



LAND DEVELOPMENT AND SUBDIVISION

NZS 4404

Submission on behalf of the Resource Management Law Association of New Zealand Inc

INTRODUCTION

1. This Submission is made on behalf of the Resource Management Law Association of New Zealand Inc ("**RMLA**").
2. The RMLA is concerned to promote within New Zealand:
 - (a) an understanding of Resource Management Law and its interpretation in a multi-disciplinary framework;
 - (b) excellence in resource management policy and practice; and
 - (c) resource management processes which are legally sound, effective and efficient and which produce high quality environmental outcomes.
3. The RMLA has a mixed membership. Members include lawyers, planners, judges, environmental consultants, environmental engineers, local authority officers and councillors, central government policy analysts, industry representatives and others. Currently the Association has some 1,100 plus members. Within such an organisation there are inevitably a divergent range of interests in views of members.
4. While the membership has been consulted in preparing this submission, it is not possible for the RMLA to form a single universally accepted view on the proposed regulations. It should also be noted that a number of members may be providing their own individual feedback and those may represent quite different approaches to the views expressed here.
5. For these reasons, this submission does not seek to advance any particular policy position in relation to the proposed regulations, but rather is kept at a reasonably high level and is made with a view to ensure that the proposed standards:

- (a) are consistent with the general framework of existing laws and policies of relevance, and the Resource Management Act 1991 (“RMA”);
- (b) are practicable and workable; and
- (c) will assist in promoting best practice.

SUBMISSION

6. RMLA supports the scope and objectives of revised draft NZS 4404/V1.0 (“the Standard” and the current review.
7. The revised draft Standard encourages a sustainable approach to subdivision design and developments. The concepts developed in NZS4404 have introduced a comprehensive set of policies to properly integrate land use with roading and stormwater infrastructure. The Standard emphasises liveability and environmental quality in the development and subdivision of land, where these activities are subject to the provisions of the Resource Management Act 1991 (“RMA”).
8. These key changes to the Standard are supported, including:
 - (a) emphasis that good land use outcomes require collaboration among a number of disciplines;
 - (b) requiring that road planning and design needs ‘context’ or ‘place’ to be given significant emphasis, including roads being designed to achieve safe operating speeds;
 - (c) emphasis on managing and treating stormwater by the use of modern techniques such as grassed swales, natural and artificial waterways, ponds and wetlands; and
 - (d) consideration of climate change and potential sea level rise.
9. The RMLA’s main concern is the need for NZS 4404/V1.0 to be integrated into the RMA to become a mandatory, rather than optional consideration for all local authorities. This concern is outside the scope of this revised draft but is raised in the context of this submission to draw attention to the fact that the Standard’s main shortcoming is that it is not mandatory or binding on Councils to apply it.
10. There needs to be an examination of the relationship between New Zealand Standards and the RMA and whether the Standards should form the basis of a new National Policy Statement. There are other National Policy Statements which deal with similar technically detailed matters such as electricity transmission. The revised draft Land Development and Subdivision Standard C1.3.1 (p.22) does state that: *Over time, central government may develop other national policy instruments and standards which may affect decision-making by local authorities on land development and subdivision...*”

11. The RMLA considers the revised Standard needs to be integrated within the RMA statute. The revised Standard is now of a very high standard. It is clear the revisions have had a significant amount of professional input from the professional working group involved, such that the Standard now reflects best practices in subdivision and landuse design.
12. There are a number of available options to achieve integration of the Standard into the RMA statutory framework, including:
 - (a) consideration of NZS4404 as part of the Phase II RMA statutory reform process which includes consideration of urban design matters (the TAG group is providing a report to Government by 31 March 2010 on urban matters);
 - (b) inclusion of NZS4404 as a national policy statement (such that it would be considered under any s104 analysis).
13. In its current form NZS4404:2004 has no status that binds a consent authority to use it as a basis for determining subdivision or landuse applications under the RMA. The RMLA is aware of various Councils that have notified changes to its landuse/subdivision code of practice at or about the same time as the NZS review is being undertaken and open for submissions. This type of ad hoc and individual Local Authority response to such matters throughout New Zealand is both inefficient and unsatisfactory.
14. It is accepted that various Councils may seek to individualise and tailor subdivision and stormwater codes of practice standards, based on its own city or district environmental/physical characteristics. However, RMLA considers it preferable that the National Standard should set a minimum benchmark, which Councils should only deviate from to apply a more stringent standard. Any such deviation would require amendment to district plan, rather than the present practice of medication via the code of practice process.
15. The RMLA wishes to be heard in support of this submission.



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