

Office of the Mayor



16 August 2018

Ministry for the Environment
PO Box 10362
Wellington 6143

Via email: planningstandards@mfe.govt.nz

Dear Sir/Madam

Dunedin City Council: Submission on Draft National Planning Standards

Please find attached the submission of Dunedin City Council with respect to the Draft National Planning Standards (the Standards) released by the Ministry for the Environment in June 2018.

The Dunedin City Council (DCC) is pleased to have been involved in the development of the Standards, providing feedback to the Ministry. While some feedback has been incorporated, there are still a number of issues which remain. Overall it is our submission that the Standards are unlikely to achieve the benefits sought without further work to improve them, and will more likely have the opposite effect in terms of reduced Plan usability. Furthermore, the Council submits there will be significant inefficiencies and additional costs if the five or seven year implementation period is adopted.

The key points that the Dunedin City Council wishes to emphasise are:

1. The use of the planning template should be voluntary in the short term to enable testing and refinement. Any mandatory transition should occur only when plans next become due for review (i.e. within ten years of being made operative).
2. A pilot programme testing the templates with a range of plans and policy statements and funded by the Ministry should be initiated before the Standards are gazetted, to ensure the Standards deliver the desired outcomes. A longer transition is needed, with Dunedin City Council suggesting:
 - Stage 1: Pilot testing of Draft Standards by volunteering local authorities
 - Stage 2: Review of pilot testing
 - Stage 3: Revision and improvement of the Draft Standards
 - Stage 4: Consultation on the revised Draft Standards and amendment pre-gazetting
 - Stage 5: Implementation commencing within 10 years at the next review (if the Standards are compulsory).
3. The stated benefits of template use are queried. They do not appear to be well grounded in research; and may be more likely to accrue to smaller local authorities through development of common plan approaches to similar issues.
4. Larger cities, such as Dunedin City, have evolved with a significantly more sophisticated range of land uses, character and forms of development, valued by residents but which

the Standards fail to consider. The Council considers that the standards will therefore lead to decreased Plan usability as provisions are required to be fit into a more coarsely-grained plan structure. It may mean that in some cases the desired outcome may not be able to be drafted at all, leading to a reduction in the ability of submitters to influence the Plan (reduced democratic input).

5. A national e-programme for managing submissions, further submissions, appeals and section 274 parties, in association with any ePlan, should be a development priority for the Ministry as local authorities struggle to find reliable systems to support the complex 2-stage plan-making process.
6. There is opportunity to achieve more nationally consistent plan content direction through national policy statements and national environmental standards on matters of national importance, for example for significant heritage, indigenous biodiversity, outstanding landscapes and significant natural hazard risk management.

In addition to these general points, responses to the questions in the Consultation Document are provided in the attached appendix (Appendix A).

We would welcome the opportunity to discuss with you further the matters raised in this submission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dave Cull', written in a cursive style.

Dave Cull
Mayor of Dunedin

Attachment:
Appendix 1: DUNEDIN CITY COUNCIL SUBMISSION IN DETAIL ON THE 2018 DRAFT
NATIONAL PLANNING STANDARDS

APPENDIX 1: DUNEDIN CITY COUNCIL SUBMISSION IN DETAIL ON THE 2018 DRAFT NATIONAL PLANNING STANDARDS

Q1. Proposed package

The Dunedin City Council (DCC) supports in principle working towards standardising plan structure and conventions, subject to the changes that have been identified in this submission, sufficient pilot testing of the Draft Standards, their voluntary use and, if this is not possible, the timeframe for transition being extended to the next review of the plan or within 10 years of gazettal.

Q2. Future planning standards

DCC considers that the topics below warrant consideration for future planning standards:

- Development of a standard submissions database, linked to the notified version of the ePlan. Such a database would enable preparation of standard reports for plan making.
- Plan level direction on Section 6 RMA matters of national importance, for example policy which would be incorporated into each plan or policy statement by amendment (any proposed National Policy Statement or National Environmental Standard should clearly identify this).

Plan standards should not substitute for the development of further National Policy Statements or National Environmental Standards.

Q3. Level of plan structure standardisation

The high-level structure (by part) does not align well with the 2GP in places and would require significant re-work of the District Plan.

It is unclear how the first three Parts work together, or what is best addressed here or later at the level of objectives, policies and rules. Part 1 mixes general introductory material (the first 3 chapters) with national directions (the 4th chapter) ahead of local context in Part 2 – Tangata whenua and Part 3- Strategic direction.

The relationship between Part 3 Strategic Directions and Part 4 District-wide Matters is unclear, and there is very limited guidance provided on what is expected for strategic directions or how they relate to decision-making processes for plan development and consenting. We submit that the approach used in the Dunedin 2GP of using a strategic direction section to overview the key issues for the district and the methods used to achieve them including the criteria used to determine zones and to schedule item is a critical aspect of the usability of the DCC 2GP that had broad support through submission on the 2GP and should be enabled by the Standard.

The chapter headings for Part 4 – District-wide Matters do not align well with the DCC 2GP in places.

The DCC submits that:

- The principle of the structure should be to keep rules alongside the related objectives and policies and therefore if objectives have a district-wide or overlay focus than the rules should be in a district-wide part of the Plan, whereas if the rules are focused on objectives and policies for a particular management zone

(e.g. a rural vs a residential zone) then they should be in the area-specific matters part of the Standard.

- Another key principle of structure should be that Plan users should be able to quickly (ideally one one page) see all the rules that relate to their activity. It is submitted that this is best done through integrated activity status tables as in the Dunedin 2GP
- The management zones sections (area specific matters) should be well linked to the city-wide provisions through activity status rules and performance standards being listed in the management zones (as is done in the 2GP) but with the detail of the performance standards and objectives and policies in the district wide sections
- The Natural Environment Values would be better integrated into one section as there is overlap between biodiversity values and natural character of the coast. Separating these will lead to repetition and reduced Plan clarity.
- The hazardous substances chapter would be better combined with light spill and noise into a section on Public Health and Safety more broadly.
- The DCC supports having a Natural Hazards section as a district wide matter
- Sites of significance to Maori should be expanded into a broader Manawhenua chapter that does not just discuss sites of significance but includes the objectives, policies, rules and assessment guidance for the broad range of cultural values of important to Manawhenua. Archaeological sites of significance to Manawhenua should stay in the Heritage chapter alongside other protected archaeological sites.
- The DCC supports having a heritage section as a district-wide matter
- The DCC supports having a protected trees section as a district wide matter
- The DCC supports having an Infrastructure and energy section as long as this is limited to Network Utilities and does not include the broader range of things under the RMA definition of Infrastructure
- The DCC submits that the Structure should include a separate Transportation section
- The DCC notes that the 2GP has city-wide sections for public amenities and natural hazard mitigation activities. The DCC submits that these are less important to keep separate and can be integrated into management zones if necessary, though would prefer to keep as district-wide sections
- The DCC supports temporary activities and earthworks being managed through district wide activities sections
- The DCC does not support a separate subdivision section. As subdivision is managed to meet the objectives of management zones (as subdivision can affect what land uses and development may occur) therefore related rules should be included adjacent to the objectives and policies of those management zones. Including this in a separate chapter will reduce Plan usability by leading to significant repetition and poor integration of provisions.
- The DCC also does not support a separate section for mining (though support the ability to have major facility zones for very large mines) or for Signs as these activities are managed based on the objectives and policies of the related management zone. Including these in a separate chapter will reduce Plan usability by leading to significant repetition and poor integration of provisions.
- The DCC queries the need for a section for activities on the surface of water as the Dunedin 2GP does not include any provision for this.

With respect to the overall scope of the Standard, the DCC strongly submits that Tables 26: Rule table and Table 27: Rule requirements table are removed from the Standards. In DCC's opinion, this is the most critical change to make to the Standards as the proposed structure is not based on best practice for second generation plan, is not well suited to use in an Eplan format, at least not in all platforms, and will lead to reduced

Plan usability for the Dunedin District Plan compared to the format used in the 2GP, which has been through a rigorous public submission process.

Easy to view and understand rules are critical for effective plan implementation and there has not been time to properly test this element.

Q5. Tangata whenua provisions and working with local authorities

While it is valuable to have a clear understanding of matters of importance to tangata whenua with respect to resource management, the Standards suggest that more content is included in the ePlan than currently, and that consultation is prescribed within the ePlan.

DCC submits that a separate chapter on consultation is too rigid and unresponsive to the evolving relationship between local authorities tangata whenua.

Q4/6/7. A standard set of zones

There is no compelling reason provided as to why a fixed number of pre-specified zones are allowed in the Standards.

The district plan zones proposed are more limited than those used in the Dunedin 2GP and also have some structural differences, e.g. Rural Residential is considered a type of Rural zone, where in the 2GP it is considered a different type of zone with significantly different objectives. The range of commercial and mixed use and major facility zones also does not cover the range of environments that require a different management approach.

The DCC submits:

- It should be optional to have a Trade Related Retail Zone given the prevalence of this being now a common type of specialised environment
- Rural residential should not be grouped under rural zones as the objectives and policies can be fundamentally different and it sends the wrong message to indicate that this is a type of rural zone
- It is unclear what the difference is between the rural zone and rural production zone
- The word Precinct has a particular meaning in Planning and does not make sense in some environments. The Standard should allow for "overlays" of different types to apply rules particularly for district-wide matters.
- 'Free choice topic' chapters should be available for use. If this is not allowed for, over time, it is considered likely that creative plan drafters will find a way to re-interpret precincts, development areas etc to accommodate the community's desire for more nuanced planning requirements within a particular area. This will reduce plan clarity.

There are no thresholds for differentiating the nature and scale of activities between similar zones. Therefore, there is a risk that those using multiple plans will be confused by provisions with the same names but different content. This also has a consequential impact for any nationalised monitoring of plan effectiveness.

It is unclear how the zones relate to the precincts, development areas and designations, as they are structured as separate chapters when in reality they interact with the related zone at any specific location.

Q8. Purpose Statement for zone

The purpose statement is a useful summary for what issues are important and what purpose is to be achieved (or anticipated environmental result) in managing activities and development standards within each zone.

Q9. Proposed application re purpose statements and plan transition

DCC is concerned about how effectively the new 2GP will translate into the Standards, and strongly recommends that a pilot process is undertaken prior to the Standards being gazetted.

DCC requests a longer transition and more extensive pre-testing, possibly as follows:

- Stage 1: Pilot test of Draft Standards by volunteering local authorities, including through the appeal phase so that the Environment Court can carefully consider its impact on content
- Stage 2: Review of pilot test
- Stage 3: Revise and improve the Draft Standards
- Stage 4: Consult on the revised Draft Standards and amend pre-gazettal
- Stage 5: Implementation commencing at the next review and within 10 years;

DCC suggests that the pre-testing include translation of the Residential provisions for each of the main urban areas (Auckland, Hamilton, Tauranga, Wellington, Christchurch, Dunedin) into the templates, and then testing their usability with key users, including RMA commissioners and stakeholder groups.

Q10. Level of electronic accessibility

DCC supports having ePlan electronic accessibility and functionality at the Level 5 scale. The 2GP has been designed to this level. However, the DCC notes that amending this level of functionality is a complex process and requires more checking to ensure accuracy at the property level.

There will still be times when a hard copy of plan material will be required, including for public consultation, reports, and for those without computers or with insufficient broadband speed for downloading material easily.

DCC supports the use of notes to plan users that alert plan users to other regulatory requirements they may need to assess for different activities, including the need to consider regional plan rules. However, the DCC does not support a requirement to have a hyperlink in the plan to the precise rule in another authorities' plan as this would be difficult to maintain and present a high risk to the DCC if people became reliant on that information being always up to date, where this could be difficult to ensure.

DCC also notes its support for including alongside plans additional electronic information that may be helpful for applicants (the 2GP includes this through a complimentary 'data-maps' link). In particular, the DCC sees value in encouraging access to maps which show infrastructure availability and constraints, or other constraints that may affect development potential (for e.g. slope or geology).

Q11. Support for ePlan implementation

DCC considers that wider support is important for nationwide implementation of the Standards, especially for smaller local authorities that may find Level 5 functionality challenging to achieve in the short term.

Q12. Map colours and symbols

Zone colours are generally acceptable, although tonally there is little differentiation between some zones. Zone labels will continue to be important.

Overlays should be used for the matters shown in Table 22: Symbology table, and more symbols are needed for some matters.

Q13. Other map instructions

DCC considers that additional spatial tools and layers should be added through time, in accordance with the general spatial planning tool protocols. The Standards should not constrain flexibility to respond to necessary mapping changes into the future.

All maps should be able to be created according to standard map-making conventions (title, location, scale, north point, key indicating what content is shown on the map, date etc). They should also be downloadable and printable.

Q14. Community use of spatial planning tools

There is an opportunity for community use of spatial planning tools into the future. However, this must be a low priority relative to getting ePlans to function effectively and nation-wide in the first place.

Q15. Additional spatial planning tools

As above, DCC considers that the first spatial planning system must be working effectively before embarking on optional extras.

Q16. Chapter form standard

This covers the matters normally addressed in district plans, noting that only the objectives, policies and rules are mandatory in the RMA.

DCC submits that this format must be tested using actual district plan material before the Standards are gazetted (refer to Question 9 above). The DCC has concerns that the need to draft content to fit the more course-grained options allowed by the Standards will result in awkward/forced drafting rather than efficient and clear provision drafting based on best practice principles. The DCC also has concerns that the chapter form proposed will have reduced usability compared to the form developed for the Dunedin 2GP. The DCC's chapter form is designed so that Plan users can see all the rules that apply to each activity they propose across not only the base zone but all overlays in a single location (activity status table), with easy to use hyperlinks to the details of all performance standards. This approach was adopted in response to consultation that showed this to be a desirable structure outcome. The proposed Standard will not allow this and will require users to look through several chapters to find all related rules. The DCC anticipates that many users will find that Plan structure less usable, and encourages the Ministry to test this through user-groups to confirm which structure (based on real content) is easier to use.

The DCC also encourages the Ministry to survey regular plan users (builders, surveyors, planning professionals etc) to determine how many use a single Plan regularly versus how many use multiple plans regularly. It is further suggested that the Ministry evaluates the benefits of the Standards in terms of reduced single Plan usability versus improved cross-plan consistency in evaluating the benefits of the Standards.

Q17. Acronyms and alphanumeric codes

A plan should be written in plain English. Table 28: Numbering table identifies 83 acronyms for district plans alone, which is too many for most plan users to remember.

The DCC requests that a small number of acronyms is used for the public-facing version of the ePlan. These should reflect the most commonly used resource management abbreviations. Acronyms could be used for inputting, but the full words should always appear in the ePlan text.

Q18. Principles used for definitions

While DCC agrees in principle with the objective of using common definitions for common terms, the DCC is concerned about using such definitions without adequate testing to ensure they are fit for purpose and have no unintended consequences.

Te reo terms should also be included, so that the plan user looks in one place for all terms and definitions.

Of those terms used in the 2GP, many vary from the proposed definitions. It is difficult to assess the possible impact, but problems in the Standards may arise with:

- 'Additions' excluding the concept of 'alteration', which is important with respect to heritage management in the 2GP
- 'Building' and 'structure' definitions overlapping ('structure' excludes 'building' in the 2GP)
- 'Site' and 'allotment' each include more detail in the 2GP definitions, reflecting the need for more nuanced detail with respect to issues that Dunedin has faced
- The definition of 'Community facility' is determined by being a not-for-profit facility, rather than based on the potential effects of a land use. The 2GP moved away from this concept as there was no evidence that 'profit' had a resource management effect. For example, non-for-profit and profit-making early childcare centres of the same scale can have the same resource management effects.
- 'Reverse sensitivity', where the proposed definition does not effectively address issues raised by submitters on the 2GP.

DCC is concerned that if there are unintended consequences, it will be difficult to fix definition problems quickly and cost effectively. Therefore, the DCC strongly encourages the Ministry to enable more time for the testing of the Standards before they are gazetted.

Q19. Other definitions or standards

DCC considers that these should be the subject of future changes to the Standards, to enable consultation with all interested parties.

Q20. Use of NZ Standards for noise and vibration

DCC agrees the use of these NZ standards for noise and vibration is appropriate.

DCC notes that this includes documents in the ePlan by reference, and any change to these NZ standards will require plan change (until the RMA is changed to enable such change to be made by amendment).

Q21. Setting noise limits

DCC submits that it is not the role of a planning standard to set content.

DCC considers that any nationwide standards for noise control should be developed through a National Environmental Standard.

Q22. Implementation timeframe

While the DCC acknowledges and support the extension to the timeframe that was made since the earlier consultation, it reiterates that the Standards should be voluntary in the short term to enable testing and refinement. Any mandatory transition should occur when plans next become due for review (i.e. within ten years of being made operative).

Q23. Guidance

DCC considers that pilot testing of actual district plans is essential before the Standards are gazetted (refer to Question 9 above). In undertaking this exercise, it may become apparent where further explanation is required to ensure consistent application of the Standards.

A User Guide associated with the ePlan would be helpful.

Q24. Implementation support from MfE

DCC supports assistance being made available for smaller councils.

The DCC submits that the Ministry should first pilot test the Standards, and using some of these smaller councils in their pilot testing programme as well as pre-testing conversion of some of the larger city plans as part of its refinement of the Standards.