



## **DECISION OF THE MACKENZIE DISTRICT COUNCIL**

### **DISTRICT PLAN CHANGE 8 – RESIDENTIAL BUILDING STANDARDS & MINIMUM LOT SIZES**

#### **INTRODUCTION**

1. Proposed Plan Change 8 relates to building and subdivision in Residential 1 Zones. The existing objectives and policies anticipate a residential environment which maintains ample open space and the existing medium density character.
2. The notified Plan Change 8 amended the building and subdivision standards to better reflect “medium density” and to reflect changes in land use and lifestyle since the inception of the Plan by:
  - Controlling residential density by permitting only one dwelling per Residential site to reduce instances of inappropriate second dwellings being established on sites.
  - Permitting a minor residential unit on residential lots in addition to the main dwelling to replace the existing requirements relating to family flats.
  - Slightly increasing maximum building and hard stand coverage to recognise the introduction of “hard surface” into the rule.
  - Reducing permitted maximum height for buildings.
  - Providing amended minimum lot sizes for subdivision
  - Providing for different minimum lot sizes for infill and green field subdivisions.
  - Providing a differentiation between front and rear sites in subdivision minimum lot size.
  - Provide minimum lot sizes for subdivision in unsewered areas.
  - Introducing new definitions of “Front Lot”, “Rear Lot”, “Hard Surface” and “Minor Unit” and removing the definition of “Family Flat”.

#### **THE HEARING**

3. A hearing on the proposed plan change was held on Tuesday 20 June 2006 in the Mackenzie District Council Chambers, Fairlie. The hearing panel was made up of Mayor John O'Neill and Councillors Dave Pullen, Graeme Page, Barry Stringer, Simon McDermott, Evan Williams and John Gallagher. The Council staff attending the hearing were Glen Innes (Chief Executive Officer), Martin

King (Manager – Planning & Regulations), Hayley Shearer (Senior Planner) and Jason Beck (Manager – Finance & Administration and Acting Committee Clerk).

4. The hearing was attended by Peter Bell, a submitter in opposition to the changes, who spoke in support of his submission. A letter expressing support for the Council officer's recommendations was received from the Canterbury Regional Council, a submitter in support of the changes, and tabled at the hearing.

## **SUBMISSIONS AND FURTHER SUBMISSIONS RECEIVED**

5. The Council received submissions from 22 submitters to the proposed Plan Change, 13 generally in support and 9 generally in opposition. No further submissions were received. Attached is the full list of submitters with a summary of their submissions.

## **DECISION**

6. In response to each of the submissions received and decisions sought, the hearing panel has made the following decisions:

<b>Submitter</b>	<b>Decision Sought</b>	<b>Decision</b>
Kathryn Archbold (1.1)	To approve the proposed changes regarding residential building and lot sizes.	ACCEPTED
Peter Bell (2.1)	Section 6 Rule 3.1.1.a - To maintain the present Residential Density.	REJECTED
(2.2)	Section 12 Rule 6.a.i – Maintain the current allotment size where public reticulation is available.	REJECTED
(2.3)	Section 12 Rule 6.a.iv – To maintain the current building commitment rules.	REJECTED
(2.4)	To protect the residents of Regent Street, bring in a bylaw to stop trees being planted higher than 7.5 metres in the town boundary.	REJECTED
Barry Brien (3.1)	Do not include the township of Fairlie in proposed plan change 8.	REJECTED
Allen Bryant (4.1)	Unwanted derelict houses coming into Twizel township	REJECTED
Canterbury Regional Council (5.1)	That the changes as proposed are incorporated into the Mackenzie District Plan, with amendments as specified below.	ACCEPTED
(5.2)	Proposed definitions for “Front Lot” and “Rear Lot” be amended by the inclusion of the words “... a length of ...” between the words “having” and “frontage”.	ACCEPTED
(5.3)	That the “Note” attached to proposed Rule 6.1.ii – Unsewered Areas be amended to include reference to the possible need for resource consent from the CRC for sewage effluent discharges.	ACCEPTED
G P Cayford (6.1)	For the minimum lot sizes for infill subdivision in District Plan to be changed.	ACCEPTED

Leo & Marie Crampton (7.1)	To approve the proposed changes regarding residential building and lot sizes.	ACCEPTED
Shelley & Peter Dobson (8.1)	To approve the proposed changes regarding residential building and lot sizes.	ACCEPTED
Philip Gray (9.1)	Reinstatement of 3.1.1.a (i) Minimum net area of a site for each residential unit shall be 360m <sup>2</sup> . Would like to see the clause retained or provision in the plan to site two or more dwellings per site, with a minimum of 360m <sup>2</sup> per dwelling site without subdivision.	ACCEPTED IN PART
(9.2)	Amendment to 3.1.1.c (iii) The maximum height of any building shall not exceed 6.0 metres.	REJECTED
Joanne Harrex & Hayden Parke (10.1)	To approve the proposed changes regarding residential building and lot sizes.	ACCEPTED
Allan Kerr (11.1)	To approve the proposed changes regarding residential building and lot sizes.	ACCEPTED
Graham McDonald (12.1)	Support provisions.	ACCEPTED
Geoffrey & Christine Millar (13.1)	Minimum section size should be 400m <sup>2</sup> .	ACCEPTED
(13.2)	Sections 700m <sup>2</sup> and bigger should be allowed to have 2 dwellings on it under the one title.	REJECTED
Mandy Napier (14.1)	Retain current height restriction as a minimum.	ACCEPTED
Jane O'Neill (15.1)	To approve the proposed changes regarding residential building and lot sizes.	ACCEPTED
Callum & Jacinda Robertson (16.1)	To approve the proposed changes regarding residential building and lot sizes.	ACCEPTED
Barbara Rogers (17.1)	To approve the proposed changes regarding residential building and lot sizes.	ACCEPTED
Garry Rogers (18.1)	To approve the proposed changes regarding residential building and lot sizes.	ACCEPTED
John & Lois Skinner (19.1)	We would appreciate the building height to be retained at 8 metres.	ACCEPTED
Walter & Zita Speck (20.1)	To keep the building height in Residential 1 areas at 8m.	ACCEPTED
(20.2)	To increase building coverage area to 45%.	ACCEPTED
Bruce Speirs/ Land Services Group (21.1)	Amend definition of "Front Lot" - Front Lot: means a site having at least 12 metres frontage to a public road or roads.	ACCEPTED
(21.2)	Amend definition of "Rear Lot" – Rear Lot: means a site having less than 12 metres frontage to a public road or roads.	ACCEPTED
(21.3)	Amend 3.1.1a Residential Density as follows: (i) In the Residential 1 or 2 Zones, there shall be a maximum of one residential unit per site. (ii) One minor unit shall be permitted on each Residential 1 site in addition ... (iii) Deleted.	ACCEPTED IN PART
(21.4)	Amend 6.a.i Sewered Areas as follows:	ACCEPTED

	Front lots – 400m <sup>2</sup> Rear lots – 500m <sup>2</sup>	
Annette Stanley (22.1)	Retain the status quo with Residential Density rule 3.1.1.a.	REJECTED

## REASONS FOR DECISIONS

### *General Submissions*

7. The hearing panel accepted the general submission of Canterbury Regional Council (5.1), agreeing that overall the changes are consistent with existing District Plan policy and also the Canterbury Regional Policy Statement.
8. The panel did not accept the submission of B Brien (3.1) requesting that Council not apply any of the changes to Fairlie until a town planning exercise has been undertaken and the Council is clear on how the community wishes for the town to develop. The District Plan applies District wide and specific areas can not be excluded pending further work. While the result of the Fairlie development study may prove that the community wants changes to the rules or zonings in the District Plan, this process can take a long time (as it has in Lake Tekapo and Twizel) and any development plan is not a statutory document. In the meantime, development could continue in an inappropriate manner.

### *Definitions*

9. Two submissions, from the Canterbury Regional Council (5.2) and B Speirs (21.1) and (21.2) referred to the need for an amendment to the proposed definitions for “Front Lot” and “Rear Lot” to improve their clarity and for ease of interpretation. The panel agreed that the proposed amendments to these definitions would have a positive effect in clarifying the situations when a proposed lot is considered to be “front” or “rear” so the definitions are amended to clarify that “front” and “rear” lots refer to the length of road frontage.

### *Residential Density*

10. The panel did not accept the submissions of P Bell (2.1) and A Stanley (22.1) as these submitters suggested that it is appropriate for the rules to effectively allow reasonably high density development over whole towns to ensure that persons requiring smaller outdoor areas are adequately provided for. The panel noted that the residential areas are already divided into two zones with the Residential 2 zone allowing for higher residential density and multiple dwellings or units which could be more suitable for the elderly persons, persons renting or couples without children highlighted by the submitters. All three towns have significant areas which are zoned appropriately for this higher density residential use. Provision is also included in the Plan for a reduced residential density when the development is for the purposes of elderly persons housing (i.e. retirement villages etc).
11. The panel accepted the submissions of K Archbold (1.1), L & M Crampton (7.1), S & P Dobson (8.1), J Harrex & H Parke (10.1), A Kerr (11.1), G

McDonald (12.1), J O'Neill (15.1), C & J Robertson (16.1), B Rogers (17.1) and G Rogers (18.1) as they supported the change citing amenity reasons. The existing policies in the Plan (not subject to change) are essentially amenity related and anticipate open space, privacy, pleasant outlook, access to sunlight and medium density building as the environmental outcomes of the zone.

12. The submissions of P Gray (9.1) and G & C Millar (13.2) opposed the plan change, suggesting that it was appropriate for multiple dwellings to be established on some sites. The panel rejected the submission of Mr and Mrs Millar as this advocated an even greater residential density than what the Plan previously allowed and this was not considered to meet the existing policies in the Plan.
13. Mr Gray requested that "some provision be made" for additional units on some sites in Residential 1 Zones. The panel did not agree that more than one unit should be provided for as a permitted activity on any sites but agreed that specifying additional units as a non-complying activity was inappropriate. The panel agreed to amend the status of additional units to "discretionary" to signal to developers that these may be appropriate on some sites within the Residential 1 Zone but still allow the Council the opportunity to make each individual decision. The existing assessment matters allow the Council to consider such matters as the compatibility of the building with the local area, the retention of open space, the visual domination of the building and the ability to provide parking and manoeuvring space.
14. The submission of B Speirs (21.3) effectively asked the Council to tighten controls on residential use over the whole town by eliminating the differentiation between Residential 1 and 2 zones and removing the allowance for reduced site density for elderly persons housing. This part of the submission was rejected as it is recognised that it is important for the Council to ensure that the different zonings and rules allow for a variety of types of development suitable for a wide range of people. In addition, Mr Speirs also suggested an amendment in the wording of the Residential 1 Zone density rule to ensure that the rule is not interpreted to mean that all sites must have a residential unit on them. This was accepted by the hearing panel as a sensible amendment.

#### *Building Coverage*

15. The single submission in relation to increased building coverage from W & Z Speck (21.2) supported the change. The panel accepted this submission.

#### *Building Height*

16. The submissions of M Napier (14.1), J & L Skinner (19.1) and W & Z Speck (20.1) requested the retention of the 8 metre maximum rather than a reduction to 7.5 metres as proposed. The panel agreed that, in order to allow landowners flexibility to achieve the "high country alpine theme", efficient use of space and retain views, it was appropriate to retain the 8 metre height and accept these

three submissions. In making this decision, the panel noted that the Lake Tekapo Design Guide advocates the use of the “high country alpine theme” and its associated design styles. In addition the Plan’s existing policies do advocate flexibility in building design and allowing individual landowners to establish buildings according to their own needs. This ensures that buildings in the Residential area are a mixture of styles and scales.

17. The panel considered the request of P Gray (9.2) to lower the maximum building height to 6m to be inconsistent with the policy advocating flexibility in building design and therefore the submission was rejected.

#### *Subdivision Minimum Lot Sizes – Reticulated Areas*

18. The submission of B Speirs (21.4) supported the changes in principle but requested that there be no differentiation between subdivision on large lots and smaller lots as the rules should be effects based not based on the size of the allotment. The panel accepted this point and resolved that the 400m<sup>2</sup> / 500m<sup>2</sup> minimum lot sizes would now apply across all potentially subdividable lots. The panel felt these sizes would have positive effects on amenity, particularly the perception of open space on rear lots.
19. In deciding on these minimum lot sizes, the panel rejected the submissions of P Bell (2.2) and (2.3) who suggested some alternative sizes. In particular, the panel considered that a larger minimum lot size was most appropriate for rear lots which tended to appear more crowded than front lots when viewed from the street and adjoining neighbouring properties.
20. The submissions of G Cayford (6.1) and G & C Millar were accepted as they generally supported the minimum lot size of 400m<sup>2</sup>.

#### *Subdivision Minimum Lot Sizes – Non-reticulated Areas*

21. The panel considered that the request of the Canterbury Regional Council (5.3), that the note advising developers of sewage disposal requirements be amended to include reference to the possible need for resource consent from the Regional Council for discharge of sewage effluent, would be a minor alteration and will have a positive effect as the submitter has suggested in providing further information to users of the Plan and improve integration between the District and Regional Council. The requested amendment was therefore made to the plan change.

#### *Miscellaneous Matters*

22. The submission of A Bryant (4.1) relates to the rules for relocated dwellings in residential zones and also to Building Act matters and the submission of P Bell (2.4) requests that a bylaw is enacted to prevent trees being planted with a

height greater than 7.5 metres. These matters are outside the scope of the plan change and therefore rejected by the panel.

## AMENDMENTS TO DISTRICT PLAN

23. The following are amendments to the District Plan resulting from the hearing panel's decision:

Note: Additions to plan shown as **bold underlined**

Deletions from plan shown as ~~strikethrough~~

Amend Definitions (Section 3) as follows:

**Front Lot: means a site having a length of frontage to a public road or roads of equal to or greater than 12 metres.**

...

**Hard Surface: means, in relation to any site, any part of that site which is impermeable and includes:**

- **Concrete, bitumen or similar driveways, paths or other areas paved with a continuous surface or with open jointed slabs, bricks, gobi or similar blocks; or hardfill driveways that effectively put a physical barrier on the surface of any part of the site.**
- **Any area used for parking, manoeuvring, access or loading of motor vehicles.**
- **Any area paved with a continuous surface or with open jointed slabs, bricks, gobi or similar blocks.**

**The following shall not be included in the definition of hard surface:**

- **Paths of less than 1 metre in width.**
- **Shade houses, glass houses and tunnel houses not having solid floors.**

...

~~**Family Flat: is included within the meaning of Residential Unit and means a self-contained residential building being part of and located on the same site as a residential unit, and occupied by dependent relatives of the household living in the residential unit.**~~

...

**Minor Unit: means a residential unit of not more than 50m<sup>2</sup> gross floor area and of not more than 4 metres in height above natural ground level.**

...

**Rear Lot: means a site having a length of frontage to a public road or roads of less than 12 metres.**

**Amend Residential (Section 6) as follows:**

### **3 RESIDENTIAL ACTIVITIES**

#### **3.1 Permitted Activities - Residential Activities**

3.1.1 Any Residential Activity which is not specified as a Controlled Activity in 3.2 below and which complies with the following standards:

##### **3.1.1.a Residential Density**

~~(i) In the Residential 1 Zone, the minimum net area of a site for each residential unit shall be 360m<sup>2</sup> exclusive of access except that for elderly persons housing the minimum net area of a site per unit shall be 100m<sup>2</sup>.~~

**(i) In the Residential 1 Zone, there shall be a maximum of one residential unit per site.**

**(ii) One minor unit (refer definition) shall be permitted on each site in addition to a residential unit permitted by (i) above, provided it can comply, in its own right, with building coverage, setback, height and recession plane and parking requirements for a residential unit.**

**(iii) In the Residential 2 Zone, the minimum net area of a site for each residential unit shall be 250m<sup>2</sup> exclusive of access.**

**(iv) In the Residential 1 or 2 Zones, the minimum net area of a site for each residential unit associated with elderly persons housing shall be 100m<sup>2</sup>.**

##### **3.1.1.b Building Coverage**

(i) The maximum building and hard surface coverage of the net area of any Residential 1 site shall be ~~45~~40%.

(ii) The maximum building and hard surface coverage of the net area of any Residential 2 site shall be 65%.

##### **3.1.1.c Height of Buildings**

(i) Buildings shall not project beyond a building envelope constructed by a recession line from points above internal and road boundaries as set out in Appendix H.

(ii) In Lake Tekapo, the mid point of each section of wall or roof of buildings and the midpoint of building extensions shall not project above recession lines as shown in Appendix H.



(iii) The maximum height of any building shall not exceed 8 m, except:

- (a) The maximum height of any building on the terrace top within the Residential 1 and 2 zones in Lake Tekapo legally described as RS40370 (SO13201) shall not exceed 5m.

...

**3.1.1.g Family Flats**

~~Where the family flat does not, in its own right, separately comply with site density, setback and parking standards for a residential unit then:~~

- ~~i the family flat building shall be relocatable; and~~
- ~~ii the landowner shall enter into a bond with the Council (in a form able to be supported by a caveat) to ensure that the family flat is removed when it is not required for a dependent relative.~~

**\* Re-number standards 3.1.1.h – 3.1.1.o as 3.1.1.g – 3.1.1.n**

...

**3.3 Discretionary Activities - Residential Activities**

3.3.1 Any Residential Activity which does not comply with any one or more of the following standards for Permitted Residential Activities:

<b>3.1.1a</b>	<b>Residential Density</b>
3.1.1.b	Building Coverage
3.1.1.c	Height of Buildings
3.1.1.d	Setback from Boundaries
3.1.1.f	Access
<del>3.1.1.g</del>	<del>Family Flats</del>
3.1.1.h	Heavy Vehicle Storage
3.1.1.k	Temporary Use of Vacant Sites

In considering such a Discretionary Activity the consent authority shall restrict the exercise of its discretion to those matters of non-compliance.

...

**3.4 Non-Complying Activities – Residential Activities**

3.4.1 Any Residential Activity which does not comply with any one or more of the following standards for Permitted Residential Activities:

- 3.1.1.a Residential Density
- 3.1.1.e Flood Mitigation – Floor heights
- 3.1.1.i Keeping of Animals
- 3.1.1.j Aircraft

**Amend Subdivision rules (Section 12 page 12-14) as follows:**

...

## **6 Primary Subdivision Standards**

### **6.a Allotment Size –Residential Zones**

#### **6.a.i Sewered Areas**

In Residential **1** Zones where public reticulation is available, no allotments created by subdivision (including balance titles) shall have a net area less than:

- i. ~~360m<sup>2</sup> in the Residential 1 Zone; or~~
  - ii. ~~250m<sup>2</sup> in the Residential 2 Zone;~~
- ~~except as provided for in 6.a.i, 6.a.ii and 6.a.iii below.~~

- **Front lots – 400m<sup>2</sup>**
- **Rear lots – 500m<sup>2</sup>**

**In Residential 2 Zones where public reticulation is available, no allotments created by subdivision (including balance titles) shall have a net area less than 250m<sup>2</sup>.**

#### **6.a.ii Unsewered Areas**

**In Residential 1 Zones where public reticulation is not available, no allotments created by subdivision (including balance titles) shall have a net area less than 1500m<sup>2</sup>.**

**Note: In non-sewered areas a discharge consent may be required from the Canterbury Regional Council and a larger area may be necessary to ensure an appropriate means of sewage disposal is provided for.**

**Note: All lot sizes referred to in 6.a.i and 6.a.ii above and 6.a.iv below are net areas excluding access strips, rights of way and access lots and any parts of allotments which have a width of less than 6 metres.**

#### **6.a.iii Boundary Adjustments**

Notwithstanding 6.a above, where there are two or more separately saleable existing allotments, which have separate Certificates of Title, any adjustment of the boundaries shall be

such that the resultant allotments are not less than the smallest that existed before subdivision. In Residential Zones the allotments shall be contiguous or separated only by a road.

**6.a.iv Building Commitment**

Notwithstanding 6.a.i above, in the Residential **2** Zones, where an allotment is to be created after the erection of a building, or where the subdivision and building consents are issued in conjunction, the respective minimum net allotment areas, are reduced, as specified below, provided all relevant rules applicable within the zone are complied with by the building and/or resource consents obtained in relation to those rules that are not complied with:

- ~~to 360m<sup>2</sup>, in the Residential 1 Zone; or~~
- to 200m<sup>2</sup> in the Residential 2 Zone;

where public sewage reticulation and treatment is available; or

Where the allotment is to be created before the erection of a building, a condition will be imposed on the subdivision consent and a Consent Notice pursuant to Section 221 registered against the Certificate of Title, to the effect that any building erected on the allotment shall be in accordance with the building consent issued at the time of the subdivision consent.

**6.a.v Access, Utilities, Roads and Reserves**

Notwithstanding 6.a above, there shall be no specified minimum allotment sizes in any zone for allotments for access, utilities, reserves and roads.

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