

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

Proposed (Private) Plan Change 40
to the Upper Hutt City District Plan:
Wallaceville

SUBMITTER

**MINISTRY FOR PRIMARY
INDUSTRIES**

**SUBMISSIONS ON BEHALF OF
MINISTRY FOR PRIMARY INDUSTRIES**

Introduction

- 1 PPC40 proposes to rezone land alongside the MPI boundary to Commercial and Residential. It is MPI's submission that, without strict controls over new activities on its boundaries, potentially significant adverse effects may result.

Plan Change as Notified

Residential Zoning

- 2 The land proposed to be rezoned Residential will form part of either the Urban or Grants Bush Precincts.
- 3 The existing Residential zone rules (which provide for two storey dwellings as a permitted activity) will apply in the Grants Bush Precinct. The Urban Precinct is proposed to be high density residential (three storey attached terrace and low rise apartments). Therefore changes to the permitted activity standards were sought in the plan change as notified to allow buildings up to 11m in height¹ with outdoor living courts above ground level as a permitted activity in the Urban Precinct².

¹ Rule 18.15

² Rule 18.13

- 4 Two new permitted activity standards were proposed to be introduced for Residential zoned land within the Wallaceville Structure Plan Area to address reverse sensitivity effects in relation to the MPI site:
 - (a) Sleeping rooms with openable windows on upper levels of two or more storey dwellings within 10m of the MPI site will be required to have mechanical ventilation³;
 - (b) A 2m wooden fence will be required for sites which adjoin the MPI site⁴.
- 5 Comprehensive Residential Development which complies with these standards is proposed to be a restricted discretionary activity and able to be processed on a non-notified basis⁵.
- 6 Subdivision in the Residential zone which meets the permitted activity standards is proposed to be a restricted discretionary activity and able to be processed on a non-notified basis⁶.

Commercial Zoning

- 7 Two new permitted activity standards were proposed to be introduced for Commercial zoned land within the Wallaceville Structure Plan Area to address the effects of noise on residential use in that area (as well as reverse sensitivity effects in relation to the MPI site):
 - (a) Habitable rooms are required to have mechanical ventilation⁷;
 - (b) A 2m wooden fence will be required for sites which adjoin the MPI site⁸.
- 8 Retail activity, restaurants, offices, early childhood centre and residential accommodation above ground floor are proposed to be permitted activities in the Commercial zone provided they meet the permitted activity standards⁹. Activities which don't comply with these standards are a discretionary activity.

³ Rule 18.16A

⁴ Rule 18.16C

⁵ Rule 18.28A

⁶ Table 18.1

⁷ Rule 20.14A

⁸ Rule 20.17A

⁹ Table 20.2

- 9 Visitor accommodation on Business Commercial zoned land is already a permitted activity in the Commercial zone¹⁰.
- 10 Garden centres and all activities other than Retail activity, restaurants, offices, early childhood centre and residential accommodation are proposed to be a discretionary activity.
- 11 New buildings in the Commercial zone which comply with the standards for permitted and controlled activities are proposed to be restricted discretionary activities¹¹ and able to be processed on a non-notified basis¹². New buildings which don't comply with these standards are discretionary activities.
- 12 Subdivision in the Commercial zone which meets the permitted activity standards is proposed to be a restricted discretionary activity and able to be processed on a non-notified basis¹³.

MPI's Submission

- 13 MPI's submission relates to reverse sensitivity effects (primarily related to noise and security). It also sought changes to Objective 4.3.5.
- 14 The amendments to Objective 4.3.5 which have agreed between Ms Blick and Ms Boyd (and attached to the second expert joint conferencing statement dated 6 July 2015) are acceptable to MPI.
- 15 The mitigation measures proposed in the plan change as notified are set out above. The applicant and MPI have now reached the following agreement which addresses MPI's reverse sensitivity concerns:
 - (a) A 2m wooden fence will be required for sites which adjoin the MPI site (as originally proposed by the applicant);
 - (b) An increase in the proposed ventilation standards within the residential zone in the plan change as notified from 10m to 50m from all boundaries of the MAF1 site. I understand that the same agreement has been reached with KiwiRail and that the

¹⁰ Table 20.2

¹¹ Rule 20.30A

¹² Rule 20.30A

¹³ Table 20.1


standard drafted by the applicant refers to this requirement in sleeping rooms and studies. I further understand that Ms Boyd has some concerns as to the reference to 'sleeping rooms and studies' and this may be an issue which she has discussed further with Ms Blick.

- (c) The first row of dwellings adjoining the MPI boundary (to a depth of 25m) within both the Urban Precinct and the Wallaceville Living Precinct will be limited to a single storey;
 - (d) The windows on the facades of the first row of buildings (i.e. 25m depth) on the plan change site and the Buddle Block which face the MPI boundary will non-opening.
- 16 This agreement was concluded yesterday morning.
- 17 The parties and the Council have started discussions about the mechanism(s) to best reflect this agreement (i.e. policies/rules in the Plan and/or private agreement i.e. covenant).
- 18 It needs to be recorded by covenant which will enable MPI to enforce these restrictions should it be required to do so.
- 19 However it is important that these restrictions on the use of the relevant part of the land are also reflected in the Plan, so that the Council has a role in oversight and enforcement of the provisions and there is certainty as to the requirements/restrictions which apply to that part of the land. The Plan should alert owners of the land that they cannot apply for resource consent to undertake the restricted activities. Subdivision consent will be required to develop the land in any event, therefore it makes sense for the Council to have oversight of development on the land, and (as noted in its submission) MPI wishes to avoid any ongoing involvement in development once the plan change process has been completed.
- 20 I prepared an initial draft of the relevant standards for discussion and sent this to Ms Blick and Ms Boyd late last night (attached as Appendix A).
- 21 Ms Boyd has suggested that residential land use on the sensitive land on the MPI boundary require resource consent as a controlled activity

and I support this. As noted above, this should not impose any additional burden on a developer as they will need to apply for subdivision consent in any event. Her suggestion is that non-compliance with the standards could then be a prohibited activity so that the restrictions cannot be overcome by way of resource consent application. I also support this as it provides the certainty required.

- 22 The parties have not yet been able to discuss this in detail. It would be beneficial if they could do so and provide the panel with some agreed suggested wording, perhaps while the panel has adjourned and before it reconvenes.

DATED this 9th day of July 2015



M A Thomas

Counsel for Ministry for Primary Industries

DRAFT FOR DISCUSSION – 8/7/15

Controlled activity standards:

Within the Wallaceville Structure Plan Area:

1. A 2m close boarded fence shall be erected along the boundaries of a site where it adjoins a site designated as MAF1. The fence shall be constructed of materials having superficial mass of not less than 10kg per square metre and shall be constructed prior to occupation of buildings on the site;
2. Sleeping rooms and studies *[any thoughts on how to address Felicity's concern re sleeping rooms and studies assuming this still an issue]* in buildings within 50m of a site designated MAF1 shall have a positive supplementary source of fresh air ducted from outside at the time of fit-out. For the purposes of this requirement, *[a bedroom is any room intended to be used for sleeping]*. The supplementary source of air is to achieve a minimum of 7.5 litres per second per person; *[Were there some technical specifications referred to somewhere for this?]*
3. Windows in buildings within 25m of a site designated as MAF1 which face towards a site designated as MAF1 shall be non-opening.
4. Buildings in the Urban Precinct and Grants Bush Precinct within 25m of a site designated as MAF1 shall not exceed a single storey (? metres).