policies or rules would be more desirable, it is not considered that this approach would fulfil the intent of the National Standards and should therefore be avoided.</p> <p>d) Regarding <u>Table 16</u> - the table includes a row for designation conditions but then the S-ASM goes on to state under 21 that conditions should be included as a schedule. It is preferable for ease of plan use that the conditions for designations be part of the designation, rather than in a separate schedule. It is recommended paragraph 21 be deleted.</p> <p>e) Regarding <u>Table 16</u> - rightly or wrongly, many conditions on designations now include plans. MfE should consider whether Table 16 should include provision for these plans to be shown.</p> <p>f) <u>Definition: Addition:</u> as noted above, typically district plans require resource consent for additions to heritage buildings. The proposed definition of 'addition' would mean changes to heritage buildings that do not increase the GFA of that building would not be counted as an addition, and would not trigger the need for consent. This could significantly affect the heritage building, for example the addition of another storey or a dormer window on a heritage building.</p> <p>g) <u>Definitions: Building and Structure,</u> the definitions are very broad and would capture every small garden shed or dog kennel (for example), which might suddenly need consent for being in a setback. The QLDC definition provides an exemption for buildings less than 5m<sup>2</sup> <u>and</u> 2m in height. It is recommended an exemption for small buildings and structure be provided for in the definition.</p> <p>h) <u>Definition: Visitor accommodation:</u> the proposed definition is wholly unsatisfactory as it uses subjective terms such as "primarily" which would make enforcement impossible. There needs to be a 'bright line' test in the definition for when a residential property is used for visitor accommodation. The loss of residential housing stock to visitor accommodation is a massive issue in the Queenstown Lakes district and the Visitor Accommodation definition proposed would be impossible to monitor or enforce.</p>

<sup>6</sup> Page 10 of the Consultation Document