

Exploring planning tribunal decisions on travel plans for new developments

Chris De Gruyter¹, Geoff Rose¹, Kailey Wilson¹, Zoran Dukanovic¹, Long Truong¹

¹ Monash Institute of Transport Studies, Department of Civil Engineering,
Monash University, Clayton, Victoria, Australia

Email for correspondence: chris.degruyter@monash.edu

Abstract

In an effort to support the management of transport impacts at new developments, travel plans can be required through the land use planning and approvals process for new and expanded buildings. Travel plans contain a range of site-specific measures aimed at managing car use and encouraging the use of more sustainable modes. However, they commonly face a number of challenges, particularly those associated with effective implementation. Where decisions on development applications are appealed, a planning tribunal is typically involved in reviewing the decision, including the requirement for a travel plan where applicable. The aim of this research¹ was to explore planning tribunal decisions on requiring travel plans for new developments, using a case study of Victoria, Australia. An analysis of 178 planning tribunal reports from 2005-16 showed that travel plan requirements were accepted in 88% of cases. However, hearings dominated by junior planning tribunal members were associated with lower acceptance rates compared to those involving more senior members. The results also showed that more generic wording of travel plan requirements was associated with lower rates of acceptance. Recommendations for improving travel planning practice include the development of more clearly worded travel plan conditions, provision of training programs and guidelines, and the introduction of supportive and consistent planning policy. Future research should explore the reasons for planning tribunal decisions in greater depth and expand the methodology to other jurisdictions.

1. Introduction

Many city/state governments are faced with regular applications from developers to approve high-density residential and commercial developments. As a condition of planning consent for new developments, developers may be required to modify their proposal or incorporate additional measures to mitigate transport impacts. It is in that category that travel plans are often mandated by responsible authorities (De Gruyter et al. 2014; Rye et al. 2011a). A travel plan can be defined as a strategy containing a package of tailored initiatives and facilities delivered at a site to manage car use and encourage the use of more sustainable forms of transport, such as walking, cycling and public transport (Enoch 2012). Travel plans have been required for new developments across a range of geographies, including the United Kingdom (Rye et al. 2011a), United States (Jollon 2013), continental Europe (Rye et al. 2011b) and Australia (De Gruyter 2017; De Gruyter et al. 2015b). Where decisions on development applications are appealed, a planning tribunal is typically involved in reviewing the decision, including the requirement for a travel plan where applicable.

¹ This is an abridged version of the paper originally submitted for ATRF 2017. For further information about this research please contact the authors.

While previous research has covered various aspects of travel plans for new developments, including the perspectives of practitioners (Davison et al. 2010; De Gruyter et al. 2015a; Enoch & Ison 2008; Petrunoff et al. 2017), no published literature has explored the nature of decisions made by planning tribunals on travel plans for new developments. In particular, little is known about how decisions have changed over time, how conditions have been worded, and how decisions may vary by planning tribunal member. The research underlying this paper therefore seeks to fill this gap in the literature using a case study of Victoria, Australia.

2. Research context

In Australia, urban planning and land use activity is the responsibility of states and territories who each have independent planning systems in place (Department of Infrastructure and Transport 2011). In the state of Victoria, the Planning and Environment Act 1987 sets out a framework for planning the use, development and protection of land in Victoria (*Planning and Environment Act 1987*). The Act also sets out the process for obtaining planning permits for new developments, including the use of conditions. Principles have been established regarding the validity of conditions, recognising that they must be reasonable and relevant, fulfil a planning purpose, accurately convey their intended effect, and avoid uncertainty and vagueness (DELWP 2017).

Where an individual or party, usually a property developer or objector, wishes to appeal the decision to grant (or not grant) a planning permit and/or dispute the nature of any conditions, they can apply to the Victorian Civil and Administrative Tribunal (VCAT) to have the decision reviewed (VCAT undated). VCAT members come from a range of backgrounds including town planning, law, architecture, science and engineering. Each hearing can include up to five VCAT members, although at least one member must be a legal practitioner (*Victorian Civil and Administrative Tribunal Act 1998*). VCAT member positions, in order of increasing seniority, include 'Member', 'Senior Member' and 'Presiding Member' (VCAT 2017).

3. Research method

In order to explore the decisions made by planning tribunal members on requiring travel plans for new developments, an analysis of planning tribunal reports from relevant hearings in Victoria, Australia was undertaken. A search for relevant hearings from the Victorian Civil and Administrative Tribunal (VCAT) was undertaken in July 2016. The search returned a total of 202 hearings, of which 24 were later omitted as they were not relevant in the context of this research, e.g. a hearing which referred to the 'travel plans' of airline customers. A total of 178 hearings therefore provided the basis for the research. These hearings were conducted between the years of 2005 to 2016. Following the extraction of the 178 planning tribunal reports, a database of relevant hearings was compiled using the following information contained within the reports:

- Name of hearing and reference number/s
- Year in which hearing was held
- Proposed development characteristics, e.g. location, land use/s
- Specific wording of travel plan requirement
- Decision made on travel plan requirement
- Name of planning tribunal member/s (later anonymised) and their position/s.

Following the compilation of the database, both content analysis and descriptive statistics were used to assess and describe the data and information across all relevant hearings.

4. Results

Travel plan requirements were first considered by planning tribunal members in 2005, with the number of developments with such requirements increasing each year until 2010. Since 2013, the number of developments with travel plan requirements that have been considered has somewhat stabilised at around 10-15 per year. However, this is not necessarily due to a reduction in the adoption of travel plan requirements; it only reflects a reduction in the number of proposed developments with travel plan requirements that have *been considered* by planning tribunal members. Acceptance rates for travel plan requirements were relatively high, ranging from 70% in 2015 to 100% in various years (2005, 2006, 2008 and 2014). Across all years from 2005 to 2016, only 12% of travel plan requirements were rejected, resulting in an average acceptance rate of 88%. No clear trend was evident in acceptance rates across the years, i.e. acceptance rates were not necessarily any higher or lower in later years.

An assessment of decisions on travel plan requirements was also undertaken by planning tribunal member position. However, it was subsequently found that half of all hearings were attended by more than one planning tribunal member so the analysis considered the dominant make-up of planning tribunal member positions for each hearing. Table 1 presents a summary of decisions on travel plan requirements made by planning tribunal groups dominated by 'Members' (55% of hearings) and those not dominated by 'Members' (45% of hearings). Hearings that were dominated by 'Members' were associated with a lower rate of acceptance of travel plan requirements (84%) compared to those not dominated by 'Members' (93%).

Table 1: Decisions on travel plan requirements, by planning tribunal group type

| Planning tribunal group type | Number of hearings | Decision on travel plan requirement | | |
|-------------------------------------|--------------------|-------------------------------------|-----------------|-------------------|
| | | Accept | Reject | Total |
| Dominated by 'Members' ^a | 98 (55%) | 82 (84%) | 16 (16%) | 98 (100%) |
| Not dominated by 'Members' | 80 (45%) | 74 (93%) | 6 (8%) | 80 (100%) |
| Total | 178 (100%) | 156 (88%) | 22 (12%) | 178 (100%) |

^a Hearings where number of 'Members' was greater than the number of 'Senior Members' + 'Presiding Members'

For hearings that were attended by only one planning tribunal member (total of 88 hearings), acceptance of travel plan requirements varied by the individual planning tribunal member who presided over the case. Acceptance rates varied from 0-100%, although 21 out of the 31 planning tribunal members had an acceptance rate of 100%.

While the requirements for travel plans were worded in a variety of ways, three main types of wording emerged from analysing the content of planning tribunal hearing reports. Type 1 provided a brief and generic description of what is required by the travel plan, type 2 was more prescriptive but without any explicit reference to the proposed development, while type 3 specified travel plan measures that were specifically tailored to the characteristics of the proposed development. Table 2 shows that type 2 wording was most common, used in almost two-thirds (63%) of planning tribunal hearings. Type 1 wording was used in the majority of other hearings (33%), with type 3 wording only used in 8 out of 178 hearings (5%). Table 2 shows that type 1 wordings were associated with a much lower rate of acceptance of travel plan requirements (67%), compared with type 2 wording (97%) or type 3 wording (100%).

Table 2: Decisions on travel plan requirements, by wording type

| Wording of travel plan requirement | Number of hearings | Decision on travel plan requirement | | |
|------------------------------------|--------------------|-------------------------------------|-----------------|-------------------|
| | | Accept | Reject | Total |
| Type 1 (generic) | 58 (33%) | 39 (67%) | 19 (33%) | 58 (100%) |
| Type 2 (prescriptive) | 112 (63%) | 109 (97%) | 3 (3%) | 112 (100%) |
| Type 3 (tailored) | 8 (4%) | 8 (100%) | 0 (0%) | 8 (100%) |
| Total | 178 (100%) | 156 (88%) | 22 (12%) | 178 (100%) |

5. Conclusion

The aim of the research underlying this paper was to explore planning tribunal decisions on requiring travel plans for new developments. An analysis of 178 planning tribunal reports from Victoria, Australia showed that travel plan requirements were accepted in 88% of cases, with no discernible pattern in acceptance rates by year. However, the results showed that hearings dominated by junior planning tribunal members were associated with lower acceptance rates compared to those involving more senior members. The results also showed that more generic wording of travel plan requirements was associated with lower rates of acceptance.

In responding to the findings of this research, a number of opportunities can be identified for improving practice. First, the wording of travel plan requirements could be made clearer, reducing room for ambiguity, particularly around the intention and objectives of the travel plan. Second, the development of training programs and guidelines specific to travel plans for new developments could have a valuable role to play in aiding a more consistent understanding of what can be expected from a travel plan, when they should be required, and how they can be delivered effectively in the context of new developments. Third, if requirements for travel plans are to continue for new developments, consideration could be given to introducing more consistent planning policy that explicitly supports the adoption of travel plans.

While this research has provided valuable insight to planning tribunal decisions on travel plans, the analysis was limited to the Australian state of Victoria, with almost all cases relevant to new developments in metropolitan Melbourne. Future research should therefore seek to understand decisions on travel plans in other jurisdictions.

References

- Davison, L, Enoch, M & Ison, S 2010, 'European Experience of Travel Plans: an Expert Perspective', paper presented to 12th World Conference in Transportation Research, Lisbon, Portugal, July 2010.
- De Gruyter, C 2017, *Travel Plans for New Residential Developments: Insights from Theory and Practice*, Springer Theses, Springer, Singapore.
- De Gruyter, C, Rose, G & Currie, G 2014, 'Securing travel plans through the planning approvals process: A case study of practice from Victoria, Australia', *Cities*, vol. 41, Part A, pp. 114-22.
- De Gruyter, C, Rose, G & Currie, G 2015a, 'Enhancing the impact of travel plans for new residential developments: Insights from implementation theory', *Transport Policy*, vol. 40, pp. 24-35.

De Gruyter, C, Rose, G & Currie, G 2015b, 'Understanding Travel Plan Effectiveness for New Residential Developments', *Transportation Research Record: Journal of the Transportation Research Board*, no. 2537, pp. 126-36.

DELWP 2017, *A guide to the planning system*, Department of Environment, Land, Water and Planning, Victoria, Australia, <<https://www.planning.vic.gov.au/planning-in-victoria/a-guide-to-the-planning-system>>.

Department of Infrastructure and Transport 2011, *Our Cities, Our Future: A national urban policy for a productive, sustainable and liveable future*, Canberra, Australia.

Enoch, M 2012, *Sustainable Transport, Mobility Management and Travel Plans*, Ashgate Publishing Limited, Surrey, England.

Enoch, M & Ison, S 2008, *Expert Perspectives on the Past, Present and Future of Travel Plans in the UK: Research Report*, Department for Transport and the National Business Travel Network, United Kingdom.

Jollon, M 2013, 'Best Practices in Integrating Travel Plans with the Development Approval Process: Examples from the USA', paper presented to Planning Institute of Australia (PIA) 2013 National Congress, Canberra, Australia.

Petrunoff, N, Rissel, C & Wen, LM 2017, "'If You Don't Do Parking Management .. Forget Your Behaviour Change, It's Not Going to Work.': Health and Transport Practitioner Perspectives on Workplace Active Travel Promotion', *PLoS ONE*, vol. 12, no. 1, pp. 1-20.

Planning and Environment Act 1987, Victoria, Australia, Authorised Version No. 106.

Rye, T, Green, C, Young, E & Ison, S 2011a, 'Using the land-use planning process to secure travel plans: an assessment of progress in England to date', *Journal of Transport Geography*, vol. 19, no. 2, pp. 235-43.

Rye, T, Welsch, J, Plevnik, A & de Tomassi, R 2011b, 'First steps towards cross-national transfer in integrating mobility management and land use planning in the EU and Switzerland', *Transport Policy*, vol. 18, no. 3, pp. 533-43.

VCAT 2017, *About VCAT*, Victorian Civil and Administrative Tribunal (VCAT), <<https://www.vcat.vic.gov.au/about-vcat>>.

VCAT undated, *Taking it to VCAT: A guide to Planning and Environmental disputes at VCAT*, Victorian Civil and Administrative Tribunal (VCAT), Melbourne, Australia.

Victorian Civil and Administrative Tribunal Act 1998, Victoria, Australia, Act No. 53/1998.