

## DISTRICT PLANS – FIT FOR PURPOSE?

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### ABSTRACT

With the National Planning Standards being developed and councils undergoing second generation District Plans, now is the time to consider whether District Plans are fit for purpose. District Plans significantly influence transport design, yet in our experience compliance does not always lead to good design outcomes.

District Plans are effects-based legislation and thus can only include requirements where the potential impact of non-compliance is considered consequential to whether or not consent can be granted. However, some good practice does not conform to a rules-based approach. This means good practice is generally only considered when the activity is Discretionary.

Some councils attempt to incorporate good practice by referencing their design documentation in District Plans. However, the legislative framework for District Plans means that any documents referred to must reference a specific version of the document and thus can become out of date very quickly. As District Plans are only reviewed every 10 years, the references remain out of date unless updated via a plan change.

Our experience is that developers are often only interested in a 'bare minimum' approach regarding transport, with the goal of simply designing to gain consent. Unfortunately, after consent has been gained, practitioners are severely limited in the changes they can make. We therefore feel it is very important for good practice to be considered in the resource consent process.

This paper demonstrates some of the limitations of District Plans. It also explores opportunities to achieve good practice at the resource consent stage.

This paper provides a think piece for practitioners involved in transport planning and design, and challenges the industry to collectively rethink our processes.

## INTRODUCTION

Under the Resource Management Act 1991, every territorial authority in New Zealand is required to have a District Plan to sustainably manage land use and development. A plan must specify the objectives for the district, policies to implement the objectives and rules to implement the policies (Department of Internal Affairs 2017; Ministry for the Environment 2017a).

District Plans typically include a section that specifies objectives, policies and rules to manage transportation within the district/city, however there is significant variability in the structure and level of detail in different plans.

Unless an activity is permitted through the plan rules, resource consent is required from the territorial authority. Resource consent applications require an assessment of environmental effects (AEE) which describes all environmental effects and how any adverse effects are to be mitigated. This will often require an assessment of the transportation effects which is where transport practitioners get involved both on behalf of applicants and when reviewing consent applications for councils. Transport practitioners also provide input when the transport provisions of District Plans are updated as part of a comprehensive District Plan review or within a Council led plan change.

Through our work in this space, we have identified a number of shortcomings including:

- The black and white rules-based structure of District Plans does not always encourage good practice
- Regulatory processes often result in District Plans being insufficiently agile to keep up with continuous improvement and best practice approaches
- Some provisions of District Plans are open to interpretation

These issues are examined in more detail in the following sections.

It should be noted that this paper is based on the authors' experience as transportation practitioners, with no formal planning background. The paper reveals some insights into how District Plans are used in practice and the implications for transport outcomes in particular.

## BLACK AND WHITE?

Transport rules in District Plans are generally restricted to matters such as access, and parking and loading requirements. Generally these rules are based around minimum acceptable standards; a black and white approach. Wider matters of assessment are considered for activities that are identified as restricted discretionary, discretionary or non-complying status.

However, much good transport design practice is not black and white and does not lend itself to a rules based approach. For instance, design for people with limited visibility does not have a catch-all yes/no requirement and is instead relatively complex. Fortunately, there is thorough guidance specifying good practice, such as the NZ Transport Agency Guidelines for facilities for blind and vision impaired pedestrians (NZ Transport Agency 2015). Aspects from this guidance are sometimes incorporated into rules. For example, some plans require cycle parking to be located/designed so that it does not pose a hazard to pedestrians with limited visibility. However, most plans do not incorporate any design recommendations of this nature and are unable to keep up with continuous improvement in good practice approaches.

There are also discrepancies between resource consent and building consent processes. It is acknowledged that these two pieces of legislation are independent, with different objectives and thus specify different requirements. However, this can result in proposals meeting the requirements of a District Plan and gaining resource consent but failing to achieve transport-related building code requirements. Rather than addressing any design issues at a conceptual stage, building code requirements are sometimes not recognised until later, when the design has already

been developed. Substantially altering the design once it has been granted resource consent is inefficient and not always feasible. The resource consent and building consent processes do not need to be mutually exclusive, however the current practice means they are sometimes treated this way.

A common example of this issue relates to accessible parking spaces for people whose mobility is restricted. District Plans often require a certain rate of accessible spaces, but do not specify location or access requirements. The Building Code requires an accessible route between the parking spaces and the main entrance of a building. This must be “located to avoid conflict between vehicles and people using or moving to or from the space” (Ministry of Business, Innovation and Employment 2017). Figure 1 compares two layouts. The left layout illustrates a car park layout which would generally gain resource consent but fails to provide an accessible path in accordance with the Building Code. The right layout shows an acceptable design by both pieces of legislation. Changing from the left layout to the right layout requires significant changes, which can be costly when carried out late in the design process. Some second generation plans attempt to address this issue, for example by specifying that accessible parking spaces must be located at the closest possible point to the entrance and the most direct route to the activity must be accessible for people with restricted mobility. However, this does not quite capture the requirement of the Building Code to locate the car parks to avoid conflict between vehicles and people using the spaces. Similar discrepancies occur with fire appliance access, which is typically not required for resource consent but specified within the Building Code.

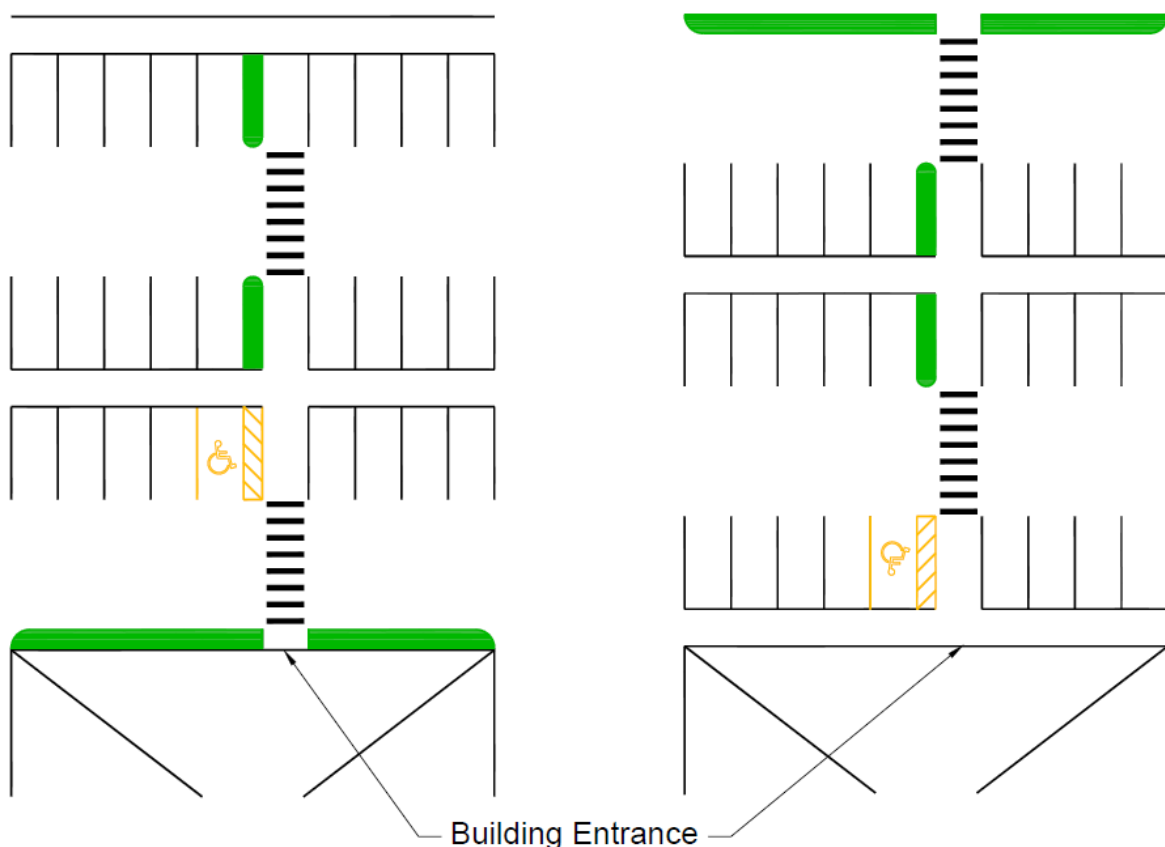


Figure 1. Comparison of a layout which would generally gain resource consent but not building consent (left) and a layout that meets the accessible route requirements for building consent (right).

The result is that developers and transportation practitioners are required to have a deep understanding of wider legislative and design requirements in addition to District Plans, which is not always the case. To ensure good design outcomes, practitioners are required to think beyond what the District Plan requires and ensure the design will meet other legislation, is fit for purpose

and will accommodate the needs of the users. When proposals are developed solely with a focus on District Plan compliance, there are risks of compromised design and significant delays/costs faced by developers.

## A LAG IN GOOD PRACTICE

The extensive regulatory processes required for any changes to a District Plan mean that councils are limited in their ability to keep their plans up to date with the latest developments in transportation good practice and local/regional/national policy directions. This often results in transport design specifications contained within plans becoming out of date relatively quickly.

The RMA requires local authorities to review their District Plan every ten years which means that transport design policies, objectives and rules may not be reviewed and updated for a period of ten years or more. Considering changing transport environments and continual development of new/updated guidance, this is a significant period.

An example of the potential for District Plans to become out of date with policy is the differing cycle times of plans and Government Policy Statements (GPS). The GPS on Land Transport is released every three years, meaning District Plans carry through three consecutive GPSs. Changes in government can bring significant shifts in transportation priorities. This means District Plans can quickly become out of date with national policy and limit the ability to implement those transport priorities.

There are also idiosyncrasies when it comes to referring to external documents, for example parking standards. Plans must refer to a specific version of an external document. Given the long lifetime of plans, this can result in a significant lag in good practice for a district or inconsistent approaches to applying the outdated standards.

The requirement to refer to a particular version of an external document can result in a chain process with multiple potential sources of error. For example, one second generation plan requires accessible parking and routes in accordance with the New Zealand Standard for Design for Access and Mobility – Buildings and Associated Facilities (NZS: 4121-2001). This document includes relevant information in the Foreword (which is not repeated elsewhere), section 4 and section 5. Within these parts, it refers to Section 47A of the Building Act, AS/NZS 3856.1 and AS/NZS 1428.4. A thorough understanding is required from both the applicant and assessor to ensure that a proposal meets the requirements of these documents. As any of the four documents referred to may be revised or replaced within the ten-year review period, there is also potential for a significant lag in good practice or a break in the complex reference chain. Additionally, there are many opportunities for error when working through the various documents.

Some councils attempt to address this issue by developing an engineering Code of Practice. This document specifies technical transport design requirements such as design vehicles for manoeuvring, turning area arrangements and measurement of sight distances. While a Code of Practice might refer to many external documents, it does provide thorough and consolidated design advice that can be updated more easily than a District Plan. The downside is it is only guidance and therefore does not have the 'teeth' in terms of implementation that District Plan rules have.

The long-term nature of District Plans and the requirements for referencing external documents mean that specification of good transport practice can be delayed and convoluted. This allows and sometimes results in poor transport design outcomes.

## MOVING BEYOND MINIMUMS

As discussed earlier, resource consent applications are initially assessed as compliant or non-compliant based on minimum acceptable standards. Potential effects of the design are only considered when aspects of the design are not permitted in the rules of the plan.

The compliance-based structure of District Plans can result in ‘bare minimum’<sup>1</sup> proposals making it difficult for practitioners to encourage good practice. Where good practice is not incorporated within rules, practitioners are often limited in their ability to require changes and may need to ‘convince’ applicants of the benefits of good practice. For example, where cycle parking rates are not included in a District Plan, there is no mechanism for designers or compliance staff to require cycle parking provision. Practitioners are required to communicate the importance and benefits of such provision with the applicant. While developers may be relied on to retrofit cycle parking when the need arises, the need may not arise without existing facilities and retrofitting may not be achievable due to site constraints. When a ‘bare minimum’ approach satisfies developers, practitioners must think outside the District Plan box and effectively engage with developers to ensure good practice. Figure 2 compares the possible ‘bare minimum’ application of District Plans with a proactive process to move beyond a ‘tick the box’ approach.

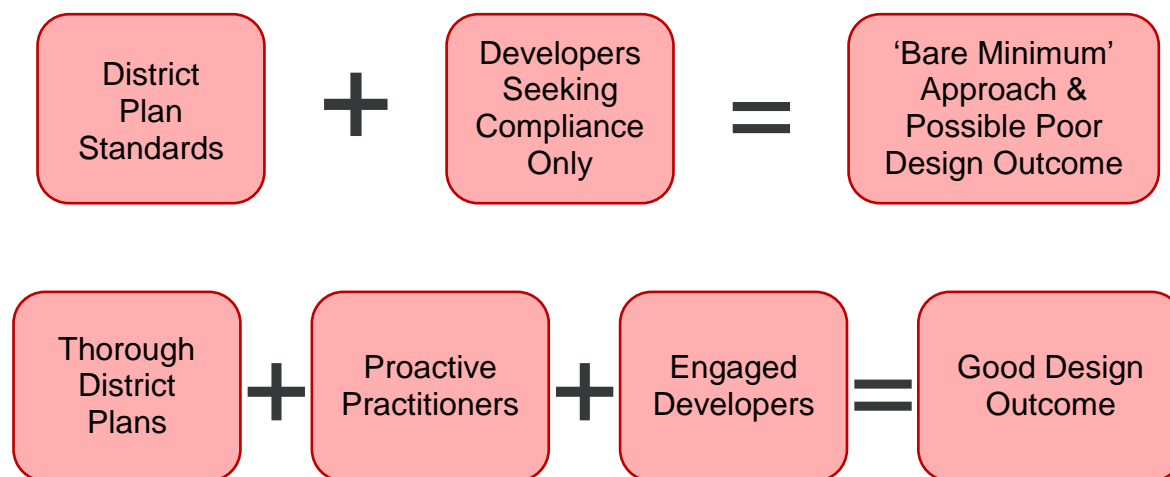


Figure 2. Moving beyond minimum transport provisions.

## INTERPRETATION

While District Plans are intended to be unambiguous, interpretation is often needed to apply the rule. For example, minimum distances between a vehicle crossing and an intersection are often included in District Plans. Some plans include a diagram and measure to the centreline of the road or the road boundary, while others are silent in how to measure the dimension. This can result in inconsistencies in how rules are applied.

Furthermore, the wording of some transport related rules sometimes requires interpretation or clarification. This contradicts the purpose of District Plan rules. Rather than continuing to rely on applicants and/or practitioners to interpret the rule, updates should be formally processed once an appropriate application of the rule has been determined.

## NATIONAL PLANNING STANDARDS

In 2017, amendments to the Resource Management Act 1991 (RMA) paved the way for National Planning Standards (NPS) to be introduced to improve efficiency and consistency in the structure, format and content of plans (Ministry for the Environment 2017b). The development of the NPS provides an opportunity to address some of the issues encountered by transportation practitioners when working with District Plans.

The Ministry for the Environment (MfE) identified definitions as an aspect of Plans that would be well suited to standardisation through the NPS (Ministry for the Environment 2017c). District Plans currently define and use many of the same or similar terms differently, leading to inefficiency and

<sup>1</sup> In this case, a ‘bare minimum’ design approach is used to describe targeting compliance with the acceptable standards and nothing more, rather than designing in accordance with good practice principles.

misunderstanding. Thus far, there are several transport related terms that have been identified for inclusion in the NPS, such as access, heavy vehicle, loading space, parking space, road hierarchy, vehicle crossing and road boundary.

Metrics have been identified by the MfE as another opportunity for standardisation. The Metrics Discussion Paper (Ministry for the Environment 2017d) considers 13 themes for standardisation of units. One relates to transportation, namely 'car parking (supply) and loading'. The paper concludes that there is not potential to include this metric in the NPS at this stage. While car parking supply was found to be the most frequently used metric across District Plans, there was significant variation in the metrics used. This is reiterated by Abley's recent work in reviews of District Plan parking standards, which highlighted the complexity and variance of parking standards. Car parking requirements are based on a wide variety of metrics (such as areas, people/users and seats) and are also tied to land use activities, e.g. residential or commercial. Historically car parking standards were generally minimums, whereas the second generation plans are approaching parking in different ways. For example, some specify maximum parking rates whilst others apply parking reduction factors to minimum rates. The Discussion Paper concluded that land use activities would require extensive standardisation if car parking metrics were to be specified within the NPS. While car parking rates are a key inconsistency across plans, the recommendation of the Metrics Discussion Paper to exclude parking rates in the NPS is logical due to the varying ways that parking can be managed through District Plans and the level of complexity surrounding the rates.

Structure was found to be the largest source of variation in District Plans (Ministry for the Environment 2017b). The Draft District Plan Structure Standard specifies parts, chapters and sections required. Unlike many existing Plans, the standard does not include a specific transportation chapter or transportation sections. It is assumed that transport related matters would be addressed within the Infrastructure and Energy Chapter of Part 4 – District Wide Matters. The draft NPS include sections within this chapter such as Signs, Earthworks, Noise and Light. A similar level of standardisation could be achieved for transportation.

While the NPS provides necessary consolidation and consistency across District Plans, there is the opportunity to make plans more fit for purpose by standardising transport related matters. This could ensure reasonable consideration of certain transport matters across all districts, enable improved transport design practice and improve efficiency for practitioners, applicants and council staff. It is questioned whether the development of the draft NPS engaged sufficient input from transportation practitioners. Further professional input may have identified opportunities to standardise transportation requirements in addition to definitions, metrics and structure. While MfE's reasoning for not standardising car parking rates is well considered, there are some transport standards which could be standardised more readily. For example, the provision of accessible parking spaces, car park sizes, sight distance and design vehicles and tracking curves are generally not district dependent and lend themselves to standardisation.

The One Network Road Classification (ONRC) system for classifying New Zealand's roads demonstrates how wider standardisation can achieve more consistency across district boundaries. Nevertheless, the long-term nature of District Plans mean that they do not all reflect the ONRC, which was undertaken in 2013.

## CONCLUSIONS AND RECOMMENDATIONS

The current application of District Plans to manage sustainable development sometimes fails to ensure good transportation design. Instead, practitioners are relied on to proactively enable liveable communities rather than simply facilitating 'acceptable' development.

The black and white rules-based structure of District Plans means that good transport practice is not always the result. While territorial authorities somewhat counteract this by referring to external guidance and standards, the long-term nature of plans can result in a lag in good practice. The current provision of transport rules in some plans allows developers to seek and gain resource consent for a 'bare minimum' design, failing to make the most of

opportunities to enable liveable, efficient and safe environments. While District Plans are intended to be entirely objective, some rules require interpretation.

The National Planning Standards seek to provide necessary consolidation and consistency across District Plans. This is supported, however there is opportunity to standardise transportation rules significantly more than proposed in the draft NPS. Many transport related rules, for instance the provision of accessible parking spaces, are unrelated to specific districts and lends themselves to standardisation.

While wider standardisation of transport provisions would make District Plans much more fit for purpose, it would not fix all the issues identified in this paper. Without major changes, practitioners are required to be proactive and work collaboratively to ensure inclusion of good practice where it is not specified within plans.

Many of the issues discussed in this paper could be addressed through significant changes in the nature of District Plans and the Resource Management Act. The RMA itself could be considered insufficiently agile to respond to the culture of continuous improvement and development of design best practice. A considerable change in the RMA is not easily attainable. Therefore, the development of nationally accepted, more consistent planning policy guidance and better awareness raising and training for the industry as to how to interpret that latest good practice guidance are recommended.

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