

OFFICER RECOMMENDATIONS TO SUBMISSIONS

DPC08/01 D1 – Rodger Dunstan Marvelly

Further Submitters in support: Rodger Dunstan Marvelly
John Edward Ogilvie
Douglas Beckford McIntyre Govey
Peter John Ross
Patricia G Fitzgerald
Suzette Topley
Central Hutt Residents Group Inc.
Thomas and Barbara Evans
Perry Robin Nicol
Evan Islwyn Jones

Further Submitter in opposition: Kernal Investments Ltd

Request of Submitter

The submitter requests the plan change be amended to restrict commercial buildings to a 12 metre height within 150 metres of residential boundaries.

Specific Comments

As outlined in the Background Report, it is considered that extending the 12 metre height limit to 150 metres from residential boundaries is out of scope of the plan change and would result in the family resemblance to the proposed plan change being lost. Plan change 8 was conceived due to concern that existing rules in the district plan were inadequate as residential sites across the road from the Central Commercial Activity Area were not protected by the 'abut' rule. The proposed plan change seeks to provide greater certainty and protection for those residential properties which are adjacent to the Central Commercial Activity Area from the effects of development in the central business district. If the rule was widened from 30 metres to 150 metres, then potentially a number of commercial sites in the vicinity of (but not necessarily adjacent to) a residential activity area would be affected. For

example, 150 metres measured from the residential property boundaries on Cornwall Street is about 40 metres into Queensgate shopping centre. Being more than a block away from residential properties on Cornwall Street, this is not considered as 'adjacent' in terms of the intention of plan change 8. Indeed, extending the rule to 150 metres from a residential activity area would in effect create a new sub zone between the two activity areas, in terms of height.

However, it is considered that the 30m distance governing 12m maximum high buildings could be extended to 50m, while remaining within the scope of the plan change. Fifty metres is about half a block and would more appropriately protect the character and amenity of adjacent residential areas than 30 metres. Coupled with a 31 degree angle taken from the ground level at the nearest residential activity area property boundary, the effect of this rule pushes taller parts of buildings towards the rear of the site thereby reducing the scale of buildings at the road interface. This recognises that buildings not immediately opposite residential activity areas may still have adverse effects on adjacent residential activity areas depending on bulk and location.

Officer's Recommendation

It is recommended that the submission lodged by Rodger Dunstan Marvelly be **partially rejected** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

It is recommended that the further submissions lodged by Rodger Dunstan Marvelly, John Edward Ogilvie, Douglas Beckford McIntyre Govey, Peter John Ross, Patricia G Fitzgerald, Suzette Topley, Central Hutt Residents Group Inc., Thomas and Barbara Evans, Perry Robin Nicol, Evan Islwyn Jones be **partially rejected** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

It is recommended that the further submission lodged by Kernal Investments Ltd be **partially accepted** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

DPC08/01 D2 - Rodger Dunstan Marvelly

Further Submitter in support: Rodger Dunstan Marvelly
John Edward Ogilvie
Douglas Beckford McIntyre Govey
Peter John Ross
Patricia G Fitzgerald
Suzette Topley
Central Hutt Residents Group Inc.
Thomas and Barbara Evans
Perry Robin Nicol
Evan Islwyn Jones

Further Submitter accepts in part: Kernal Investments Ltd

Request of Submitter

The submitter requests that Council ensures commercial developments adjacent to residential areas do not detract from the character and quality of the residential areas.

Specific Comments

Prior to the promulgation of Plan Change 8 the only rule in the Central Commercial Activity Area that recognised the proximity of the residential activity area was rule 5A 2.1.1(g). This is the abut rule, which only applies to commercial sites physically touching or sharing a boundary with residential zoned sites. Plan Change 8 seeks to address the gap in the district plan in terms of height for buildings on sites in the central commercial area adjacent to residential areas (for example, sites separated by a road).

Plan Change 8 is limited to managing the height of buildings in the Central Commercial Activity Area that are adjacent to residential activity areas. The plan change seeks to protect residential areas by imposing a maximum building height of 12 metres for buildings within 30 metres of a residential property boundary. Holding

the height limit constant for 30 metres helps address visual dominance and adverse effects on aesthetic coherence and character. Buildings more than 30 metres from a residential activity area must comply with the recession planes of the General Residential Activity Area. However, it is considered that the 30m distance governing 12m maximum high buildings could be extended to 50m, while remaining within the scope of the plan change. Fifty metres is about half a block and would more appropriately protect the character and amenity of adjacent residential areas than 30metres. Coupled with a 31 degree angle taken from the ground level at the nearest residential activity area property boundary, the effect of this rule lowers building heights compared to the general residential recession planes and pushes taller parts of buildings towards the rear of the site thereby reducing the scale of buildings at the road interface. This recognises that buildings not immediately opposite residential activity areas may still have adverse effects on adjacent residential activity areas depending on bulk and location.

On balance, and taking into account the scope of Plan Change 8, it is considered that the proposed amendments to the plan change more effectively seek to ensure that developments in the commercial area adjacent to residential areas do not detract from the quality and character of these residential areas.

Officer's Recommendation

It is recommended that the submission lodged by Rodger Dunstan Marvelly be **accepted** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

It is recommended that the further submissions lodged by Rodger Dunstan Marvelly, John Edward Ogilvie, Douglas Beckford McIntyre Govey, Peter John Ross, Patricia G Fitzgerald, Suzette Topley, Central Hutt Residents Group Inc., Thomas and Barbara Evans, Perry Robin Nicol, Evan Islwyn Jones be **accepted** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

It is recommended that the further submission lodged by Kernal Investments Ltd be **accepted in part** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

DPC08/02 D1 - Derek Scott and Lynda Reid
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Further Submitter supports/accepts in part:Kernal Investments Ltd

Request of Submitter

The submitters request minimal risk to the public by giving full consideration to seismic risks, risks to the aquifer and microclimate changes.

Specific Comments

As outlined in the Background Report, there are adequate performance standards regarding seismic risks in the New Zealand Building Code 1992 and Building Act 2004. In terms of risks to the aquifer, any penetration of the aquifer is a discretionary activity under the Freshwater Plan and accordingly requires consent from Greater Wellington Regional Council. The submitter also expresses concern that tall structures are likely to produce a microclimate with shading and wind tunnelling effects. The District Plan has a rule for wind protection in the Central Commercial Activity Area. However, following a declaration to the Environment Court it was found by the Court that this rule is ultra vires. It is recommended that a new rule to control wind effects should be reintroduced into the District Plan as part of the CBD review.

Officer's Recommendation

It is recommended that the submission lodged by Derek Scott and Lynda Reid be **accepted in part** to the extent that there are adequate controls in the Building Act 2004 and the Greater Wellington Freshwater Plan.

It is recommended that the further submission lodged by Kernal Investments Ltd be **accepted in part** to the extent that there are adequate controls in the Building Act 2004 and the Greater Wellington Freshwater Plan.

DPC08/02 D2 - Derek Scott and Lynda Reid
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Further Submitter supports/accepts in part:Kernal Investments Ltd

Request of Submitter

The submitters seek a harmonious integration of the CBD with the adjoining residential zone.

Specific Comments

The purpose of the plan change is to address the gap in the district plan for properties that would be abutting but for the presence of a road. The plan change seeks to achieve a transition in height and bulk from residential activity areas to the Central Commercial Activity Area. It does this by limiting building height to 12 metres for buildings within 30 metres of a residential activity area. However, a more effective integration between commercial and residential areas would be achieved if the minimum distance for the 12 metre height limit was extended. It is considered that extending this distance to 50metres would remain within the ambit of the plan change by being adjacent to residential areas (rather than in the vicinity) and would retain the 'family resemblance' to plan change 8 as notified. Along Cornwall Street, 50 metres is about half of the block between Cornwall Street and Bloomfield Terrace. A 12 metre height limit for the half that is closest to the residential activity area is considered an appropriate and more harmonious interface between the two activity areas. It is also considered appropriate to replace the general residential recession plane component of the rule with a 31 degree angle measured from the ground level at the nearest residential activity area property boundary. This has the effect of lowering maximum building heights, reducing visual dominance and bulk of buildings and mitigating shading effects, thereby providing a more harmonious commercial residential interface.

Officer's Recommendation

It is recommended that the submission lodged by Derek Scott and Lynda Reid be **accepted** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

It is recommended that the further submission lodged by Kernal Investments Ltd be **accepted** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

DPC08/03 D1 – Robert Crawford Young

Request of Submitter

The submitter requests a height restriction of 12 metres to be held constant for 30 metres from the residential boundary, and that a 45 degree recession plane is then applied from this 30 metre point.

Specific Comments

It is considered that this request is inappropriate as to comply with the recession plane of 2.5m + 45 degrees measured at the 30 metre point from the residential boundary, buildings between 30 and 39.5 metres will be less than 12 metres in height.

Officer's Recommendation

It is recommended that the submission lodged by Robert Crawford Young be **rejected** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

DPC08/03 D2 – Robert Crawford Young

Request of Submitter

The submitter requests assurances that the Council's building restrictions adequately address earthquake and subsidence for high rise buildings bordering residential zones.

Specific Comments

As outlined in the background report it is considered that there are adequate performance standards in the New Zealand Building Code 1992 and Building Act 2004 to address earthquake and subsidence concerns.

Officer's Recommendation

It is recommended that the submission lodged by Robert Crawford Young be **accepted** to the extent that the Council is already bound by the performance standards of the New Zealand Building Code 1992 and Building Act 2004.

DPC08/04 D1 - Central Ward Committee

Further Submitters in support: Thomas and Barbara Evans
Derek James Scott

Further Submitter accepts in part: Kernal Investments Ltd

Request of Submitter

The submitter seeks a solution that will ensure that the amenity values of residential or recreation areas abutting properties in the Central Commercial Activity Area are protected.

Specific Comments

As outlined in the Background Report, the word 'abut' requires physical contact between sites. The provisions under rule 5A 2.1.1 (g) of the Central Commercial Activity Area in the District Plan seek to ensure that the amenity values of residential and recreation areas abutting sites in the Central Commercial Activity Area are protected. The following briefly summarises the permitted activity conditions required for sites abutting residential or recreation activity areas:

- a maximum height limit of 12 metres;
- compliance with the recession planes of the General Residential Activity Area;
- side and rear yard requirements;
- screening of outdoor storage and service areas;
- screening of car parking areas and landscaping requirements for car parking; and
- hours of servicing of activities.

It is considered that the existing rule in the District Plan does protect the amenity values of residential and recreation areas that abut the Central Commercial Activity Area. It is also considered that the proposed amended plan change protects the amenity values of those areas adjacent to the Central Commercial Activity Area.

Officer's Recommendation

It is recommended that the submission lodged by the Central Ward Committee be **accepted** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

It is recommended that the further submission lodged by Thomas and Barbara Evans and Derek James Scott be **accepted** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

It is recommended that the further submission lodged by Kernal Investments Ltd be **accepted** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

DPC08/04 D2 - Central Ward Committee

Further Submitters in support: Thomas and Barbara Evans
Derek James Scott

Further Submitter in opposition: Kernal Investments Ltd

Request of Submitter

The submitter seeks urgent clarification of the word 'abut' in the District Plan.

Specific Comments

As the background report states, both the Environment Court and High Court of New Zealand have examined the meaning of the word 'abut' in the context of rule 5A2.1.1(g). Both Courts were of the view that the word 'abut' means to share a boundary with. Accordingly, sites do not abut if separated by a road. Given the

Courts have addressed the meaning of the word 'abut' and that they are in agreement; it is considered that the meaning of 'abut' is clear and unambiguous.

Officer's Recommendation

It is recommended that the submission lodged by the Central Ward Committee be **accepted** to the extent that the meaning of the word 'abut' has been clarified by both the Environment and High Courts of New Zealand.

It is recommended that the further submission lodged by Thomas and Barbara Evans and Derek James Scott be **accepted** to the extent that the meaning of the word 'abut' has been clarified by both the Environment and High Courts of New Zealand.

It is recommended that the further submission lodged by Kernal Investments Ltd be **rejected** to the extent to the extent that the meaning of the word 'abut' has been clarified by both the Environment and High Courts of New Zealand.

DPC08/04 D3 – Central Ward Committee

Further Submitter in support: Derek James Scott

Further Submitter in opposition: Kernal Investments Ltd

Request of Submitter

The submitter requests the implementation of a 'buffer zone' which provides a harmonious integration between the Commercial and Residential Activity Areas, either by (a) at a specified distance from the boundary of the Residential Activity Area the building height shall not exceed 12 metres; or (b) the implementation of Option 3 (combined 30 metres and 31 degree angle) as proposed at the Extraordinary Council Meeting on 9 March 2006.

Specific Comments

It is considered that the Proposed Plan Change does provide a form of 'buffer zone' in an attempt to more harmoniously integrate commercial and residential activity

areas by limiting development within 30metres of a residential activity area to a 12 metre maximum building height as a permitted activity condition.

In creating a harmoniously integrated environment between commercial and residential land uses, effects such as visual dominance, shadowing and privacy were considered. However, given the submissions, the scope of the plan change, the shading diagrams and visual dominance illustrations, it is considered appropriate to extend the 12metre maximum building height from 30m to 50m to provide a more effective buffer zone between the residential and commercial activity areas. Likewise it is considered appropriate to replace the general residential recession plane component of the provisions with a 31 degree angle measured from ground level at the nearest residential activity area property boundary.

Officer's Recommendation

It is recommended that the submission lodged by the Central Ward Committee be **accepted** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

It is recommended that the further submission lodged by Derek James Scott be **accepted** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

It is recommended that the further submission lodged by Kernal Investments Ltd be **rejected**.

DPC08/05 D1 – Warwick Edwin Denys Stoupe

Further Submitter supports in part: Kernal Investments Ltd

Request of Submitter

The submitter requests an appropriate balance between development and the protection of amenity values.

Specific Comments

Plan Change 8 is limited to managing the height of buildings in the Central Commercial Activity Area that are adjacent to residential activity areas. The plan change seeks to protect residential areas by imposing a maximum building height of 12 metres for buildings within 30 metres of a residential property boundary. Holding the height limit constant for 30 metres helps address visual dominance and adverse effects on aesthetic coherence and character. Buildings more than 30 metres from a residential activity area must comply with the recession planes of the General Residential Activity Area. However, it is considered that the 30m distance governing 12m maximum high buildings could be extended to 50m, while remaining within the scope of the plan change. Fifty metres is about half a block and would more appropriately protect the character and amenity of adjacent residential areas than 30 metres. Coupled with a 31 degree angle taken from the ground level at the nearest residential activity area property boundary, the effect of this rule lowers building heights compared to the general residential recession planes and pushes taller parts of buildings towards the rear of the site thereby reducing the scale of buildings at the road interface. This recognises that buildings not immediately opposite residential activity areas may still have adverse effects on adjacent residential activity areas depending on bulk and location.

On balance, and taking into account the scope of plan change 8, it is considered that compliance with a 50m setback and 31 degree angle seeks to ensure that developments in the commercial area adjacent to residential areas do not detract from the quality and character of these residential areas.

Officer's Recommendation

It is recommended that the submission lodged by Warwick Edwin Denys Stoupe be **accepted** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

It is recommended that the further submission lodged by Kernal Investments Ltd be **accepted in part** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

DPC08/06 D1 – Petone Community Board

Further Submitter in support: Kernal Investment Ltd

Request of Submitter

The submitter requests adoption of Proposed Plan Change 8.

Specific Comments

The submitter supports Proposed Plan Change 8.

Officer’s Recommendation

It is recommended that the submission lodged by the Petone Community Board be **rejected** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

It is recommended that the further submission lodged by Kernal Investments Ltd be **rejected** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

DPC08/07 D1 – Maxwell John Shierlaw

Further Submitter supports/accepts in part:Kernal Investment Ltd

Request of Submitter

The submitter requests that the status quo (prior to the proposed change number 8) be retained until a proper evaluation as detailed under S32 of the RMA is conducted.

Specific Comments

It is considered that a section 32 report as detailed under section 32 of the Resource Management Act has been prepared for Proposed Plan Change 8.

Officer's Recommendation

It is recommended that the submission lodged by Maxwell John Shierlaw be **rejected** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

It is recommended that the further submission lodged by Kernal Investments Ltd be **rejected** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

DPC08/08 D1 - Robert Macdonald and David Bassett
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Note: A petition with 1242 signatories supported this submission

Further Submitters in support:

- Tony Payne
- Elaine and Lionel Sharman
- Allan Devlin
- Darryl Briton Maycroft
- George Eric Maycroft
- Beverley Anne Tyler
- Florence Jocelyn Benstead
- Anthony Edward Fleming
- Patrick Ryan and Pamela Ryan
- Thomas Evans and Barbara Evans
- Vance Arkinstall and Fay Arkinstall

Further Submitter in opposition: Kernal Investment Ltd

Request of Submitter

To specify that no building or structure within the Central Commercial Activity Area be sited in whole or in part within 150 metres of a Residential Activity Area or Recreational Activity Area may have a building height of more than 12 metres.

Specific Comments

It is considered that extending the 12 metre height limit to 150 metres from residential boundaries would result in the family resemblance to the proposed plan change being lost. Plan change 8 was conceived due to concern that existing rules in the district plan were inadequate as residential sites across the road from the Central Commercial Activity Area were not protected by the 'abut' rule. The proposed plan change seeks to provide greater certainty and protection these residential properties which are adjacent to the Central Commercial Activity Area from the effects of development in the central business district. If the rule was widened to from 30 metres to 150 metres, then potentially a considerable number of commercial sites in the vicinity of (but not necessarily adjacent to) a residential activity area would be affected. For example, 150 metres measured from the residential property boundaries on Cornwall Street is about 40 metres into Queensgate shopping centre. Being more than a block away from residential properties on Cornwall Street, this is not considered as 'adjacent' in terms of the intention of plan change 8. Indeed, extending the rule to 150 metres from a residential activity area would in effect create a new sub zone between the two activity areas, in terms of height.

However, it is considered that the 30m distance governing 12m maximum high buildings could be extended to 50m, while remaining within the scope of the plan change. Fifty metres is about half a block and would more appropriately protect the character and amenity of adjacent residential areas than 30 metres. Coupled with a 31 degree angle taken from the ground level at the nearest residential activity area property boundary, the effect of this rule pushes taller parts of buildings towards the rear of the site thereby reducing the scale of buildings at the road interface. This recognises that buildings not immediately opposite residential activity areas may still have adverse effects on adjacent residential activity areas depending on bulk and location.

Officer's Recommendation

It is recommended that the submission lodged by Robert Macdonald and David Bassett be **partially accepted** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

It is recommended that the further submissions lodged by Tony Payne, Elaine and Lionel Sharman, Allan Devlin, Darryl Briton Maycroft, George Eric Maycroft, Beverley Anne Tyler, Florence Jocelyn Benstead, Anthony Edward Fleming, Patrick Ryan and Pamela Ryan, Thomas Evans and Barbara Evans and Vance Arkinstall and Fay Arkinstall be **partially accepted** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

It is recommended that the further submission lodged by Kernal Investments Ltd be **rejected** to the extent that the provisions of Proposed Plan Change 8 are amended in accordance with Appendix V.

DPC08/08 D2 – Robert Macdonald and David Bassett

Note: A petition with 1242 signatories supported this submission

Further Submitters in support: Tony Payne
 Elaine and Lionel Sharman
 Allan Devlin
 Darryl Briton Maycroft
 George Eric Maycroft
 Beverley Anne Tyler
 Florence Jocelyn Benstead
 Anthony Edward Fleming
 Patrick Ryan and Pamela Ryan
 Thomas Evans and Barbara Evans
 Vance Arkinstall and Fay Arkinstall

Further Submitter in opposition: Kernal Investment Ltd

Request of Submitter

The submitters request to clarify that the word 'abut' (and corresponding derivatives of that word) in the City of Lower Hutt District Plan includes as to meaning the

words 'border', 'abound' and 'adjacent' (with corresponding derivatives for each of those words).

Specific Comments

As the Background Report states, both the Environment Court and High Court of New Zealand have examined the meaning of the word 'abut' in the context of rule 5A2.1.1(g). Both Courts were of the view that the word 'abut' means to share a boundary with, and accordingly sites do not abut if separated by a road. Given the Courts have addressed the meaning of the word 'abut' and that they are in agreement; it is considered that the meaning of 'abut' is clear and unambiguous. In other words, it has been determined by the Courts that the word 'abut' in the City of Lower Hutt District Plan does not mean 'border', 'abound' or 'adjacent'.

Officer's Recommendation

It is recommended that the submission lodged by Robert Macdonald and David Bassett be **rejected** to the extent that the meaning of the word 'abut' has been clarified by both the Environment and High Courts of New Zealand to require physical touching.

It is recommended that the further submissions lodged by Tony Payne, Elaine and Lionel Sharman, Allan Devlin, Darryl Briton Maycroft, George Eric Maycroft, Beverley Anne Tyler, Florence Jocelyn Benstead, Anthony Edward Fleming, Patrick Ryan and Pamela Ryan, Thomas Evans and Barbara Evans and Vance Arkinstall and Fay Arkinstall be to the extent that the meaning of the word 'abut' has been clarified by both the Environment and High Courts of New Zealand to require physical touching.

It is recommended that the further submission lodged by Kernal Investments Ltd be **accepted** to the extent that the meaning of the word 'abut' has been clarified by both the Environment and High Courts of New Zealand to require physical touching.

DPC08/08 D3 – Robert Macdonald and David Bassett
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Note: A petition with 1242 signatories supported this submission

Further Submitters in support: Tony Payne
 Elaine and Lionel Sharman
 Allan Devlin
 Darryl Briton Maycroft
 George Eric Maycroft
 Beverley Anne Tyler
 Florence Jocelyn Benstead
 Anthony Edward Fleming
 Patrick Ryan and Pamela Ryan
 Thomas Evans and Barbara Evans
 Vance Arkinstall and Fay Arkinstall

Further Submitter in opposition: Kernal Investment Ltd

Request of Submitter

The submitters request that without limiting the meaning of ‘abut’ to clarify that a Commercial Activity Area abuts a Residential Activity Area or a Recreational Activity Area where the areas are separated by a road or a lane or any other passage or right of way or access.

Specific Comments

The Environment and High Courts of New Zealand have confirmed that a site does not abut a residential or recreation activity area where separated by a road. A site only ‘abuts’ a residential or recreation activity area for the purposes of rule 5A 2.1.1(g) in the City of Lower Hutt District Plan if it shares a common boundary with such an activity area. The site and activity area will accordingly not abut if separated by any legal road or land in an activity area other than residential or recreation activity area.

Officer's Recommendation

It is recommended that the submission lodged by Robert Macdonald and David Bassett be **rejected** to the extent that the meaning of the word 'abut' has been clarified by both the Environment and High Courts of New Zealand to require physical touching.

It is recommended that the further submissions lodged by Tony Payne, Elaine and Lionel Sharman, Allan Devlin, Darryl Briton Maycroft, George Eric Maycroft, Beverley Anne Tyler, Florence Jocelyn Benstead, Anthony Edward Fleming, Patrick Ryan and Pamela Ryan, Thomas Evans and Barbara Evans and Vance Arkinstall and Fay Arkinstall be **rejected** to the extent that the meaning of the word 'abut' has been clarified by both the Environment and High Courts of New Zealand to require physical touching.

It is recommended that the further submission lodged by Kernal Investments Ltd be **accepted** to the extent that the meaning of the word 'abut' has been clarified by both the Environment and High Courts of New Zealand to require physical touching.

DPC08/08 D4 – Robert Macdonald and David Bassett
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Note: A petition with 1242 signatories supported this submission

Further Submitters in support:

Tony Payne
 Elaine and Lionel Sharman
 Allan Devlin
 Darryl Briton Maycroft
 George Eric Maycroft
 Beverley Anne Tyler
 Florence Jocelyn Benstead
 Anthony Edward Fleming
 Patrick Ryan and Pamela Ryan
 Vance Arkinstall and Fay Arkinstall

Further Submitter in opposition: Kernal Investment Ltd

Request of Submitter

In determining whether a Residential Activity Area abuts a Commercial Activity Area, the submitters seek to ensure that any part of a Commercial Activity Area that, before a subdivision, abuts a Residential Activity Area is deemed to continue to abut that Residential Activity Area after subdivision.

Specific Comments

Rule 5A2.1.1(g) applies where a commercial site abuts a site in the residential or recreation activity areas. To avoid compliance with this rule, it is possible to subdivide the commercial site so that only a small sliver results that would abut the residential or recreation site. Technically, the remaining balance of commercial land would no longer abut the residential or recreation activity area, as this land would be separated by the width of the newly created subdivided strip. While the newly created strip would need to comply with rule 5A2.1.1(g) (the abut rule), the balance of the original commercial site would need to comply with proposed plan change 8. A rule that would deem sites to continue to abut following a subdivision (that results in sites no longer abutting) is considered impractical and difficult to implement. Additionally, such a rule is outside the scope of this plan change.

Officer's Recommendation

It is recommended that the submission lodged by Robert Macdonald and David Bassett be **rejected** to the extent that abut requires sites to share a common boundary.

It is recommended that the further submissions lodged by Tony Payne, Elaine and Lionel Sharman, Allan Devlin, Darryl Briton Maycroft, George Eric Maycroft, Beverley Anne Tyler, Florence Jocelyn Benstead, Anthony Edward Fleming, Patrick Ryan and Pamela Ryan and Vance Arkinstall and Fay Arkinstall be **rejected** to the extent that abut requires sites to share a common boundary.

It is recommended that the further submission lodged by Kernal Investments Ltd be **accepted** to the extent that abut requires sites to share a common boundary.

DPC08/08 D5 – Robert Macdonald and David Bassett

Note: A petition with 1242 signatories supported this submission

Further Submitters in support: Tony Payne
 Elaine and Lionel Sharman
 Allan Devlin
 Darryl Briton Maycroft
 George Eric Maycroft
 Beverley Anne Tyler
 Florence Jocelyn Benstead
 Anthony Edward Fleming
 Patrick Ryan and Pamela Ryan
 Thomas Evans and Barbara Evans
 Vance Arkinstall and Fay Arkinstall

Further Submitter accepts in part: Kernal Investment Ltd

Request of Submitter

The submitters seek to specify that developments in the Commercial Activity Area, abutting a Residential Activity Area or a Recreational Activity Area, must, in addition to complying with other provisions of the District Plan:

- (a) have or follow a design and outlook developed in accordance with internationally recognised urban planning principles;
- (b) without limiting (a), be in balance and blend in with the immediate residential properties in the relevant Residential Activity Areas; and
- (c) where those developments are of a significant or substantial scale, and without limiting (a) and (b), include reserves or other features that make a contribution to the immediate environs.

Specific Comments

Existing rule 5A2.1.1(g) of the District Plan applies to sites abutting residential and recreation activity areas. This rule requires that buildings have a maximum building height of 12 metres, comply with the General Residential Activity Area recession planes, comply with side and rear yard requirements, screening of outdoor storage, service areas and car parking areas and landscaping requirements. While the submitters' requests are noted; these requests are outside the scope of this plan change because the plan change only addresses height limits for buildings in the Central Commercial Activity Area. However, these issues raised by the submitters will be addressed as part of the CBD review, which is currently being undertaken by Council.

Officer's Recommendation

It is recommended that the submission lodged by Robert Macdonald and David Bassett be **rejected** to the extent that the request is outside the scope of the plan change.

It is recommended that the further submissions lodged by Tony Payne, Elaine and Lionel Sharman, Allan Devlin, Darryl Briton Maycroft, George Eric Maycroft, Beverley Anne Tyler, Florence Jocelyn Benstead, Anthony Edward Fleming, Patrick Ryan and Pamela Ryan, Thomas Evans and Barbara Evans and Vance Arkinstall and Fay Arkinstall be **rejected** to the extent that the request is outside the scope of the plan change.

It is recommended that the further submission lodged by Kernal Investments Ltd be **accepted** to the extent that the request is outside the scope of the plan change.

DPC08/08 D6 – Robert Macdonald and David Bassett

Note: A petition with 1242 signatories supported this submission

Further Submitters in support: Tony Payne
 Elaine and Lionel Sharman
 Allan Devlin
 Darryl Briton Maycroft
 George Eric Maycroft
 Beverley Anne Tyler
 Florence Jocelyn Benstead
 Anthony Edward Fleming
 Patrick Ryan and Pamela Ryan
 Vance Arkininstall and Fay Arkininstall

Further Submitter in opposition: Kernal Investment Ltd

Request of Submitter

The submitters seek to ensure that nothing in the proposed change limits or obviates the need for developments on sites in the Commercial Activity Area to satisfy the other provisions of the District Plan.

Specific Comments

The proposed plan change does not obviate the need to comply with the provisions of the District Plan or any other relevant planning document (for example, Regional Plans). If a proposal is not a permitted activity or does not meet any one or more of the permitted activity conditions listed in the District Plan then resource consent is required, and will be assessed under the Resource Management Act 1991.

Officer's Recommendation

It is recommended that the submission lodged by Robert Macdonald and David Bassett be **accepted** to the extent that the provisions of Proposed Plan Change 8 do not obviate the need for developments to comply with the District Plan and other planning documents to be a permitted activity.

It is recommended that the further submissions lodged by Tony Payne, Elaine and Lionel Sharman, Allan Devlin, Darryl Briton Maycroft, George Eric Maycroft, Beverley Anne Tyler, Florence Jocelyn Benstead, Anthony Edward Fleming, Patrick Ryan and Pamela Ryan and Vance Arkinstall and Fay Arkinstall be **accepted** to the extent that the provisions of Proposed Plan Change 8 do not obviate the need for developments to comply with the District Plan and other planning documents to be a permitted activity.

It is recommended that the further submission lodged by Kernal Investments Ltd be **rejected** to the extent that the provisions of Proposed Plan Change 8 do not obviate the need for developments to comply with the District Plan and other planning documents to be a permitted activity.

Appendix V

Changes to Chapter 5A - Central Commercial Activity Area

1. **Add new 5A 1.2.6 “Heading”, “Issue”, “Objective”, “Policy” and “Explanation and Reasons” to 5A 1.2 Site Development Issues as follows:**

“5A 1.2.6 Sites that do not abut residential activity areas but are adjacent to residential activity areas

Issue

It is important that adverse effects of buildings and structures in the Central Commercial Activity Area on adjacent residential activity areas are mitigated.

Objective

To mitigate adverse effects caused by buildings and structures in the Central Commercial Activity Area on the amenity values of adjacent residential activity areas.

Policy

(a) To ensure that where buildings and structures in the Central Commercial Activity Area are within 50 metres of a residential activity area property boundary, adverse effects on amenity values of adjacent residential activity areas are mitigated.

(b) To ensure that buildings and structures in the Central Commercial Activity Area are contained within a 31 degree angle measured from the natural ground level of the nearest residential activity area property boundaries so that adverse effects of buildings and structures on adjacent residential amenity values are mitigated.

Explanation and Reasons

Buildings and structures in the Central Commercial Activity Area may adversely affect amenity values of adjacent residential activity areas.

Examples of such adverse effects on residential amenity values can include visual dominance and possible overshadowing. Placing a height restriction on buildings and structures within 50 metres of a residential activity area property boundary will ensure that such adverse effects are mitigated. In addition, complying with a 31 degree angle (measured from the natural ground level at the nearest residential activity area property boundaries) for buildings and structures more than 50 metres from a residential activity area will provide for a transition in the height of buildings between commercial and adjacent residential activity areas, thereby protecting residents from the impact of buildings and structures.

2. **Add new Rule** to 5A 2.1.1 “Permitted Activities – Conditions” as follows:

“(h) Sites that do not abut residential activity areas:

Where a site does not abut a residential activity area, the following conditions shall apply:

- (i) The maximum building height for buildings and structures within 50 metres of a residential activity area property boundary shall be 12 metres.
- (ii) Buildings and structures more than 50 metres from a residential activity area shall be contained within a 31 degree angle measured from the natural ground level at the nearest residential activity area property boundaries adjacent to the site.

And renumber **(h)** Building Frontages and Display Windows and **(i)** General Rules as **(i)** and **(j)** respectively.