

Mixed Use Zone v High Density Residential Zone – 45-47 Oxford Terrace, Hutt Central

We submitted a request for the properties at 45-47 Oxford Terrace **not** to be zoned as Mixed Use, and the section 42A Officer's report recommends rejecting our submission, which is why we wanted to be heard. Paragraphs 617-621 of the report deal with our submission, and that of our neighbours at 46 Oxford Terrace.

Our primary argument is that it is not logical for a zone change mid-block, which we successfully argued in Plan Change 43.

For Plan Change 43, the Council commissioned the Jacobs NZ Urban Development Plan, which said a change in intensification type should not occur midblock to avoid adverse boundary effects. In response to this, the Section 42A report, in paragraph 620, says that the 'general scale of buildings is the same in the Mixed Used Zone as the neighbouring High Density Residential Zone', so there is no difference in 'intensification type'.

We disagree with that opinion. Just because both zones permit buildings to the same height does not mean it is the same intensification.

The High Density Residential Zone allows a maximum of three residential units per site, with building and structure coverage not exceeding 50%. There are no such restrictions in the Mixed Use Zone. In fact the description of the Mixed Use Zone says "Built development is provided for in the Mixed Use Zone through a range of permitted activities and development standards that, with some exceptions, permit up to 100m² or 200m² for non-residential activities, and – this is the important part - **without a limit for residential and similar activities.**" The only restriction on residential activities is compliance with Outdoor living space (MUZ-S5), and Outlook space (MUZ-S6). And in the case of the three properties concerned, there would be no requirement for outdoor living space, as Philip Evans Reserve is within 300m (MUZ-S5.4). So we would argue that there is a definite change in intensification.

There are also significant differences in rules that apply between these two different zones, which effectively change the intensification.

Properties in the Mixed Use Zone have no setback requirements (MUZ-S3.1), unless adjoining a residential zone, whereas properties in the High Density Residential Zone must have a 1m setback on side boundaries (HRZ-S5.1).

Within the Mixed Use Zone, no recession planes are required for the first 21.5 metres from the road frontage (MUZ-S2.1c). In comparison, in the High Density Residential Zone, the requirement for height in relation to boundary is generally for 60° recession from 4 metres above ground level.

Under the Policies, MUZ-P7.6 Urban Design Outcomes says ensure adequate privacy for residential activities, MUZ-P7.7 says ensure adequate access to daylight for residential activities (noting this has been struck out in the officer's report), MUZ-P7.8 says ensure adequate access to sunlight for existing outdoor living spaces. It's hard to see how these would be met if a 22-metre high structure was built right on the boundary, with the first 21.5 metres having no recession plane requirement.

There is also no requirement for permeable surface or for landscaped area in the Mixed Use Zone, as there is the High Density Residential Zone.

Note there is no physical or logical boundary between the properties being rezoned to Mixed Use (45/46/47 Oxford Tce) and the adjoining High Density Residential Zone. There is a physical boundary to the south of 45 Oxford Terrace being the Birch St service lane, which is the logical point for a change of zone.

There is also obviously a definite change in the permissible land use mid-block. And section MUZ-P2 allows for activities labelled 'potentially incompatible' to be permitted in the Mixed Use Zone, which are non-complying in the High Density Residential Zone.

And there's one further thing. With our property being on the boundary of the Mixed Use and High Density Residential Zones, we would still have to comply with the setback and recession plane rules required in the adjoining High Density Residential Zone, as per MUZ-S2.2 and MUZ-S3.1. That we have no problem with. However the adjoining property in the High Density Residential Zone does not have to apply any recession planes when adjoining a Mixed Use Zone (HRZ-S4.4d). And that applies for the entire length of the boundary, not just the first 21.5m.

So as the boundary property between the two zones, our single storey house could potentially have 22 metre high buildings straight up along each side of the property, with one being right on the boundary, and the other being 1m back from the boundary, but going the full length of the section.

The report, in paragraph 618, deems the current plan to be very different to the rezoning that we successfully fought under Plan Change 43, however we see the effects of this rezoning as being very much the same. While residential is now expressly permitted as a use in the Mixed Use Zone, should any of the affected properties change and take full advantage of the permitted structures, the effect on the adjoining properties would be huge.