



Draft Plan Change 15

Lincoln Retail Distribution

Prepared by Jonathan Clease
Peer reviewed by Matt Bonis
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**PROPOSED PLAN CHANGE PREPARED IN ACCORDANCE WITH s.32
AND THE FIRST SCHEDULE OF THE RMA 1991**

**SELWYN DISTRICT COUNCIL
PROPOSED PLAN CHANGE**

1.0 PURPOSE

- 1.1 The purpose of the Proposed Plan Change is to ensure that the District Plan sustainably manages the distribution of retail activity in Lincoln Township. In particular the Plan Change is designed to ensure that significant adverse distributional effects on the town centre are avoided, whilst also providing for a range of retail activities to establish in Lincoln township to meet the needs of the community. The Plan Change has been developed so that it gives effect to both the Regional Policy Statement and the community direction provided through the non-statutory Lincoln Structure Plan regarding the maintenance and enhancement of Lincoln Town Centre
- 1.2 The Plan Change scope is limited to considering distributional effects relating to Lincoln Township. It is anticipated that potential distributional effects and the role of the existing centres in Rolleston and Prebbleton will be considered as part of any plan changes flowing from the development of Structure Plans for these townships, or from a District-wide retail strategy.

2.0 PROPOSED AMENDMENTS TO THE PLAN

- 2.1 The proposed amendments include the introduction of a new objective and policy relating to the distribution of retail activity in Lincoln Township and amendments to several rules to provide a more efficient and effective method for managing retail distribution. The proposed amendments to the Plan are included as "**Appendix 1**".

3.0 CONSULTATION

- 3.1 Consultation has been undertaken with the Lincoln community as part of the development of the Lincoln Structure Plan. This plan was recently prepared and adopted by Council in 2008 as a means of guiding the growth and development of the Township. One of the key findings of the Structure Plan consultation process was the desire by the local community for the Town Centre to continue being the primary commercial and social focus of the Township.
- 3.2 In a separate process, the Council, in partnership with Canterbury Regional Council (ECan), the New Zealand Transport Agency (formerly Transit New Zealand), and the neighbouring Christchurch and Waimakariri Councils have produced the Greater Christchurch Urban Development Strategy (UDS). This strategy was itself subject to considerable public consultation and reinforced the desirability of the existing Selwyn Townships to continue to be the key focal points for urban growth in the District.
- 3.3 A key statutory output of the UDS process has been Change 1 to the Regional Policy Statement ("Change 1") which was publicly notified in July 2007. Change 1 seeks to manage urban growth in Greater Christchurch over the next 35 years through a combination of establishing urban limits and accommodating a large proportion of growth through intensification of existing urban areas. Integral to this approach to growth management is the establishment of a series of 'Key Activity Centres' that are to become the principle focal points of existing urban areas and are to be locations where there is a mix of landuse activities and higher density residential development. In Selwyn District the two Key Activity Centres have been identified as the existing town centres of Lincoln and Rolleston. Change 1 has been publicly notified for both submissions and further submissions, providing the opportunity for all interested parties to submit on the proposed approach to growth management. No submissions were received opposing the identification of the centre of Lincoln as a Key Activity Centre and thereby the principle focus of the township in terms of the location of commercial, social, and higher density housing opportunities.

- 3.4 It is noted that in addition to the above consultation and statutory processes that have formed the background to this plan change, any interested parties will also have the opportunity to put forward their views through the statutory public notification process.

4.0 CURRENT RETAIL DISTRIBUTION IN LINCOLN TOWNSHIP

- 4.1 Retail activity in Lincoln Township is currently concentrated in the existing Town Centre that is located either side of Gerald Street between West Belt Road to the west and the Liffey stream to the east. The retail centre has a Business 1 zoning in the Plan, with the zoned area being some 6 ha. The actual portion of this zone that is currently developed for retail purposes is considerably smaller and covers approximately 2 ha. The balance of the B1 zone is occupied by relatively low density residential dwellings (typically 1,000m² sites), and an 2,000m² parcel of land commonly known as the 'community centre' site that is owned by the Council and includes a community hall and adjoining Council service centre and library. These Council buildings are to be redeveloped into a new library and service centre complex with community meeting rooms, retail activities, and open space areas. It is anticipated that this work will be undertaken in the latter part of the current LTCCP period. The retail centre currently provides a range of smaller convenience retail stores that are aimed at meeting the day-to-day needs of residents such as a Four Square grocery store, pharmacy, bakery, café, and a post office. Apart from the existing Town Centre, retailing in the Township is limited to ancillary retail within the University Campus that meets the needs of students e.g. café, university bookshop. There is currently no yard-based or large format ('big box') retailing in Lincoln Township.

- 4.2 In 2008 a resource consent was granted to establish a full service supermarket (1700m² gross floor area) operating under the 'New World' brand on a site approximately 750m west of the existing town centre with frontage to Gerald Street (approximately half way between the Town Centre and the university campus). Construction of the supermarket is completed and opened for business in October 2009. A resource consent has recently been lodged on 30th June 2009 (RC095165) to expand the proposed supermarket by a further 1,353m². At the

time of writing this current consent was working its way through the statutory consenting process, with a decision yet to be made.

- 4.3 In addition to the existing retail activity in the Township, the Lincoln Structure Plan identified that two future local centres would be needed within the proposed Greenfield urban growth areas over the coming decade to meet the immediate convenience needs of future local residents such as a local dairy, takeaway food, hairdressers and the like.

5.0 Economic Assessment

- 5.1 An economic assessment was undertaken by Property Economics in November 2008 which identified that Lincoln's catchment is currently able to support some 2,000m² net floor area of convenience retail. This area excludes the 'back of house' areas used for storage, offices, staff rooms etc. Convenience retail refers to smaller specialty shops aimed at meeting the day-to-day needs of residents and excludes supermarkets and large-format 'big box' retail. Lincoln currently has approximately 2,100m² net floor area (excluding the consented supermarket) and therefore the size of the retail area is appropriate for the catchment. The demand for convenience retail is predicted to increase to some 6,300m² by 2041, based on the Lincoln catchment's population growth anticipated in Change 1 to the RPS.
- 5.2 The economic report recognised that Lincoln could support one full-service supermarket and that the provision of such a supermarket in Lincoln would be beneficial for residents by providing them with an alternative to having to travel to Rolleston or Christchurch to buy their groceries. The report emphasised that whilst the location of a supermarket anywhere in Lincoln would be beneficial for the community, these community benefits would be substantially greater if the supermarket were to be located within the existing Town Centre, thereby reinforcing and strengthening the centre as the economic and social focal point for the community and providing efficiencies for both customers and economic benefits to convenience retailers through co-location with a large 'anchor' store. Conversely, the location of the supermarket in an out-of-centre location would weaken the existing centre's role as the key community focal point. The establishment of solely a supermarket in an out of centre location would not however create direct trade competition with existing retailers (apart from the Four Square store which is expected

to close), however it would weaken the existing centre by limiting the growth potential of the centre. This weakening would be significantly exacerbated were new convenience retail activities to also establish adjacent to the proposed supermarket as such activities would both create direct competition with existing retailers and encourage existing retailers to relocate to the supermarket site to take advantage of the foot traffic and levels of activity generated by the supermarket activity.

- 5.3 The economic assessment concluded that the provision of a supermarket in Lincoln is beneficial, with these benefits able to be maximised if the supermarket is located in a central location. With an out-of centre, supermarket only, scenario the community benefits are much more modest, however adverse effects are limited to the extent that the potential future growth and vibrancy of the existing centre will occur more slowly and may be more limited. The scenario of an out-of-centre supermarket, combined with a number of smaller convenience retail stores, does however have the potential for significant adverse effects on the existing centre caused by the distributional spread of convenience retail activity.

6.0 SOCIAL ASSESSMENT

- 6.1 A Social assessment has been undertaken by Taylor Baines & Associates and reviewed the economic analysis that accompanied the New World application and critically examined a number of assumptions in the economic analysis, specifically around the degree of adverse distributional effects that might result from an out-of-centre supermarket on the existing town centre. The social assessment also included a survey of existing shop owners to gauge the extent to which existing businesses would consider relocating to the supermarket site, were smaller convenience retailing tenancies to be made available. The social assessment concluded that the development of a supermarket in Lincoln had many positive benefits, however many of these benefits were lost if the supermarket was located in an out-of-centre location. The creation of two separate centres would result in significant lost opportunities to strengthen and improve the existing centre and that the growth of the second centre to include smaller convenience retailing would be contrary to the interests of the community at large.

7.0 SECTION 32 ANALYSIS

7.1 Before a plan change is publicly notified, Section 32 of the Resource Management Act requires an evaluation that must examine:

- the extent to which each objective is the most appropriate way to achieve the purpose of the Act; and
- whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate method for achieving the objectives.

The evaluation must take into account:

- the benefits and costs of policies, rules, or other methods; and
- the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.

7.2 The proposed plan change does not change any Plan objectives, rather it seeks to amend an existing policy and adds a new policy and rules to address retail distribution in Lincoln Township. The following assessment therefore considers the extent to which the proposed policy and rule amendments are more efficient and effective methods for achieving the objectives of the Plan, and thereby Part II of the Act, than the existing policy and rule package. This assessment is informed by an evaluation of the associated benefits and costs of the proposed plan change.

RELEVANT OBJECTIVES AND POLICIES

7.4 In assessing the relevant objectives, it is necessary to consider not only those contained within the District Plan, but also the provisions of the Regional Policy Statement (RPS) – a document that the Resource Management Act requires the District Plan to “give effect to”. Of particular relevance is Plan Change 1 to Chapter 12 of the RPS which was publicly notified in mid-2007 and subsequently modified via Variations 1-4.

DISTRICT PLAN OBJECTIVES AND POLICIES

- 7.5 The objectives and policies of the Selwyn District Plan are set out in Part B of the Plan. Of particular relevance to the establishment and distribution of new retail centres is section B4.3 which addresses residential and business development. The SDP contains several general objectives and policies relating to residential and business growth that apply across all parts of the District, with more detailed policies then addressing the issues specific to the various townships.
- 7.6 The District-wide objectives (**B4.3.1-3**) and policies (**B4.3.1-5**) are focussed primarily on managing greenfield expansion of existing townships. Matters to be considered include a requirement that urban growth does not adversely effect natural or physical resources, occurs adjacent to existing urban areas, that such growth is facilitated procedurally via a plan change rather than a resource consent, that townships expand in a compact shape where practical and without rural blocks being surrounded by urban growth, and that new residential or business development is encouraged to occur on vacant land in existing Living or Business Zones if such land is available and appropriate for the proposed activity. The explanation and reason for the objectives recognise that growth should also occur in a manner that is compatible with the character of existing townships.
- 7.7 In considering the recent out-of centre supermarket resource consent it is important to note that this occurred within an existing Business zone, albeit not a commercial/ retail zone. The objectives and policies do not distinguish between, or provide any direction on, significant changes in business activities that occur within existing business-zoned areas e.g. from research to retail. The objectives and policies do not provide any guidance at a District Level regarding a preference of supporting existing commercial centres compared with the creation of new centres, with the primary criteria at a policy level simply being that the growth of business zones be adjacent to the edge of existing townships rather than being completely isolated. These objectives and policies have broad applicability across all the existing townships, including Lincoln. Objective B4.3.1 does nonetheless require that adverse effects on physical resources (which would include the existing Town Centre) and amenity values should be avoided, with a dispersed distribution of convenience retail or the establishment of a second town centre having the potential for adverse effects on both these matters.
- 7.8 The Lincoln-specific policies can be summarised as follows:

- Encouraging future rezoning for residential development to be south of Gerald Street and east of Springs Road (**Policy B4.3.50**);
- Managing vehicle access onto Gerald Street from new residential development (**Policy B4.3.51**);
- Ensuring the provision of adequate stormwater infrastructure (**Policy B4.3.52**);
- Encouraging integration between new residential areas and the provision of adequate community facilities and business areas (**Policy B4.3.53**);
- Ensuring rezoning for new residential or business activities does not create reverse sensitivity issues for the Business 3 or rural zones (**Policy B4.3.54**); and
- Considering potential effects of urban growth on the maintenance of a 'rural-urban' landscape contrast with Christchurch – essentially maintaining a distinctively rural area between the City and the Selwyn townships (**Policy B4.3.55**).

7.9 The Lincoln-specific policies do not therefore provide any explicit policy guidance as to the role of the existing central business area or the preferred distribution and location of new retail development within Lincoln.

REGIONAL POLICY STATEMENT

7.1 Chapter 12 of the RPS sets out the relevant objectives and policies relating to managing the growth and development of Townships and the built environment. The objective and policy package broadly seeks a consolidated urban form with development only occurring where it can be efficiently serviced and where it avoids areas with high landscape, ecological, or heritage values, areas that are subject to natural hazards. Objective 5 seeks that "patterns of settlement in rural areas should enable people and communities to provide for their social, economic and cultural wellbeing", with the objective explanation emphasising the important contribution that rural towns make to the wellbeing of their local communities through the provision of local services and employment. Objective 5 is to be implemented through Policy 7 which seeks that the development and expansion of rural towns should enable people and communities to provide for their wellbeing, health and safety, and have particular regard to the efficient use and development of natural and physical resources.

- 7.2 The operative RPS therefore provides broad criteria for managing the outward expansion of townships, recognises the role that these townships play in meeting the needs of their community, but does not in any explicit manner provide direction as to whether these needs should be met through a centres-based or dispersed distribution of retail activities.
- 7.3 Chapter 12 of the RPS is proposed to be substantially amended through Change 1. Change 1 aims to manage the urban growth of metropolitan Christchurch through a suite of objectives, policies, and methods, and identifies future areas for urban growth on a series of planning maps. The primary focus of Plan Change 1 appears to be on managing residential growth, and a number of the objectives and policies are of more direct relevance to residential proposals than business activities. Change 1 does none-the-less consider business activities (including retail, commercial, and industrial activities) and accordingly there are a number of objectives and policies that are of relevance to this proposed plan change concerning the distribution of retail activities within Lincoln.
- 7.4 In terms of the weight that can be placed on the RPS Change 1 provisions, it is noted that Plan Change 1 and associated Variations 1-4 are at a formative stage. It is subject to several hundred submissions, and although Officer s.42a Reports have been received on these submissions and hearings largely completed, decisions on submissions are not anticipated until late 2009/ early 2010. Such decisions will then be able to be tested in the Environment Court through appeal. Change 1 does however build on the non-statutory Greater Christchurch Urban Development Strategy (UDS) which has been adopted by all of the member Councils and which was subject to widespread community consultation, and as such somewhat more weight can be placed on the provisions of Change 1 than might usually be applied to a proposed planning document as a similar stage in the RMA process. The District Plan is required to give effect to the RPS, with the RPS provisions being a material consideration in a s.32 assessment, albeit that the weight that can be placed on the provisions of Change 1 is relatively modest at this point in time.
- 7.5 In considering this Plan Change in the light of the RPS change, the primary question that needs to be answered is whether any proposed Plan amendments more effectively and efficiently enable the Plan to give effect to the objectives of the

RPS and thereby Part II, compared with leaving retail distribution within Lincoln subject to the Plan's current policy and rule package.

- 7.6 The overall approach to urban growth is articulated in RPS Change 1 **Objective 1** which seeks to manage urban growth to achieve consolidation of existing urban areas, higher density living environments in inner Christchurch, around Key Activity Centres, and within Greenfield growth areas and to avoid unsustainable expansion outside urban areas. Greenfield development on the periphery of existing urban areas is to be at a rate that enables the efficient provision and use of network infrastructure, with growth of Lincoln township to be sustainable and self-sufficient.
- 7.7 **Objective 5** relates to 'Key Activity Centres' and seeks to "*recognise, provide for and sustain the community's physical resource investment in key centres of business and service activity that are highly accessible and constitute nodes on the strategic transport corridors shown on Map 1*". The explanation to the objective states that "*it is important to recognise that existing centres provide a strong basis of support for more intensified residential living and provide a basis for the successful planning of public transport. It is important to also recognise that existing key activity centres provide a strong basis of support for surrounding residential areas, and that inappropriate development of new key activity centres may devalue the community's investment in existing centres and weaken the range and viability of the services they provide!*". The existing Lincoln town centre is identified in the planning maps as being a Key Activity Centre and therefore the Plan is required to 'recognise, provide for and sustain' the existing town centre.
- 7.8 Plan Change 1 contains a specific **Objective 6** relating to the growth of business activities, with the objective recognising the need to "*identify and provide for Greater Christchurch's land requirements for the growth of business activities*". The explanation to the objective states that "*the provision of adequate land for future business activities is important for long term economic growth and the provision of both employment and services for the sub-region's existing and future communities. Locating appropriate business land close to existing and future*

residential development helps achieve a greater range of travel options as well as reducing energy usage. The locations selected for business land development are also key for the forward planning of the transportation network".

- 7.9 The objectives are to be implemented via a number of policies. **Policy 2** relates to accommodating an increasing proportion of residential growth through intensification, with such intensification to be encouraged in and close to Key Activity Centres. **Policy 3**, as recommended by Officers, requires Territorial Authorities to provide for business activities which amongst other things promotes the utilisation and redevelopment of existing business land, provides sufficient additional greenfield business land, reinforces Key Activity Centres, and encourages communities to be self-sufficient in terms of employment and business activities.
- 7.10 **Policy 4**, as amended by Officer recommendations, emphasises the need for communities that have Key Activity Centres to be self-sufficient for employment, commercial, community and recreational activities.
- 7.11 **Policy 5** identifies the Key Activity Centres in part (a) of the policy, with Lincoln and Rolleston Town Centres being the two Key Activity Centres identified within Selwyn District. The policy goes on to state that:

b) Territorial authorities shall sustainably manage the development of the Key Activity Centres to:

- Provide for facilities and services necessary to support the planned community, and*
- Encourage economic and business activity and interaction, and*
- Broaden the mix of uses appropriate to the centre, including medium and/or high density residential provision within and adjoining the Key Activity Centre, and*
- Provide major centres for the community, and*
- Support the development of the principal public transport and cycling networks and the ability to change transport modes, and*

¹ Text underlined to reflect amendments recommended in the Officer s.42a reports on submissions

- *Encourage pedestrian access to and within these centres.*

c) Territorial authorities shall ensure that commercial activity outside of the Key Activity Centres does not adversely affect the function, vitality or amenity of the Key Activity Centres as identified in (b) above.

- 7.12 The methods to implement Policy 5 include a requirement that Councils shall, through their district plans, introduce measures to both support the planned development of Key Activity Centres and to limit commercial activity outside these Centres that could restrict the ability of the Centres to achieve their intended functions as identified in (b). In terms of weight it is important to note that the majority of submissions relating to the Key Activity Centre policy have focussed on the merits and methodology by which the list of centres were selected, rather than challenging the broader purposes or role of the Key Activity Centre concept. No submissions sought to remove Lincoln Centre from the list of Key Activity Centres, and therefore reasonable weight can be placed on the ongoing identification of Lincoln as a Key Activity Centre in Change 1.
- 7.13 **Policy 7** requires development in Greenfield areas to give effect to urban design best practice and the principles of the Urban Design Protocol developed by the Ministry for the Environment in 2005. For Greenfield development, **Policy 8** requires that an Outline Development Plan (ODP) be prepared as part of the rezoning process and be included within the relevant district plan. The purpose of the ODP is to ensure that future development achieves the urban design principles set out in Policy 7. These matters include amongst other things the identification of any land to be set aside for new business activities.

LINCOLN STRUCTURE PLAN

- 7.14 The Council has recently produced the Lincoln Structure Plan (LSP) which sets out an urban design vision for the future development of Lincoln Township. The LSP process involved a considerable amount of consultation with the local community and was also developed within the broader context of the emerging Urban Development Strategy (UDS) and Change 1 to the RPS. The key elements of the LSP as it relates to retailing and the Town Centre are set out in the Social

Impact Assessment prepared by Taylor Baines. These elements are summarised in the Social report as “the LSP articulates strongly and consistently a centres-based approach to the future development of Lincoln, based on explicit statements of principles which have been considered in an integrated manner across different perspectives. The social and community benefits of having a vibrant Town Centre are emphasised in the LSP, as is the need to maintain the existing centre as the key focal point for the community.

- 7.15 The LSP is not a statutory planning document prepared under the RMA, however it does have relevance to this plan change as a Plan that was produced following community consultation and as a non-regulatory method for achieving the aims of both the UDS and Change 1.

OVERALL SUMMARY OF OBJECTIVES AND POLICIES

- 7.16 The District Plan currently seeks to manage urban growth by locating such growth adjacent to existing townships and in locations where it can be readily serviced. This growth should be in keeping with the existing character and amenity of the townships and should not result in adverse effects on existing physical resources. Provided new business activities meet these requirements, the District Plan is largely silent on a preference for a ‘centres-based’ or dispersed approach to the location of business activities both across the District as a whole, and within specific Townships.
- 7.17 The RPS objective and policy approach to managing business growth represents a markedly different approach to that taken in the District Plan. Change 1 anticipates the need for future business areas, in terms of both large scale Greenfield business sites and the inclusion of local centres within residential Greenfield subdivisions. Townships that contain a Key Activity Centre are anticipated to become self-sufficient in terms of meeting the needs of their community, including employment and retail opportunities. As well as meeting the general criteria for urban growth areas, new business areas however also need to be located such that they do not have a significant distributional effect on the identified Key Activity Centres. Policy 5 is very directive in that Key Activity

Centres are to be the focus of the community they support, are to fulfil a range of commercial and social needs, and are to provide higher density housing options. Councils are to ensure that commercial activity outside of the Key Activity Centres does not adversely affect the function, vitality or amenity of the Key Activity Centres, whilst concurrently enabling such townships to become self-sufficient. The RPS therefore strongly supports a 'centres-based' approach to managing the growth of business (and especially retail) activities.

8.0 EFFICIENCY AND EFFECTIVENESS

8.1 Having identified the relevant objectives and policies of both the District Plan and the RPS that the District Plan must give effect to, S.32 now requires consideration of whether the existing mix of policies and rules, or the proposed new policy and rule package, more efficiently and effectively achieves the objectives of the District Plan, the RPS objectives, and thereby Part II of the Act.

8.2 The assessment of the efficiency and effectiveness of the proposed plan change needs to be informed by consideration of the benefits and costs of the proposal and the risk of acting or not acting if there is insufficient or uncertain information.

Current controls on the potential adverse distributional effects of dispersed retail activity

Business Zones

8.3 The existing Lincoln Town Centre is zoned Business 1 which is described in Table A4.4 as having "*environments which are noisier and busier than Living zones, with more traffic, people, signs and building coverage. Business 1 Zones are still pleasant areas for people to live or work in, with good amenity/ aesthetic values. They are also areas where higher density housing can be established as a permitted activity*". Throughout Selwyn District, Business 1 is the zoning typically applied to the retail/ commercial centres of the various townships. Business 2 zones are 'heavier' industrial areas that are generally separated or buffered from Living Zones.

- 8.4 Within Lincoln Township there is currently no Business 2 zoned land, however proposed Plan Change 7 (currently in draft form and subject to ongoing pre-notification public consultation) does propose a new B2 area to the south of the University fronting onto Springs Road. The Business 2 zone provisions in the Plan do not generally control retailing i.e. the establishment of any sort of retailing within the zone is permitted.
- 8.5 The other business zone within Lincoln Township is the Business 3 zone which is located west of the Town Centre and incorporates the University, associated agricultural research buildings, and areas used in the past for field trials. The B3 zone is unique to Lincoln University and neighbouring Research Institutes and is described in table A4.4 as being a 'hybrid' of Business 1 and 2, with some activities in the zone likely to be considered unpleasant by people. Whilst the zone description reference to the B3 zone being a hybrid of B1 and B2 suggests that the Business 3 zone is anticipated to have a mix of retail, commercial, and industrial activities, the B3 rules restricting activities to only those associated with the University and tertiary research suggest that the 'hybrid' reference has more to do with the intensity of activity and the scale of buildings than the mix of activities per se. This anticipated outcome is reinforced by **Policy B3.4.6** which aims "*to provide a Business 3 Zone to accommodate specialist agricultural research, education and associated business activities in surroundings that maintain the environmental quality needed to undertake these activities; and avoids potential 'reverse sensitivity' effects with other activities*". The purpose of the zone is clearly intended to both provide for, and protect, activity associated with tertiary research, rather than providing a wider retail or mixed commercial environment.
- 8.6 The Business 3 Zone is unique both in terms of its geographic extent (occurring only in and around Lincoln University), and also in terms of the presumption regarding the activities that are to occur within it. The other business zones in the Plan list activities that a resource consent is required for, with the presumption being that any activity that is not listed is permitted, subject to various effects-based rules. The B3 zone inverts this presumption, whereby rule 13.1.2 lists a relatively narrow range of activities that are permitted, with all other activities being fully discretionary (apart from an equally narrow list of activities that are listed as being non-complying under rule 13.1.10). The permitted list of activities are centred around research and tertiary education, although retailing, cultural, commercial, and recreational activities that are ancillary to tertiary education are also in themselves permitted.

- 8.7 Given the status of retailing as a fully discretionary activity (apart from retailing ancillary to tertiary education and research), the Council are currently able to consider all matters when assessing future resource consent applications to establish retail activities such as smaller convenience shops within the B3 zone. This activity status therefore enables SDC to consider all potential environmental effects, including any potential social and economic effects of additional out-of-centre retail development on the existing Lincoln Town Centre. It is important to note that the Resource Management Act explicitly excludes consideration of direct trade competition when assessing resource consent applications, however case law² has recognised that potential social and economic effects relating to changes in the distribution of economic activity are matters that can be legitimately considered.
- 8.8 The range of tertiary education and research activities do however establish a 'permitted baseline' of potential effects. Whilst not a District Plan matter per se, the concept of a 'permitted baseline' does have a significant bearing on the consideration of resource consent applications. Sections 94B(3) and 104(2) RMA provides consent authorities with the discretion to disregard any potential adverse effects of a proposed activity if the Plan permits an activity with that effect. In the B3 zone substantial tertiary research activities are permitted as of right, and therefore the effects associated with such facilities in terms of building scale, traffic generation, noise etc form a considerable 'permitted baseline package' of potential environmental effects that might occur in the B3 zone as of right.
- 8.9 The Selwyn District Plan includes assessment matters for restricted discretionary activities, but does not provide any such guidance for applications that are fully discretionary. In the case of the range of activities that can locate within the various Business zones there are also no 'reasons for rules'. This lack of guidance, combined with the relative brevity in the objectives and policies means that whilst non-research activities within the B3 zone are fully discretionary, there is little direction in the Plan as to whether specific proposals and their associated effects are encouraged or discouraged or any specific matters that ought to be considered. In the absence of such guidance, it is a relatively easy test for a wide range of proposals to not be

² *Westfield (New Zealand) Limited v North Shore City Council* (NZSC 17 2005)

contrary to objectives and policies and for the effects not to be adverse when compared against the permitted abseine.

Living Zones

- 8.10 Within the Living Zones, the scale of non-residential activities (i.e. commercial, retail, recreational etc) is controlled via a series of rules set out in Volume 1, Part C, Section 10. Within the Living Zones, as well as having to comply with the various building bulk and location rules, non-residential activities are also limited in terms of noise, traffic generation, number of staff living off-site (2 FTE), gross floor area (300m²), and hours of operation. Should an activity breach any of these rules then the activity becomes fully discretionary. The permitted amount of traffic generation in particular is extremely restrictive, with vehicle movements being limited to 20 movements per day for sites fronting local roads and 40 movements per day for sites fronting strategic, arterial, or collector roads. This provision means that in effect any non-residential activity that goes beyond small-scale, home-based activities is extremely likely to be fully discretionary. The fragmented ownership pattern of the existing residential areas within Lincoln also limit the potential for large sites to be amalgamated such that non-residential activities could be established at a scale sufficient to create a significant adverse distributional effect on the existing town centre. Where new Greenfield living zones are established, the provisions of RPS Change 1 mean that any new business area would first have to be identified on an Outline Development Plan as part of a rezoning process. Even if the ODP provisions of Change 1 do not survive the hearings process, any business are in a new Greenfield site would still need to go through a change to the District Plan where the potential distributional effects on the Town Centre could be considered.

Rural Zones

- 8.11 Within the Rural zones, the scale of non-residential activities is likewise controlled in terms of the number of non-resident employees (2 FTE) and the gross floor area of non-rural activities (100m² per site). Given that the minimum site size in the Inner Plains is 4ha and in the Outer Plains is 20ha, it is unlikely that retail activities will be able to establish in rural areas at a density that is significant enough to cause adverse distributional effects on the function and vitality of the Town Centre. Any

larger retail proposal in the rural zones is likely to be regarded as 'urban growth' and would be inconsistent with both Change 1 to the RPS and Policy B4.3.2 to the Plan that seeks to "ensure new residential or business development either complies with the plan policies for the Rural Zone; or the land is rezoned to an appropriate Living or Business zone". Where new business land is proposed through a plan change process, the merits of the site and its potential distributional effects on the town Centre would be able to be assessed through the s.32 and hearing process.

Other Methods

- 8.12 The Plan policy and rule package are not the sole means of achieving the Plan's objectives or the purpose of the Act. There are also a range of other non-regulatory methods available to Council to assist in achieving the desired outcomes and in enabling the Council to fulfil the requirements of RPS Change 1, including those relating to Key Activity Centres. In terms of strengthening the existing Town Centre and assisting it to fulfil its anticipated role both as a Key Activity Centre in the RPS and as the key focal point for the community as identified through the Lincoln Structure Plan, the Council has programmed a series of works in the Long Term Council Community Plan (LTCCP). These initiatives include pavement and road renewal to assist in facilitating pedestrian and cycle access to the Town Centre, and a significant investment in the redevelopment of the community centre site to provide a new Council Service Centre, library, community meeting rooms, and retail and open space areas. The establishment of a new library complex in particular has the potential to play an 'anchor' role in attracting people to the Town Centre and represents a significant investment in a community resource.

Adequacy of existing zoned business land

- 8.13 The objectives and policies of both the District Plan and Change 1 to the RPS recognise the importance to the District of ensuring an adequate supply of appropriately zoned business land to meet the District's needs. This includes the ability for Key Activity Centres to expand and continue to fulfil their anticipated

role as the primary focal point for the community. As noted above, the existing Business 1 zone is some 6 ha, of which only 2 ha is actively developed for retail purposes. The balance is occupied by residential activities that typically comprise of a single family dwelling within a 1,000m² garden setting. These residential lots are relatively undeveloped compared with the density of both business and residential development permitted by the Plan. There is therefore considerable potential for further redevelopment and intensification of business and higher density residential activity within the existing Business 1 zone, with the total quantum of zoned land considered to be adequate for accommodating the 2.2 ha the Property Economics report identifies as being necessary to accommodate the convenience retail and service needs of the community for the next 30 years. In addition to the B1 land available in the Town Centre, Change 1 and the Lincoln Structure Plan both anticipate the need for two small neighbourhood B1 areas in the large Greenfield urban growth areas identified in those documents.

8.14 Whilst the B1 zone is considered to be adequate for accommodating the present and future day-to-day convenience needs of the community through gradual redevelopment, the fragmented ownership of the zone does make it potentially difficult for large landholdings to be amalgamated such as would be necessary for 'big box' and yard-based retail activities such as a Mitre 10, a complex of furniture and garden stores, or car yard/ equipment hire activities. Whilst Lincoln may not have the critical mass of population required to support such businesses at the moment, sufficient demand may occur over time as the anticipated Greenfield residential growth occurs both in Lincoln and in the surrounding townships. In the absence of a District-wide retail strategy, there is currently no strategic preference for whether such large format retailing activities should be located at Rolleston only, or distributed across the townships. In the absence of such direction, there is little evidence that would preclude the need for such activities to be provided for in Lincoln, so long as their siting was appropriate and environmental effects were not significant.

8.15 The report by Property Economics has identified that large format retailing and yard-based activities do not compete with the function of the day-to-day convenience retailing that exists and is anticipated within the Town Centre and

as such would not have a significantly adverse distributional effect were provision to be made for such activities in an out-of-centre location.

- 8.16 The Plan therefore adequately provides for the convenience retail needs of the Lincoln community through the existing Business 1 zone, with this zone being of sufficient size to accommodate the likely demand for such activities for the next 30 years. From a land supply perspective there is therefore no need for additional convenience retailing to be established outside of the existing town centre, apart from small 'corner dairy' type pockets in the new green field residential areas. The current B1 provision is sufficient to meet the aims of Policy 3 and 4 of Change 1 that require the supply of business land to be adequate for meeting community needs and the need for existing Townships such as Lincoln to be self-sufficient in terms of employment, commercial, community, and recreational activities. The existing B1 zone is not however considered to be of sufficient size, or to contain a number of sufficiently large sites, to enable either large format or yard-based retail to readily occur.
- 8.17 The B1 zone is also surrounded by residential activity and permits higher density residential activity within the zone itself. Large format and yard-based retailing can result in levels of amenity and design that are not readily compatible with both directly adjoining residential activities and the existing 'village' character of the existing Town Centre. Provision ought therefore to be made for larger format retailing elsewhere in the Lincoln township.
- 8.18 There is not currently any Business 2 zoned land within Lincoln Township. The need for a more general commercial/ industrial area was identified in the Lincoln Structure Plan, with 11 hectares of B2 proposed south of the University fronting onto Springs Road as part of proposed Plan Change 7 (and shown as a business growth area in RPS Change 1). This area would be appropriate for large-format or yard-based retailing as it is well located on the edge of the township where access to such facilities would be relatively convenient for residents whilst also in a location where potential adverse effects on residential amenity and township character could be managed. The establishment of a B2 area is subject to the

submission and hearing process following notification of PC7 and therefore there is not currently any certainty that a B2 zone will be established in Lincoln. The Business 3 zone likewise permits non-tertiary related retail as a discretionary activity. The recent resource consent application to establish a supermarket emphasised that the B3 zone currently provided more than enough land to meet the reasonably foreseeable needs of the tertiary research institutes and that the establishment of a supermarket within the zone would not limit the ongoing expansion of research facilities, nor would it create any reverse sensitivity effects that would potentially limit research activities through the generation of complaints and pressure for research activities to be curtailed. The B3 zone is well located for larger format retail, being relatively close to the town centre and having a reasonable public profile through frontage to both Gerald Street and Springs Road.

CENTRES-BASED OR DISPERSED PATTERN OF RETAIL DISTRIBUTION

8.19 Despite the changing legal landscape relating to retail distribution since the inception of the RMA in 1991, it is now settled law that the economic and social effects of a proposed activity on the environment may be a relevant matter for a consent authority when considering:

- The potential effects of an activity on the environment for the purposes of notification (section 93(1)(b)); and
- The substantive decision as to whether to grant consent (section 104(1)(a)); and
- A Territorial Authority's planning functions pursuant to s72 and s74(1), in terms of the purpose and matters to be considered by a Territorial Authority in drafting its District Plan. Qualified by the consideration for it to consider the integrated management of effects, including natural and physical resources (s31), and excluding any regard to trade competition (s74(3)).
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- 8.20 Potential effects of commercial distribution are sometimes referred to as retail distributional effects. They have now been recognised by the Environment Court in a number of cases. Examples include *Imrie Family Trust vs Whangarei District Council* (1994) NZRMA 453, *Kiwi Property Management Limited & Others vs Hamilton District Council*, Decision No.4/03), *Westfield (New Zealand) Ltd & Anor vs North Shore City Council* [2005] NZSC 17, *Northcote Mainstreet vs North Shore City Council* (High Court, CIV-2003-404-5292). More recent cases include *National Investment Trust vs Christchurch City Council* C152/2007 in relation to the Christchurch City Councils Variation 86, and *Bilimag Holdings Ltd vs Waipa District Council* C072/2008 and its consequential High Court Appeal CIV 2008-404-004857, as well as the ongoing Wairau Park litigation which lastly provided High Court Decision CIV-2008-485-002584.
- 8.21 Distributional effects can best be described as the consequence of trade competition taken to a significant scale, where the patterns of support and patterns of commercial activity would change dramatically within a locality. Put another way, such effects would occur where a new business (or cluster of businesses) affects key businesses in an existing centre to such a degree that the centre's viability is eroded, causing a decline in its function and amenity, and disabling the people and communities who rely upon those existing (declining) centres for their social and economic wellbeing. These potential effects are differentiated from the effects of trade competition on specific trade competitors proscribed by s.74(3) of the Act.
- 8.22 In considering the distribution of retail activities as part of a s.32 process, it is not therefore appropriate to directly consider the trade competition effects of potential new developments on other specific businesses, rather there is an obligation to assess the consequential social and economic effects on the people and communities served by those existing shopping centres that may be adversely affected. It is my understanding that case law has generally indicated that whilst effects need not be ruinous before they can be considered, they must

at least seriously threaten the viability of the centre as a whole with on-going consequential effects for the community served by that centre.³

8.23 The Supreme Court judgment in *Westfield v North Shore City Council*⁴ has however broadened that approach. In *Eldamos Investments Ltd v Gisborne District Council*, the Court stated "*Since Westfield v North Shore City Council it is not now the law that retailing effects can only be considered if they seriously threaten the viability of the centre as a whole. A consent authority is to consider all significant effects of retailing on the ability of people and communities to provide for their social and economic wellbeing that have a greater impact than would be caused simply by trade competition.*" I understand that the recent Bilimag and Wairau Park decisions have not diverted from that principle.

8.24 The economic and social reports both indicate that in the context of Lincoln Township, either the dispersed distribution of additional convenience retailing, or the establishment of a second 'centre', would have adverse effects on the functionality and vitality of the existing centre that is potentially significant. The loss of vitality and business viability will in turn have adverse effects on the amenity of the existing centre and will result in the inefficient use of both the existing town centre infrastructure and the enhancement works proposed in the LTCCP. A 'centre-based' approach is also consistent with both the Community aspirations for the growth of Lincoln as articulated in the Lincoln Structure Plan and the approach to managing metropolitan urban growth as set out in Change 1 to the RPS.

8.25 The retail activities located in Lincoln town centre are currently dominated by small format, convenience retailing. As such, potential distributional effects are limited to this type of retail format. Larger format retailing is unlikely to locate in

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³ *St Lukes Group Ltd, Westfield (NZ) Ltd, Two Double Five Broadway Ltd, and Sylvia Park Business Centre Ltd vs Auckland City Council (A132/01)*. Also *Westfield NZ Ltd & others v Upper Hutt City Council, Wellington Regional Council and Valley Plaza Limited (W44/01)*; *National Trading Company of New Zealand Ltd vs North Shore City Council (A97/98)*. Also *Northcote Mainstreet Incorporated, and Westfield (NZ) Ltd v North Shore City Council, and Discount Brands Ltd (High Court, Reserved Judgement, Feb. 2004)*

the existing town centre at a broad scale due to the fragmented land ownership in the B1 zone which favours smaller-scale redevelopment. From an amenity perspective the town centre is also not considered to be particularly appropriate for yard based retailing such as garden centres, hardware stores, equipment hire and the like.

- 8.26 In order to effectively and efficiently guide the distribution of retail activities within Lincoln township in order to give effect to Change 1 to the RPS, the community aspirations in the Lincoln Structure Plan, and to both meet the needs of the local community whilst avoiding potential significant adverse distributional effects, there is a need for the Plan to provide more guidance at a policy level. It is considered that the following policies better achieve this direction than the existing Plan provisions:

Policy B4.3.53

Encourage integration between the rezoning of land for new residential development at Lincoln and associated provisions for utilities, community facilities and areas for business development.

Explanation and Reasons

A study prepared for the Council (Barber, 1999: Demand for land for Commercial and Industrial Uses in Selwyn District) indicates that if projected residential growth occurs at Lincoln, there will be a shortage of space for associated business activities in the current Business 1 Zone. **Provision is therefore made in the Plan for small pockets of retail activities that are designed to meet the needs of the immediate local area to be identified in Outline Development Plans for Greenfield urban growth areas, and for large-format retail activities to locate within Business zones provided their potential effects on transport, amenity, and reverse sensitivity of neighbouring sites is able to be appropriately managed.**

In submissions on private requests for plan changes to rezone land at Lincoln, residents have expressed concerns about the impacts of additional residents on schools and other community facilities. Policy B4.3.53 is consistent with Policy B2.3.1.

Policy B4.3.56

To ensure that small format, convenience retailing is located within Lincoln Town Centre, unless it is either ancillary to tertiary research or business activities, or food and beverage retailing, or a local centre located within a Greenfield urban growth area and identified on an Outline Development Plan. Large-format and yard-based

⁴ Westfield v North Shore City Council (2005 NZSC 17)

retail activities are appropriate within business zones provided that any potential adverse effects on transportation, amenity, and reverse sensitivity of neighbouring sites (both business and residential) are appropriately managed.

Explanation and Reasons

Locating existing small convenience retail shops outside of the existing town centre has the potential to have a significant adverse distributional affect on the ongoing viability and vitality of the town centre, especially where such shops were located in association with a large anchor retailer such as a supermarket. Provision is made in the Plan for small pockets of retail activities to be located within Greenfield growth areas identified on an Outline Development Plan, however outside such areas, any proposals to create convenience retail centres elsewhere around Lincoln Township through either a plan change or a resource consent will need to demonstrate that they will not have an adverse effect on the viability of the town centre.

- 8.27 The Plan's methods (namely zone rules) for achieving the proposed objective and policies are considered to be generally effective for the rural and living zones in that the existing rules prevent the establishment of widespread or large scale convenience retailing. It is also considered that due to the non-urban nature of the rural zones and the fragmented ownership and established amenity and character (and objectives, policies, and methods to protect such character) in the Living zones, mean that the risk of large quantities of small-format convenience retailing establishing in these zones is considered to be low.
- 8.28 Within the Business 2 (were such a zoning to be implemented in the future through PC7) and Business 3 zones, the current Plan rule package is not considered to be sufficiently robust to achieve the proposed objective and policies, especially regarding controlling the proliferation of small-format convenience retailing. Within the Business 2 zone retailing of any sort is permitted, despite the zone description anticipating the zone's primary purpose as being for more general commercial and industrial activities. The B3 zone controls all retail as a discretionary activity, with the exception of any retail that is ancillary to tertiary education and research. The B3 zone package is therefore potentially too lax with regard to convenience retail and too restrictive with regard to larger format and yard-based activities. Given that both these zones are substantially underdeveloped, i.e. have large portions of Greenfield land, there is considerable potential for the establishment of a second centre under the current rule package.

- 8.29 It is therefore proposed that the establishment of retail stores with the a gross leasable floor area smaller than 350m² be a non-complying activity within the B3 zone (and any future B2 zone), so as to avoid the establishment of a second convenience retail centre in the Township and to thereby avoid potentially significant adverse distributional effects. Retailing over 350m² and yard-based retailing is proposed to be a restricted discretionary activity, with Council's discretion limited to consideration of potential reverse sensitivity effects on tertiary research activities, traffic generation, access, and carparking, and visual amenity when viewed from public spaces such as roads and reserves. In this way larger format retailing will be enabled, whilst also ensuring that there are some controls over key local matters such as traffic and visual appearance.
- 8.30 Two exceptions are proposed to the '350m²' threshold, with retailing in the B3 zone that is ancillary to tertiary research continuing to be permitted, along with food and beverage retailing, where the principle purpose of the food outlet is to meet the immediate needs of customers i.e. cafes and takeaway activities rather than supermarkets. The exception for food and beverage retailing is in acknowledgement of the need for local workers in the business zones to be able to conveniently access food, whilst not creating significant distributional effects on the broader convenience retail function of the existing Town Centre.
- 8.31 It is important to emphasise that retailing is not currently a primary function of either the Business 2 or Business 3 zones (as set out in the zone descriptions), therefore controls on retailing in these zones is not seen as being contrary to the purpose of either zone, or the policies and objectives that these zones seek to implement. The proposed plan change therefore does not detract in any way from the primary purpose of the B2 and B3 zones. On the contrary, the proposed rule package is considered to be a more effective and efficient method for achieving the purpose of these zones and their associated objectives and policies by enabling the establishment of retailing to be properly considered on a case-by-case basis through the resource consent process, whilst also ensuring the avoidance of significant adverse distributional effects on the existing town centre.

9.0 OVERALL CONCLUSIONS

- 9.1 Change 1 to the Regional Policy Statement and the Lincoln Structure Plan both seek to ensure that the existing Town Centre of Lincoln remain the primary retail and social focal point for the Township. This function and the amenity and efficient use of existing infrastructure that comes from a vibrant town centre is at risk of potentially significant adverse effects that could result from the establishment of a second 'centre' or from a dispersed pattern of convenience retail development. The potential for significant adverse distributional effects to occur are however limited to small-format, convenience retailing rather than large-format or yard based activities which serve a different function and would not result in distributional effects on the existing Centre, as large format retailing does not currently exist to any great extent in the existing Centre. Change 1 also anticipates that Townships with Key Activity Centres in them will over time become self-sufficient in terms of employment opportunities and retail (amongst other things), and therefore in the absence of any broader district-wide retail strategy, the siting of larger format retail businesses in Lincoln Township ought to be anticipated by the Plan, provided localised environmental effects are able to be appropriately managed.
- 9.2 The Business 1 zone in the Town Centre is of sufficient size to readily accommodate the convenience retail needs of the Township for the next thirty five years, based on the urban growth of the Township anticipated under Change 1. The B1 zone is not however of sufficient size or layout to readily accommodate large format or yard-based retail activities. From an urban design perspective the location of such activities in the Town Centre may also not be compatible with the Centre's existing 'village' character and amenity.
- 9.3 There is a need for additional direction at an objective level to ensure that the Plan enables the Lincoln community to meet their economic and social needs regarding retailing without significant adverse environmental effects that might result from a dispersed or multi-centre distribution of convenience retail activities. There is conversely also a need to ensure that the community's needs for larger format retail activities are appropriately provided for. The proposed objective, policies, and methods are therefore considered to be a more efficient and effective means of achieving the purpose of the Act than the current Plan

provisions, and that the benefits of the proposed plan change outweigh the costs.

Appendix 1. Proposed Plan Change

Lincoln Retail Plan Change Text

Policy B4.3.53

Encourage integration between the rezoning of land for new residential development at Lincoln and associated provisions for utilities, community facilities and areas for business development.

Explanation and Reasons

A study prepared for the Council (Barber, 1999: Demand for land for Commercial and Industrial Uses in Selwyn District) indicates that if projected residential growth occurs at Lincoln, there will be a shortage of space for associated business activities in the current Business 1 Zone. The provision of small pockets of retail activities that are designed to meet the needs of the immediate local area is therefore anticipated in Greenfield urban growth areas (as part of an Outline Development Plan for the Greenfield area), and for large-format retail activities to locate within Business zones provided their potential effects on transport, amenity, and reverse sensitivity on neighbouring sites are able to be appropriately managed.

In submissions on private requests for plan changes to rezone land at Lincoln, residents have expressed concerns about the impacts of additional residents on schools and other community facilities. Policy B4.3.53 is consistent with Policy B2.3.1.

Policy B4.3.56

To ensure that small format, convenience retailing is located within Lincoln Town Centre, unless it is either ancillary to tertiary research activities, food and beverage retailing, or a local centre located within a Greenfield urban growth area and identified on an Outline Development Plan. Large-format and yard-based retail activities are appropriate within business zones provided that any potential adverse effects on transportation, amenity, and issues of reverse sensitivity on neighbouring sites (both business and residential) are appropriately managed.

Explanation and Reasons

Locating existing small convenience retail shops outside of the existing town centre has the potential to have a significant adverse distributional affect on the ongoing viability and vitality of the town centre, especially where such shops were located in association with a large anchor retailer such as a supermarket which would then create a second centre. Provision is made in the Plan for small pockets of retail activities to be located within Greenfield growth areas identified on an Outline Development Plan, however outside such areas, any proposals to create convenience retail centres elsewhere around Lincoln Township through either a plan change or a resource consent will need to demonstrate that they will not have an adverse effect on the viability of the town centre. Large format and yard-based retail activities do not have the same potential to create adverse distributional effects

on the existing town centre, and therefore their provision outside the existing centre is anticipated, provided adverse environmental effects are appropriately managed.

As a consequential amendment, renumber all subsequent policies.

13 Business Zone Rules – Status of Activities

Restricted Discretionary Activities – Status of Activities

13.1.5 The following activities shall be restricted discretionary activities in the Business 3 Zone:

13.1.5.1 Any large format (any tenancy over 350m² **Gross Leasable Floor Area**) retail activity in the Business 3 zone shall be a restricted discretionary activity

Note: For the purpose of this rule, ‘tenancy’ shall mean one retail activity occupancy created by freehold, leasehold, license or any other arrangement to occupy.

Consequential renumbering of all following clauses under section 13

Discretionary Activities – Status of Activities

13.1.7 The following activities shall be discretionary activities in the Business 3 Zone:

13.1.7.1 Any activity which is specified in Rules 14 to 23 as a discretionary activity.

13.1.7.2 Any activity which is not listed as either:

- (a) A non-complying activity under Rule 13.1.10; or
- (b) A restricted discretionary activity under 13.1.5; or**
- (c) A permitted activity under Rule 13.1.2.1

22 Business Zone Rules – Activities

22.14 Retailing within the Business 3 Zones at Lincoln

Restricted discretionary activities: Retailing within the Business 3 Zone at Lincoln:

22.14.1 Any large format or yard-based retail activity in the Business 3 zone shall be a restricted discretionary activity.

Note: For the purpose of this rule, ‘large format or yard-based’ means any tenancy over 350m² **Gross Leasable Floor Area**, and ‘tenancy’ means one retail activity occupancy created by freehold, leasehold, license or any other arrangement to occupy.

22.14.2 Under Rule 22.14.1 the Council shall restrict the exercise of its discretion to:

22.14.2.1 Potential reverse sensitivity effects on any existing Tertiary research activities and any adjoining Rural Zones; and

22.14.2.2 Whether the proposed retail activities are of such a large scale and extent as to significantly limit the ability to establish future tertiary research activities within the Business 3 zone; and

22.14.2.3 Potential effects on the amenity of any adjoining Living Zones; and

22.14.2.4 The degree to which any development with frontage to Gerald Street, Springs Road, Ellesmere Junction Road, or Weedons Road presents an attractive frontage to the road including the degree to which any street-facing facades include a high proportion of glazing to solid cladding, clearly identifiable pedestrian entrances, low or no front fences, and landscaping; and

22.14.2.5 Any potential adverse effects relating to traffic generation, vehicle access, and parking

Non-complying Activities: Retailing within the Business 3 Zone at Lincoln

22.14.3 Any retail activity within the Business 3 Zone at Lincoln that occupies a tenancy of less than 350m² Gross Leasable Floor Area shall be a non-complying activity, except that this rule shall not apply where the retail activity is a food and beverage outlet or where it is directly associated with and ancillary to a research activity.

Note: For the purpose of this rule, 'tenancy' shall mean one retail activity occupancy created by freehold, leasehold, license or any other arrangement to occupy.

Reasons for Rules

Retailing within the Business 3 Zone at Lincoln

It is considered neither necessary nor appropriate to have additional small format convenience retailing activities in the Business 3 Zone at Lincoln (that are not directly ancillary to tertiary research activities) given that the existing Business 1 Zone within Lincoln Town Centre has sufficient capacity to accommodate the foreseeable convenience retail needs of the community and that additional out-of-centre convenience retailing has the potential to cause significant adverse effects on the viability and vitality of the existing Town Centre. Conversely, large format retailing is considered to be appropriate in the B3 zone provided that potential environmental effects on either tertiary research activities or the wider environment are able to be appropriately managed.

Definitions

Gross Leasable Floor Area

Means the total sum of any floor areas (within the external walls for buildings or boundary for outdoor areas) designed or used for tenant occupancy but excluding common corridors, halls, foyers, lift or stairwells, common toilets and bathrooms, and any parking areas required by the Plan.

Food and Beverage Outlet

In Lincoln Township means the use of land or buildings primarily for the sale of food and/or beverages prepared for immediate consumption on or off the premises to the general public. It includes restaurants, taverns, cafes and takeaway outlets, but excludes supermarkets.

Appendix 2.

Economic Report

Appendix 3. Social Report