

General Comments

Support is expressed for creating a consistent layout in regional and District Plans.

Nevertheless, the changes represent a significant transformation in the layout of some District Plans and measures need to be considered for reducing the cost burden on Councils. Funding needs to be allocated to assist Councils to meet the new requirements.

The exclusion of mandatory policies and rules from the draft standards is supported. Additional time, research and consultation is needed before nationally consistent policies and objectives are proposed and considered.

Whilst the standards are not without benefit, care needs to be taken in the overall assessment of benefits. Improvements in the consistency of plans principally benefits professional persons in the planning, construction, infrastructure, property and associated fields. Many major obstacles need to be overcome before District and regional plans are accessible and understandable to the general public. It is likely that the general public will continue to need professional assistance to understand information for the foreseeable future, regardless of plan formatting or level of electronic functionality.

Greatest help to Councils in achieving transformation is likely to be through the creation of a universal digital template for the creation of new district plans. It would also assist if pilot Councils involved in the testing of the standards, made available their draft attempts to reformat their existing provisions into the new layout. This would help minimise the effort needed by other, perhaps less well-resourced Councils, in considering how to make similar types of changes.

Major thought needs to be given to the implementation of the proposed standards. Whilst there are gains in implementing the changes through a full plan review, it needs to be considered that full plan reviews are a very expensive process and presents a range of challenges. A major challenge is that many District Plans, do not or only partially meet requirements of the New Zealand Coastal Policy Statement or applicable Regional Policy Statement. Several Councils have incomplete investigations of section 6 matters including European heritage, Maori heritage/areas of cultural value, landscapes and biodiversity. In addition to an increasing need to identify and address natural hazards, better manage land and water in an integrated catchment fashion and provide more opportunities for housing and associated infrastructure provision. A full District Plan review requires Councils to spend considerable sums of money addressing existing deficiencies and may be cost prohibitive.

Guidance is likely to be needed as to whether a full review could take place, which effectively allows some issues to be deferred (e.g. addressing natural hazard risk) to a future time, when more information is available. What potential is there for Councils to put in place interim measures, which recognise that proposed measures are not the best policy solution in the long-term, but represent the most cost-effective option in the short-term? An example of a Council which has effectively deferred a full investigation of areas of biological importance is Christchurch City Council.

Additional consideration is needed regarding public consultation for making the changes. There is little benefit in requiring Councils to undertake a major public consultation exercise if there is little scope for the public to make any significant changes. Suggested wording is recommended for informing the general public of the scope of submissions and any limits on their ability to influence

outcomes. It would be helpful if the Ministry could provide suggested wording to clearly distinguish those changes which the public have no say on, those where the scope to make further changes is heavily constrained by new regulations (e.g. limited to new layout and definitions) and those where greater discretion is available to review the merits of changes. It is expected that members of the general public will seek to comment on the merit of changes or seek additional changes, even if the changes made by the Council are largely administrative. For example, a plan change may simply seek to introduce a new layout, however the public may feel that this is also a good time to raise issues with the performance and efficiency of existing provisions.

Changes to introduce consistent zoning names could easily lead to multiple requests from the general public to change the type of zone that land parcels are currently in, particularly for land at current zone boundaries. Landowners may feel that property prices may be higher with a zoning intended for higher residential densities. Conversely, other landowners may object to the identification of areas as high or medium density zones, even when this represents nothing more than a change to zone name.

Changing zone names is likely to be a major exercise for some Councils which have used a variety of different zones to deal with land with specific features, such as the Hill Residential Activity Area, Landscape Protection Residential Activity Area and Historic Residential Activity Area in the City of Lower Hutt District Plan. Whilst the proposed template is likely to allow for alternative measures to keep the same level of regulatory control (such as the use of overlays and precincts), this requires more than just a change in zone name. For example, the hill residential provisions are likely to require the identification and mapping of land of higher gradient (e.g. slope over 15 degrees) and the creation of a new slope overlay, where additional provisions regarding earthworks on steeper land could apply. As the setting of zone boundaries has typically in the past involved an arbitrary element, it is likely that the more precise identification of features e.g. slope, would lead to the reclassification of some land.

It is also likely to trigger debate as to whether land of higher slope should automatically fall into a low residential density zone, or whether some hillside land is suitable for higher densities, such as hillside areas closer to existing retail strips or major roads.

Consequential amendments arising from the mandatory directions are considered to be very high.

Time Limits for Implementation

The extension of time limits for implementing the majority of the standards is supported. It involves considerable work and a period of less than 5 years is unlikely to be realistic. No objection is raised to the 7-year time frame for Councils which have more recently reviewed their plan change, although this additional time delay could have flow-on consequences. Councils which have more recently reviewed their provisions, are likely to be the better resourced Councils, which have often led more innovative changes. Consequentially, it could be harder for those Councils with older plans to bring themselves up to speed, prior to a group of larger and better resourced Councils.

Given that a number of existing Councils have recently reviewed their plans, consideration should be given as to whether a 7-year time frame for every Council is a better approach.

Another option that could be considered is to whether plan changes notified as from the date of adoption of the new planning standards, need to be consistent with the new standards. This would

allow an element of transition in the layout of District Plans, prior to a full requirement that all parts of the plan are consistent.

Need for Guidance on the Use of Non-Mandatory Text in Plans

It is suggested that guidance be given to the use of supplementary non-mandatory text in Regional and District Plans. For example, some Councils have provided lengthy 'introductions', 'explanations' and 'list of methods' which have no statutory force in the policy section of plans. I am personally concerned about the use of 'explanations' in District Plans. I consider some have been inappropriately used to suggest that Councils have more active management measures or stronger regulatory protection than is the case (this is a particular issue for areas of significant ecological value). I am also of the view that well-drafted policies and rules should not need accompanying explanatory text. My experience is that the general public typically have little interest in non-mandatory text and would prefer shorter documents.

Providing a list of methods in District Plans often provides little real benefit. I have strong concerns that several methods referred to in District Plans, have never eventuated. I also consider text under anticipated environmental results and monitoring in District Plans has also provided little benefit. I suspect many monitoring activities referred to in District Plans has not actually taken place.

There appears to be considerable variation in the use of supplementary text in District and Regional plans. Greater consistency in their use is warranted.

The New List of Zones

The proposed list of 27 zones appears to provide a good range of zoning options, with multiple zone names available for different types of residential, commercial, business and open-space zones.

Restrictions on the use of new zones, is supported. I consider the practice of creating specific spot zones for new development sites should be restricted. It is far more strategic and integrated, to require land rezoned from say a rural to urban use, to fit into one of the more typical zones. If a developer sees the need for a specific variation from existing zone provisions, such as higher building height allowances, this could be provided by other means.

No objection is raised to the creation of 4 residential zones, which are intended to provide for different levels of housing density. However, concern is raised over the chosen names, which are likely to have specific meanings to the development community and general public. There is no universally accepted definition of low, medium and high density in NZ.

Need for Definitions for Housing Density

It is recommended that definitions of 'low density', 'medium density' and 'high density' be provided, to avoid additional confusion amongst the public as to what these terms mean. It makes little sense in a framework intended to encourage national consistency, if Councils are able to use a name of 'low density' to apply to what is more normally considered to be 'medium density', or alternatively for Councils to use a name of 'high density' to provide for a scale of development more normally described as 'low to medium' density. My experience is that Councils have confused the term 'high density' with 'high-rise development'.

Councils also seem to have confused provisions which would be viewed internationally as promoting a change in density from 'very low' to 'low' densities (e.g. a change in density from 10 to 20 dwellings per hectare), as a change from 'low' to 'medium' density. Medium density is more likely to result from less traditional housing forms (e.g. dual occupancy, terraces, low-rise apartments) than simply just allowing detached housing closer together and on smaller parcels of land.

An example of definitional problems is illustrated by Hutt City Council. In circa 2009 it proposed a plan change with a 'higher density residential area', however provisions in the plan change were not seen by the development community as genuinely representing high density development. At the time of adoption of the plan change in 2011, the name was changed to a 'medium density' overlay. However, in practice, the overlay appears to have largely resulted in development at the upper end of the low-density spectrum, rather than what is traditionally viewed as medium density housing. This situation has created more confusion with a 2018 Plan Change for Residential Intensification which proposes the deletion of the 'medium density overlay' provisions and the creation of a new 'medium density' zone. The new provisions are more than just a change in name, they also provide for a significant increase in housing density. Effectively there has been an upward creep in what is considered to be 'medium' density housing'.

Need to Change Names of Suggested Residential Zones

Regardless of the actual provisions which apply to these zones, zone names will create expectations in the development community as to the scale of development that is viewed as acceptable and likely to gain resource consent. It would be problematic for developers to be led to believe that higher density types of development are acceptable in a particular location, because of the zone name, when this is not supported by the actual provisions such as minimum net site areas, site coverage, building height and height recession plane rules.

Unless there is a requirement to provide for similar types of development in each Council using the same zone name, it makes more sense to use zone names which have less meaning for the general public. A more generic description of Residential 1, Residential 2, Residential 3 and Residential 4 would provide a less confusing description of residential zones. The use of ascending numbers would still indicate a sense of housing density increasing for each zone.

Need to amend Purpose Statements for Residential Zones

Concern is expressed by the use of ambiguous language in the zone purpose statement for residential zones, which increases the possibility of differing interpretations made and inconsistent use.

The phrase for the low-density residential zone of "*where there may be constraints on urban density*", allows for wide discretion in the use of the zone. Guidance is suggested as to what constraints may justify a low-density zone. As well as how much information is needed to support a concern that the area is not suitable for higher densities. It is likely that some members of the public will consider some areas as unsuitable for higher densities, simply because their existing neighbourhood is characterised by low-density development. It could be argued that many areas could have constraints on urban density.

It is preferable to define what is meant by a 'suburban' character referred to in the purpose statement for the residential zone. The character of suburbs in New Zealand varies widely.

I object to the confusing purpose statement for the medium-density residential zone, which refers to 'areas of urban character'. This is an extremely ambiguous term and its usage clashes with the ordinary understanding of the word 'urban' as defined by the Oxford Dictionary. The Oxford Dictionary defines 'urban' as characteristic of a town or city. Its use is principally about distinguishing non-urban areas e.g. surrounding rural countryside from established residential or commercial areas. I am of the view that even very low-density residential development creates areas of 'urban character'. A more precise purpose statement is needed to distinguish a more general urban character from a medium density urban character.

The purpose statement for the high-density residential zone, refers to a high density residential character, but in the absence of a definition a high density, invites inconsistent use and interpretational problems.

Draft Schedule Standard

Whilst no in-principle objection is raised to the creation of specific standards for schedules as outlined in Table 17, concern is raised that the completion of schedules in this fashion would involve significant levels of work. My own review of Council documents in relation to the identification of areas of significant ecological value, indicated that few existing schedules fully identify the list of properties covered by this overlay outside urban areas (i.e. identification is often based on a map in rural areas), provided a full description of the values of the site or referred to the source material used in identification. Auckland Council has some 6,000 sites of identified ecological significance alone, which provides an indication of the scale of effort involved. Clarification as to what is precisely the minimum information requirements is needed. For example, is identification of the selection criteria met from the regional policy statement sufficient or is a more detailed description needed?

Concern is raised that the effort needed to adjust schedules to comply with the new requirements, would not justify the cost of making changes. There are alternative methods for interested persons to obtain this information, such as an information request under LGOIMA.

Unrealistic Expectations for Draft Electronic and Functionality Standard

Concern is raised over the draft electronic accessibility and functionality standard.

Concern is expressed as to the workability of points 6, 11 and 12 on page 50. Identifying when each provision in the current plan was last updated, along with providing a copy of all previous plans could be a very complex and time-consuming task for Council's which have undertaken a rolling process of review.

The cost of providing this information retrospectively for existing provisions, is considered to outweigh its benefits. My experience as a senior policy analyst, is that few requests are made regarding the background of district plan provisions. Interested persons are able to receive timely information on these issues through LGOIMA. There are far more time-efficient methods for academics and the Ministry for Environment to understand how planning provisions have changed over time. This is a topic for which there is little public interest. I expect this task would be even

more complex for Auckland Council, given the more recent nature of Council amalgamations in this region. It makes little sense to require Councils to spend a fortune on meeting administrative requirements for which less than 1% of the general public are likely to use, when Councils are already subject to significant financial pressures.

If the Ministry is committed to keeping these components, it is suggested that a 3-year period would be a more realistic timeframe.

Although the encouragement of Councils to use ePlans at level 5 is supported, concern is expressed as to whether this requirement is excessive for smaller Councils with a population of less than say 50,000. It is particularly demanding to require E-Plans that allow for the quick identification of rules and provisions which apply to specific properties. My opinion is that E-Plans of this high level of functioning will still not be enough to help the general public understand District Plans. District Plans are likely to remain hard to understand and interpret for the general public. My view is that it is far more important that Council's provide reasonable access to a planner, capable of interpreting provisions for the general public in a face-to-face setting, than having highly sophisticated E-plans.

Support for Consistent Formatting of Rule Tables

Consistent formatting of rule tables in the Draft Chapter Form Standard is supported. There appears considerable variation in how rules are displayed. It can be time consuming to work how an activity is managed under different activity statuses (e.g. the applicable activity status where there is non-compliance with a permitted or Restricted Discretionary standard). Provisions for the same type of activity (e.g. earthworks) are often split under long lists of Permitted, Controlled, Restricted Discretionary and Discretionary activities. It is helpful to group provisions relating to the same type of activity together.

Definitions

The creation of the draft definitions standard is supported. I consider there is significant benefit in introducing some nationally consistent terms. Nevertheless, definitional changes could lead to a significant amount of work to ensure that existing provisions continue to apply in their intended manner.

The proposed definition of building is particularly supported. It clearly identifies that it covers temporary and moveable structures which are enclosed (with 2 walls and a roof).

The definition of earthworks as proposed appears to exclude the filling or excavation of land where there is no change to the existing ground level. Consideration should be given as to whether the definition of earthworks should also extend to these activities, such as ground works needed for the laying of drains, where the majority of the soil excavated is returned in place. These works have the potential to create significant disturbance to sites of specific values, such as sites of significant landscape or ecological value. Particular care may also need to be exercised for these types of earthworks in hazard prone areas (e.g. high erosion and land slip potential).

Alternatively, a new defined term could be created which applies to land disturbance and temporary changes in ground levels.

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