

20-M-01216/COR9677

Dear [REDACTED]

National Planning Standards 2019 and mobile/tiny homes: definition of a building

Thank you for your email of 24 June 2020 regarding the definition of 'building' in the National Planning Standards (Planning Standards).

You requested further information on how the Planning Standards definition of 'building' was developed, and how this interacts with other definitions of 'building' in other legislation.

Process for developing the Planning Standards definition of 'building'

There was considerable stakeholder input throughout the two-year development phase of the Planning Standards. This included public submissions on definitions, and working with pilot councils to help ensure definitions are robust and workable. You can read more about this process on the Ministry for the Environment's website here: <https://www.mfe.govt.nz/rma/national-direction/national-planning-standards/developing-first-set/development-phases>

Section 3.14 of the Recommendations on Submissions for the Definitions Standard (the Report) summarises public submissions, including how the requirement of a building to be "fixed to or located on or in land" was established. The link to the Report is here: <https://www.mfe.govt.nz/Node/24888>.

Relationship with other legislation

In your letter, you have listed legislation that you consider interacts with the definition of 'building'.

When developing the definition of 'building' in the Planning Standards, we considered the relevant provisions of the Resource Management Act 1991 (RMA) and the Building Act 2004 (BA 2004). We also considered how the definition of 'building' may affect the classification of heritage buildings under the Heritage New Zealand Pouhere Taonga Act 2014. The full analysis of the differing definitions and the interactions with the above legislation is set out in the Report at section 3.14.3, including how the current definition of 'building' in the Planning Standards was reached.

It is important to recognise that the definition for 'building' under the BA 2004 serves a different purpose to the definition of 'building' under the Planning Standards. This is because under the RMA we are required to take an effects point of view. It is therefore not unusual that on occasion, we need to depart from an existing, ordinary meaning of a definition to ensure that it is appropriate in a planning context. If you refer to page 8 of the Report outlined above, you

will note that a rigorous approach to drafting was undertaken by the Ministry, and furthermore, that the principles are in line with the Parliamentary Counsel Office's drafting principles.

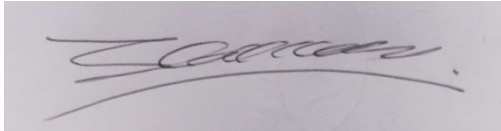
Implementation of definitions

As mentioned in previous correspondence, while councils must use the definitions in the Planning Standards, the definitions do not govern how councils manage the environmental effects of activities. This is achieved through plan rules. How councils develop plan rules to manage the environmental effects of buildings, including mobile homes, is up to them and their communities.

Should you feel that the above does not reasonably address your concerns, this guide provides information about the agencies you can approach if you are unhappy with a decision made under the RMA: <https://www.mfe.govt.nz/publications/rma/everyday-guide-rma-resolving-resource-management-act-concerns>.

I commend your interest in this matter, and I encourage you to continue to get involved in planning processes.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jo Gascoigne', written over a horizontal line.

Jo Gascoigne
Director – Natural and Built System
Ministry for the Environment