

dunedin city district plan
DRAFTING GUIDELINES

July 2006



DUNEDIN CITY
COUNCIL
Kaunihera-a-rohe o Otepoti
CITY PLANNING

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Introduction

This document provides a guideline for the drafting of provisions for the Dunedin City District Plan. It has been developed for use both by Dunedin City Council staff and by external users involved in drafting private plan changes.

The emphasis of this document is on guidance on matters of style and format. Further information on the development of plan provisions is available from the Quality Planning website (www.qualityplanning.org.nz).

The overall goal is to provide a more readable and user-friendly District Plan, through:

- a) improving the consistency of style, language and approach in the plan; and
- b) providing more of a Dunedin flavour to the plan.

This guideline is based on feedback provided through the three plan evaluations conducted to date. The evaluations have suggested systematic improvements in terms of language, style, linkages and approach across all parts of the plan. Information from style guides and resource management drafting guides is also incorporated into this guideline, and these sources are referenced at the end of this document.

The layout of this guideline follows the current structure of District Plan sections, with the cascade of provisions from 'issues' through to 'anticipated environmental results'. To improve interpretation and consistency, two changes to cross-referencing are to be made within this existing framework:

1. linking of anticipated environmental results to other provisions; and
2. cross-referencing of rules to other provisions.

Following the discussion of each provision, existing examples from the District Plan are critiqued and suggestions for improvements made. Toward the end of this document, a good practice example is provided which examines significant tree provisions from issue through to anticipated environmental result.

The District Plan is now fully operative and it is time to consider how a second-generation plan may look and operate. The development of this guideline forms part of a wider assessment of the District Plan, contributing toward the development of a second-generation plan.

While this document provides guidance within the existing plan framework, the redrafting of entire sections or insertion of new sections may provide the opportunity for improving this framework. For example, one suggestion for improving the rules is the renaming of 'Conditions Attaching to Permitted Activities' to 'Performance Standards' to avoid confusion with conditions placed on resource consents. Any such improvements must not be inconsistent with the remainder of the plan and should be discussed with City Planning staff prior to submission of any draft plan change.

City Planning may be contacted on telephone at (03) 477 4000 or by emailing planning@dcc.govt.nz

The Dunedin City District Plan is available at www.CityofDunedin.com/districtplan

What Makes a Good Plan?

The Planning Under Co-operative Mandates project (www.waikato.ac.nz/igci/pucm) has identified eight criteria for achieving a good quality plan.

These concepts provide a useful backdrop, both in terms of the wider approach to developing plan provisions as well as the specifics of good drafting.

1. **Interpretation of the Mandate** - define what sustainable management means for the local area and don't just quote the purpose of the Act.
2. **Clarity of Purpose** - articulate a comprehensive goal or vision statement which guides interpretation of plan objectives and policies and implementation. Provide a coherent explanation of desired outcomes.
3. **Identification of Issues** - clearly identify and prioritise issues linked to significant environmental effects.
4. **Fact Base** – a well-developed fact base should be incorporated and explained in issue identification and development of objectives and policies.
5. **Internal Consistency of Plans** -
 - Linking objectives clearly to issues
 - Linking policies clearly to objectives
 - Linking methods clearly to policies
 - Linking rules clearly to policies and methods
 - Linking anticipated results clearly to objectives
6. **Integration with Other Plans and Policy Instruments** - clearly explain the relationship with other policies/policy instruments and avoid duplication of these instruments.
7. **Monitoring** - refer to monitoring strategy or framework and include provisions for monitoring plan performance.
8. **Organisation and Presentation** – ensure that the plan is readable, comprehensible and easy to use. There are a number of mechanisms for achieving this, including the use of clear illustrations such as diagrams and pictures for technical information or tables for rules and standards.

Drafting Principles

The following principles will guide future drafting of Dunedin City District Plan provisions.

1. Clear and consistent language will be used throughout the District Plan.
2. Users will be able to understand the meaning and intent of District Plan provisions.
3. Less is more – concise sentences are usually preferable to longer, more complex sentences.
4. The plan will avoid merely restating the provisions of the Resource Management Act (RMA).

The essence of these principles is:

Clarity
Consistency
Simplicity
Conciseness

Adhering to the four principles will help to avoid ambiguity in language and intent. This in turn should decrease the risk of legal challenge over the meaning of plan provisions.

A number of general drafting pointers will help you to apply these principles.

- At all times apply the “So What?” question to a draft provision. As well as helping to achieve simplicity and clarity, this will ensure that you have achieved the actual resource management provision that has been drafted, rather than a related symptom or effect.

For example, issue 6.1.5 states:

There is a demand for residential living in a rural environment.

This may be true, but “So What?”. What is the resource management issue here? This statement may be identifying the cause of a resource management issue but what is the actual issue itself? What is the effect on the city’s natural and physical resources?

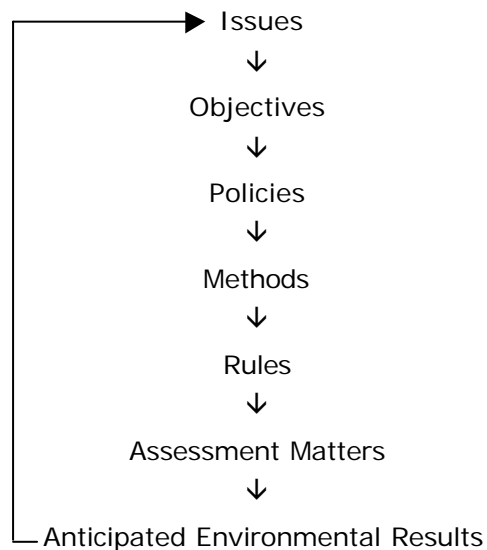
- Provisions should be able to stand on their own. In other words, the meaning of a provision should be self-evident, with the explanation providing greater detail, specific examples and any factual matters.
- Be consistent – read back over the section or sections you are drafting to check for consistent use of terms such as ‘conserve’, ‘preserve’, ‘protect’. Avoid any possibility of ambiguity in meaning and interpretation.
- Prefer the active voice over the passive voice, particularly when drafting policies. In the active voice, the subject does the action of the verb rather than receiving the action of the verb. For example, the passive voice says “Significant trees will be identified by Schedule 25.3”. The active voice says “Schedule 25.3 will identify significant trees”.
- Use precise but familiar words. For example, ‘help’ or ‘assist’ rather than ‘facilitate’.

- Use concrete rather than abstract words. If abstract words such as 'amenity' are to be used, these should be defined either in the Definitions section or in the explanation associated with a provision.
- Be ruthless - delete surplus words unless they enhance meaning or clarity. Phrases such as "due to the fact that", "in the event of", "for the purpose of" can usually be omitted without any loss of clarity.
- Use short sentences where possible. Aim for an average sentence length of 15-20 words. Say sentences aloud; where you run out of breath, a comma or full stop is required.
- Avoid the use of abbreviations and acronyms, and the overuse of capital letters.
- The need to avoid 'RMA-speak' and the desire to provide local flavour does not necessitate including the word "Dunedin" in all provisions. Reference to the relevant planning zone will often provide enough local context. Another technique is to use location-specific examples in the explanations to provisions (see for example the explanation to policy 6.3.4).
- Get a person who is not a planner to do a plain-English edit at the draft stage to ensure clarity.

Structure of District Plan Sections

Following the 2005 amendments to the RMA, the only mandatory (statutory) provisions for district plans are objectives, policies and rules. However, until such time as any wider review of the Dunedin City District Plan framework determines otherwise, the plan will continue to provide certain non-statutory provisions, namely issues, non-regulatory methods and anticipated environmental results.

The layout of each plan section is as follows:



Explanations

Issues, objectives and policies have explanations to provide clarification and greater detail. These can also be used to provide factual information supporting the provisions, as well as greater Dunedin context for more general provisions.

An important point to note is that an explanation can not enlarge the scope of, or contradict, the provision to which it relates. Explanations should provide background to a provision, not amplification of that provision.

It is worth asking whether an explanation is actually necessary. If an issue, objective or policy is able to stand on its own, an explanation may not be needed.

Key Tip: When drafting an explanation, ask whether it adds anything extra, or is it merely saying the same thing as the provision in another way.

Principal Reasons

Principal reasons for adopting objectives, policies and methods are provided. These present a link to the section 32 analysis used to evaluate the appropriateness of these provisions.

Key Tip: Principal reasons need to be consistent with the section 32 record for each provision.

Assessment Matters

Assessment matters should be provided in a separate subsection after the rules. Assessment matters should be ordered from more general to more specific matters.

Cross-Referencing

Cross-referencing assists the reader to understand how provisions relate to each other. It also illustrates a logical flow of plan development from the identification of a resource management issue through to the methods to be employed to address that issue.

The current cross-referencing in the plan is to be extended to include rules and anticipated environmental results. Linking the rules to policies and hence objectives provides a clear understanding of why a rule exists and how it fits into the wider framework.

Linking anticipated environmental results to objectives will aid evaluation of the effectiveness and efficiency of other provisions in achieving the environmental results. Anticipated environmental results provide the basis for monitoring of all plan provisions and therefore require this cross-referencing.

Extending these linkages gives the following cross-referencing system:

Provision	Linked To:
Issues	Objectives, Policies
Objectives	Issues, Policies, AERs
Policies	Objectives, Methods, Rules
Methods	Policies
Rules	Policies
AERs	Objectives

Issues

What is an issue?

An issue is an existing or potential problem that must be addressed, or a particular resource to be protected or enhanced, to promote the purposes of the RMA.

How should an issue read?

- An issue or its explanation should identify the cause of the problem where this is known.
- An issue should be clearly identified, precise and succinct; however, it should not be too short or generalised. If needed, use the explanation to provide more detail.
- Issues should distill RMA principles to the local level to provide a Dunedin context. Where possible, develop area-specific rather than generic issues, which will help to deliver more tightly-focused objectives and policies.
- Issues should be ordered from strategic to specific or from high-level to more detailed issues.
- An issue should be clearly linked to the relevant objectives and policies.

Things to avoid

- Restating the provisions of the RMA.
- Including the solution or desired outcome within the issue statement.
- Including matters outside the scope of the RMA.
- Focusing on solely corporate issues.
- Including matters that won't be addressed by the plan (whether through methods in the plan or methods that are outside the plan but referred to within the plan).
- Different facets of the same problem being identified as separate problems, leading to a duplication of issues.

Key Tip: Ask the "So What?" question when considering the inclusion of, and wording of, a potential issue. Is it the actual issue, or a symptom of a more fundamental resource management issue? Keep asking yourself "So What?" until the underlying issue has been revealed.

Drafting Checklist for Issues

- | | |
|---|--------------------------|
| 1. Is this a resource management issue? ¹ | <input type="checkbox"/> |
| 2. Is this issue written in plain English, avoiding jargon or overly technical language? | <input type="checkbox"/> |
| 3. Is this issue clear and targeted? | <input type="checkbox"/> |
| 4. Does this issue avoid restating the RMA? | <input type="checkbox"/> |
| 5. Is the issue (or its explanation) written to reflect the Dunedin context? | <input type="checkbox"/> |
| 6. Does this issue (or its explanation) outline the cause(s) and effect(s) of the problem? | <input type="checkbox"/> |
| 7. Have any supporting facts been included in either the explanation or external documents investigating the issue? | <input type="checkbox"/> |
| 8. Does the explanation to this issue provide clarity and detail, rather than restating the issue? | <input type="checkbox"/> |
| 9. Have linkages between the issue and the relevant objectives and policies been identified? | <input type="checkbox"/> |

This checklist should also be completed by a peer reviewer and, in the case of (2) and (3), by someone who is not a planner.

¹ If not, it should be referred to the Council's Policy Analyst Team Leader to determine whether it is an LTCCP issue.

Examples

6.1.5 There is a demand for residential living in a rural environment.

This issue states the cause without really stating the effect, although the explanation goes some way to examining the effect. One option for rewording this issue is as follows:

Residential activity in the rural environment has the potential to reduce the amount of rural land available for primary production.

8.1.3 Housing in the residential area adjacent to the Campus is essential to sustain the potential of the Campus area.

This issue is Dunedin-specific, relatively succinct and sets out a resource management issue. The phrase “sustain the potential of the Campus area” could be described as planning jargon. However, the explanation to this issue details how the housing resource contributes to the Campus and outlines what the threats to this resource are.

9.1.3 The southern end of the Central Activity Zone is under-utilised.

This issue is both succinct and Dunedin-specific. However, apply the “So What?” question to it. What is the actual resource management problem or issue?

10.1.2 Industrial activities can adversely affect the environment.

This issue is too general to be helpful in drafting further provisions. What are the adverse effects? What are the types of industry or circumstances which lead to these effects?

14.1.1 The City contains outstanding natural features and landscapes which require protection.

This is a re-statement of the RMA with no attempt to provide the Dunedin context. For instance, what are the natural features which require protection? The issue also goes some way towards providing the solution without examining the issue fully. Why do these natural features and landscapes require protection? What is the threat to them?

15.1.2 Planting of trees in appropriate locations enhances the quality of the environment.

This is a case of including the solution rather than actually stating an issue.

15.1.3 Trees can have adverse effects on people living in close proximity to them. The reasonable expectations of adjacent residents to a satisfactory living environment must be recognised and provided for.

The second sentence is redundant. It is also getting into the realm of objectives and policies rather than forming part of an issue.

17.1.1 The City's geology and topography are such that natural hazards may occur.

This could be more directly stated. For example:

Parts of Dunedin are at risk from natural hazards due to their geology and topography.

Objectives

What is an objective?

An objective is a statement of what will be achieved through the resolution of an issue or issues, in specific and measurable terms where possible. Ask yourself “What are we trying to achieve?” through addressing the issue or issues.

How should an objective read?

- An objective should reflect a desired endpoint and contribution to an environmental outcome.
- An objective should relate directly to the resolution of an issue or issues.
- Objectives should distill RMA principles to the local level to provide a Dunedin context.
- An objective can be open, setting a general direction such as enhancing the status quo, or closed, a finite statement of a desired end state.
- An objective should be open only where a lack of information or need for flexibility precludes a closed objective.
- Consider the SMART principles: make it specific, measurable, achievable, relevant, time-bound.
- It should be clearly linked to the relevant issues, policies and anticipated environmental results.

Things to avoid

- Restating the issue which the objective addresses. Avoid the trap of drafting the objective as the reverse of the issue.
- Restating the provisions of the RMA.
- Wording an objective so that it reads like a policy. Avoid starting objectives with active phrases such as “Ensure that”, “Provide for”, “Encourage”.
- Use of vague and imprecise language, such as “as far as practicable”.
- Seeking outcomes that are not environmental ends; that are vague or generic; or that are overtly economic or social outcomes.

Key Tip: Write an objective to assist in making future decisions. For example, ask yourself “Will it be directly relevant to the assessment of consent applications?”

Drafting Checklist for Objectives

1. Does this objective specify a desired environmental outcome?
2. Is this objective written in plain English, avoiding jargon or overly technical language?
3. Is the objective clear, avoiding the use of vague or generic language?
4. Is it specific, measurable, achievable, relevant, time-bound?
5. Does this objective avoid restating the issue or issues to which it relates?
6. Does this objective avoid restating the RMA?
7. Is the objective (or its explanation) written to reflect the Dunedin context?
8. Does this objective avoid reading like a policy?
9. Does the explanation provide clarity and detail, rather than restating the objective?
10. Have linkages between the objective and the relevant issues, policies and anticipated environmental results been identified?

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Examples

5.2.2 Recognise that sites of waahi tapu exist throughout the City and that these must be protected.

This is worded as a policy. A wording as a specific and measurable objective would be:

Waahi tapu sites across Dunedin are retained in their current form.

9.2.2 Provide for large scale retail activities in locations within the Inner City Area and Mosgiel where the effects can be managed.

Again, this is worded as a policy and is very similar to policy 9.3.2. However, it is Dunedin-specific. An alternate wording is as follows:

Large scale retail activities will be able to locate in those parts of the Inner City Area and Mosgiel where they will be compatible with other activities.

10.2.3 Ensure non-industrial activities in industrial areas do not limit the operation of industrial activities.

A policy wording again. An alternate wording:

Industrial operations within industrial areas are not limited by non-industrial activities.

12.2.1 Ensure that the potential of the Campus Zone to meet the reasonably foreseeable needs of the community is sustained.

This is not a clear objective and reads as "RMA-speak". As a method, discussion of the Campus Zone can be left to the policies and methods. The following alternate objective seems in line with the explanation and related policies:

Campus-related activities are able to expand within north Dunedin.

16.2.1 Enhance the indigenous biodiversity, ecosystem integrity, natural character and amenity values of the City through the retention of remaining areas of indigenous vegetation and habitats of indigenous fauna.

This objective is far too long-winded and also contains a lot of technical terms. The first part of this objective would be better placed in the explanation. This would leave the following:

Dunedin's remaining areas of indigenous vegetation and habitats of indigenous fauna are retained.

Policies

What is a policy?

A policy indicates either a general course of action used to achieve an objective.

How should a policy read?

- A policy should relate directly to at least one objective.
- A policy should also address the relevant issues and environmental effects.
- Policies should distill RMA principles to the local level to provide a Dunedin context.
- A substantive policy (which states what is going to be done) should fall within three main types:
 - i) to not accept a particular effect or degree of effect;
 - ii) to require certain conditions to be satisfied before an effect will be considered acceptable;
 - iii) to ensure that something is achieved or satisfied.
- A procedural policy states how and by whom something will be done.
- Policies “to ensure” will usually need to be supported by more specific “not accept” or “require” policies.
- A policy must be able to guide resource consent decisions, particularly for discretionary or non-complying activities.
- A policy should give strength and justification to the methods that relate to it.

Things to avoid

- Restating the objective which the policy addresses, or wording the policy like an objective (i.e. like a desired endpoint rather than a course of action). Note that an objective is what will be achieved, while a policy is how it will be achieved.
- Restating the provisions of the RMA.
- A policy being a method, e.g. requiring a consent or imposing a rule.
- The use of imprecise language, e.g. words such as ‘generally’.
- Confused use of terms such as ‘protect’, ‘preserve’, ‘conserve’, ‘maintain’, ‘enhance’, ‘retain’.

Key Tip: Use active rather than passive language when drafting policies.

Drafting Checklist for Policies

1. Does this policy specify a course of action?
2. Is this policy written in plain English, avoiding jargon or overly technical language?
3. Is the policy clear, avoiding the use of vague or generic language?
4. Does this policy avoid restating the objective or objectives to which it relates?
5. Does this policy avoid restating the RMA?
6. Is the policy (or its explanation) written to reflect the Dunedin context?
7. If this is a “to ensure” policy, is it supported by more specific policies?
8. Does the explanation provide clarity and detail, rather than restating the policy?
9. Have linkages between the policy and the relevant issues, objectives and methods been identified?

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This checklist should also be completed by a peer reviewer and, in the case of (2) and (3), by someone who is not a planner.

Examples

6.3.3 To discourage land fragmentation and the establishment of non-productive uses of rural land and to avoid potential conflict between incompatible and sensitive land uses by limiting the density of residential development in the Rural Zone.

This policy is too long a sentence. It also starts with three objectives before the real policy element begins, namely limiting the density of residential development. The relationship to the objectives should be brought in via the explanation, cross-referencing and/or the principal reasons.

9.3.4 Avoid, remedy or mitigate the adverse effects of car parking for large scale retail or commercial residential activities within the Central Parking Area.

This policy is Dunedin-specific. However, starting the policy with “avoid, remedy or mitigate” both parrots the RMA and introduces elements of an objective into the policy. Alternate wording could be:

Require car parking to be provided with large scale retail or commercial residential activities within the Central Parking Area.

9.3.7 Require verandahs on premises within identified pedestrian frontages in the Central and Local Activity Zones.

Clear, succinct, Dunedin-specific and cross-referenced to the relevant objective and method.

12.3.9 Facilitate the visual integration of the Campus within the broader city townscape.

This is neither clear in intent nor written in plain English. The explanation and linked provisions do not throw much light on this policy.

14.3.3 Identify those characteristics which are generally important in maintaining landscape quality in the rural area (as listed in part 14.5.3 of this section) and ensure they are conserved.

The use of the word ‘generally’ should be avoided. Clarification is needed over the meaning of ‘conserved’ which appears here instead of the more appropriate word ‘protected’.

18.3.9 Maintain public access by the creation of esplanade reserves or esplanade strips at the time of subdivision of land adjacent to selected water bodies and the coast.

18.3.10 Maintain and enhance conservation values along the coastal marine area, lakes and rivers, in accordance with the Act and the Regional Policy Statement for Otago.

These policies both re-state the relevant objectives. In effect, they both describe the same policy instrument, the creation of esplanade reserves and esplanade strips – although in the case of 18.3.10 these policy instruments are left to the explanation. This is a case where one policy could have been employed to address two objectives.

The second part of policy 18.3.10 is redundant – it goes without saying that the District Plan must be in accordance with both the RMA and the regional policy statement.

Methods

What is a method?

A method is a specific course of action taken to implement a policy or policies. In other words, the actual means by which an objective will be achieved.

A method may be regulatory (e.g. rules, designations) or non-regulatory (e.g. guidelines, financial incentives). A method may be outside the District Plan, such as the use of reserve management plans under the Reserves Act 1977. A non-exhaustive list of methods available is provided in section 1.5.3 of the plan.

How should a method read?

- A method should be clear and direct – covering specific actions rather than general approaches.
- It should be clearly aligned to one or more of the policies.
- It should be consistent with objectives and policies in other parts of the District Plan, and with other plans and policies administered by the Council.
- A method should be measurable, so that it is possible to assess whether it is being used and whether it is effective.

Things to avoid

- Directly re-stating policies or using policy-type phrases, such as 'Encourage' or 'Enhance'.
- Making non-regulatory methods too detailed or specific – they can become quickly outdated over 10 years.
- Unrealistic and costly methods which may never be implemented.

Drafting Checklist for Methods

1. Does this method specify a course of action to implement a policy or policies?
2. Is this method written in plain English, avoiding jargon or overly technical language?
3. Is the method clear and direct, avoiding the use of vague or generic language?
4. Does this method avoid restating the policy or policies to which it relates?
5. Is this method measurable?
6. Have linkages between the method and the relevant policies been identified?

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This checklist should also be completed by a peer reviewer, and in the case of (2) and (3), by someone who is not a planner.

Rules

What is a rule?

A rule in the District Plan is a method that has the status and effect of a statutory regulation. The rule should stand alone – in other words, the reader should be able to determine the effect of a rule from the rule itself. A rule must provide certainty and be enforceable.

How should a rule read?

- A rule should be clear, simple and direct.
- The intent and meaning of a rule should be obvious.
- State the rule in terms that can be measured and defined.
- It should be clearly aligned to one or more of the policies.
- The layout and numbering system should be consistent with other rules.
- Where a rule has more than one component, it should be split into its separate components and the inter-relationship between them clearly specified. For example, is compliance required with any or all components?
- Complex rules or sets of rules may require the use of tables or diagrams to illustrate the circumstances when each rule is triggered.
- Conditions attached to permitted activities must be specific and not allow any discretion.
- Matters over which the Council has restricted control or discretion must be clearly identified.

Things to avoid

- Long and complex rules – break these up into shorter, simpler rules.
- Rules that open the door to incrementalism (see the Landscape examples below).
- The use of general words or phrases, such as 'should', 'might', 'approximately', 'reasonable', 'sufficient', 'where possible'.
- The use of bullet points in rules – use numbering for separate components of a rule.

Key Tip: Ask whether the rule would be defensible if challenged. Is the rationale, meaning, intent and effect of the rule clear?

Drafting Checklist for Rules

1. Does the rule stand on its own, with obvious intent and meaning?
2. Is this rule written in plain English, avoiding jargon or overly technical language?
3. Is the rule clear and direct, avoiding the use of vague or generic language?
4. Would it be advantageous to split the rule into component rules?
5. Should a rule table or diagram be used to illustrate how and when rules are triggered?
6. Is the wording, layout and numbering consistent with other rules?
7. Have linkages between the rule and the relevant policies been identified?

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This checklist should also be completed by a peer reviewer and, in the case of (2) and (3), by someone who is not a planner.

Examples

14.6.1(b)(i) The erection of buildings and structures unless they are erected within 50m of an existing building that has a floor area of at least 50% greater than the floor area of the proposed structure.

14.6.1(b)(ii) Additions to existing buildings if that addition increases the floor area of the existing building by more than 100%.

The restricted discretionary landscape rules could lead to incrementalism, by permitting any development that falls within the specified thresholds but not placing any restrictions on separate and cumulative applications for development on the same site over time.

The first rule would benefit from having punctuation marks to avoid ambiguity.

13.7.1 – 13.7.4 Townscape rules

The Townscape rules provide an example where a rule table or diagram is needed to clarify when the respective rules are triggered. It needs to be easier for users to understand which activities require what type of consent for items whether they are on Schedule 25.1 and/or in a townscape or heritage precinct.

Anticipated Environmental Results

What is an anticipated environmental result?

An anticipated environmental result (AER) is the intended result or outcome on the environment as a consequence of implementing other provisions. An AER should provide an overall picture of the combined effect of objectives, policies and methods.

AERs are the bases for monitoring the effectiveness and efficiency of the District Plan. They need to be drafted with their measurability in mind.

The AERs currently in the District Plan are perhaps the provisions that need the most work. They are typically vague, too generalised and not measurable.

How should an anticipated environmental result read?

- An AER should relate specifically to an objective or objectives.
- Where possible, it should be written to reflect the Dunedin context.
- An AER should fit within the 10 year time-frame of the District Plan.
- An AER should be measurable, i.e. able to draw on a factual basis to determine progress.
- Consider the SMART principles: make the AER specific, measurable, achievable, relevant, time-bound.
- Where possible, an AER can specify targets.

Things to avoid

- Having too many AERs and too much repetition between AERs.
- Vague or generalised AERs that are too difficult to measure.
- AERs that are written as policies or methods, or that restate plan objectives.
- AERs that focus on administrative or process outcomes (e.g. resource consent processing targets).

Key Tip: An AER should focus on an environmental outcome that can be achieved within the life of the plan, while objectives may be longer-term and slightly less precise. It is helpful to think of the indicators that may be used to assess achievement of the AER.

Drafting Checklist for AERs

1. Does this AER specify an intended result for the environment?
2. Is this AER written in plain English, avoiding jargon or overly technical language?
3. Is the AER clear, avoiding the use of vague or generic language?
4. Does achievement of, or progress towards, the AER fit within a 10 year time-frame?
5. Is the AER specific, measurable, achievable, relevant, time-bound?
6. Is the AER written to reflect the Dunedin context?
7. Is this AER necessary (or could it be encapsulated within another AER)?
8. Have linkages between the AER and the relevant objective or objectives been identified?

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This checklist should also be completed by a peer reviewer and, in the case of (2) and (3), by someone who is not a planner.

Examples

6.8.2 The productive capacity of the rural land resource is retained.

This is more like an open objective than an AER. As such, it is better worded than the relevant objectives (6.2.1, 6.2.6). An AER should be directly measurable within the life of the plan. For instance, the AER could specify maximum thresholds for the loss of high class soil, re-zoning of rural land or fragmentation of larger rural properties through subdivision.

8.14.3 Residential activity in the vicinity of the Campus is protected from competing activities and land uses.

Again, this is worded more like an open objective. A measurable AER could specify that:

The number of new non-complying activities in the Residential 3 Zone is minimised.

9.10.6 Management of the commercial use of footpaths and other open space areas within the Inner City Area and Local Activity Zones.

This re-states policy 9.3.8 and is not an AER.

10.9.3 Industrial activities are able to continue to contribute to the economic wellbeing of the City.

This is vague and it is difficult to discern the environmental outcome. If related to the capacity of the industrial sector in terms of resources such as land, then this should be specified directly.

13.9.1 – 13.9.20 Townscape AERs

There are a number of problems with the entire set of Townscape AERs. These include the following.

- Twenty AERs are too many to be measurable or provide a meaningful set of environmental outcomes.
- There is far too much repetition within this set of AERs. For instance, compare 13.9.3 with 13.9.15 and 13.9.17; or 13.9.10 with 13.9.18; or 13.19.14 with 13.9.16.
- Some are too vague, for example 13.9.1 and 13.9.3, while in general the distinction between townscape and heritage is blurred and confused.
- AERs 13.9.7 and 13.9.8 are actually methods.

Despite these problems, some of the Townscape AERs have the potential to be succinct and measurable AERS. For example, 13.9.16 could read:

All of Dunedin's scheduled heritage items are retained.

Good Practice Example: Significant Trees

With some modification, the provisions relating to the identification and protection of significant trees provide a good practice example of drafting plan provisions.

Issue 15.1.1	Explanation
<p>Trees are potentially at risk from subdivision, land use activities and development. Their removal or modification may result in a reduction in amenity and/or the quality of the environment.</p> <p><i>Objectives: 15.2.1, 15.2.2</i> <i>Policies: 15.3.1 - 15.3.3</i></p>	<p>Development, particularly where this results in ongoing subdivision and greater built density, often results in pressure for trees to be felled or topped. This is usually because the space the trees occupy is needed for building or because the development results in people living in greater proximity to the trees and being shaded by them or having views blocked.</p>

This issue meets most of the drafting checklist items. Small changes could be made to improve the wording. For instance, omitting the word “potentially” and changing the “and/or” to an “and” would make the wording more direct without changing the meaning.

The explanation to this issue tends to focus on residential development pressures on trees, without discussing pressure from other sources such as existing residential activities or other types of development. As well as buildings, the space that trees occupy may be sought for other items such as carparks or roading. Outlining a greater range of items would help to broaden the focus of the explanation.

Objective 15.2.2	Explanation
<p>Protect Dunedin’s most significant trees.</p> <p><i>Issue: 15.1.1</i> <i>Policy: 15.3.2</i></p>	<p>Some trees have a greater impact on amenity and quality of the environment than others and require protection.</p>

This is worded as a policy and needs to be reworded to reflect a desired outcome as follows.

Objective 15.2.2	Explanation
<p>Dunedin’s most significant trees are retained.</p> <p><i>Issue: 15.1.1</i> <i>Policy: 15.3.2</i> <i>AER: 15.7.2</i></p>	<p>Some trees make a greater contribution towards amenity and quality of the Dunedin environment than others. Other trees possess significant values in their own right, such as ecological or heritage values. For these reasons, the most significant trees should be retained.</p>

Retention of the trees is the desired outcome rather than protection, which in itself is the policy and method to be used. Cross-referencing to the relevant anticipated environmental result has been added to this objective. The explanation has been reworded to provide greater clarity and to expand on the range of values that may contribute to a tree’s significance.

<p>Policy 15.3.2</p> <p>Identify and protect trees that make a significant contribution towards amenity and environmental quality.</p> <p><i>Objective: 15.2.2</i></p> <p><i>Methods: 15.4.1, 15.4.4</i></p>	<p>Explanation</p> <p>Certain trees have landscape, botanical, cultural and historic values which make them particularly important to the community. It is essential that these trees are identified and given protection.</p>
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As with issue 15.1.1, this policy meets most of the drafting checklist requirements. However, the policy should elaborate on how the values that contribute to significance will be assessed.

<p>Policy 15.3.2</p> <p>Identify and protect the most significant trees in Dunedin.</p> <p>The values that will be used to determine significance of a tree include:</p> <ul style="list-style-type: none"> • height; • predominance; • general form; • rarity; • ecosystem contribution; • historical importance; and • impact on visual amenity. <p><i>Objective: 15.2.2</i></p> <p><i>Methods: 15.4.1, 15.4.4</i></p>	<p>Explanation</p> <p>Certain trees have landscape, botanical, cultural and historic values which make them particularly important to the community. It is essential that these trees are identified and given protection.</p>
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The policy now incorporates the values used to identify significant trees.

<p>Method 15.4.1 Maps and Schedule</p> <p>Trees that make a significant contribution towards the maintenance and enhancement of amenity and the quality of the environment are identified in Schedule 25.3 and on the District Plan Maps. Trees on the schedule are subject to management controls for the purpose of ensuring their protection (refer Rule 15.5.1). The schedule will be reviewed by the Council on a regular basis and amended (if required) by way of a plan change. Trees proposed for inclusion on Schedule 25.3 (Significant Trees) shall be assessed by the Council using the STEM method of tree evaluation. A copy of the STEM method of tree evaluation and the procedure by which it shall be applied can be inspected at the Council's offices. This method assesses positive and negative aspects of a tree prior to its inclusion in the list. The owners of any trees proposed for inclusion on Schedule 25.3 will be individually notified at the time of notification of a plan change affecting them.</p> <p><i>Policies: 15.3.1, 15.3.2</i></p>

This method is clear and direct, although reference to the STEM method without any additional detail could be described as overly technical. There is, however, advice on where to get more information

about STEM. The first sentence of this method reads as a policy, and could be more simply worded as follows: Significant trees are identified in Schedule 25.3 and on the District Plan Maps.

Rule 15.5.1 Discretionary Activities (Unrestricted)

The following activities are discretionary activities (unrestricted):

- (i) The removal or modification of any tree or pruning, trimming or any other modification or activity within the canopy spread of any tree listed in Schedule 25.3.

This rule does not apply where:

- (a) The work amounts only to minor trimming and maintenance undertaken by hand-operated pruning shears or secateurs in accordance with accepted arboricultural practice.
- (b) The work is required as emergency work to safeguard life or property and is carried out by the Council or a statutory authority. In such cases the authority concerned shall notify the Council in writing as to the reason for the trimming within 10 working days.
- (c) The tree or trees are subject to an order for removal or modification in terms of Section 129(C) 5(a), (b) and (c) of the Property Law Act 1952.

Again, a clear and direct provision. The only thing to be added is the cross-referencing to relevant policies – in this case, policies 15.3.1 and 15.3.2.

Anticipated Environmental Result 15.7.2

Trees which make a significant contribution towards the maintenance and enhancement of amenity and environmental quality are identified and protected.

This AER repeats the existing objectives and policies. It is not directly measurable. Cross-referencing to the objective also needs to be added.

Anticipated Environmental Result 15.7.2

No more than 0.5% of the significant trees on Schedule 25.3 are removed each year.

Objective: 15.2.2

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