

REPORT OF THE HEARING COMMITTEE

WELLINGTON CITY COUNCIL  
REPORT OF THE HEARING COMMITTEE

**SUBJECT:**

PROPOSED DISTRICT PLAN CHANGE 39: CONTROLS ON  
RESIDENTIAL DEVELOPMENT IN NEWTOWN, BERHAMPORE  
AND MT COOK

**COMMITTEE MEMBERS:**

CRS FOSTER  
GOULDEN  
McKINNON

**DATE OF HEARING:**

29 & 30 NOVEMBER 2006

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**1. RECOMMENDATIONS**

- 1) *Approve District Plan Change 39 – Controls on Residential Development in Newtown, Berhampore and Mt Cook as publicly notified, subject to the following changes:*
  - *Amend policy 4.2.3.3 to clarify the application of permitted baseline*
  - *Amend policy 4.2.3.3.A to clarify the interrelationship between the requirements for open space, site coverage and vehicle parking.*
  - *Amend rule 5.1.1 to remove the carparking requirement for proposals to convert existing buildings into two household units*
  - *Amend rule 5.1.3 to allow conversion of existing buildings into two household units as a permitted activity*
  - *Amend rule 5.1.3.2.1 to require only one front yard on corner sites*
  - *Amend the open space requirements in rule 5.1.3.2.A*
  - *Reinstate the previous site coverage standard of 50%*
  - *Clarify the non-notification statements in rules 5.3.3 and 5.3.10*
  - *Add a new assessment criterion to rule 5.3.3. to provide for reductions in front yard depth where this will allow the resulting development to be better oriented towards the sun*
  - *Amend the content of the design guide that applies to multi-unit developments in Mt Cook, Newtown and Berhampore relating to.*
    - *Rear elevations*
      - *Site layout*
      - *Patterns of side yards*
      - *Patterns of frontage setbacks*
      - *Frontage setbacks on corner sites*
      - *Garaging and parking in front yards*
      - *Roof types*
      - *Materials*

## APPENDIX FOUR

*A copy of the revised plan change is set out in Attachment One to this report.*

- 2) *Accept or reject all the submissions and further submissions to the extent that they accord with recommendation (1) above.*
- 3) *Direct Council officers to undertake the following work as a result of issues raised through proposed District Plan Change 39:*
  - *Review the current rules relating to the location of accessory buildings within front yards, particularly with regards the potential for large accessory buildings to dominate the streetscape and block views to character buildings behind. This work should be undertaken as part of the Residential Infill study to be reported to Committee for notification in May 2007.*
  - *Consider options for including a rule in the Residential Area chapter to clarify the scale of additions and alterations that can be made (as a permitted activity) to existing buildings that do not comply with the bulk and location standards in the Operative District Plan. This work should be undertaken as part of the Residential Infill study to be reported to Committee for notification in May 2007.*

## 2. INTRODUCTION

This decision relates to Proposed District Plan Change 39 (DPC 39) – Controls on Residential Development in Newtown, Berhampore and Mt Cook.

DPC 39 was publicly notified on 15 December 2005.

DPC 39 was a Council initiated plan change and the purpose of the plan change is threefold:

1. Revision of the bulk and location standards for new buildings to bring them into line with the physical characteristics of the area.
2. Preparation of a design guide to ensure that new multi-unit developments acknowledge and respond to the key characteristics of the area.
3. Revision of the policy and rules relating to multi-unit developments.

All owners and occupiers of properties in the residentially zoned areas of Newtown, Berhampore and Mt Cook were notified of the proposed plan change. The Officer's Report on the plan change was distributed to submitters and further submitters prior to the hearing.

Twenty three main submissions and ten further submissions were received on DPC 39. Two pre-hearing meetings were held in relation to DPC 39.

The Hearing for District Plan Change 39 was held at Council Offices over two days on 29 & 30 November 2006, in conjunction with the hearing of District Plan Changes 38 and 40.

At the hearing on the 29 November 2006, Jeremy Blake spoke to the officer's report on the plan change. Five submitters appeared at the hearing and spoke to their submissions:

- Newtown Residents Association (represented by Martin Hanley) (submission 21)
- Paul Kerr-Hislop (further submission 10)
- Anthony Hood (submission 7)
- Alan Minty (submission 19)
- Frances Robinson (further submission 6)

## APPENDIX FOUR

The Committee gave careful consideration to all the issues raised by the submitters, including those issues elaborated on in presentations by the individuals and expert witnesses who appeared before the Committee.

The following discussion sets out the key issues and the Committee's reasons for making its decision.

### 3. SUBMISSIONS AND DISCUSSION

Submissions were received from:

Submission No.	Submission Name
1	Elsa Gannaway
2	Greg Nicholls
3	John Cuttance
4	Dr Stephanie Matich
5	CAS Residential, C/o- Craig Stewart
6	Dale McTavish
7	Anthony Hood
8	Anthony Appleyard
9	Ernest Albuquerque
10	James Saunders
11	Craig Hind
12	Chris Hansen
13	Sally Evers
14	Cho Yam Chan
15	Christine McCarthy
16	New Zealand Historic Places Trust
17	Jocelyn Morrison
18	Steve Dunn
19	Alan Minty
20	Thomas Chong
21	Newtown Residents Association
22	Alan Perry
23	Frank Cook

Further submissions were received from:

FS1	<b>Simon Chapple</b> This further submission opposes the submission of CAS Residential.
FS2	<b>Stephen Stirrat</b> This further submission supports the submission of the Newtown Residents Association, particularly the idea of an existing building bonus to encourage the retention of existing character buildings.
FS3	<b>Delisa Lovie Architecture</b> This further submission supports the submission of the Newtown Residents Association, particularly the idea of an existing building bonus to encourage the retention of existing character buildings.

## APPENDIX FOUR

FS4	<b>Keryn Wear</b> This further submission supports the submission of the Newtown Residents Association, and requests that the plan change be adopted with the changes recommended by the Association.
FS5	<b>Catherine Zwartz</b> This further submission supports the submission of the Newtown Residents Association, and requests that the plan change be adopted with the changes recommended by the Association.
FS6	<b>Frances Robinson</b> This further submission supports the submission of the Newtown Residents Association, particularly the idea of an existing building bonus to encourage the retention of existing buildings.
FS7	<b>Dale McTavish</b> This further submission supports all original submissions that were lodged in support the plan change.
FS8	<b>Steve Dunn</b> This further submission supports the submission of the Newtown Residents Association, particularly the idea of an existing building bonus to encourage the retention of existing character buildings.
FS9	<b>Geoff Fletcher</b> This further submission supports the submission of the Newtown Residents Association, particularly the idea of an existing building bonus to encourage the retention of existing buildings built prior to 1996.
FS10	<b>Paul Kerr-Hislop</b> This further submission supports the submission of the Newtown Residents Association, particularly the idea of an existing building bonus to encourage the retention of existing buildings built prior to 1996.

The key issues raised in submission, and the Hearing Committee's decisions on the submissions are addressed in sections 3.1-3.17 below

### **3.1 Oppose the plan change and request that it be withdrawn in its entirety.**

Six submissions opposed the plan change and requested that it be withdrawn in its entirety. Specific reasons for opposition included:

- The plan change will stifle development and lead to deterioration of the housing stock (submission 4)
- The Council should let market forces prevail and allow the present height and light protections continue to protect what may be worth protecting – retain the status quo (submission 4)
- The plan change is applied too broadly over too large an area (submission 5)
- The plan change is not adequately justified (submission 7)

## APPENDIX FOUR

- Future design should not be limited to imitation of previous architectural styles (submission 7)
- Houses at the end of their economic and social life should be able to be replaced (submission 7)
- Such a prescriptive regime will generate more resource consents for minor works, and will give greater power to neighbours to constrain development (submission 7)
- The plan change impinges on private property rights and reduce the value of properties (submission 14)
- The plan change is inconsistent with the Council's policy of promoting residential intensification (submission 20)
- The plan change will reduce the diversity of building stock in the suburbs (submission 20)

### *Consideration:*

The Hearing Committee noted the concerns raised by these submitters.

The Hearing Committee did not accept that the plan change was applied over too wide an area, and was insufficiently justified. Significant background research and consultation was undertaken prior to notifying DPC 39. A detailed audit of the residential building stock in Newtown, Berhampore and Mt Cook was undertaken in 1999. Both the research and the consultation indicated that there was strong justification for, and support for, better management of residential character across the three suburbs. The desire to improve the quality of new residential development was consistently expressed across each of the three suburbs. The Committee also noted the consistency of the building stock across all three suburbs. In each suburb over 80% of building stock dates from 1919 or earlier. Therefore the Committee considered it appropriate that the revised provisions apply to all residential properties in each of the suburbs.

The Hearing Committee was also satisfied that the proposed Plan Change was consistent with the Council's policy of promoting residential intensification. The Committee noted that DPC 39 is consistent with the Council's Urban Development Strategy. The Urban Development Strategy provides a 50 year vision for growth within Wellington City, and promotes the development of a 'growth spine' running from Johnsonville through the central city, Adelaide Road, Newtown and on to Kilbirnie. The strategy identifies that future growth should not come at the expense of existing residential character and should build on the City's unique sense of place. The growth spine envisages an intensification of mixed use activities, including residential, along the commercial section of Adelaide Road and around the Newtown suburban centre. Residential infill will continue in the residential areas of the suburb, but at a level that can be accommodated without compromising the existing character and amenity. Further work is currently underway within Council to help ensure that the District Plan provisions relating to Suburban Centres and Adelaide Road facilitate the growth spine concept.

Prior to notifying a plan change the Council must be satisfied that an appropriate balance has been reached regarding the potential costs and likely benefits associated with the change. In deciding to proceed with DPC 39 the Council decided that the benefits were likely to outweigh the costs. The Council recognised that the revised rules will increase compliance costs for certain work in Newtown, Berhampore and Mt Cook, primarily because resource consent would now be required to develop two or more units on a site, which was previously a permitted activity. However the Council considered that the benefits resulting from the plan change (an improved ability to manage residential character and the quality of the streetscape) were sufficient to justify the increased costs. Having considered the matters raised in submission, and having undertaken a site visit to Newtown, Berhampore and Mt Cook, and noted the variable quality of much of the new development, the Hearing Committee agreed that the benefits accrued from the plan change would outweigh the likely costs.

## APPENDIX FOUR

The Hearing Committee did not consider that the changes contained in the proposed plan change would stifle development. While some bulk and location standards relating have been revised, they still provide for a significant intensity of development. The Committee noted that each of the revised standards allow for greater development intensity than the standards that apply to properties zoned Outer Residential. The fact that infill development continues to occur on sites in outer residential areas indicates that the proposed reductions in height, site coverage and yards in Newtown, Berhampore and Mt Cook are not so onerous as to preclude future development.

The Hearing Committee noted that the plan change does not place design controls on individual dwellings. New houses, and additions and alterations to existing houses, continue to be permitted with no requirement for resource consent for design matters, except under Plan Change 38 where this is relevant. Developments comprising two or more household units (on one site) are required to be assessed against the Southern Inner Residential Areas Design Guide for Multi-unit Housing, but the design guide does not prescribe architectural styles and does not preclude a variety of design responses.

The Hearing Committee was not convinced that the proposed plan change would lead to a reduction in house values in Newtown, Berhampore and Mt Cook. They noted that most property owners buy property either to live in or to rent out, so their decision on whether to purchase a property and how much to pay are unlikely to alter as a result of the changes contained in DPC 39. Experience in other Inner Residential suburbs indicates that the application of area specific provisions to multi-unit developments does not adversely impact on property values. Recent valuation data indicates that property values in Newtown Berhampore and Mount Cook increased by 14.3% over the past year. This was the second highest increase in the city (Mt Victoria increased by 14.9%) and indicates that Plan Change 39 has not had an adverse impact on property values in the three suburbs.

The Hearing Committee also considered that there was little chance that DPC 39 would result in the degradation of the building stock in the three suburbs. The Committee noted that there was little evidence of the building stock being degraded in other Inner Residential suburbs that were already subject to design controls similar to those contained in DPC 39. Mt Victoria and Thorndon were the first suburbs to have design controls, and while similar concerns were raised at the time those provisions were put in place, the building stock in those suburbs had continued to be maintained at a high level, and indeed considerably enhanced.

On balance, the Hearing Committee considered that DPC 39 should be adopted. The plan change will allow the Council to better manage the issue of infill quality. The plan change does not limit opportunities to undertake infill development, but will help to ensure that where infill is undertaken it is of higher quality and more in keeping with the existing character of the suburbs.

### **Decision:**

- **Reject** submissions 4, 5, 7, 14, 20, and 22 that seek to have DPC 39 withdrawn in its entirety

### **3.2 Support the plan change and request that it be adopted as notified.**

Six submissions and two further submissions were lodged in support of the plan change as notified. Reasons for support included:

- New developments should be sympathetically integrated into existing neighbourhoods (submissions 1, 2, 6)

## APPENDIX FOUR

- Current rules are inadequate to maintain the character of the suburbs (submission 23)

### ***Consideration:***

The Hearing Committee accepted the support of these submitters, but noted that some changes have been made to DPC 39 as a result of matters raised in submission (see sections 3.3-3.17 below). The Committee considered that these submissions, which supported the plan change as notified, should be accepted to the extent that they are consistent with the amendments that have been made to the plan change as part of the Hearing Committee's decision.

### **Decision:**

- **Accept** submissions 1, 2, 6, 13, 18, 23 and further submission FS1 and FS7, insofar as they support plan change 39, subject to any amendments resulting from submissions.

### **3.3 Amend the area to which the new provisions apply.**

Four submissions requested that Council amend the area to which plan change 39 applies. Specific issues raised in submissions included:

- Remove the property at 21 Palm Grove/94 Britomart Street from the plan change area (submission 3)
- Remove the property at 108-126 Rintoul Street from the plan change area (submission 12)
- Replace the blanket controls with more 'targeted' measures that identify areas with significant streetscape and heritage values, and areas with no significant streetscape and heritage value (submission 5).
- Amend maps so there are no gaps between the residential and suburban centre character areas (submission 16)

### ***Consideration:***

Submission 3 asks that the property at 21 Palm Grove/94 Britomart Street be exempt from the provisions of Plan Change 38. The Hearing Committee noted that 21 Palm Grove/94 Britomart St (see photo to right) is currently zoned Suburban Centre so is not subject to the provisions of DPC 39, which only applies to properties in the Inner Residential zone. The submission was accordingly accepted.

Submission 12 has requested that the property at 108-126 Rintoul Street be removed from Appendix 9. The request is made on the grounds that resource consent has already been granted for a multi-unit development of the site. When the consent was approved it was subject to a condition regarding the final detail of the building layout, design and materials. The submitter is concerned that Council will apply the requirements and design guide from Plan Change 39 when further details of the development are submitted for approval.

The Hearing Committee noted that the consent for 108-126 Rintoul Street was lodged prior to notification of Plan Change 39. In considering the conditions of consent the Council is legally obliged, under the RMA, to apply the rules that were in force at the time the consent was lodged. Therefore Council would not be able to apply the contents of DPC 39 when assessing



## APPENDIX FOUR

compliance with the consent conditions. While the current development at 108-126 Rintoul Street is not subject to DPC 39, the Hearing Committee did not consider that the property should be removed from the Appendix 9 area. The Committee considered that if a new proposal were lodged for the site at some stage in the future, then it was appropriate that the new proposal be assessed against the provisions of DPC 39. This would only be possible if the site remained in the Appendix 9 area.

Submission 5 requests that the proposed blanket approach to maintaining residential character be replaced by a more targeted approach. As noted in section 3.1 above, significant background research was undertaken prior to notifying DPC 39. A detailed audit of the residential building stock in Newtown, Berhampore and Mt Cook was undertaken in 1999. Both that research and the subsequent public consultation indicated that there was strong justification for, and support for, better management of residential character across the three suburbs. The audit report, prepared by Deyana Popova and Graeme McIndoe, concluded that:

“The study area as a whole has a distinctive local character that is identifiably part of the inner city. The entire study area is of considerable significance to the city as a whole. It remains as a highly intact remnant of inner city residential housing from the first decade of the 20<sup>th</sup> century. It demonstrates historical patterns of relatively high density detached housing and expression of style and materials from a past era that are typical of Wellington inner suburbs. The significance of the area’s local character deserves recognition and suggests that new development should respect its fundamental qualities”

*(McIndoe & Popova, March 1999. Wellington Inner City Urban Design Evaluation, Mt Cook, Newtown, Berhampore, page 2)*

The public consultation undertaken prior to notifying DPC 39 indicated that the desire to improve the quality of new residential development was not limited to specific pockets, but was consistently expressed across each of the three suburbs. Accordingly the Hearing Committee considered that it was appropriate to apply the revised provisions to all residential properties in each of the suburbs. Applying the revised provisions to only certain identified sub-areas, would be contrary to the findings of the 1999 audit, and would limit Council’s ability to effectively the issue of residential character across these three suburbs.

Submission 16 requested that the maps be amended so that there are no gaps between the Newtown Suburban Centre Character Area and the residential areas subject to DPC 39 so that all properties in Newtown are subject to an urban design assessment. At present there are properties within the Newtown Suburban Centre that are not included in the character area. The Hearing Committee noted that it was not possible (or desirable) to re-zone these properties Inner Residential as part of this plan change, so the only way to action the request of submission 16 would be to include these properties into the Newtown Suburban Centre Character Area to provide blanket coverage for the whole of the suburb. Any proposal to address design issues in the suburban centre needs to be specifically target to that one. With this in mind the Committee noted that the Suburban Centres chapter of the District Plan is scheduled to be fully reviewed in 2007, and the issue of applying urban design controls could be considered as part of that process.

### **Decision:**

- **Accept** submission 3 insofar as DPC 39 does not apply to the property at 21 Palm Grove/94 Britomart Street.
- **Reject** submission 12 insofar as they request that the property at 108-126 Rintoul Street be exempt from DPC 39.
- **Reject** submission 5 insofar as it requests that DPC 39 be applied only to targeted areas within Newtown, Berhampore and Mt Cook.

## APPENDIX FOUR

- **Reject** submission 16 insofar as it requests that character controls apply to all commercial and residential properties in Newtown, Berhampore and Mt Cook.

### **3.4 Identify areas of specific heritage value within the suburbs, based on an assessment of individual buildings and groups of buildings.**

Two submissions requested that the Council identify areas (and groups of buildings) that have not been significantly changed since construction and list them as heritage areas in the District Plan. Submission 16 supported DPC 39 and requested that the heritage areas be installed in addition to the other provisions. Submission 20 opposed the blanket application of the provisions in DPC 39 and request that heritage areas be used instead of the proposed plan change.

#### ***Consideration:***

Submitters 16 and 20 have requested that Council identify areas of specific heritage values within each of the three suburbs. The Hearing Committee did not consider that the identification of heritage areas was a viable alternative to DPC 39. DPC 39 is focused on ensuring that new residential developments in Newtown, Berhampore and Mt Cook compliment the existing character of the suburbs, and this can not be effectively achieved through the identification of targeted heritage areas. Additionally the Committee considered that identifying and implementing heritage areas was outside the scope of DPC 39, so could not be dealt with through submissions.

The Hearing Committee noted however that there are groups of residential buildings in Newtown, Berhampore and Mt Cook that would likely warrant protection based on their heritage value. The initial audit of the three suburbs undertaken in 1999 identified certain building groupings or precincts as having special value relative to the character of the area as a whole. The groupings/precincts were subsequently reviewed by Council officers in 2005 with the view to defining a number of 'heritage areas' for possible inclusion in the District Plan. The Committee noted that these areas are still being considered for inclusion in the District Plan as 'heritage areas', but further research and consultation with owners is needed prior to any plan change being notified.

#### **Decision:**

- **Reject** submissions 16 and 20 that request that work be undertaken to identify areas of significant heritage value within the suburbs of Newtown, Berhampore and Mt Cook as part of this Plan Change, while noting that Council is continuing a programme of assessing buildings and areas for their heritage values.

### **3.5 Chapter 3 - general provisions relating to information supplied with resource consent applications.**

Two submissions and two further submissions were lodged, addressing the amendment to the general provisions contained in Chapter 3 of the plan. Specific issues raised in submission included:

- Require multi-unit developments to submit details showing consideration of four properties on either side (submission 17)
- Support the requirement to submit detailed cross sections of the front façade of new multi-unit developments (submission 21, FS6, FS8)

#### ***Consideration:***

## APPENDIX FOUR

Chapter 3 of the District Plan contains details of the information that is required to be submitted with a resource consent application. DPC 39 installed a new clause into chapter 3 requiring applications for new multi-unit developments to submit a cross section of the front elevation showing the depth of façade relief. The Hearing Committee noted that this requirement will allow Council to more accurately assess the level of articulation and quality of detailing to be provided on the front façade of the new building(s). Submitter 21, and further submitters FS6 and FS8 supported the requirement to submit cross sections of the front façade of new multi-unit developments. The Committee accepted the support of those submissions.

Submission 17 requested that the existing item 6, regarding the streetscape impact of new multi-unit developments, be amended to require consideration of the four properties on either side of the proposed development. At present consideration applies to adjacent buildings only. The Hearing Committee considered that this submission should be accepted as analysis of four buildings on either side would better illustrate the character of the surrounding neighbourhood, and would allow Council officers to better assess the appropriateness of the proposed development. The Committee considered that the current provision should be amended as follows:

### 6. Streetscape appraisal:

In addition, where a development has a presence on a street which is generally recognised as having a character that is of significance to, and is valued by, the community, then a streetscape appraisal will be required. This will include:

- street elevations to a scale of 1:100 which show the development and the **four** properties on either side
- photographs taken from across the street showing the buildings described in the street elevation.

### Decision:

- **Accept** submission 17 insofar as it requests that multi-unit developments submit details showing consideration of four properties on either side.
- **Accept** submissions 21, FS6 and FS8 insofar as they support the requirement to submit cross sections of the front façade of new multi-unit developments.

### 3.6 Policy 4.2.3.3 – application of permitted baseline.

Four submissions addressed the proposed changes to Policy 4.2.3.3 regarding the application of 'permitted baseline' scenarios to new multi-unit development. Specific issues raised in submission included:

- Provide greater clarity as to when permitted baseline scenarios will be applied to multi-unit developments (submission 10)
- Support revised policy as it will help to maintain consistency of building form, style and scale within the suburbs (submission 17)
- Retain permitted baseline as the previous design guide requirements have been moved to the rules (submission 19)
- Strongly support revised policy as it is needed to allow the proposed design guide to be effectively implemented (submission 21)

## APPENDIX FOUR

### ***Consideration:***

In preparing DPC 39 Council officers identified that the application of ‘permitted baseline’ scenarios to new multi-unit development was constraining the Council’s effectiveness in managing effects relating to building bulk and mass. Under the legal concept of ‘permitted baseline, if a development is permitted by the plan then the development is considered to have no significant adverse effect on the environment. When a proposed development complies with the bulk and location standards in the District Plan, applicants can use the ‘permitted baseline’ to argue that the overall bulk of their development is permitted by the plan and has no adverse effects, irrespective of how well (or poorly) the development is integrated into the scale and character of the surrounding neighbourhood.

Consultation with local communities prior to DPC 39, revealed frustration that the principles of the current multi-unit design guide were not being used to help mitigate the scale and bulk of new multi-unit developments. In particular they had anticipated that the design guide would carry more weight and could be used to lower heights and reduce bulk of multi-unit developments in situations where the existing character was 1-2 storey detached dwellings.

To help redress the balance between the multi unit design guide and the bulk and location standards, additional text was added to Policy 4.2.3.3, which seeks to:

***Policy 4.2.3.3 - ‘Control the potential adverse effects of multi-unit development.’***

New text was added to the explanation of the policy clarifying that permitted baseline assessments will not generally be considered for multi-unit developments (see below for a copy of the added text).

The Hearing Committee agreed that the ‘permitted baseline’ had had a significant effect on the application of the District Plan. The District Plan was written before the concept of permitted baseline emerged through case law, and some aspects of the plan had not been as effective as anticipated as a result. The Committee agreed that when the plan was written the focus was on achieving high quality multi-unit developments. Because rules alone will not necessarily deliver quality development, the District Plan used a combination of rule based standards and a design guide. The standards set the general ‘bulk and location’ parameters of new development, while the design guide assessment dealt with more qualitative issues such as amenity, design and context. In reality the way in which case law on ‘permitted baseline’ has evolved has meant that the permitted activity standards regarding height, site coverage and parking have dominated issues of context and design.

Submissions 17 and 21 supported the proposed amended text. The Hearing Committee considered that the support of submissions 17 and 21 should be accepted - however the Committee noted that the wording of the policy had been amended in response to other submissions.

Submission 10 sought greater clarity as to when the exemption would apply, noting that the phrase ‘will generally not apply’ lacked certainty for all parties.

Submission 19 considered that permitted baseline should be retained as the revisions to the rules would be sufficient to improve the quality of multi-unit developments.

The Hearing Committee agreed with the concerns raised in Submission 10 regarding application of permitted baseline. The Committee considered that the text added to policy 4.2.3.3 should be revised to provide greater certainty as to when permitted baseline may be applied. The Committee considered that permitted baseline remains a useful tool when considering the scale of the proposed building and its relationship to neighbouring properties. If a building complies with the District Plan standards (particularly sunlight access planes and maximum height), then

## APPENDIX FOUR

it is appropriate to apply permitted baseline when considering the impact of the building on adjoining properties. However the Committee did not consider that it would be appropriate to apply permitted baseline to address how a new multi-unit development impacts on the character of the street and local neighbourhood. Experience shows that buildings built in accordance with the permitted standards in the District Plan can be quite out of character with the surrounding neighbourhood. For this reason the Committee considered that permitted baseline scenarios should not be applied when considering the impact of a development on streetscape character. To this end the Committee amended the text of policy 4.2.3.3 as follows:

*The permitted bulk and location standards that apply within the Inner Residential Areas of Mt Cook, Newtown and Berhampore (as shown in Appendix 9) are reflective of the area's predominant development type, which is one household unit dwelling per site. A single unit dwelling on a site, built in accordance with the bulk and location standards, will generally be of a scale and mass that is consistent with the character of the surrounding area. Single household units dwellings, even when built up to full permitted site coverage, retain a significant degree of openness and greenery on site. However, multi-unit developments designed and built in accordance with the bulk and location controls can have quite different effects on neighbourhood character because:*

- *The increased number of units and residents on a site can potentially adversely impact on privacy and overlooking.*
- *The height and mass of buildings, being often substantially larger than is characteristic of the surrounding neighbourhood can adversely affect the quality of the streetscape character.*
- *Increased site area required for vehicle manoeuvring and parking can reduce green space and landscaping opportunities on site.*

*For this reason the Council will generally not apply a permitted baseline assessment when considering the effects of new multi-unit developments on streetscape character.*

To be consistent with the above decision, the Committee considered that submission 19 should be rejected on the grounds that the application of permitted baseline scenarios is inappropriate when considering matters of streetscape character.

### **Decision:**

- **Accept** submissions 17 and 21 insofar as they support the proposal to not apply permitted baseline scenarios to multi-unit developments, subject to the proposed amendments.
- **Accept** submission 10 insofar as it requests greater certainty as to when permitted baseline scenarios will be considered.
- **Reject** submission 19 insofar as it requests retention of permitted baseline for multi-unit developments.

### **3.7 Existing Building Bonus**

One submission and eight further submissions requested that Council insert an 'existing building bonus' into the District Plan to encourage the retention of existing character buildings. The specific issues raised included:

- Provide an 'existing buildings bonuses' for retaining the existing house on site.
- Bonuses may include: conferring existing use rights on existing buildings, providing additional site coverage if the existing building is retained on site, and exempting two unit developments from the requirement to submit elevation cross sections if the existing building is retained on site (submission 21, FS2, FS3, FS4, FS5, FS6, FS8, FS9, FS10)

### **Consideration:**

## APPENDIX FOUR

Submission 21 requested that Council refine the current policies and rules in the District Plan to provide an 'existing building bonus' for developments that retain the existing building on site. This submission was supported by eight further submissions. The submission wished to encourage the retention of existing character houses, by conferring development advantages on projects that retain an existing house on site. The key features of the proposal were:

- Permit 50% site coverage for single dwellings or multi-unit developments when the existing pre-1996 dwelling is retained
- Provide a car parking exemption for two unit developments that retain the existing pre-1996 dwelling on site
- Exempt two unit in-fill proposals (or conversions of existing buildings), from the frontage set-back and cross section requirements.
- Disregard any existing 'non-compliance' of structures built prior to 1996. Allow any addition or alteration that complies with current District Plan standards irrespective of any 'non-compliance' resulting from the existing structure.

The submission argued that if there was a bonus for retaining existing buildings, they would become a valuable resource more likely to be maintained and renovated. The local sense of place and sense of history would be preserved through the conservation and adaptation of the existing built fabric.

The provision of bonuses for two unit in-fill developments, site coverage and car-parking are discussed in more detail in sections 3.8, 3.11 and 3.14 below. The discussion below is focused on the proposal to set-aside any non-compliance of existing structures, when considering applications to alter existing buildings.

At the hearing submitter 21 (Newtown Residents Association (NRA)) spoke to their proposed 'existing building bonus'. In particular they stressed the need to make it easier to modify and renovate existing houses, to encourage their retention. The NRA considered that the most effective way to facilitate this would be to exempt any 'non-complying' aspect of an existing (pre-1996) house when considering proposals to make additions to the building, or to develop a second infill unit on the same site. The proposed amendment would allow owners to undertake complying additions and alterations to existing houses without the complication of considering the effect of any non-compliance of the existing structure. The NRA considered that this would make the re-use and adaptation of existing houses easier, and would be more in line with how the general public expects the planning rules to be interpreted. The NRA noted that at present it can be difficult to undertake complying additions and alterations to existing buildings, if the existing structure does not comply with the current District Plan standards. This is because the Council requires that the combined impact of both the proposed addition and the existing non-complying building to be taken into account when considering any potential effect on neighbouring properties. The NRA chose 1996 as the cut off date as these buildings have been in place for at least a decade and any non-compliance is likely to be accepted by neighbours.

Submitter 19 (Alan and Amelia Minty) also commented on the existing building bonus concept at the hearing. The submitter supported the NRA's initiative and noted that re-developing and re-using existing character houses can be problematic because the existing structure rarely complies with current planning standards. The submitter noted that the new open space requirements, and car parking standards can be difficult to comply with given traditional site layout, with the dwelling occupying almost the full width of the site, and built close to the front boundary. The submitter recommended providing scope in the District Plan to relax the open space and car parking requirements when existing buildings are being converted into two units.

Further submitter 6 (Frances Robinson) spoke to the hearing in support of the 'existing building bonus' concept. The submitter noted that the existing building stock in Newtown, Berhampore and Mt Cook is widely non-compliant by today's standards, and that this contributes to the

## APPENDIX FOUR

character that many Wellingtonians wish to see preserved. The submitter noted that DPC39 should give some positive incentives to preserve that character. The submitter considered that if existing structures were the 'permitted baseline', then current rules could be used to control later additions or changes. Additions that comply with the current rules should not be required to seek resource consent. The submitter was concerned the DPC 39 set up a direct conflict between the Council's policies of residential intensification and the retention of character buildings, because the Plan confers no more merit on existing housing stock than it does on new developments, when applications are assessed.

Further submitter 10 (Paul Kerr-Hislop) appeared at the hearing and spoke in favour of the existing building bonus concept. The submitter considered that every encouragement should be given to retain existing buildings, but that the current rule structure tends to discourage retention. The submitter noted that the need to get neighbours approval for complying additions (when the existing structure is non-complying) is both confusing and a significant deterrent to maintaining existing buildings. The submitter considered that some form of incentive to keep new buildings is essential to making the plan change work.

The Hearing Committee considered at length the concept of an 'existing building bonus,' and agreed that there was merit in pursuing options that would encourage the adaptive re-use of existing character buildings. The Committee agreed that an important component of any bonus would be to make it as simple and easy as possible to alter and adapt character houses.

At a general level the Committee noted that there was potential for an 'existing building bonus' to be abused if it was not carefully configured. In particular, the Committee was concerned there was no easy and effective way of ensuring that the existing building would be retained once any bonus has been utilised. For example, if a site coverage bonus was provided for developments that retain an existing building on site, an applicant could take advantage of the additional site coverage and at a later date apply to remove the existing building from the site. If the existing building was built after 1930, it could be demolished as of right at a later date, and a new unit built to the same dimensions (under existing use rights (section 10, RMA)).

The use of covenants to require retention of the existing building could work, but the time and cost involved in setting up the covenant would likely negate the original intent of the bonus which was to make it as easy and straight forward as possible to do work on an existing character dwelling.

The Hearing Committee therefore preferred to consider bonuses that would encourage the re-use of existing buildings, rather than conferring bulk and location advantages on developments that retained an existing building on site. As a result the Committee has recommended changes to the rules regarding off-street car parking (see section 3.14), and the conversion of existing dwellings into two units (see section 3.8) to make it easier to adapt existing dwellings

The Hearing Committee agreed with submitter that there should be greater clarity around the issue of existing use rights and how it influences any existing building non-compliance. The Committee agreed that most property owners would expect to be able to make complying additions to their existing house, and acknowledged that the need to consider the impact of non-compliances arising from the existing dwelling could be confusing and frustrating for both owners and their architects. The Committee considered that there has some merit in exploring options that could deliver greater certainty regarding the interpretation of existing use rights.

The NRA suggested that Council grant a blanket 'existing use right' exemption for all dwellings constructed prior to 1996, thus allow any complying additions or alterations to be undertaken as a permitted activity. The Hearings Committee considered that granting a blanket exemption for all existing building non-compliance would run counter to the 'existing use rights' provisions contained in section 10 of the RMA. Section 10 conveys 'existing use rights' on to (lawfully

## APPENDIX FOUR

established) existing buildings irrespective of whether the existing building meets the planning requirements of the day. An existing non-complying building may be re-built provided the new building is 'the same or similar in character, scale and intensity'. Similarly additions and alterations may be made to an existing non-complying building under section 10, providing the effects of the resulting building (post addition) are the 'same or similar' as those caused by the existing building.

The Hearing Committee noted that the traditional development pattern in Newtown, Berhampore and Mt Cook is for buildings to be located roughly in alignment with their neighbours, towards the front of the site. This common alignment meant that buildings could be built close up to the side boundaries, with each house relying on the front and rear elevations, and the rear yard to gain sunlight, outlook and amenity. When a new development (either an addition or a new building) significantly alters the existing pattern of alignment, there is the potential to impact on the privacy and amenity of neighbouring properties. At this point, the Committee considered that it is appropriate that Council consider the combined impact of both the 'non-complying' existing house and the new work. Granting a blanket exemption would circumvent this assessment, potentially allowing new developments to have significant impact on neighbouring properties, through the combined effect of the existing non-complying building and a new complying extension.

In considering this issue, the Hearing Committee noted that the 'existing use rights' assessment undertaken for additions and alterations to a non-complying dwelling was generally limited to the potential for shading and loss of privacy on neighbouring sites.

While a blanket exemption for existing non-complying buildings was not supported, the Hearing Committee considered an alternative approach that had significant merit would be to identify in the District Plan a certain scale of work that could be undertaken on a site irrespective of any non-compliance of the existing structure. The scale of work would be less than the current permitted standards, with levels being set at a scale that ensured the new work would have an acceptable impact on neighbours. It is likely the work would be capped at a single storey (approximately four metres in height), because single storey additions generally have limited impact on neighbours in terms of sunlight and privacy. The Committee noted that this alternate approach would not go as far as submission 21's proposed building bonus, but it would provide certainty to owners of existing character houses as to the scale of additions and alterations that could be undertaken without the need to consider any non-compliance of the existing structure. The Committee noted that the new provision would not prevent property owners exploring additions and alterations that were higher than 4 metres (above ground level), but that these works would probably need to be assessed against the requirements of section 10 of the RMA. The Hearing Committee considered that such a new provision would be applicable in many of Wellington's older suburbs, where buildings are built on steep terrain close to side boundaries. Accordingly the Committee considered that such a provision would have application beyond the DPC 39 suburbs and would be more appropriately developed as part of the citywide Residential Infill study that is due to be reported to Committee in May 2007.

### **Decision:**

- **Reject** submission 21 and further submissions FS2, FS3, FS4, FS5, FS6, FS8, FS9 and FS10 insofar as they request that an existing building bonus be installed in the District Plan.

### **3.8 Rule 5.1.3.1 – number of household units on a site.**

Six submissions were lodged in relation to rule 5.1.3.1 that controls the number of units that can be built on a site as a permitted activity. Specific issues raised in submissions included:

## APPENDIX FOUR

- Two household units on a site should be no more than a Controlled Activity (submission 8)
- Opposed requirement to gain consent for two units on a site, as this will penalise small scale builders/developers (submissions 10 and 19)
- Permit conversion of existing houses into 2 units when there is no change to the external appearance of the building (submission 11)
- Rule should provide for the conversion of existing dwellings to flats, to help encourage retention of existing building stock (submission 22)
- Support revised rule as it will allow two unit developments to be assessed against the Southern Inner Residential Areas Design Guide for Multi-unit Housing (submission 21)

### *Consideration*

DPC 39 amended rule 5.1.3.1 to reduce the number of houses that can be built on a site ‘as of right’ from two to one. As a result of this change a second unit on a site requires resource consent and is assessed against the provisions of the multi-unit design guide (including the appendix that deals with specific character and design issues in Newtown, Berhampore and Mt Cook). The rule was amended to allow the potential streetscape impacts of new multi-unit developments to be assessed.

Submissions 11 and 22 requested that the conversion of existing dwellings into two flats remain and permitted activity as it would encourage the retention of the existing building stock. The Hearing Committee agreed that conversion of existing buildings into two flats should be a permitted activity as the effect of the conversion on streetscape and neighbourhood character would be minimal. A new clause has been added to rule 5.1.3.1 to provide for this. A date of 27 July 2000 has been attached to the new clause so that it cannot be manipulated by presently un-built developments to provide for two new units as of right. This date was chosen as the date that the current District Plan provisions became operative. The revised clause is detailed below:

- *in Thorndon, Mt Victoria, ~~and~~ [Aro Valley]<sup>4</sup>, Mt Cook, Newtown and Berhampore (shown in Appendix 9) no more than 1 household unit shall be permitted on any site. In Mt Cook, Newtown and Berhampore the conversion of an existing building into two household units is permitted, provided the existing building was constructed prior to 27 July 2000 and the development will not result in more than two household units on the site.*

Associated explanatory text:

Permitting the conversion of existing buildings into two household units in Newtown, Berhampore and Mt Cook will encourage the retention and adaptive reuse of existing buildings which contribute to the special streetscape character of these suburbs. Conversion of existing building stock without changes to the building exteriors will not alter existing streetscape character, so are not required to undertake a resource consent assessment against the multi unit design guide.

The Hearing Committee noted that the issue of whether to require resource consent for two unit developments, to allow the streetscape effects to be considered, was less cut and dried. While there are many examples of small scale infill units being constructed on the rear of sites with minimal impact on the streetscape, there are also examples of two unit developments that are highly visible, with significant impact on the streetscape character of the surrounding neighbourhood.

Hearing Committee noted that small scale in-fill units and granny flats were reasonably wide spread and often had no significant impact on streetscape as they were usually located to the rear of the site, behind the existing dwelling. The Hearing Committee also noted that such units

## APPENDIX FOUR

were often developed by the owner of the property so tended of a character and scale that was complimentary to the existing building on the site.

However the Hearing Committee also noted that there were examples of two unit developments (usually where the existing building had been removed or demolished) that had a significant impact on the streetscape character of the surrounding neighbourhood. The Committee noted that under the current rules in the operative District Plan the Council is unable to influence the design, appearance or character of those developments, as they are not required to be assessed against the provisions of the Multi-Unit Design Guide.

Submitter 19 (Alan Minty) spoke to this issue at the hearing. The submitter originally opposed the amended rule and requested that the status quo (two units permitted as of right) be retained. The submitter considered that the proposal to require resource consent for two or more units on a site would unfairly penalise small scale builders and developers. However at the hearing the submitter advised that his position on the issue had changed, and he now believed that there was some merit in two unit proposals being subject to a design assessment. The submitter said that his change of heart was the result of a recent proposal to develop two units on a neighbour's property. While the proposal complied with most provisions of the District Plan the submitter (an architect by profession) considered that the design quality of the proposal was poor, and the resulting building would have compromised the character of the surrounding neighbourhood.

On a related matter, the Hearing Committee noted that the current rules have provided a loop hole that presents opportunities to bypass the design assessment process. The Committee noted that at times the ability to construct two units as of right had been manipulated (in conjunction with the subdivision rules), to avoid having to undertake a multi-unit design assessment even though a total development comprised more than two units. While the Committee noted that the risk of this occurring in the future had been reduced by the installation of an open space requirement in DPC 39, they considered that requiring consent for any development involving more than one unit on a site would more effectively close the existing loophole.

The Hearing Committee also considered the links between DPC 39 and DPC 38 which deals with the issue of the demolition of pre-1930 buildings in Newtown, Berhampore and Mt Cook. Under the provisions of DPC 38 any application to demolish a pre-1930 building in Newtown, Berhampore and Mt Cook requires consideration of the streetscape contribution of the proposed replacement building. This would allow consideration of the design of new two unit developments, but only in situations where an existing pre-1930 unit was to be removed or demolished. For the sake of clarity the Hearing Committee considered that the following assessment criteria be added to rule 5.3.11 noting that when it is proposed to demolish a pre-1930 building, the replacement building(s) will be assessed against the content of the Southern Inner Residential Areas Design Guide for Multiunit Housing.

**5.3.11.4.C In Newtown, Berhampore and Mt Cook the extent to which the replacement building(s) are consistent with the content of the Southern Inner Residential Areas Design Guide for Multiunit Development.**

On balance, given the potential for two unit developments to impact on streetscape character, the Hearing Committee considered that two unit developments in Newtown, Berhampore and Mt Cook should remain as a discretionary activity to allow issues of streetscape and design to be assessed. While the Committee acknowledged that this would increase compliance costs, particularly for small scale infill developments, they considered that the costs would be off-set by the benefits derived from more effective management of the special character of the three suburbs.

In reaching this decision the Hearing Committee noted that Council is currently undertaking a city-wide study of the effects of infill and multi-unit development. The Committee noted that

## APPENDIX FOUR

that study may, in time, put forward an alternate approach to managing two unit infill developments that could also be applied to Newtown, Berhampore and Mt Cook. In the meantime the Committee considered that rule 5.3.10 should be retained as notified in DPC 39.

### ***Decision:***

- **Accept** submissions 11 and 22 insofar as they request that the conversion of existing buildings into two household units be made a permitted activity.
- **Reject** submission 8 insofar that it requests that two units on a site be made a controlled activity.
- **Reject** submissions 10 and 19 insofar as they request that two unit developments be made a permitted activity.
- **Accept** submission 21 insofar as it supports application of rule 5.3.10 to two unit developments in Newtown, Berhampore and Mt Cook.

### **3.9 Rule 5.1.3.2.1 – front yard requirement.**

Five submissions addressed the proposal to increase front yards from one metre to three metres. Specific issues raised in submissions included:

- Oppose the increase in the front yard requirement from one metre to three metres as it will compromise the efficient use of sites (submissions 10 and 19)
- Require only one front yard on corner sites (submission 19)
- Amend rule 5.1.3.2.2 to reduce the maximum width of accessory buildings located in front yards. The current 6 metre width is excessive given that many sites are only 7-9metres wide (submission 17)
- Support the 3 metre yard subject to modification. Rear units on corner sites should be able to align with the existing building on the site. In determining the characteristic front yard the rule should consider the alignment of four properties on either side (submission 21)
- Oppose increase in front yard requirement as many houses are already closer than 1 metre to the street. A three metre yard requirement will lead to increased car parking in the front yard (submission 22)

### ***Consideration:***

DPC 39 proposed to increase the front yard requirement from 1 metre to 3 metres. The rule contains an exemption, whereby if the buildings on either side are already closer than 3 metres to the street, then a new building may be built forward to align with its neighbours. The proposed amendment resulted from the 1999 audit of the three suburbs which identified small front gardens as being characteristic of the three suburbs. Additionally, a 3 metres front yard is sufficient space to allow planting to be established in front of new multi-unit developments, potentially helping to soften the effect of the new development.

Submissions 10 and 19 opposed the 3 metre yard provision on the grounds that it will compromise the efficient use of sites. Submitter 19 (Alan Minty) spoke to the hearing on this issue. He noted that the ability to site buildings to suit the orientation of the property was more important than requiring a standard front yard of three metres. The District Plan should allow a building to be located for the best use of the site, orientation to the sun, and the aggregation of yards for an outdoor living space. In particular the submitter noted that front yards and gardens located to the south of the dwelling are unlikely to provide good amenity and are therefore wasteful use of space.

Submitter 21 (Newtown Residents Association) spoke at the hearing. While supporting the provision of 3 metre front yards the submitter was concerned that the proposed rule was a

## APPENDIX FOUR

minimum dimension only. The submitter accepted that the rule would require new development to provide a minimum front yard of 3 metres (unless neighbouring buildings were already closer), but felt that the rule should go further and prevent developments from providing front yards greater than 3 metres in depth. The submitter was concerned that setting buildings back further than 3 metres would be out of character, and would encourage car-parking at the street frontage which would be detrimental to streetscape character. They also considered that new buildings out of alignment with the existing patterns by being set back too far would adversely affect neighbours privacy and amenity.

The Hearing Committee considered these submissions at some length. While acknowledging that front yards were a characteristic feature of the three suburbs, the Committee concluded that the solar orientation argument had considerable merit, and therefore did not think that the front yard requirement should be rigidly adhered to if the result was an area of low quality shaded open space, or an inefficient use of the site.

In considering the likely implication of the proposed rule, the Hearing Committee noted that the 3 metre front yard rule was unlikely to be triggered by works on existing dwellings as it is uncommon for existing dwellings to be extended towards the front boundary. In respect of existing pre 1930 dwellings PC38 would also be triggered as such extensions would inevitably alter or demolish detailing contributing to streetscape. The rule is therefore most likely to be triggered by a new multi-unit development which would require consent as a discretionary activity (restricted). The issue of a reduced front yard could therefore be considered as part of the overall development. The Committee noted that where it can be demonstrated that locating a building closer than 3 metres to the road frontage will result in a better quality development, then there should be scope to waive the yard requirement as part of the multi-unit consent application. The multi-unit development rule (5.3.3) already contains an assessment criterion that allows consideration of this matter:

*5.3.3.5 Whether a better standard of development can be achieved by varying the specified standard.*

However the Hearing Committee considered that the assessment criteria should provide more explicit guidance relating to front yard waivers. In particular the Committee considered that the plan should provide scope for front yards to be reduced when this allowed more efficient use of the site, and better orientation of the development to the sun. The Committee considered that any reduction in the front yard requirement must be able to be treated in a manner that ensures they do not compromise the streetscape character of the surrounding area. Accordingly the following text is proposed to be added to the assessment criteria for rule 5.3.3.

**5.3.3.10 Whether a reduction in the front yard requirement in Newtown, Berhampore and Mt Cook will result in a higher quality development that makes better use of the site and its orientation to the sun. Any proposal to build closer to the street frontage will need to be able to demonstrate that the proposed building(s) can be treated in a manner that is sympathetic with the streetscape character of the surrounding neighbourhood.**

### *Corner Sites*

Submission 19 requested that corner sites be required to provide only one front yard, while submission 21 requested that infill units on corner sites be allowed to align with the existing building on site. The Hearing Committee agreed that requiring two front yards on corner sites is unreasonably onerous. Corner shops and corner houses built up to (or close to) one street frontage are common in each of the three suburbs. The Committee agreed that rule 5.1.3.2.1 should be re-worded to require only one front yard on corner sites. The Committee noted that this would also provide the relief sought by submission 21 insofar as it would enable an infill unit on a corner site to align with the existing building on site.

## APPENDIX FOUR

### *Accessory Building widths*

Submission 17 was concerned that allowing accessory buildings of up to 6 metres width in front yards would detrimentally impact on the character of the suburbs. Submission 22 is concerned that the three metre yard requirement will lead to increased car-parking in front yards, again to the detriment of the streetscape character. The Hearing Committee noted that the provision for 6 metre wide accessory buildings in front yards is an existing rule in the District Plan, and that it provides sufficient width to develop a double garage at the front of a site. The Committee agreed with the submissions that cars and garaging are not dominant features of the existing character of Newtown, Berhampore and Mt Cook. The Committee also agreed that front yards dominated by garaging and vehicle parking could be detrimental to the existing character. Accordingly the Committee gave prolonged thought to the matters raised by these submissions. In conclusion, having undertaken a site visit of the three suburbs, the Committee considered that there was limited evidence of development of large garages within the suburbs. There are many sites in Newtown, Berhampore and Mt Cook that are unable to accommodate a garage due to the location of the existing house at the front of the site (most character houses are built between 1 and 3 metres of the front boundary). The Committee noted that a number of new garages had been developed on sloping sites where owners were able to excavate below the house to create a garage. While the Committee acknowledged that these basement garages can impact on streetscape character, they noted that usually the existing dwelling on site remained visible behind the new garage, so the character value of the site was retained. In addition, this arrangement where houses overlook their street is better for the life and safety of the street than where dwellings are hidden behind garages. On the grounds that there was limited scope for developing of new garages on sites in the three suburbs the Committee considered that the existing accessory building rule should be retained for the present, but recommended that further consideration of this issue be undertaken as part of citywide review of residential rules.

The Hearing Committee considered that it was unlikely that the three metre front yard requirement would significantly increase the number of car parks in front yards. The Committee noted that the three metre yard rule would apply predominantly to new multi-unit developments. These developments would be required to provide on-site car parking for each unit, which would be assessed against the multi-unit design guide. The design guide includes the following guidance on managing the visual impact of car parking which will allow Council to manage this issue. The Committee considered that an additional bullet point should be added to the guideline that specifically addressed the relationship between garages and carparking, and the existing building(s) on site:

- 6.2 *Integrate garages and cars parked on-site in a way that does not visually dominate the street frontage. This can often be successfully achieved by:*
- *using planting and other landscape elements in areas where cars are to be parked to give the appearance of a garden or courtyard*
  - *avoiding grouping parking spaces or garages at the street frontage.*
  - *ensuring garages and parking do not significantly obscure existing dwellings from the street.*

On balance the Hearing Committee considered that the proposed 3 metre front yard requirement should be retained, albeit with an amendment to clarify that corner sites are only required to provide one front yard.

### **Decision:**

- **Reject** submissions 10 and 19 insofar as they oppose the three metre front yard on the grounds that it will compromise the efficient use of sites.

## APPENDIX FOUR

- **Accept** submission 19 insofar as the revised assessment criteria for Rule 5.3.3 will allow relaxation of the front yard requirement in situations where it will provide a more efficient use of a site and allow buildings to be better oriented to the sun.
- **Accept** submissions 19 and 21 insofar as they request that corner sites be required to only provide one front yard.
- **Reject** submission 17 insofar as it requests that the maximum width of accessory buildings in front yards be reduced.
- **Reject** submission 22 insofar as it opposes the 3 metre front yard on the grounds that many houses are already closer than 1 metre and that it will lead to increases car parking in the front yard.
- **Recommend** that further assessment of the accessory building rules be part of upcoming review of the citywide residential rules for infill development.

### 3.10 Rule 5.1.3.2.A – open space requirement

Eight submissions addressed the new provisions relating to on-site open space. Specific issues raised in submission included:

- Support open space requirement as it will assist in making new development consistent with existing character (submission 17 and 21)
- Support provision in part. It should only be applied to larger (3+ unit) developments. The minimum width should be 1 metre and the total space should be calculated as an aggregate over the whole site. Amend the size requirements for private open space and balconies. Allow space under verandahs (up to a depth of 1.5 metres) to be counted as open space (submission 19)
- Do not require separate on-site open space for two unit developments (submission 8)
- Allow greater flexibility in how open space is provided. Allow the space to be split between balcony and ground level (submission 10)
- Oppose open space requirement as it will reduce development potential for all sites (submission 20)
- A private deck requirement of 10 square metres is unrealistic. There should be scope to provide smaller decks (submission 22)

#### ***Consideration:***

DPC 39 introduced a new rule requiring all new multi-unit developments to provide on-site open space. This was one of the key changes contained on DPC 39. The pre-1994 District Scheme included a rule requiring provision of usable open space. In the 1994 District Plan, a guideline promoting ground level open space was contained in the multi-unit design guide. As in practice, guidelines did not carry the same weight as rules, many multi-unit developments dispensed with ground level open space in favour of private decks. This undermined the intent of the Plan in this regard.

Dispensing with ground level open space has allowed developments to maximise site coverage and to make room for vehicle manoeuvring areas on site, but has resulted in lack of open and green space on many sites. Recent multi-unit developments frequently have much, or all of their unbuilt space dedicated to carparking and vehicle manoeuvring.

The intention of the new open space rule is to require all new multi-unit developments to provide a reasonable amount of open space on site. The provision of open space will ensure that there is the ability to establish planting on site and will help to mitigate potential adverse impacts by:

- Enhancing the on-site amenity of the development
- Providing a setting for the new buildings and structures on site

## APPENDIX FOUR

- Assisting to integrate the new development into the character of the surrounding area
- Softening the visual impact of new buildings and structures from surrounding public spaces
- Providing green open space allowing for substantial trees and vegetation on site.

The rule was not installed in order to ensure that every household unit had its own private open space, although this may be the result depending on the configuration chosen. Providing private outdoor space as a deck is often an acceptable solution, provided that the required area of open space is provided elsewhere on site.

One submission (submission 20) requested that the open space requirement be deleted on the grounds that it would reduce the development potential of all sites within the three suburbs. Further submitter 6 (Frances Robinson) spoke to the hearing and indicated that she considered the proposed open space requirement to be overkill in an area identified in the District Plan for medium-high density housing. The further submitter also considered that the open space provision also created a conflict between DPC 39 and the Council policy of encouraging residential intensification.

Submissions 17 and 21 supported the proposed open space provisions as notified.

The remaining submissions requested various amendments to the open space rule as notified. Most submissions requested that the rules be amended to allow greater flexibility in how open space is provided on site, and greater clarity as to how private open space is split between ground level space and private decks.

Submission 8 requested that the open space provision not be applied to two unit developments.

Submitter 19 (Alan Minty) spoke to the hearing regarding open space. He noted that he believed that the open space requirement was the most significant rule change proposed by DPC 39. In his opinion most of the larger multi-unit developments in the three suburbs would not meet the requirement by a significant margin. Densities would be reduced under the proposed rules and future developments would look more open and less congested. The submitter had requested a number of changes to the rule as notified, but noted at the hearing that he supported the rule as amended in the officer's report.

The Hearing Committee considered that the open space provisions contained in DPC 39 were important in helping Council to improve the quality of new multi-unit developments. The Committee noted that many recent developments, particularly larger multi-unit developments, were visually dominated by buildings and sealed vehicle manoeuvring spaces. While these developments provided private open space in the form of decks, the lack of ground level open space meant there was limited scope to use planting and landscaping to help soften the visual impact of the development and assist integration with the surrounding neighbourhood.

By introducing an open space rule, the Hearing Committee considered that new projects would need to give greater consideration to the over-all 'balance' of the development. Because the open space requirement would carry the same weighting as the current rules for vehicle parking and site coverage, the Committee considered that future developments would not be able to dispense with ground level open space, in favour of maximising the number of units on site.

While the Hearing Committee agreed with those submitters that argued that the open space rule would lead to a reduction in overall development intensity, the Committee considered that this reduction was acceptable given the anticipated benefits in terms of improved development quality and achieving development that is complimentary to the existing character of the suburbs. The Committee noted that addressing the fact that many recent multi-unit

## APPENDIX FOUR

developments have integrated so poorly into the surrounding neighbourhood was a key part of the Plan Change.

The Hearing Committee generally agreed with the amendments proposed in submission 19. For the sake of simplicity, the Committee considered that open space should be calculated as an aggregate across the site at a rate of 35 square metres per household unit. The open space could be split between private and shared open space depending on the requirements of the development. The Committee also agreed that there should be scope to reduce the size of decks on single bedroom units, as a 10 square metre deck was probably more than sufficient for such smaller units. The Committee agreed that decks and verandahs should be able to over hang open space by up to 1.5 metres, as this would not compromise sunlight access and would provide a degree of shelter to users during inclement weather.

The Hearing Committee did not agree with submission 19's request to lower the minimum width of open space from 3 metres to 1 metre. While the Committee acknowledged that strips of landscaping 1 metre wide can enhance new developments, they considered that specifying a minimum width of 1 metre would result in areas of low quality, low amenity open space being provided in thin strips around the perimeter of sites. The Committee moreover considered it important that space be usable.

In conclusion the Hearing Committee considered that the open space rule in DPC 39 should be retained for all developments in Newtown, Berhampore and Mt Cook, but that the notified rule should be amended as follows:

- Require ground level open space to be provided on site at a rate of 35 square metres (sq.m) per unit. The open space may be provided as either shared or private open space and will be calculated as an aggregate over the whole site.
- The open space must have a minimum dimension of 3 metres. The open space must be generally unencumbered by buildings, but verandahs may project out over ground level open space to a maximum depth of 1.5 metres.
- Any unit that has less than 20 sq.m. of private ground level open space, must be provided with a private deck for the sole use of the occupants of the unit. The size of the deck must be at least 6 sq.m for a one bedroom unit, or 10 sq.m for units with 2+ bedrooms. The minimum deck dimension shall be 2 metres.
- Re-number the open space rules to provide additional clarity.

The Committee considered that these changes would improve the functionality and clarity of the rule, while retaining its original intent.

The revised wording of rule 5.1.3.2.A is shown below:

### **5.1.3.2.A Open Space (Mt Cook, Newtown and Berhampore (as shown in Appendix 9))**

**5.1.3.2.A.1 On-site ground level open space shall be provided at a rate of at least 35 square metres per household unit. Open space shall be calculated as an aggregate total for the site, and may be provided as either private or shared open space.**

**5.1.3.2.A.2 No area of ground level open space shall be used for vehicle accessways, parking or manoeuvring areas, or be covered by buildings. Balconies or verandahs may extend out over ground level open space up to a maximum depth of 1.5 metres.**

**5.1.3.2.A.3 For the purposes of this calculation, all areas of ground level open space must have a minimum width of at least 3 metres.**

**5.1.3.2.A.4 Any household unit that has less than 20 square metres of complying private ground level open space must also provide private open space in the form of a deck or balcony. A total deck area of at least 6 square metres is required for one bedroom**

## APPENDIX FOUR

**units, while units with two or more bedrooms must provide a deck area of at least 10 square metres. All decks must have a minimum dimension of at least 2 metres. Open space provided as decks does not contribute towards the aggregate ground level open space total for the site.**

The Hearing Committee noted that the DPC 39 as notified did not explicitly provide for the consideration of proposals to reduce open space through the resource consent process. As a result any proposal to reduce the provision of open space would default to Non-Complying Activity status. Normal practise is for proposals that do not meet the bulk and location standards specified in the plan to be considered a Discretionary Activities (Restricted) under Rule 5.3.3. While it could be argued that open space fell within the ambit of 'yards' which are already captured by rule 5.3.3, the Hearing Committee considered that open space should be referred to explicitly to avoid confusion. The Committee considered that the following text should be added to rule 5.3.3:

**5.3.3.4B open space (in Mt Cook, Newtown and Berhampore as shown in Appendix 9)**

### ***Decision:***

- **Accept** submission 17 and 21 insofar as they support the open space requirement, subject to the proposed amendments.
- **Accept** in part submission 19 insofar as the proposed amendments are in accordance with decision requested.
- **Accept** submission 8 insofar as the revised rule will not require separate on-site open space for two unit developments.
- **Accept** submission 10 insofar as it requests greater flexibility in how the open space is provided.
- **Reject** submission 20 insofar as it requests that the open space requirement be discarded.
- **Accept** submission 22 insofar as it requests that scope be provided for decks less than 10 sq.m in size.

### **3.11 Rule 5.1.3.3 – site coverage**

Six submissions and seven further submissions addressed the issue of site coverage. Specific issues raised in submission included:

- Oppose the reduction in site coverage from 50% to 45% (submission 10, 22)
- Support the reduction in site coverage (submission 17)
- Retain site coverage of 50%, as the open space requirement will be the controlling factor with density. Reducing to 45% will encourage higher density development with smaller footprints for individual units. (submission 19)
- Retain 50% to allow flexibility in enlarging and adapting existing dwellings (submission 20)
- Support reduction to 45%, but allow 50% site coverage where an existing pre-1996 dwelling is retained on site (submission 21, FS2, FS3, FS4, FS6, FS8, FS10)

### ***Consideration:***

DPC 39 proposed to reduce the maximum permitted site coverage in Newtown, Berhampore and Mt Cook from 50% of site area, to 45% of site area. The site coverage standard determines the proportion of a site that can be covered by building footprint(s). As there are no minimum lot sizes specified in the District Plan the site coverage standard is the principal determinant of development intensity.

## APPENDIX FOUR

The submissions received covered a range of issues relating to site coverage. Submissions 10 and 22 opposed the reduction in site coverage to 45%, while submission 17 supported the reduction.

Submission 20 requested that 50% site coverage be retained to allow for additions to existing dwellings. Submission 21 supported the reduction to 45%, but requested that developments that retain an existing dwelling be permitted 50% site coverage as part of an existing building bonus.

Submission 19 argued that site coverage should be retained at 50% on the grounds that the new open space requirement will become the controlling factor with development density. While the submitter noted that it was tempting to reduce coverage to 45%, they considered that leaving the standard at 50% would allow for more flexible building forms. The submitter noted that lowering the site coverage to 45% would encourage developers to build to three storeys (to maximise total floor area) which was more likely to be out of character with existing buildings.

The Hearing Committee noted that the operative standard of 50% provided for a level of site coverage that is slightly higher than the existing character of the three suburbs (the 1999 audit indicated an average site coverage of 45% across the three suburbs). The Committee also noted that the relatively high site coverage, combined with the requirement to provide one off-street car park per unit, has resulted in multi-unit developments that are visually dominated by buildings and hard sealed vehicle manoeuvring areas, usually at the expense of green space. When Plan Change 39 was notified, the site coverage was reduced to 45% (in conjunction with a new open space requirement) to enable a better balance to be struck between building mass, vehicle manoeuvring space and green open space.

In the ten months since Plan Change 39 was notified it has become apparent that in addition to site coverage, the requirement to provide ground level open space has become a significant factor in determining overall development density. Because the open space requirement is linked to the number of units on site, developments that seek to maximise the number of units are required to set aside more of the site as ground level open space. As a result some developments have had to drop below the maximum stated site coverage in order to comply with the rules for ground level open space (and also provide the required on-site car-parking).

Overall the Hearing Committee considered that the issue of site coverage is finely balanced. While a site coverage of 45% was more characteristic of the area, the effectiveness of the new open space requirement meant that the Committee were able to consider retention of site coverage at 50%. The Committee was particularly persuaded by submitter 19's assessment that 45% site coverage would, perhaps ironically, encourage more out of character development by encouraging new multi-unit development to be of a higher density (in terms of height) than would occur with 50% site coverage.

The Hearing Committee noted that a benefit of returning site coverage to 50% would be to provide greater flexibility to adapt and expand existing character houses to suit the owners' needs. There are circumstances where existing houses on small sites are close to (or already above) 45% site coverage. The Committee considered that it is unfair to penalise these individual properties when the effect that Council is seeking to control (i.e. the loss of open space) is generated almost exclusively by new multi-unit developments.

Having weighed the potential benefits of 45% and 50% site coverage, the Hearing Committee considered that the site coverage standard for Newtown, Berhampore and Mt Cook should be retained at 50%.

The Committee acknowledge that returning the site coverage rule to 50% would mean that in certain circumstances (and on certain sites) it would not be possible to achieve that 50% site coverage, while at the same time providing for the required open space and off-street car parks.

## APPENDIX FOUR

In this scenario it is reasonable to expect that the Council would come under pressure to waive the open space requirement in order to allow developments to achieve full site coverage. To clarify that the open space requirement is not to be reduced in order to maximise site coverage, the Hearing Committee considered that the explanation to policy 4.2.3.3.A should be strengthened.

*The traditional development pattern in Mt Cook, Newtown and Berhampore is a single household unit dwelling per site. As a result most properties retained a reasonable area of open space on site. Rear yards with mature visually prominent vegetation and well landscaped front gardens are typical features of that contribute to the character and amenity of the suburbs. The building bulk of new multi-unit development, together with the hard surface areas required for vehicle manoeuvring, can alter the valued character and amenity by reducing the sense of greenness and open space. The requirement to provide open space is an important tool for ensuring that new multi-unit developments are of acceptable density and are capable of providing a suitable degree of openness and greening on-site. For that reason Council will not waive the open space requirement simply to allow a development to maximise permitted site coverage or to make provision for off-street carparking.*

### **Decision:**

- **Accept** submissions 10, 19, 20 and 22 insofar as they request retention of 50% site coverage.
- **Reject** submission 17 insofar as they support the reduction in site coverage to 45%.
- **Reject** submission 21, and further submissions FS2, FS3, FS4, FS6, FS8 and FS10, insofar as they support reducing site coverage to 45%, with 50% site coverage only where an existing pre-1996 dwelling is retained on site.

### **3.12 Rule 5.1.3.4 – maximum building height.**

Six submissions addressed the proposed reduction in maximum building height. Specific issues raised in submissions included:

- Oppose the reduction in maximum height from 10 metres to 9 metres (submissions 10)
- Support reduction in maximum height (submission 15, 17, 19, 21)
- Retain 10 metre height as the sunlight access planes are the key determinant of height on narrow sites (submission 20)

### **Consideration:**

Plan Change 39 lowered the maximum building height in Newtown, Berhampore and Mt Cook from 10 metres to 9 metres. The decision to lower the height was based on the findings of the 1999 audit (that few residential buildings in these suburbs exceed 9 metres in height) and because excessive bulk had been identified as one of the key adverse effects of new multi-unit developments.

Two submissions opposed the reduction in height, with submission 20 arguing that the reduction was not required as sunlight access planes are the key determinant to height in these suburbs.

Four submissions supported the reduction in height on the grounds that it would result in a scale of buildings more in keeping with the existing character of the three suburbs.

## APPENDIX FOUR

The Hearing Committee agreed with submission 20 that many properties in Newtown, Berhampore and Mt Cook cannot achieve a height of 10 metres due to the narrowness of the sites and the sunlight access planes prescribed by the District Plan. However the Committee noted that new multi-unit developments in the three suburbs tended to be located in larger sites, or on amalgamated sites and in this situation a maximum height of 10 metres can result in uncharacteristically large buildings.

The Hearing Committee considered that a maximum height of 9 metres would be more likely to result in new buildings that are complimentary to the existing character of the three suburbs. Accordingly they endorsed the amended height limit contained in DPC 39

### **Decision:**

- **Reject** submissions 10 and 20 insofar as they oppose the lowering of the maximum building height to 9 metres.
- **Accept** submission 15, 17, 19 and 21 insofar as they support the lowering of the maximum height to 9 metres.

### **3.13 Rule 5.3.10 – two or more household units on a site as a Discretionary Activity (Restricted)**

Four submissions were made on proposed Rule 5.3.10. Specific issues raised in submissions included:

- Clarify how the non-notification statement will be applied to the new discretionary matter of ‘bulk and massing of buildings’ and ‘open space’ (submissions 9, 10)
- Notify the resource consent if neighbours approval are not received (submission 9)
- Combine ‘bulk and massing of buildings’ with ‘design, external appearance and siting’ as matters over which Council retains discretion (submission 9)
- Retain existing rule that applies to 3 or more units on a site (submission 19)
- Support rule as it will require developments to be considered against the multi-unit design guide. Convene a panel to comment on multi-unit development proposals (submission 21)

### ***Consideration:***

DPC 39 amended rule 5.1.3.1 to reduce the number of houses that can be built on a site ‘as of right’ from two to one. As a result of this change a second unit on a site requires resource consent and is assessed against the provisions of the multi-unit design guide (including the appendix that deals with specific character and design issues in Newtown, Berhampore and Mt Cook). The rule was amended to allow the potential streetscape impacts of new multi-unit developments to be assessed.

Section 3.9 above discusses the decision to require resource consent for proposal to develop more than one unit on a site. This section discusses the issues raised by the amended wording of rule 5.3.10.

Submitter 19 initially requested that rule 5.3.10 apply only to developments containing three or more household units. For the reasons given in section 3.9 above, the Hearing Committee considered that rule 5.3.10 should be applied to any development containing two or more units.

Submissions 9 and 10 requested that Council clarify how the non-notification statements in rule 5.3.10 would be applied to issues of ‘bulk and massing of buildings’ and ‘open space’. Rule 5.3.10 focuses on managing the impact of new multi-unit development on streetscape character, and ensuring a reasonable level of quality and amenity is provided for each unit on the

## APPENDIX FOUR

development site. The Hearing Committee noted that these are matters that need to be assessed by qualified urban designers or traffic experts, and as such the rule does not require the approval of adjoining neighbours. The rule as amended in Plan Change 39 did not extend the existing non-notification statement to cover the new issues of 'bulk and massing of buildings' and 'open space'. On the basis that these items are being assessed for their impact on streetscape character, rather than to manage an effect on neighbouring properties, the Committee considered that the non-notification clause in Rule 5.3.10 should be amended to include 'bulk and massing of buildings' and 'open space'.

In terms of the impact of multi-unit developments on the amenity and privacy of neighbouring properties the Committee noted that in addition to rule 5.3.10, any multi-unit development must also meet the bulk and location standards specified in the plan (yards, heights, site coverage, sunlight access planes etc.). If these are breached, then resource consent is required under rule 5.3.3. This rule purposefully does not have a non-notification clause attached to it, meaning that approval must be obtained from any parties identified by the Council as being affected by the rule breach(es). If those approvals are not received then the Council must apply the provisions of the RMA to determine whether the application requires notification.

In respect of open space, any non-compliance with the specified standards (i.e. total area, minimum dimension etc) would be dealt with under rule 5.3.3, and may be publicly notified. Open space is included in rule 5.3.10 to allow Council to consider its layout on-site, and its effectiveness in promoting positive streetscape outcomes. Given the nature of this assessment the Hearing Committee considered that it was appropriate to apply the non-notification clause in rule 5.3.10 to the issue of 'open space'.

### **Decision:**

- **Accept** submissions 9 and 10 insofar as they requests greater clarity as to how the non-notification statements will be implemented.
- **Reject** submission 19 insofar as it requests that rule 5.3.10 only apply to developments containing three or more units.
- **Accept** submission 21 insofar as it supports application of rule 5.3.10 to Newtown, Berhampore and Mt Cook.

### **3.14 Rule 5.1.1.2 – car parking**

One submission and three further submissions addressed the issue of car parking. Specific issues raised in submission included:

- Exempt two unit developments that retain the existing dwelling on site from the normal car parking requirement (1 per household unit) (submission 21, FS6, FS8, FS10)

### ***Consideration:***

The District Plan requires that new developments provide off-street car parking. While additions and alterations to existing dwellings can be made without triggering the car park requirement, proposals to convert an existing house into flats or to add an additional unit on a site are required to provide off-street car parking at a rate of one per unit, including for the existing unit.

Submission 21 (Newtown Residents Association) requested that two unit developments that retain the existing building on site be exempted the normal car parking requirements. They considered that this would encourage retention of existing buildings and help ensure that car-parking in front yards does not become a defining feature of the suburbs. The Association

## APPENDIX FOUR

spoke at the hearing and reaffirmed their position that car parking should not be required for two unit developments.

Further submitter 6 (Frances Robinson) spoke to the hearing. She supported the submission of the Newtown Residents Association and considered that the car parking requirement in the District Plan should be tied to the quality of the development. She suggested that Council introduce an assessment criteria in the District Plan to recognise the streetscape impact of car parking, and the Council should reserve the ability to waive the car parking requirement if the impact of providing car-parking on streetscape character was going to be detrimental. Both submitters showed examples of the adverse streetscape impact of the requirement to provide off street carparking in front of existing character buildings. They also noted that the general impact of providing an offstreet carpark is to lose an on street carpark. The net effect they argued was to lose attractive garden areas that contributed to streetscape, and have no net gain in carparking.

The Hearing Committee accepted that car parking is a difficult issue to resolve in Newtown, Berhampore and Mt Cook, as by and large the three suburbs were developed pre-motorcar, so garages and off street car parks are not common. At present developments that result in additional household units on a site are required to provide off-street car parking at a rate of 1 space per household unit. The Committee noted that when car parking is provided as part of a two unit development it is often located in the front yard. The resulting hard-surfaced area in front of the house, if poorly executed, can be detrimental to streetscape character..

However the Committee heard evidence that the requirement to provide off street car parking has also played a role in protecting character, by moderating the degree of infill housing occurring on back sections in Newtown, Berhampore and Mt Cook. It is reasonable to assume that some of the properties with substantial rear yards would have been built on if it had been possible to form off-street car parks at the front of the site, or gain access to the rear of the property. The Hearing Committee noted that granting a blanket car parking exemption to two unit developments across the three suburbs could well result in a significant increase in the number of infill developments within these suburbs, which could be detrimental to character and amenity.

The Committee also noted that a blanket car parking exemption for two unit developments could exacerbate pressure for on-street parking in certain areas, by increasing the number of households, without corresponding increase in net parking provision. Because of the lack of off-street car parking in the three suburbs, there is significant pressure for on-street parking on some streets. At present Council considers applications to waive parking requirements on a case by case basis through the resource consent process, having regard to the existing on-street parking situation in the surrounding area. The Hearing Committee considered that this site-by-site assessment remained more appropriate than a blanket exemption.

However the Hearing Committee agreed with the submitters that the provisions in the District Plan should encourage the retention of existing dwellings (particularly the character house built pre-1930), where this could be done without creating consequential adverse effects. With this in mind the Committee considered that there was scope to waive the car parking requirement for proposals to convert existing buildings into two flats. The Committee noted that dwelling conversions were unlikely to significantly increase the overall demand for car parking as a four bedroom house had the same potential for car ownership irrespective of whether it was a four bedroom flat or two bedroom flats.

The Hearing Committee heard evidence that when new developments are required to provide two off-street car parks, it is often at the expense of one or two on-street parks. Two off-street parks require a double kerb crossing (6 metres wide) which removes at least one car park from the street. Accordingly, the Hearing Committee considered that the benefits of requiring off-

## APPENDIX FOUR

street car parks for flat conversions were marginal in terms of increasing total car parking capacity. On the basis that flat conversions do not generally increase dwelling capacity or the overall intensity of development on site (and consequently the demand for car-parking is likely to remain the same) the Committee considered that the car-parking requirement for flat conversion could be waived.

Accordingly the Hearing Committee accepted submission 21 in part, and agreed that the off street car parking requirement should be waived for proposals to convert existing homes into two units. The Committee directed that the following text be added to rule 5.1.1:

- **In Newtown, Berhampore and Mt Cook (shown in Appendix 9) an existing building may be converted into two household units without provision of on-site parking, provided the existing building was constructed prior to 27 July 2000 and the development will not result in more than two household units on the site.**

Associated explanatory text:

*Permitting existing buildings in Newtown, Berhampore and Mt Cook to be converted into two household units without the provision of off-street car parking will encourage the retention and adaptive reuse of existing buildings which contribute to the special streetscape character of these suburbs. Waiving the requirement for off-street car parking can also help maintain the existing streetscape character by removing the need to develop garaging or parking spaces in the front yard of properties.*

### **Decision:**

- **Reject** submission 21 and further submissions FS6, FS8 and FS10 insofar as they request a blanket exemption from the normal car parking requirement, for two unit developments that retain the existing dwelling on site.
- **Accept** submission 21 and further submissions FS6, FS8 and FS10 insofar as a car parking exemption has been provided for proposals to convert an existing building into two units.

### **3.15 Southern Inner Residential Areas Multi-Unit Design Guide – amend contents**

Three submissions and two further submissions were lodged in relation to the proposed multi-unit design guide for Newtown, Berhampore and Mt Cook. Specific issues raised in submission included:

- Amend guidelines 3.1 (side yards) and 4.1 (front yards) to allow consideration of development in cul-de-sacs (submission 17)
- Amend guideline 2.1 by removing note to ‘differentiate individual units or groups of units by varying colour and materials’ (submission 17)
- Proposed Southern Inner Residential Areas Design Guide for Multi-unit housing is not required. The current multi-unit design guide is adequate (submission 20)
- Support the design guide with the following amendments (submission 21, FS5, FS9)
  - Add ‘*and regional facilities*’ to the text in section 1.0 Introduction
  - Include analysis of the rear elevation of buildings in section 2.0 Character Overview
  - Include reference to ‘*corrugated iron*’ to the section on Materials
  - Include comment on alignment of rear open space in section 2.0
  - Amend wording on ‘exemptions’ in guideline 3.1, as current text is confusing.
  - In guideline 4 Setbacks from Street Boundaries, provide for infill units on corner sites to align the existing building on site.
  - Amend wording on ‘exemptions’ in guideline 4.1, as current text is confusing.

## APPENDIX FOUR

- Recognise front verandah and rear lean-to roofs as being characteristic of the area – Guideline 8
- Note that while *'flat roofs are uncommon'* they may be appropriate if configured as roof decks.
- The foot note on roof types should cover roof types in the suburban centre.
- The guidelines on Materials (guideline 10) should be advisory only.
- Include 'corrugated iron' as a characteristic wall cladding (guideline 8).
- Add 'out of character' to 'multi-unit development' in guideline 11
- Reorder the guidelines as follows: 8 Frontage landscaping and fencing, 9 Articulation of building form, 10 Roof type, 11 Materials.

### ***Consideration:***

Plan Change 39 introduced a new appendix to the Multi-Unit Design Guide, to cover the suburbs of Newtown, Berhampore and Mt Cook. While the main multi-unit design guide addresses issues of on-site layout and amenity, the new appendix focuses on streetscape values and ensuring that new developments are sympathetic to the suburbs existing character.

Submission 20 requested that the proposed appendix be withdrawn on the grounds that the existing design guide is sufficient. The Hearing Committee did not agree with this submission. Having undertaken a site visit of the three suburbs, the Committee noted numerous examples of new multi-unit developments where the new buildings are out of character with and detrimental to the surrounding neighbourhood. The Committee therefore concluded that the current multi-unit design guide was not effectively managing issues of streetscape character.

Submissions 17 and 21 support the proposed design guide but requested a number of amendments to the contents (described above).

Submitter 21 (Newtown Residents Association) spoke to the hearing regarding the design guide. The submitter supported contemporary buildings, designed to be in keeping with the character attributes of the area. They emphasised that in their opinion DPC 39 and the proposed design guide did not promote a heritage 'freeze frame' across the three suburbs. The submitter supported making the Materials section in the design guide advisory only, to allow modern materials to be used. The submitter noted that the use of modern materials often provided scope to build more sustainable, energy efficient dwellings. At the hearing the submitter noted that an alternative to making the guidelines advisory would be to add an additional guideline that provided for the use of alternate materials when this would result in a higher quality, more sustainable building.

The Hearing Committee accepted the general intent of the Residents Association's submission. The Committee noted that the current Material guidelines provide for the use of a variety of materials, but with a focus on the typical materials such as weather boards and corrugated iron. The Committee agreed that with quality design, new developments utilising a variety of materials can be quite complimentary to existing character. However in the Committee's opinion, there is a greater risk of poor urban design results when uncharacteristic materials are used, particularly when they are applied in conjunction with average or below average building design. The Committee therefore considered that the guidelines on materials should be retained as part of the design guide proper. However the Committee agreed with the submitter that use of alternate materials is justified where it will result in a more sustainable building. Accordingly the Committee considered that the following guideline should be added to the Materials section of the design guide:

### 11 Materials

Painted weatherboards (plain or rusticated) and corrugated iron are typical for exterior walls and corrugated iron is the predominant roofing material.

Naturally weathered timber, brick and plaster finish walls, and tiled roofs are rare and most often relate to new development. However, brick also features in some old houses associated with the local brick industry.

Most building exteriors are light in colour.

#### Guidelines

- 11.1 Integrate typical and/or complementary materials into new developments.
- 11.2 Apply uncharacteristic materials only in combination with typical materials, ensuring that they are secondary to - and emphasise the visual impact of - the typical.

#### 11.3 Uncharacteristic materials may be used where they:

- provide a significant improvement in the energy efficiency of the building, and
- offer a significant improvement in building sustainability, through reduced environmental cost in the production of the materials, or reduced environmental cost of maintenance, or prolonged life of the building.

Any proposal to use uncharacteristic materials will need to demonstrate that the new building(s) can be treated in a manner that is sympathetic with the streetscape character of the surrounding neighbourhood.

With two exceptions, the Hearing Committee agreed with the amendments requested by submissions 17 and 21 on the grounds that they improve the clarity of the design guide and more accurately reflect the predominant characteristics of the suburbs. The following two changes that the Committee did not support are:

- Submission 21's request that text added to the design guide to note that while flat roofs may be uncommon, they may be appropriate if configured as roof decks. The Committee considered that as the provision of flat roof decks is not common in Newtown, Berhampore and Mt Cook the proposed wording did little to improve the clarity of the design guide.
- Submission 21's request that a footnote be added to the design guide to discuss roof types in suburban centres for when the design guide is applied to a multi-unit development in the suburban centre zone. The Hearing Committee considered that this was unnecessary as the existing guideline provides sufficient flexibility to acknowledge a range of different roof types, including those in suburban centres.

At the hearing submitter 21 requested that the new design guide be applied to multi-unit developments that occur on land zoned Suburban Centre. The submitter noted that at present there was a loop hole in the District Plan whereby multi-unit developments with less than three units at ground level are not assessed against the design guide. While this provision was drafted to encourage residential use to be located above commercial activities in the suburban centres, it has on occasion been manipulated to allow straight residential developments to avoid design guide assessment. The resulting developments have often been of poor quality both in terms of on-site amenity and contribution to the streetscape. While the Hearing Committee agreed with this submission in principal, it considered that the requested relief was outside the scope of DPC 39, as the plan change was limited to the provisions for the residential zone. Committee has directed officers to address this issue as part of the Suburban Centre Review, which is scheduled to commence mid-late 2007.

### **Decision:**

- **Reject** submission 20 insofar as it seeks to have the Southern Inner Residential Areas Design Guide for Multiunit Housing withdrawn.
- **Accept** submissions 17 and 21, and further submissions FS5 and FS9 insofar as they support the design guide for Newtown, Berhampore and Mt Cook.
- **Accept** in part the submissions of 17 and 21 insofar as their suggested amendments have been incorporated into the text of the Southern Inner Residential Areas Design Guide for Multi-unit Housing.

### **3.16 General comments on plan change**

Five submissions made general comments on the proposed plan change. Specific issues raised in submission include:

- Measures to improve quality should be administered flexibly and not as prescriptive rules (submission 5)
- Plan change represents a significant down-zoning of properties (submission 10)
- Council should encourage intensification within these suburbs (submission 14)
- The plan change should put in place rules that allow construction of new buildings to fit the characteristic built form of the suburbs (submission 15)
- The approach in the District Plan should follow the approach taken in the Building Act. It should be less prescriptive and focus more on desired outcomes (submission 7)

### ***Consideration:***

Submission 5 requested that the measures included in DPC 39 be administered flexibly and not as prescriptive rules. In response, the Committee noted that a flexible approach has been in place for the past ten years for some provisions and has proven inadequate to effectively manage all the effects of new multi-unit developments. Experience has shown that when bulk, location and amenity standards are included as guidelines they are often sacrificed in order to comply with specific rules. This has been most apparent in relation to open space which is currently addressed in the multi-unit design guide. Most new multi-unit developments dispense with the provision of ground level open space, in order to maximise site coverage and provide the car parking required by the rules. This was the main reason that DPC 39 proposes to return the provision of open space to being a rule in the District Plan.

Submission 10 considered that DPC 39 represented a significant down-zoning of properties. While the Hearing Committee accepted that some bulk and location standards have been lowered by the plan change, the Committee considered that the provisions still anticipate a relatively high intensity of development. The standards for height and site coverage remain significantly higher than those found in adjacent Outer Residential suburbs. The Committee noted that recent valuation data for Newtown, Berhampore and Mount Cook indicated that property values had increased by 14.3% over the past year. This was the second highest increase in the city (Mt Victoria increased 14.9%) and indicated that DPC 39 had not had an adverse impact on property values in the three suburbs.

Submission 14 considered that Council should encourage intensification within these suburbs given their close proximity to the city centre. The Hearing Committee agreed that residential intensification is a key objective of both the District Plan and the Council's Urban Development Strategy. However this is not a simplistic or untargeted strategy. The Council's Urban Development Strategy provides a 50 year vision for growth within Wellington City, including focus on development of a 'growth spine' running from Johnsonville through the central city, Adelaide Road, Newtown and on to Kilbirnie. The strategy identifies that future growth should

## APPENDIX FOUR

not come at the expense of existing residential character and should build on the City's unique sense of place. The growth spine envisages an intensification of mixed use activities, including residential, along the commercial section of Adelaide Road and around the Newtown suburban centre. It is a nodal approach rather than a linear one. Residential infill will also continue in the residential areas of the suburb, but at a level that can be accommodated without compromising the existing character and amenity. Further work is currently underway within Council to help ensure that the District Plan provisions relating to Suburban Centres and Adelaide Road facilitate the growth spine concept. Overall, the Committee was satisfied that DPC 39 was consistent with the objective of the District Plan and the Urban Development Strategy.

Submission 15 requested that Plan Change 39 be amended to allow the construction of new buildings to match the characteristic building type of the suburbs (detailed as option 4 in the Section 32 Report for DPC 39). The characteristic built form in Newtown, Berhampore and Mt Cook is for houses to be oriented to face the street and located towards the front of the site. Side yards are often very small, with less than a metre separating houses on adjacent sites. Heights are generally one or two storeys, though sometimes the height is exaggerated by a sites sloping topography.

The Hearing Committee noted that under the current bulk and location provisions in the District Plan it is difficult, if not impossible, to build a structure that replicates the existing built characteristic. In particular, the sunlight access planes restrict development close to side boundaries, requiring taller buildings to locate towards the centre of the site. The Committee were advised at the hearing, that when DPC 39 was being prepared, officers considered moving to a full 'character based' rule structure. The basic elements of this option were:

- Relax sunlight access provisions to allow new buildings to build up to two stories (6.8 metres) on the side boundaries.
- To mitigate the effects of the relaxed sunlight access planes, restrict building work to that area of the site that is in line with the houses in adjacent sites.
- Put in place rear yard provisions to reinforce established patterns of building location and useable open space.

This option was not favoured by officers for a number of reasons. In particular the revised sunlight access planes dramatically increased the bulk of building that could be constructed close to the side and rear boundaries of a site. This could impact significantly on sunlight, daylight and privacy for adjoining neighbours. The Hearing Committee noted that while owners of 'tightly packed' character villas generally accept this development pattern as being the existing status quo, property owners that currently enjoy unobstructed side boundaries are unlikely to be willing to forego their existing on-site amenity for the sake of allowing a neighbouring property to be developed according to the residential character of the neighbourhood.

If Council went to a full 'character based' planning model the Committee noted there would be other implications for how sites could be developed. To manage the potential adverse impact on neighbouring properties caused by taller buildings built close to the boundary, it the Committee considered that new buildings would need to be restricted to the front of the site in line with the front and rear walls of adjoining houses. This restriction would significantly reduce the flexibility in building location provided by the current plan provisions.

Finally, the Hearing Committee noted that allowing for sunlight access planes of up to 6.8 metres on the boundary would allow many existing character buildings to be redeveloped to two storeys. Over time these additions and alterations could significantly impact on the character of the suburbs. On this basis the Hearing Committee considered that submission 15 should be rejected.

## APPENDIX FOUR

Submitter 7 (Anthony Hood) spoke at the hearing. He considered that the District Plan should be prepared with a philosophy similar to the Building Act. In particular the submitter considered that the plan should be less prescriptive, should be more performance based and should focus on desired outcomes. The plan should focus less on retaining current building stock and concentrate on achieving quality replacement buildings and building sustainability. While the Hearing Committee had some sympathy for the matters raised by the submitter, they noted that the Resource Management Act does not provide for any level of discretion when assessing permitted activities. For an activity to be permitted, it must be possible to read the plan and ascertain whether a proposal meets the specified standards. It is therefore very difficult to assess more qualitative issues such as design quality, character and sustainability as a permitted activity. As a result, to move to a more outcome based system would increase the number of resource consents, as the assessment as to the quality of the outcome could only be undertaken through the resource consent process.

The Hearing Committee considered that while an outcomes-based approach could favour larger developments it would probably prove difficult for smaller projects. The Committee noted that most people undertaking work on their property simply want to know what they can do 'as of right', as the requirement to seek resource consent is a major deterrent. The Committee therefore felt that the District Plan had an obligation to specify standards for works that can be carried out as of right, and as a result the District Plan will always feature a degree of prescription.

The Committee also noted that the structure of the District Plan meant that it was already largely outcome based. The standards in the District Plan did not specify how sites must be laid out or developed, or what style of building should be constructed. Rather these are left up to the owner and designer. The assessment carried out by Council (against the multi-unit design guide) is not prescriptive, but rather considers key urban design issues to ensure that the proposed development delivers satisfactory quality in terms of amenity, design and character.

On balance the Hearing Committee considered that the District Plan currently struck an appropriate balance between prescribed standards and qualitative assessment, given the constraints imposed by legislation. Accordingly the Committee considered that submission should be rejected.

### **Decision:**

- **Reject** submission 5 insofar as its requests that the changes in plan change 39 be administered flexibly and not as prescriptive rules.
- **Reject** submission 10 insofar as it asserts that Plan Change 39 is a significantly down-zoning of the three suburbs.
- **Reject** submission 14 insofar as it considers that Plan Change 39 is inconsistent with Council's policy of residential intensification.
- **Reject** submission 15 insofar as it requests that the District Plan install a full character based planning regime.
- **Reject** submission 7 insofar as it requests that a less prescriptive, more outcome focused approach be adopted in the District Plan.

### **3.17 RMA considerations**

The Committee noted that the proposed District Plan Change 39 could only be endorsed if they were satisfied that the amended building heights, revised discretionary provisions, and the implementation of the design guide would better meet the requirements of the RMA and the objectives of the District Plan.

## APPENDIX FOUR

The purpose of the Resource Management Act, 1991 (RMA) is to promote the sustainable management of natural and physical resource (section 5). The Council has additional obligations under section 7 of the Act. In relation to the residential areas of Newtown Berhampore and Mt Cook, section 7 requires that Council, in achieving the purposes of the RMA, have particular regard to:

- (b) the efficient use and development of natural and physical resources:*
- (c) the maintenance and enhancement of amenity values:*
- (f) maintenance and enhancement of the quality of the environment:*

The Committee considered that the collective and largely coherent character of Newtown, Mount Cook and Berhampore is a special resource that contributes significantly to the character and sense of place of Wellington City. The Committee considered that the existing character contributes to the amenity of local residents and visitors alike, and its maintenance and enhancement is an important aspect of the quality of the local environment.

The Committee considered that the Inner Residential provisions in the District Plan provided for the efficient use and development of the physical resource in those areas (namely the land, buildings, infrastructure etc.). However the poor quality, and low streetscape value of some recent multi-unit developments convinced the Committee that the current provisions are not sufficient to allow Council to effectively manage issues of streetscape and residential character.

Overall the Hearing Committee was satisfied that the provisions contained in DPC 39 (in conjunction with DPC 38) struck a better balance between facilitating residential development, and maintaining and enhancing the amenity and quality of the local environment in Newtown, Berhampore and Mt Cook.

### **Decision:**

Adopt District Plan Change 39 on the grounds that it is consistent with Part II of the RMA.

## **4.0 CONCLUSION**

The suburbs of Newtown, Berhampore and Mt Cook have a distinct local character derived from the retention of a high proportion of houses dating from the late 19<sup>th</sup> and early 20<sup>th</sup> centuries. District Plan Change 39 was publicly notified to assist in the retention of this by ensuring that new buildings and developments within each of the three suburbs recognise and enhance the existing character.

The Committee gave careful consideration to all the issues raised by the submitters, including those issues elaborated on in presentations by the individuals who appeared before the Committee.

Having considered the requirements of the RMA and the issues raised in submission, the Hearing Committee considered that the plan change was generally appropriate and would allow the Council to better manage the residential character of the three suburbs. The Committee recommends a number of amendments to the provisions (as notified) to improve their clarity, application and effectiveness. These changes include:

- Amend policy 4.2.3.3 to clarify the application of permitted baseline, and the interrelationship between the requirements for open space, site coverage and vehicle parking.

## APPENDIX FOUR

- Amend rules to allow conversion of existing buildings into two household units as a permitted activity, without the need to provide on-site carparking
- Amend rules to clarify the application of the front yard standards
- Amend the open space requirements and reinstate the previous site coverage standard of 50%
- Clarify the non-notification statements and assessment criteria in rules 5.3.3 and 5.3.10
- Amend the content of the design guide that applies to multi-unit developments in Mt Cook, Newtown and Berhampore

Overall the Hearing Committee recommends that Council endorse DPC 39, with the above amendments.

Andy Foster

**Chair, Hearing Committee -  
District Plan Change 39 – Controls on Residential  
Development in Newtown, Berhampore and Mt Cook.**