

UPPER HUTT CITY COUNCIL
PROPOSED (PRIVATE) PLAN CHANGE 40: WALLACEVILLE

MINUTE 3 OF HEARING COMMITTEE

Introduction

1. Further to our previous two minutes, the formal hearing proceedings on Proposed Plan Change 40 (**PC40**) commenced on last Wednesday, 8 July 2015 and we adjourned the hearing on the afternoon of the Friday 10th. Over the course of proceedings, we indicated that we required further information from the PC40 Requestor and the Council in relation to several matters. At the end of proceedings, we had heard from all parties (the Requestor, Council officers and submitters) wishing to be heard. Nevertheless there still remained some scope for further responses from the requestors and Council officers on certain matters. We indicated that we would issue a further minute to:
 - (a) summarise our further information requests; and
 - (b) propose a timetable for further exchanges.

2. This Minute addresses the above matters in turn along with some other procedural matters.

Summary of further information requested

3. All of the matters we set out below have been expressed verbally to the parties present at the hearing. For the formal hearing record and for sake of completeness, however, we have recited them here. We also remind the parties that **their respective responses are important for our further evaluation under s32AA** of the Act. It would assist us greatly if this could be front of mind when formulating the requested responses.
4. We discuss that further below, but first, the index of further matters is as follows:

Matters for the Requestor and Council

- (a) In relation to 'Area B':
 - i. the **vires** of the notified provisions and of any proposed amendments arising over the course of the hearing;
 - ii. Whether the suggested revisions to the Area B provisions (and particularly the jettison of the originally notified future process associated with the inclusion of the Structure Plan for Area B and the proposal to include such a Plan with additional elements through the current decision making process) are **lawful** and within the **scope** of the Plan Change as notified.¹

¹ In terms of items (i) and (ii) above, we need to be assured that the solutions identified at the hearing by the Proposer for overcoming the potential vires aspects of the Area B issues remain within scope of the Plan Change as notified and do not raise any further vires or fairness issues re the opportunity for parties to be involved in the formulation of the Area B Structure Plan. We consider that both items will require a legal response. See footnote 3 also.

- iii. whether the notified/ revised rule framework enables **appropriate involvement** in the planning process **for potentially affected parties**; and
 - iv. Whether, from a RMA section 32 perspective, the rules and methods for Area B are **the most appropriate** to implement the proposed Policies.
- (b) A clear indication of matters of agreement and disagreement between the Requestor and the Council, including (among other matters) reference to:
- i. the need (or otherwise) for the **proposed explanation to Policy 4.4.3**, and the potential relocation of that into the proposed area-specific policies for Wallaceville (i.e. 4.4.16);
 - ii. **whether the area-specific policies require amendment** for improved clarity and guidance, including consideration of the possible combination of the policies (i.e. 4.4.14 to 4.4.16);
 - iii. related to this point, **whether the rules** (particularly the structure plan and associated rule triggers, and assessment matters) **best implement the policies** – by way of example, is the ‘encouragement’ rule approach to higher density housing an effective way (as opposed to direct control) to ensure the Structure Plan’s stated outcome that mixture of housing types will be achieved?
- (c) Confirmation of **the validity of the Pistol Club’s further submission**, given the withdrawal of the substantive submission to which it relates;
- (d) Whether any measures need to be included in the policies, rules and/or matters of discretion/assessment (particularly in respect to subdivision) about **foundation design** (given the geotechnical evidence of Ms Jones for the Requestor) – or whether this is a matter already dealt with in the operative Plan (for example in the General Procedures Chapter, or by reference to the Council’s Engineering Code of Practice);
- (e) In a similar vein to the above, (and given the evidence of the contamination experts for the Proposer and Council) whether additional controls on earthworks are required in for triggering a land use consent – i.e. reducing the cubic volume at which a land use consent is required as a means of putting in place some future controls where post subdivision landowners may seek to put in ornamental ponds or do other minor landscaping and earthworks; and
- (f) Consideration² of the need (or otherwise) for a ‘**pre-condition**’ rule relating to the granting of access from properties directly onto Alexander Road until specific roading improvement measures are implemented and/or the speed limit is reduced – in this instance the parties should indicate their view as to whether such a pre-condition is appropriate, and (irrespective of that view) **how such a rule could be drafted if we were of the view that one is required.**³

² Including the written response from the Council’s roading officer (Mr Haste) whom we did not hear from at the hearing

³ Consideration of, and response to, this matter will need to take into account a number of factors including the comment on Footnote 1 and also the entry on the notified plan change structure plan for Area A. That plan, whilst commenting on direct

5. For the above five items, which are essentially matters for both the Requestor and Council to respond to, our strong preference would be for a joint statement on matters that are agreed. Where there remain issues of disagreement these should be clearly identified in the joint statement. The parties are able to outline the details of their alternative positions in their own separate statements.

Additional matters for the Requestor

- (g) Urban Design input from Ms White on the following matters:
- i. From an urban design perspective whether it is appropriate that the Grant Bush Precinct classification (which allows for more intensive residential development) be extended to the triangular area south of Alexander Road as opposed to the Wallaceville Living classification which provides for more standard residential development;
 - ii. What effects, if any, would there be from an urban design perspective, if **the future allotments directly adjoining Alexander Road did not have direct access to the road**, and (rather) gained access by an internal circulation network provided by future subdivision; and
 - iii. Related to this, whether any changes would be required to the structure plan or other methods if future allotments are precluding from direct access onto Alexander Road.
- (h) Whether the **indicative retail node notations** in the Gateway Precinct are required on the Structure Plan, given the proposed rule framework; and
- (i) A **flow diagram or decision tree** of the proposed objectives, policies, rules and other methods would assist our deliberations and further evaluation under s32AA – this should clearly indicate any remaining points of difference with the Council's preferred view of provisions.

Additional matters for the Council

- (j) Indication as to whether **any other plan changes have been proposed for greenfield residential development since the Plan became operative which are of a similar magnitude to PC40**, including whether such proposals would have contemplated amendments to Policy 4.4.3 to distinguish the **appropriateness of non-residential activities** in greenfield residential areas from such activities in existing residential areas;
- (k) Confirmation of any **comprehensive development that has occurred outside the Residential (Centres Overlay) area** since the overlay was incorporated into the Plan;
- (l) Confirmation of the **'typical' District Plan response in terms of activity status** for Restricted Discretionary Activities that do not meet relevant standards (noting this might differ between zones and/or activities)

6. The above lists are not exhaustive, but these are some of the particular matters we expect additional assistance on from the parties. We also anticipate that the Council and Requestor will respond to matters raised in the oral presentations by submitters.
7. We note that the Council and Requestor have provided us with verbal and written responses to some of the matters set out above. In this respect, the parties should not feel obliged to reiterate in great detail those points they have already clearly documented to us. It may be appropriate in some cases for the parties to simply refer to and/or amplify evidence that has already been presented.
8. That said, we note our specific requirements under s32AA to thoroughly assess all changes made since notification of the proposal at a level of detail that corresponds to the scale and significance of those changes. To best assist us, **we request that the parties reflect the requirements of s32(1)-(4) in presenting their final findings** on the most appropriate provisions we should adopt for our own recommendations.

Responses from submitters

9. For reasons of fairness, we also extend the opportunity for any party who is a submitter to these proceedings to comment on the above matters subject to the topic being commenting on being within the ambit of their submission lodged to this Plan Change. In other words, it is not possible for any party to introduce matters beyond the scope of their submission.

Timetable

10. We set out our proposed timetable for the exchange of further information below. Once we have received all of the information requested, we will consider whether or not we need to reconvene formal proceedings, or whether we are satisfied that we have all of the information we require to complete our deliberations and deliver our recommendation.
11. We expect that all of the additional information made available to us will also be available to all parties (via the website).
12. The proposed timetable for proceedings is as follows:

Completed by (2015)	Action
5:00pm Friday 17 July	<p>Legal advice from Requestor and Council relating to:</p> <ul style="list-style-type: none"> • the vires of the proposed/revised rule framework for Area B; and • the validity of the further submission from the Pistol Club.
5:00pm Monday 27 July	<p>Reply from Council and Requestor in relation to the information requests summarised above and other matters arising over the course of the hearing.</p> <p>The Requestor's reply should append a joint statement with the Council indicating:</p> <ul style="list-style-type: none"> • all agreed amendments to the provisions; • any provisions which remain in contention and the reasons for the disagreement;

	<ul style="list-style-type: none"> • a track change version of the annotated District Plan Chapters, clearly indicating amendments that have been proposed since notification. <p>The Council's reply should also include an updated version of Appendix 2 to Ms Boyd's s42A report, indicating amendments (if any) to the recommendations on submissions received.</p> <p>Any responses from Submitters to the this Minute are also required by this date</p>
5:00pm Wednesday 29 July	Committee to indicate to all parties whether proceedings will be reconvened or whether all necessary information has been provided.
Monday 3 and Tuesday 4 August	Reserve Days for Hearing recommencement (if needed).

13. For the avoidance of doubt, we will only reconvene the proceedings if it is necessary. Our initial thoughts are that the written replies from the Requestor and Council will be sufficient for the purposes of our recommendation; however, **should we need to reconvene, this minute represents formal notice that the hearing will recommence on 3rd of August unless otherwise indicated.**
14. In any event, we will provide further clarification about this matter no later than Wednesday 29 July.

Site and Locality Visits

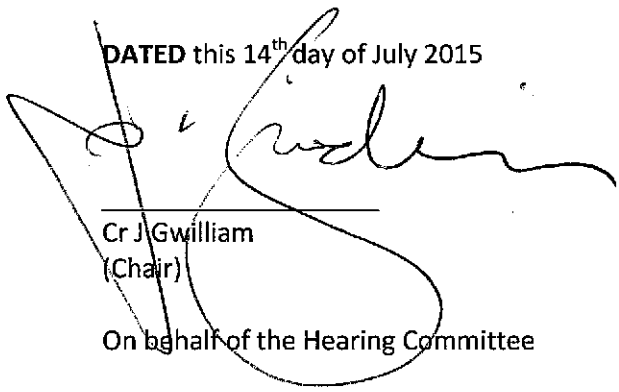
15. We thank the Ministry for Primary Industries for their invitation to visit its site adjacent to the PC40 site. Our hearing advisor, Mr Jones, will contact the Ministry later this month to make arrangements as necessary.
16. We also extend a final invitation to any parties wishing to advise of sites they would like us to visit prior to completing our deliberations. Any party wishing to do so should liaise with Ms Barker in the first instance (see details below).

Next Steps

17. As indicated by the proposed timetable above, we now invite the Requestor and Council to circulate the findings of its legal advisors to all parties by the end of this week.
18. If any party wishes to seek further clarification around the current process or the proposed timetable, please contact UHCC's Planning Technician, Ms Coralie Barker (ph. 04 527 2858 or email planning@uhcc.govt.nz) in the first instance.



DATED this 14th day of July 2015



Cr J Gwilliam
(Chair)

On behalf of the Hearing Committee