

Proposal Number: 14 (Residential)

Provision Number and Name: 14.11.3.3 Rules – Residential Hills Zone, Built Form Standards, Maximum Building Height

We oppose. We seek to have the above provision amended.

The decision we seek is that the provision be amended as follows:

Delete the height of “8m” and replace it with a height of “7m”.

Reasons for our submission:

1. The existing District Plan provides for a maximum building height of 7m in the Living Hills Zone, above which a resource consent must be applied for. We submit that this existing height of 7m is more appropriate than 8m on the prominent hill slopes and is more in keeping with the existing character of the residential hills environment, being predominantly larger site sizes and single storey dwellings.
2. We further understand from discussions with one of the Council planning officers at the Beckenham drop-in session that the Council in fact only approved a height of 7m for notification in this provision, but that 8m was entered as a typographical error due to the number of people inputting in order to comply with the tight notification timeframes. The officer indicated that no modeling has been done to assess what impact an increase in maximum permitted building height from 7m to 8m would have in the hills zone, since this change was never intended. She said the Council would be making its own submission on this provision seeking to have the 8m height notified reduced to the 7m intended.

Proposal Number: 14 (Residential)

Provision Number and Name: 14.11.2.3 Rules – Residential Hills Zone, Activity Status Tables, Restricted Discretionary Activities, RD 17

We oppose. We seek to have the above provision amended.

The decision we seek is that provision 14.11.2.3 RD17 be amended as follows:

In relation to the reference to provision 14.9.2 (Matters of Discretion, Building Height and Daylight Recession Planes), add an additional sub-paragraph (h) to provision 14.9.2 which reads as follows:

“(h) In relation to the Residential Hills Zone, the extent to which the increased building height or recession plane intrusion will result in decreased opportunities for views from properties in the vicinity.”

As an alternative, the reference to provision 14.9.2 in provision 14.11.2.3 RD17 could be deleted and replaced with reference to a new provision 14.9.41 - Hillside building height and daylight recession planes, written specifically for the Residential Hills Zone, which provision would have the same content as provision 14.9.2 - Building height and daylight recession planes but for the addition of a new sub-paragraph (h) as follows:

“(h) the extent to which the increased building height or recession plane intrusion will result in decreased opportunities for views from properties in the vicinity.”

i.e. “14.9.41 Hillside building height and daylight recession planes

Whether the increased height or recession plane intrusion would result in buildings that:

1. remain compatible with the scale of other buildings anticipated in the area; or
2. do not compromise the amenity of adjacent properties;

taking into account:

- (a) The visual dominance of proposed buildings on the outlook from adjacent sites, roads and public open space in the surrounding area, which is out of character with the local environment;
- (b) Overshadowing of adjoining sites resulting in reduced sunlight and daylight admission to internal and external living spaces beyond that anticipated by the recession plane, and where applicable the horizontal containment requirements for the zone;
- (c) Any potential loss of sunlight admission to internal living spaces in winter with regard to energy utilisation;
- (d) Any loss of privacy through being over-looked from neighbouring buildings;
- (e) Whether development on the adjoining site, such as large building setbacks, location of outdoor living spaces, or separation by land used for vehicle access, reduces the need for protection of adjoining sites from overshadowing;
- (f) The ability to mitigate any adverse effects of increased height or recession plane breaches through increased separation distances between the building and adjoining sites, the provision of screening or any other methods;
- (g) Within a Floor Level and Fill Management Area, whether the recession plane infringement is the minimum necessary in order to achieve the required minimum floor level; and
- (h) The extent to which the increased building height or recession plane intrusion will result in decreased opportunities for views from properties in the vicinity."

The reasons for our submission are:

1. Views are one of the key reasons people make the decision to live on the hill rather than on the flat. Real estate listings are full of references to views as a key selling point for hill properties and a property with a view of the Southern Alps, city, Canterbury plains or sea can command a significant premium in sale price above a similar property which does not have such a view.
2. Views can, of course, not be totally protected and owners of land on the hill must be permitted reasonable opportunity to develop it, however the change we seek to take maintenance of opportunities for views into consideration applies ONLY to resource consent applications for buildings above the permitted height of 8m. We accept that obstructing views is not a relevant consideration for buildings up to the allowed height of 8m but we submit that not permitting the Council to expressly take maintenance of opportunities for views into consideration when exercising its discretion regarding whether to grant consent for a building in excess of 8m on the hill is unreasonable and fails to give consideration to the significant premium a property owner may have paid to enjoy such view in reliance on the permitted height limit being followed.
3. The current version of the District Plan does provide for views as one of the assessment matters to be considered in relation to buildings above the permitted 7m height in the Living Hills Zone - see the assessment matters listed in Volume 3 Part 2 Provision 15 - Assessment matters for resource consents, provision 15.2.2 - Building height and sunlight and outlook for neighbours, sub-paragraph (g) which reads "In the Living H Zone, the extent to which the increased building height will result in decreased opportunities for views from properties in the vicinity." Views continue to be as important to enjoyment of hill properties as they were in the past and there is no good reason for removing this from the matters which are to be taken into account by the Council when deciding whether to permit an over-height dwelling on the hill. Our requested change is made even more necessary as the proposed District Plan removes the critical height limit of 9m above which an application for resource consent is considered non-complying, which is contained in the current District Plan in relation to the Living Hills Zone.
4. We appreciate that the assessment matters listed in provision 14.9.2 – Building height and daylight recession planes (which have already been agreed to apply to the

Residential Suburban Zone on the flat and which are also proposed to apply to the Residential Hills Zone) do include reference to:

“Whether the increased height or recession plane intrusion would result in buildings that:

1. remain compatible with the scale of other buildings anticipated in the area; or
2. do not compromise the amenity of adjacent properties;  
taking into account:  
(a) the visual dominance of proposed buildings on the outlook from adjacent sites..., which is out of character with the local environment.”

This may overlap with an assessment of maintenance of opportunities for views to some extent, however it does not have entirely the same focus., This can be expected given it was written for the Residential Suburban Zone where the same significance of views to property enjoyment and values does not apply.

5. We submit that it is necessary to include explicit reference to maintenance of opportunities for views as a specific matter which must be taken into consideration when determining whether to exercise discretion to permit an over-height building on the hill, particularly given the considerable enjoyment having a view can afford property-dwellers, the significant premium in sale price which a property with a view can attract and the fact that this assessment will only apply to buildings seeking to go above the 2 storey height limit permitted as of right.
6. We also note that views are specifically addressed in relation to Banks Peninsula in the Proposed District Plan in provision 14.1.5.5 Policy - Neighbourhood character and residential amenity in residential areas of Banks Peninsula, which policy states “Ensure high quality residential character and amenity is achieved through development that does not visually dominate views” and Provision 14.1.8.1 Policy - Character, amenity and identity of Banks Peninsula at sub-paragraph (v) which policy states:

“Require residential development within townships, settlements and residential large lot developments to consider at the time of subdivision the location of the principal building on the site *to avoid any adverse visual impact on the landscape and views from other residential properties and public places* including from the water;”  
(emphasis added)

While these policies relate to building on newly sub-divided land, which is less applicable in the context of the Residential Hills Zone given the Port Hills are already largely developed, there can be no good reason for assessing protection of opportunities for views as any less important when an existing building on the hill is proposing to add a 3<sup>rd</sup> storey than for a totally new building being built on vacant hill land in front of an existing building.

7. Amending the provision as sought would not contradict any of the objectives or policies in the proposed District Plan. Hill dwellers may not be able to expect that their existing views will be entirely protected by Council planning rules, but it is entirely reasonable for them to expect that loss of such views and corresponding diminution in enjoyment and property value will be one of the things the Council will take into consideration when deciding whether to exercise its discretion to permit a building in excess of the permitted 8m height limit. If our suggested change is not adopted this will not be possible as the assessment matters listed in provision 14.9.2 are expressly stated in provision 14.11.2.3 to be the only matters the Council may take into account in exercising its discretion.
8. Amending the provision as sought will not contribute to any additional resource consents being applied for, as the requested amendment applies only to the matters to be considered when assessing a consent which has already been applied for, not to the criteria on which the need to apply for a consent is based.