



OFFICE USE ONLY

Submission number **249**

PROPOSED PLAN CHANGE TO THE UPPER HUTT CITY COUNCIL DISTRICT PLAN
Proposed Plan Change 50 – Rural Review

The closing date for submissions is **Friday, 17 November 2023, at 5pm**

To Upper Hutt City Council

Submission on Proposed Plan Change 50 to the Upper Hutt City Council District Plan

Deliver to: Upper Hutt Civic Centre, 838 – 842 Fergusson Drive, Upper Hutt 5019

Post to: Planning Policy Team, Upper Hutt City Council, Private Bag 907, Upper Hutt 5140

Scan and email to: planning@uhcc.govt.nz

Details of submitter

When a person or group makes a submission or further submission on a Proposed Plan Change this is public information. By making a submission your personal details, including your name and addresses, will be made publicly available under the Resource Management Act 1991. This is because, under the Act, all submissions must be published to allow for further submission on the original submission. There are limited circumstances when your submission or your contact details can be kept confidential. If you consider you have reasons why your submission or your contact details should be kept confidential, please contact the Planning Team via email at planning@uhcc.govt.nz.

NAME OF SUBMITTER Brian and Robyn Smith

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I could gain an advantage in trade competition through this submission (please tick one)

): yes / no

Only answer this question if you ticked 'yes' above:

I am / am not (tick one) directly affected by an effect of the subject matter of the submission that:

- (a) adversely affects the environment; and
- (b) does not relate to trade competition or the effects of trade competition.

Details of submission

The specific provisions of the proposed Plan Change that my submission relates to are as follows:

See attached submission - zoning

(7 pages)

USE ADDITIONAL PAPER IF NECESSARY

My submission is that:

See attached submission - zoning should be changed to allow subdivision to 4ha minimum

PLEASE STATE IN SUMMARY THE NATURE OF YOUR SUBMISSION. CLEARLY INDICATE WHETHER YOU SUPPORT OR OPPOSE THE SPECIFIC PROVISIONS OR WISH TO HAVE AMENDMENTS MADE, GIVING REASONS. PLEASE USE ADDITIONAL PAPER IF NECESSARY

I seek the following decision from the local authority:

See attached submission - rezoning of properties in Colletts Road to allow subdivision to 4ha minimum

PLEASE GIVE PRECISE DETAILS AND USE ADDITIONAL PAPER IF NECESSARY

Please indicate whether you wish to be heard in support of your submission (tick appropriate box):



I do wish to be heard in support of my submission.



~~I do not wish to be heard in support of my submission.~~



~~I do wish to make a joint case.~~

Please indicate whether you wish to make a joint case at the hearing if others make a similar submission (tick appropriate box):



I do not wish to make a joint case.

Signature and date

Signature of person making submission or person authorised to sign on behalf of person making submission:

SIGNATURE

R. J. Smith. B. J. Smith

DATE 15.11.23

PC50

Submission of Brian and Robyn Smith

When rural ratepayers are feeling outraged at the impact of the proposed Plan Change 50, there is something wrong. They are feeling aggrieved that they have been left out of the discussion, and now told that their rights to subdivide their properties will be severely restricted.

When rural ratepayers also realize that the National Policy Statement for Highly Productive Land (NPS) results in policy that is unjust and discriminatory, they should be confident that the Council will be able to provide answers. Not so! How can neighbouring land of the same quality be treated differently? Is the NPS bad policy? Will it survive a review of the Resource Management Act under the new Government?

But with this Council there is usually another agenda. The real tension in Mangaroa Valley is between rural subdivision and urban expansion, and I believe that for this reason the Council is attempting to use the NPS for another purpose.

Consultation

The Council should be ashamed of its consultation process. Town planning is complex and technical, and having two large volumes dumped on us without the benefit of a plain English consultation document is unacceptable. There are hundreds of pages of spreadsheets and track changes which are not easy reading. I'm not sure whether this demonstrates a lack of belief in the work that is being presented, or just arrogance from the Council by paying lip-service to the requirement to undertake a consultation process.

National Policy Statement for Highly Productive Land (NPS)

In a statement from the Beehive on 18th September 2022 entitled "Government enhances protection for our most productive land" it was said that the NPS is intended to enhance protection for our "most fertile and versatile land" for food and fibre production. It refers specifically to "our main food production areas like Auckland, Waikato, Hawke's Bay, Horowhenua and Canterbury". The Environment Minister David Parker said that this policy "will introduce strong restrictions on the use of highly productive land for new rural lifestyle developments". I believe that this is a reference to regional areas of new rural lifestyle development, not to specific pockets of land within an established rural lifestyle area.

Mangaroa Valley was previously a dairy farming area, but that era has passed. It remains good pastoral land, is very popular with the equestrian community, but will never be able to compete with the warmer climates of Horowhenua and Hawkes Bay for the growing of fruit and vegetables. We can grow fruit and vegetables, but if the soil and climate had been ideal for large scale horticulture that would have happened years ago - but it hasn't!

In the 1990s there was a large hydroponics unit on the property we now own in Colletts Road growing tomatoes for the commercial market. That failed. Similarly a

venture into angora goats was short-lived! Well done to Mangaroa Farms for their vegetable gardens, but that enterprise is relatively new, and is supported by a large area of arable farmland used for sheep and beef.

Our properties in Colletts Road

We have lived in Colletts Road, Mangaroa Valley since 1984. The two larger blocks of land impacted by PC50 are 22.58 hectares at 95 Colletts Road purchased in 1983, and 17.28 hectares at the end of Colletts Road which we have owned since 1986. Both blocks were previously part of neighbouring dairy farms, but have been used by us for beef production and grazing of horses. We are surrounded by lifestyle blocks. Under the proposed PC50 we will no longer be able to subdivide into 4 hectare blocks - it will be restricted to 4 ha minimum but 16 ha average.

Ironically we have been using the land for productive purposes while many of the neighbouring lifestyle blocks are either hobby farms or may be productive to the extent that they cover rates and insurance only, while others will do a little better. It is a case of the same type of land on different sides of the fence being treated differently. This is unjust and discriminatory.

The reality is that Mangaroa Valley is now characterized by lifestyle living with a large proportion of income derived from off-farm employment in professions and businesses. But the NPS is a one-size-fits-all policy that fails to allow these factors to be taken into account. It is based on a system of soil classification that prevents the further subdivision and fragmentation of land that is “highly productive”.

The following statement on the NPS is from an article entitled “Highly Productive Soils - Big Picture Thinking vs Private Landowners Needs” (Anna Bensemann, Senior Planner, Baseline Group, Nov 15 2022):

“...like any government lead policy, the devil is in the detail. And the real issues will arise when the policy is implemented by local government on a case by case basis. Policies that are written for the big picture often overlook the site specific unique features or anomalies that mean private landowners should be able to further develop their Class 1,2 or 3 lands.”

Imposing such a prescriptive policy on this area discriminates against those of us who have just lived here, and farmed here for longer than most! The Council is well aware of this anomaly.

According to the Council’s “Plan Change overview” Upper Hutt’s rural environment has land considered to be highly productive because it is either class 2 or 3. “This land will generally be zoned Rural Production unless it is already highly fragmented through subdivision or development.” But the Valley floor in Mangaroa Valley is already fragmented by subdivision, and has developed its own character for rural lifestyle living. People live here for the rural lifestyle, and may or may not use their land productively.

We have had recent discussions with Quotable Value Ltd regarding our new property valuations which we consider are particularly high. What will the proposed PC50 do

to these valuations and to our rates? I quote from an email explaining their methodology for valuations:

“The properties that have been objected to are situated in the highly sort after rural/lifestyle area of Upper Hutt and if presented to the market it would be highly likely that these would be purchased by developers and subdivided into lifestyle blocks... For the 22.58ha and 17.28ha blocks I have determined how many individual blocks it would likely be divided into, and what the estimated selling price would be....”

These are definitive statements on the character of this area. It is not highly productive land in terms of the NPS, but an established area of rural lifestyle living. Trying to overlay the NPS on this area is like the square peg/round hole scenario. It is unfair, results in discrimination, and just doesn't work! The zoning of the Valley floor as Rural Production is wrong - it should remain as Rural Lifestyle with a minimum lot area of 4ha.

Class 3 soils

Does Mangaroa Valley have Class 3 soils which put it into the category of “highly productive land”? Our land at 95 Colletts Road was originally river flats, so is very stoney. Digging a post hole requires a crowbar to loosen the stones. At times the ground is very wet with significant run-off from surrounding hills and from Colletts Road. The property at the end of Colletts Road is a mixture of sloping land and rolling hills, dissected by several creeks with culverts providing access to paddocks, and has hilly land planted in trees. Part of the land is of good quality loam but that area is relatively small. Both properties are arable land - productive, but not highly-productive. The on-going invasion by feral deer is not welcome!

Soil assessments undertaken by the developer on the Gabites Block and 102 Marchant Road, Kaitoke provide guidance. Our land at 95 Colletts Road is in the same general area and same type as the Gabites Block (less than 2 km away). The soil assessment report for that land concluded that there were no class 1 or 2 soils, and that the class 3 soils identified were considered to be modified soils, were spread across non-contiguous areas, were not suitable for intensive productive use ie highly productive use, such as intensive cropping, and were only suitable for pastoral grazing. Further, that the valley floor section of the Block was dissected by streams and gullies. It concluded that “the site is unlikely to be mapped as highly productive land”, was exempt and the NPS did not apply.

Our property at the end of Colletts Road has some characteristics of the land at 102 Marchant Road. The report for this property found that there were some areas of highly productive land but that these areas were fragmented, other areas were poorly drained, there was no intensive horticulture industry or infrastructure in the area, and that as the land was bordered by existing rural residential development there was little opportunity for amalgamation with other land of a similar quality on neighbouring sites. “Although the soils classified as high class and highly productive land are capable of intensive production based on the soil features, there are soil limitations and land use considerations that in practice, affect the productive potential of these

areas". In other words, soil tests alone were not definitive. Our properties in Colletts Road share many of these same characteristics.

On 1st Nov I asked the the planners - "If soils in the Rural Production zone are tested and not in class 3, how does that affect the ability to subdivide?" A reply on 5th Nov indicated that "if soils on a property to be zoned Rural Production were tested and found not to be Class 3, this would be incredibly helpful evidence to provide to Council....Any soil testing would help support any submission for rezoning a property, by giving evidence and scope for changes to proposed zoning". That is helpful, but I believe that the Council already has that evidence.

In a report prepared for the Council in January 2009 by Beca Carter Hollings and Ferner Limited entitled "Maymorn Structure Plan - Site Analysis and Capacity Study" there is an analysis of soil type and topography of the Mangaroa Valley floor (pages 10 and 12) with supporting maps. The soil is categorized as Heretaunga Silt Loam - LUC 3s2, described as "poorly to moderately sorted gravel". According to the map, our two properties in Colletts Road are of the same soil type as the Gabites Block with similar topographical features typical of the valley floor. The report on 102 Marchant Road stated that the Heretaunga Stony Silt Loam (LUC 3s2) is not high class soil due to soil depth and wetness limitations. How much time and money must we waste on soil testing and just re-inventing the wheel? Based on this evidence our properties should not be zoned Rural Production, or treated as highly productive land.

A further email from the Council on 8th Nov stated as follows:

- that the 2009 Beca study and Landcare Research have identified that much of the land in the Valley is class 3, which is highly productive land, but in fact the Beca report merely describes the land as "arable";
- that for an accurate assessment of a property classification a site specific investigation is required as this would be based on current conditions of the area - but the assessment for the Gabites Block was undertaken in 2021 and confirms the findings of the 2009 Beca Report;
- that specific testing of a property would provide evidence as to how it should be classified, and may support a change in classification (zoning). Soil tests could be undertaken, but would this prevent further obfuscation by the Council? Probably not!

PC 50 progress

On several occasions during the past year my husband has visited the Council to enquire on progress with PC50. The time-frame kept changing. There was a wall of silence! Then when PC50 was presented for consultation there was public outrage at the restrictions imposed on rural subdivision.

I have asked the Council planners for further information:

On 27 Oct - "I have previously asked you to identify properties in the Mangaroa Valley currently zoned for subdivision into 4ha blocks. I have not received any response. We own two such properties, but there may be others."

The response on that same day gave a reference to the website maps for properties that are either zoned or proposed to be zoned Rural Production with an explanation that the 4 ha size is a minimum and the subdivision would be required to meet a 16 ha average. If a property is less than 32ha then it would likely require resource consent as a non-complying activity.

I re-phrased the question - "So how many properties in Mangaroa Valley are affected by the change from 4ha minimum to 16ha average?" On the 8th Nov I received a reply indicating that if I looked at the maps and the Appendix attached to the s32 Report I would be able to work this out for myself! This is evasive and unhelpful! From my local knowledge I think the only other property in the northern area of Mangaroa Valley would be Carsons on Parkes Line Road.

The Council is fully aware that the proposed PC50 is discriminatory. Owners of the 4-5 hectare lifestyle blocks which cover most of the Valley floor are bemused that their properties are being classified as highly productive, while those of us who have owned and farmed larger blocks for much longer are told that the Valley floor must now be protected from further subdivision.

Council meetings

I continued my research by asking the following:

On 27th Oct - "Could you please also identify meetings of either the Policy Committee or Ordinary Council at which PC50 was discussed - or maybe the public has been excluded from these meetings." I had previously searched minutes of Policy Committee meetings and found nothing on PC50. But apparently at a meeting of the Ordinary Council on 20th September the Council gave approval for the proposed PC50 to go out for consultation. A preliminary report described the work undertaken, but gave no details of other meetings or workshops. Documents attached to the agenda were just the documents presented for consultation.

In the Introductory Section of the s32 Report (page 8, para 20) reference is made to the earlier consultation on PC50 in 2020-21. Nothing is mentioned about the next stage when the NPS was being considered, then paragraph 21 refers to the proposed PC50 being notified, and indicates that "detailed workshops" have been held with elected members. So what was discussed behind those closed doors ?

It was very timely that on 24th October an article appeared in Stuff.co.nz entitled "Councils given dressing-down by chief ombudsman for holding workshops behind closed doors" in which the Chief Ombudsman Peter Boshier stated that "all council workshops should be open by default with their time and location advertised in advance". He had reviewed the conduct of eight Councils following complaints that they were "**undermining local democracy**" by making critical decisions away from the public eye. He concluded:

"It is understandable that the public is sceptical when their elected members meet behind closed doors, particularly where the reasons for closing the meeting or workshop are not made sufficiently clear, and little or no information about what took place in a closed meeting or closed workshop is made available after the fact."

He highlighted the Local Government Act's requirements that local authorities should conduct business in an **“open, transparent, and democratically accountable manner.”** Ouch! (Thanks Peter) Maybe the Upper Hutt City Council has just been added to his watch list!

So, what was going on behind those closed doors? While the Council was considering the NPS and how to incorporate this policy into PC50 (which would restrict the rights of rural ratepayers to subdivide), there were two applications being considered for large rural subdivisions, ie a plan change for the Gabites Block, and an application to subdivide a large rural property at 102 Marchant Road. It's just the timing that is “interesting”. Both were processed and approved by Council prior to the proposed PC50 being notified for consultation. If you are feeling aggrieved that your rights to subdivide your land have been curtailed, then rightly so! Is the Council looking after your interests? Probably not.

It's a matter of perception. When something doesn't seem right, or in other words, when a policy that severely restricts the ability of rural ratepayers to deal with their land is dumped on them without any prior engagement, then something is wrong! I think the Council needs to explain, and take appropriate remedial action!

An alternative agenda?

There has always been a school of thought that eventually the Mangaroa Valley would succumb to urban expansion.

Preliminary work on the Maymorn Structure Plan in 2009 involved a feasibility study for use of the northern area of the Mangaroa Valley for this purpose. Residents of the Valley were vehemently opposed to the Maymorn Structure Plan (MSP) and its ridiculous assumption that a large rural/residential development could be located around a transport hub at the Maymorn Station. Still waiting for those trains! This plan was shelved and then recently revived in a more limited form as a plan change for the Gabites Block. One of the difficulties for the MSP was the multiplicity of ownership of properties surrounding this Block. It was perceived as a disadvantage for a large-scale development.

In recent years the area around the station has gradually been zoned and subdivided into smaller rural lifestyle blocks. Then in 2021, the proposed PC50 provided for large areas of land to be zoned as either Rural Lifestyle or Settlement Zones. The proliferation of smaller blocks across the valley floor eg. along Flux Road to the base of the Mangaroa Hill, and along Parkes Line Road meant that the valley floor would be more vulnerable to future subdivision. Much of this has changed under the current proposal.

But the NPS provides for land to be sacrificed for urban expansion, and developers will always be hungry for more. For this reason I believe that the Council is reluctant for any larger blocks of land in Mangaroa Valley to be further subdivided, and is trying to achieve this by imposing the NPS over an area that is already characterized by rural lifestyle living. The Council is trying to use the NPS to its own advantage. For those of us who own and farm this land, this is unjust and discriminatory.

Conclusions

- That the documents presented by the Council on a subject that is complex and technical, are inadequate for consultation purposes;
- That the Mangaroa Valley floor is already fragmented and characterized by Rural Lifestyle living, and the zoning as Rural Production is wrong;
- Applying the NPS to land that is not currently subdivided, but surrounded by lifestyle blocks is unfair and discriminatory. It should be zoned Rural Lifestyle with a minimum lot area of 4 ha;
- That the Council already holds evidence from the Soil Assessments for the Gabites Block and preliminary work undertaken for the Maymorn Structure Plan, that the soils of the Mangaroa Valley floor are not highly productive, and accordingly the NPS should not apply;
- That the Council should heed the advice of the Chief Ombudsman and act in a more “open, transparent, and democratically accountable way”;
- That the real reason for preventing further subdivision of larger blocks on the Mangaroa Valley floor is to preserve the integrity of this land for future urban expansion, and the Council is attempting to use the NPS for this purpose. This is wrong!

Robyn Smith