

ALTERNATIVES OFFERED IN PLACE OF THE 4.5M HEIGHT CONTROL FOR A 2<sup>ND</sup> UNIT ON A SITE CONSIDERED BY THE COMMITTEE

Alternatives offered in place of the 4.5m height control for a 2 <sup>nd</sup> unit on a site			
	Option Description	Analysis/comments	Recommendation
A	<b>Status Quo:</b> 2 units at 8m each per site	Section 32 assessment does not support this as it does not address issues and problems identified with infill housing	Not supported
B	<b>PC56 Proposal:</b> Second unit at 4.5m (plus extra 1m for a pitched roof <sup>1</sup> )	<p>Explanation and background to rule outlined in s32 report.</p> <p>Submissions consider this rule unreasonable for sloping sites and are unsure how it relates to vacant sites. Other concerns include that it may lead to lengthy buildings stepping down a slope, which can create a different set of effects on streetscape, visual dominance and blank wall issues.</p>	Not supported
C	<p><b>Controlled Activity Rule</b></p> <p><b>Submission 58, 62 and 63:</b> Any second unit is assessed against the Residential Design Guide as a Controlled Activity.</p>	<p>The one reason for supporting such an approach is that it could be written into the Plan with ease and would be very simple to understand. It would provide certainty to landowners that consents would have to be granted, subject to some conditions on the consent as a result of assessment against the Design Guide.</p> <p>This option was previously considered at a Councillor workshop on Infill Housing in Feb 2007 prior to notification of PC56, but dismissed for two key reasons:</p> <ol style="list-style-type: none"> <li>1. The Council did not want to reduce the number of dwellings permitted as of right per site to just one dwelling as this would be interpreted by landowners as Council wanting to prevent all infill development, which was not the intent of the Plan Change.</li> <li>2. The Council is no longer satisfied that the Controlled Activity consent category is adequate to manage the effects of certain activities. Case law has undermined the ability of the Council to seek significant changes (by way of conditions on the consent granted) to Controlled Activity consent applications. As infill development can have significant effects, it is risky to allow them to be listed as Controlled Activities.</li> </ol> <p>The Council's experience with the Controlled Activity consent category for CBD buildings (prior to Plan Change 48) has shown that the bulk and location of such buildings (ie. 100% site coverage up to the permitted height) was a predetermined factor and any design changes as a result of an assessment against the Central Area Design Guide were minor. While the original intent of the Design Guide was that it would be used to manipulate the bulk and height of proposed buildings to respond to the site context, the development of case law around</p>	Not supported

<sup>1</sup> The Definition of Building Height in Chapter 3 of the Plan outlines that an extra 1m over and above the permitted height limit is allowed provided that it is a pitched roof.

## APPENDIX THREE

		<p>'Controlled Activities' severely restricted the ability of the Council to do this and limited the scope of design changes to minor 'external appearance' matters. Plan Change 48 (notified in 2006) sought to address this concern and made all new buildings in the Central Area require consent for design as a Discretionary Restricted Activity.</p>	
<b>D</b>	<p><b>Change where building height is measured from:</b></p> <p><b>Submission 39:</b> Any second unit must be single storey with a maximum height above the floor level at 4m.</p> <p><b>Submission 67:</b> Retain 8m height limit, but measure it not from the existing or assessed ground level, but rather from the finished ground floor level (ie. after earthworks carried out).</p>	<p>Both ideas by these submitters would ultimately result in a change to the way building height is measured, instead of the current approach that building height is measured from the existing ground level. The current regime (of measuring buildings from existing ground level) has been long established in the Plan, and the implications for changing this for the residential infill situation will result in a dual system for measuring height in the Plan and so is not supported.</p> <p>Having said this, in respect of the idea by <b>submitter 67</b>, it is acknowledged that there is a particular issue associated with the ability for 'free building height' to be obtained by doing earthworks (permitted or otherwise). Whilst such work would not have significant effect on amenity values <i>per se</i>, additional building bulk may affect residential streetscape and character. These concerns were also noted by two other submitters (subs. 12, 35 and FS16) who were concerned that by carrying out earthworks this could facilitate 3-4 storey developments, which generally were not in keeping with the residential character of these Outer Residential area suburbs.</p> <p>The section 32 report considered an option similar to this where another permitted activity standard be introduced that limits the overall building height (eg. 10m in the Outer Residential Area). This would operate in conjunction with a building height from existing ground level. That option was part of a package of more severe options for the Plan Change and on that basis was not eventually adopted into Plan Change 56. However, in light of submissions on this specific issue further consideration of such a rule is warranted.</p> <p>It is recommended, if the Committee agrees, that further work be done outside this Plan Change process to develop another permitted activity standard (along the lines of a maximum overall building height) as this would act to address some of the concerns about excessive building height (which enables 3-4 storey developments) as a result of earthworks carried out on site.</p>	<p style="text-align: center;">Not supported</p> <p>However, Committee recommend that further investigation be done to consider a 'maximum overall building height' permitted activity standard to address the points raised by submitters 67, 12, 35 and FS16. The rule would apply to any building, not just infill housing.</p>
<b>E</b>	<p><b>Rule prescribing position of windows:</b></p> <p><b>Submission 69:</b> Both units permitted up to 8m, but introduce a 'window permitted activity standard' that controls location of windows in relation to the boundary.</p>	<p>A 'window in relation to boundary rule' responds directly to <i>one</i> of the key issues driving the rule change, being the loss of privacy as a result of overlooking from two-three storey dwellings.</p> <p>The rule is not complete however in dealing to the other infill housing amenity issue being the visual dominance and sense of enclosure that occurs as a result of two dwellings on one site built to the permitted building envelope (35% site coverage and 8m high). An additional control would be needed to address the bulk of an infill unit.</p> <p>A second concern with a window rule, is that it may prove meaningless anyway because of topographical differences between properties. Some dwellings may over look even at one storey, let alone two stories. Further, to be meaningful and fair, it would have to apply to all new dwellings, not just those that are infill houses.</p>	<p style="text-align: center;">Not supported</p>

## APPENDIX THREE

		The considered view of officers is that privacy is a matter that is best considered given the site circumstances and nature of uses in surrounding properties. ie. privacy becomes a key matter of discretion when an over height building is constructed, rather than necessarily being a permitted activity threshold itself.	
<b>F</b>	<p><b>Options for dealing with sloping sites:</b></p> <p><b>Submission 84:</b> Reduce maximum height of 8m + 1m to 7.5m maximum except for 50% of the dwelling footprint on steep sites</p> <p><b>Other option:</b> For second unit retain 4.5m for flat sites, but allow up to 6.0m for sloping sites.</p> <p>A 'slope threshold' would need to be determined, probably by measuring the steepest part of the site that is to be built on.</p>	<p>Submitter 84 outlines another option that provides more flexibility for dwellings on sloping sites. This rule would allow for 50% of a building footprint to remain at 8m (plus 1m for pitched roof) on a sloping site, but that the other 50% must be limited to 7.5m. This would act to encourage dwellings to be built into existing slopes, rather than carrying out significant excavation in order to create a flat site and it could also reduce the need for dwellings to step down a slope.</p> <p>Officers have two key concerns with this rule, being that it could still allows for two or three storied developments and so does not address the bulk issues associated with infill housing. Concerns around privacy would also still remain.</p> <p>The option seems overly complex, in comparison to the option outlined next, and on this basis is not supported.</p> <hr style="width: 30%; margin: 10px auto;"/> <p>This option was developed by Council officers in response to the more general concerns by submitters that the 4.5m rule was unworkable for sloping sites. Essentially the rule sets a different height limit for 'flat sites' and for 'sloping sites'.</p> <p>As noted a slope threshold would need to be developed.</p> <p>The 6.0m height limit proposed for sloping sites is set at a level that will easily provide for a single storey development, with basement as required, to be built into an existing slope, reducing the need for earthworks. Again, the concern that remains with this rule is that in theory the 6.0m (plus 1m pitched roof) height could support a two storied development (with living areas on both floors) and so privacy remains an issue.</p> <p>One advantage of the rule is that is can be drafted very simply and easy for people to understand. Calculating the slope of the site will be the only requirement landowners will need to know before determining which height rule would apply. The rule would likely ensure that more dwellings could remain as permitted activities, reducing the need for resource consents, but may not seek to address the key concerns around impact of infill housing on amenity of neighbours.</p>	<p>Not supported</p> <p style="text-align: right;">Supported Option</p>
<b>G</b>	<p><b>Modulation of second storey to reduce bulk and visual dominance:</b></p> <p><b>Submission 84:</b> Allow two</p>	<p>These options are more complex in nature, but do focus on one of the key issues associated with infill housing (being the bulk and height of dwellings). The rule would provide for a two-storied development, but the second storey would only be able to take up a certain portion of the footprint of the ground floor. In addition the second storey would need to be modulated in some way (ie. with setbacks) so that on any one elevation of the dwelling, it did not run the full extent of that elevation. Ensuring this later requirement would help to reduce the visual</p>	<p>Not supported</p>

## APPENDIX THREE

	<p>storey dwellings but control length of upper floor to any boundary (eg. 8m max) and control placement of windows.</p> <p><b>Other option:</b> Second unit at 6.5m, but second storey only able to take up x% of building footprint and must be modulated so that expansive tall walls are not created.</p>	<p>dominance of the building from all perspectives.</p> <p>As the 6.5m building could in theory become a 7.5m building if a pitched roof is constructed, a 'window' rule would become essential to manage other concerns about the loss of privacy. This means two complex permitted activities standards in the Plan, not just one.</p> <p>The benefit is that it does provide scope of a reasonable level of development, while managing the key infill housing concerns. This may result in more dwellings being able to be designed as permitted activities, reducing the need for resource consents. Conversely the concern is that it will result in mediocre design outcomes, with developers designing buildings that 'fit' the permitted activity standards exactly, rather than striving to design a dwelling that still relates to its neighbours, in spite of the rule constraints imposed.</p>	
<p><b>H</b></p>	<p><b>Set floor area maximum for the Infill Household Unit</b></p> <p>Infill Household Unit limited to a certain floor area (eg. 50-60m<sup>2</sup>)</p>	<p>This rule seeks to address height (ie. privacy) and bulk issues by limiting the floor area of the infill unit. This is a rule used commonly in other Plans around the country to limit the scale of second units on a site (often also only allowed for dependant family members). As it is possible that even units of 50m<sup>2</sup> might still be developed over two floors, a requirement limiting the floor area to be at ground level would be required.</p> <p>As with proposed rule 5.1.3.4.3 this appears to address the primary concerns around privacy and building bulk, but is more restrictive than rule 5.1.3.4.3 in that it also limits the overall size of the unit regardless of the overall site coverage available. It is assumed that such a provision will be opposed by landowners and developers for the same reasons as rule 5.1.3.4.3 has been opposed, ie. that it is too restrictive, not flexible enough for sloping sites and will effectively prevent infill housing from occurring.</p> <p>As with rule 5.1.3.4.3, failure to meet the maximum floor area requirement (or if it were proposed to be split over two levels), the dwelling would require a resource consent and issues such as privacy, shading and building bulk would need to be assessed.</p>	<p style="text-align: center;">Not supported</p>
<p><b>I</b></p>	<p><b>Require new dwellings on a site to comply with indicative internal boundaries (in addition to existing external boundaries).</b></p> <p>Require an Infill Household Unit on a site of less than X m<sup>2</sup> to be contained within a notional site area created by indicative internal boundaries. The existing and proposed buildings must comply</p>	<p>This rule effectively ties land use and subdivision together in one concept. It comes from a principle that where a dwelling is constructed, it is only a matter of when, not if, that dwelling will be subdivided off from the original house in some way. Accordingly, it is appropriate to ensure that the house, at the time of subdivision, is capable of being a permitted activity.</p> <p>Presently, new dwellings only have to comply with the external boundaries of a site and this commonly results in the new dwelling being sited close to the existing dwelling to maximise its bulk (ie. two storey dwelling) while still meeting the bulk and location requirements on the external boundaries (thus avoiding the need for neighbours written approvals). By requiring an indicative internal boundary to be shown, and requiring that the new dwelling fit within a building envelope based on the external and internal boundary, this will result in the new dwelling being set back from the existing dwelling and will likely be a smaller dwelling in order to still comply with the bulk and location standards. A smaller original lot will lead to a smaller 'notional site area' resulting in</p>	<p style="text-align: center;">Not supported</p> <p style="text-align: center;"><del>Possible alternative to a 4.5m rule, but concerned about unforeseen consequence. Further work may be necessary.</del></p>

## APPENDIX THREE

	<p>with the bulk and location rules, measured from the indicative internal boundary as well as the existing external boundaries.</p>	<p>less building potential. Conversely, the bigger the original lot, the bigger the 'notional site area' will be and there will be more scope for a larger dwelling.</p> <p>This is a new planning tool for the Wellington City Plan (although commonly used in other Plans) and so would need further investigation to fully understand its implications. However, it is advantageous because it aligns land use proposals with potential subsequent subdivision proposals. It will control the total bulk of development on small sites and larger sites won't struggle with it. In this way concerns about privacy and visual dominance can be addressed concurrently.</p> <p>This approach would not work for multi-unit development sites (later likely to be unit titled) but it is noted that MUD are not permitted activities anyway. One other concern is that there may be a point at which the notional site area does still create infill type adverse effects. While the policies and revised rules indicate that a site of 800m<sup>2</sup> can generally be expected to cope with subdivision (to create 400m<sup>2</sup> sites) and subsequent land use, there can be no guarantees that effects won't be created even on lots of these sizes (due to the particular site conditions).</p>	
<p><b>J</b></p>	<p><b>Street front houses v rear yard houses</b></p> <p><b>Other Option:</b> Rule that permits 8m height limit for dwellings that front the street, and single storey dwellings (4.5m) for any other dwelling behind a 'threshold line' (eg Xm from the road reserve).</p>	<p>This option has been developed to respond the issue about first houses constructed versus second houses constructed. This concern developed in light of the way rule 5.1.3.4.3 refers to the 'second unit on a site'. Generally, most existing houses will front the street and so any infill that occurs will occur in the rear yard. The expectation (confirmed by planning schemes dating back to the 1950s) is that an 8m dwelling is an acceptable development. This rule would effectively permit a double storey house (up to 8m) within a certain distance from the road reserve. Beyond that distance only single storey dwellings could be built as of right and a resource consent would be needed to build higher.</p> <p>This option makes the issue of which house was built 'first' irrelevant, and instead focuses the rule on limiting the height on buildings that may be build out of alignment with most other dwellings along the street. Eg. in the situation of a vacant site, regardless of which house is built first the house beyond the 'line' may only be 4.5m as of right, whereas the house in front of the line (which fronts the street) may be up to 8m as of right.</p> <p>To implement this rule, an analysis will need to be done to establish where the 'line' should be.</p> <p>It is considered that this rule will work very well for those parts of the city where the street layout is in a strong grid pattern formation, where houses do typically front the street. However, those street patterns do alter on hilly slopes, where for reasons of steep topography the main dwelling may be sited at the front, middle or rear of a site.</p>	<p style="text-align: center;">Not supported</p>