

RESOURCE MANAGEMENT ACT 1991
SELWYN DISTRICT COUNCIL

SELWYN DISTRICT PLAN
PROPOSED PLAN CHANGE 30
WEST MELTON PROPOSED BUSINESS 1 ZONE

Recommendation of Commissioner Janette Dovey

10 September 2012

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APPENDIX 1

RECOMMENDED MODIFICATIONS TO “PC30 SCHEDULE OF AMENDMENTS” (AS PER ATTACHMENT D, SECTION 42A ADDENDUM REPORT)

1.0 INTRODUCTION

- 1.1 Proposed Plan Change 30 ("PC30") is a privately-initiated plan change that seeks to rezone a block of land in West Melton from Living 1 to Business 1 within the Selwyn District Plan ("the Plan").
- 1.2 I have been appointed as a Commissioner by the Selwyn District Council ("the Council"), pursuant to Section 34A of the Resource Management Act 1991 ("the Act"). As such, I conducted the hearing, will consider all matters relevant to PC30 and will make a recommendation to the Council. Within the legal framework, I can recommend declining PC30, approving it or approving it with modifications, and I am required to provide the reasons for my recommendation. The final decision, i.e. whether or not to accept my recommendation as its decision, will be made by the elected Council.

2.0 PROPOSED PLAN CHANGE 30 AND SUBMISSIONS

- 2.1 R D & J R Butt ("the applicants") seek to rezone an 8,330m² block of land on the eastern side of Weedons Ross Road in West Melton from Living 1 to Business 1. The proposed Plan change as notified included the necessary changes to the planning maps and one new Plan provision that generally limited the amount of commercial/retail floorspace that could be established.
- 2.2 PC30 was notified on 31 May 2011, with submissions closing on 23 June 2011. (The summary of submissions was also subsequently notified, but no further submissions were received.) A total of 16 submissions were originally received; however, prior to the hearing, eight of these were withdrawn. Therefore, eight submissions remain for consideration.
- 2.3 The relief sought by the submitters ranges from approving PC30 as notified to declining it in its entirety, and the concerns traversed by those in opposition range from process concerns to overarching strategic issues to adverse effects on West Melton or on specific properties to transport network and safety concerns; therefore, a considerable degree of scope is afforded through the relief sought in the submissions received. The matters raised by the submitters will be addressed later in this document.
- 2.4 Following the receipt of submissions, it is understood that discussions with various parties resulted in additional Plan provisions being requested by the applicants. These related to noise, internal setback, landscaping and access.

3.0 THE HEARING

- 3.1 Prior to the hearing, I was provided with, and reviewed, the PC30 documentation (including the response to a request for further information from the Council pre-notification), copies of submissions and the s.42A report prepared by Mr Friedel. The s.42A report addressed the additional Plan provisions proposed, and included appendices prepared by experts in relation to transport, infrastructure, open space, retail analysis and geotechnical hazards.

- 3.2 The hearing was held at the Izone Café – Conference Room/Information Centre on 29 May 2012. At the hearing, evidence, statements and submissions were presented by the applicants, submitters and Council staff. Those that appeared are as follows (in general order of appearance):

Applicants:

A Metherell, Principal Transportation Engineer
P Glasson, Resource Management Planner

Submitters:

S J Eveleigh, Legal Counsel, and M Muldowney, Planner (on behalf of AM and DM Henderson)

Council:

C Friedel, Strategy and Policy Planner
A Mazey, Asset Manager Transportation

- 3.3 Written statements from two submitters, A Douglas and M Vitel, were also tabled and read during the hearing.

4.0 THE COMMISSIONER'S MINUTES

- 4.1 In the s.42A report¹, Mr Friedel advised that the plan change request was essentially silent as to any potentially adverse effects that might result from the rezoning, and advised that he had raised some issues with the applicants, particularly in relation to effects on the amenity of adjoining properties. The applicants developed rules in relation to noise, setbacks and landscaping; however, I was not satisfied that adequate assessment in support of these rules being the most appropriate way to achieve the objectives of the Plan had been provided. Therefore, a Minute was issued on 12 June 2012.
- 4.2 This Minute requested further information in relation to the potential impacts of development in the context of the existing environment of West Melton with respect to amenity, noise/disturbance and residential density.
- 4.3 The applicants responded on 15 June 2012, with the main points being that a lower height limit and a residential density rule were proposed, and the applicants did not consider the acoustic expert assessment requested to be necessary. Consequently, a second Minute was issued to clarify the position for Council staff on 19 June 2012.
- 4.4 The information provided by the applicants on 14 June was circulated to the submitters for comments, of which none were received, and Mr Friedel prepared a s.42A addendum report addressing the information requested in the two Minutes, which was then circulated on 26 July 2012. This s.42A addendum report included an acoustic report commissioned by the Council from Mr S Camp of Marshall Day Acoustics.
- 4.5 Following receipt of the s.42A addendum report, the submitters were requested to advise the Council within five working days if they wished to be heard at a reconvened hearing; no parties sought to be heard. In addition, the applicants indicated that they were satisfied with the recommendations of the s.42A addendum report and did not wish to be heard.

¹ Pages 15 and 18

- 4.6 In conclusion, I am now satisfied that I have been provided with adequate information and expert assessment in relation to the effects of PC30, note that this information was circulated to all parties and that no comments were received, note that the further assessment has resulted in more restrictive provisions being recommended than those originally notified, and, therefore, consider that no person has been unduly prejudiced through this information not being provided at the time of notification.

5.0 STATUTORY CONTEXT

- 5.1 The request for PC30 was made under clause 21 of Schedule 1 to the Act, and accepted for notification by the Council under clause 25(2)(b).
- 5.2 In considering this request, the Act requires² that the Council change its Plan in accordance with its functions under s.31, the provisions of Part 2 and its duty under s.32 – all summarised below. In addition, s.74 and s.75 require that regard be had to a proposed Regional Policy Statement and any management plans and strategies prepared under other Acts, and that the Plan give effect to the operative Regional Policy Statement.
- 5.3 Section 31 states the functions of the Council for the purpose of giving effect to the Act. One of these functions is the establishment, implementation and review of objectives, policies and rules (in the District Plan context) to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources.
- 5.4 Part 2 deals with the fundamental purpose and principles of the Act. Section 5 sets out the purpose of the Act as being the promotion of the sustainable management of natural and physical resources, and ‘sustainable management’ is defined in s.5(2). Other sections within Part 2 address matters of national importance (s.6), other matters (s.7) and the Treaty of Waitangi (s.8).
- 5.5 Section 32 requires an evaluation of the extent to which each objective is the most appropriate way to achieve the purpose of the Act, and whether the policies, rules or other methods are the most appropriate for achieving the objectives. In this case, the objectives and policies remain unaltered; therefore, an evaluation of the rules or other methods only is required. This evaluation must also take into account the benefits and costs of rules or other methods, and have regard to their efficiency and effectiveness.

6.0 OBJECTIVES AND POLICIES OF THE PLAN

- 6.1 As stated, the objectives and policies are not proposed to be amended by PC30. The Plan change request and the s.42A reports discuss the relevant objectives and policies of the Plan, with both the applicants’ planner and the Council planner concluding that the rezoning was generally consistent with these. Mr Friedel did, however, note that the proposed rezoning was not consistent with those provisions which require new business zoned land to be developed in accordance with an outline development plan (“ODP”).

² Section 74(1)

6.2 The provisions that I consider to be of most relevance to PC30 relate to character and amenity and urban growth, as follows:

Quality of the environment

- *Objective B3.4.2 – A variety of activities are provided for in townships, while maintaining the character and amenity values of each zone.*
- *Policy B3.4.1 – To provide zones in townships based on the existing quality of the environment, character and amenity values...*
- *Policy B3.4.4 – To provide Business 1 zones which enable a range of business activities to operate while maintaining environmental quality and aesthetic and amenity values....*
- *Policy B3.4.9 – Ensure noise in all zones does not adversely affect the health or well-being of people.*
- *Design of development in the Business 1 zone – Policy B3.4.23a³ – Ensure that Business 1 zoned town centres are walkable and well integrated, and that development in those town centres contributes to the economic and social vibrancy of the District's towns by:*
 - *Complementing public spaces (both those in public ownership and on-site public space) with high quality active frontage*
 - *Ensuring the provision of high quality public space*
 - *Bringing activity to street frontages by, where possible, positioning buildings and active frontage along the street boundary and not locating car parking between buildings and a road*
 - *Providing for a high quality pedestrian experience in places the public may be present*
 - *Ensuring that development supports the urban structure by providing for direct and logical pedestrian routes within and through larger sites and to entranceways along pedestrian desire lines*
 - *Ensuring entranceways are positioned in logical places for pedestrian access*
 - *Allowing for a variety of building typologies including large format retailing where appropriate.*

Growth of townships

- *Objective B4.3.3 – For townships within the Greater Christchurch area, new... business development is to be provided within the Urban Limits identified in the Regional Policy Statement and such development is to occur in general accordance with an operative Outline Development Plan.*
- *Objective B4.3.4 – New areas for residential or business development support the timely, efficient and integrated provision of infrastructure, including appropriate transport and movement network through a coordinated and phased development approach.*
- *Policy B4.3.1 – Ensure new... business development... the land is rezoned to an appropriate... Business zone and, where within the Greater Christchurch area, is contained within the Urban Limit identified in the Regional Policy Statement and developed in accordance with an ODP...*

³ Plan Change 29, which introduced this policy, became operative on 25 July 2012.

- *Policy B4.3.5 - Ensure that land to be rezoned to Business 1 is assessed as to whether it has appropriate dimensions and characteristics to allow for the creation of the type of Business 1 zone environment sought in Policy B3.4.23a.*
- *Policies B4.3.96 and B4.3.97 – Provide a primary focus for new residential or business development north of State Highway 73 and south of Halkett Road... and promote a consolidated pattern of further urban growth in West Melton.*

6.3 The plan change request and the s.42A report also discuss other provisions of relevance, generally relating to contaminated land, transport, utilities, community facilities, waste disposal, natural hazards, hazardous substances, culture and heritage, and some other 'Quality of the environment' and 'Growth of townships' provisions.

7.0 EVALUATION

STRATEGIC SUITABILITY, INFRASTRUCTURE AND CONSOLIDATION

7.1 The issues raised by submissions include the following:

In support

- the centre will provide a convenient commercial focus to the township, reducing trip distance and energy usage, encouraging walking and cycling and enabling greater convenience,
- the centre will not have a major adverse financial effect on other retail areas,
- a local shopping centre would enhance and be a well needed focal point of the community, and a valuable resource for the future.

In opposition

- there is no need for a shopping centre and the community needs are catered for elsewhere (examples provided),
- at a later stage, more shops/offices will be needed; therefore, there will be business development in split areas,
- the Council should defer any decision on this proposed retail area until it has developed a well thought out long term development plan to provide retail/office space that caters for the future growth of the West Melton Township,
- no evidence has been provided identifying whether the reticulated sewer and water connections in the area are sufficient to provide the desired capacity,
- appropriate services need to be in place so as to ensure that any adverse effects on the groundwater aquifer recharge area are adequately mitigated,
- in relation to PC1, the site has been identified to accommodate future residential growth and the proposed rezoning from residential to commercial has the potential to reduce the number of residential living opportunities available in West Melton (PC1 is discussed later in this recommendation).

7.2 I firstly note that relevant objective (B4.3.3) seeks that business development is provided within the Urban Limits identified in the Regional Policy Statement ("RPS") in accordance

with an operative ODP. In this case, the subject land is within the Urban Limits for West Melton, as identified in Plan Change 1 ("PC1") to the RPS, but an ODP is not proposed; this is discussed further under the heading '*Outline Development Plan*' below.

- 7.3 Objective B4.3.4 addresses the efficient and integrated provision of infrastructure, including the transport and movement network. I accept the views of Mr Carran in the s.42A report and consider that the zone can be adequately serviced in relation to water, wastewater and stormwater with no adverse effects on the efficient and cost effective provision of servicing infrastructure. Transport issues will be discussed further below; however, at this point I am satisfied that an appropriate rule can be developed to enable the achievement of Objective B4.3.4 in relation to transport and movement.
- 7.4 I note that the policies associated with these objectives, specific to West Melton, seek that the primary focus for new business development is north of State Highway 73 and south of Halkett Road (B4.3.96) and that a consolidated pattern of growth is promoted (B4.3.97). The subject land is within the stated area north of State Highway 73 and I consider that it does promote a consolidated pattern of growth, i.e. generally reinforcing the core, enabling pedestrian and cycle trips and potentially a reduction in traffic trips, ensuring proximity to centrally-located community facilities and maximising the ease and efficiency of infrastructure provision. Therefore, I consider PC30 to be consistent with both of these policies which stem from the relevant objectives.
- 7.5 Mr Douglas raised points in relation to the need for a long term development plan for West Melton in his submission, and elaborated on this further in his written statement to the hearing. His concerns essentially centred around the need for the Council to proactively plan for retail and commercial areas in association with residential subdivisions in order to ensure that they are located in optimum locations. It was also suggested that further exploration of alternative sites be done before making a decision on PC30.
- 7.6 I agree with Mr Douglas that proactive planning is appropriate and note that the Council is involved in a programme of strategic planning initiatives, including the Urban Development Strategy, PC1, the District Wide Strategy and various structure plans. I am not aware of any of these being specifically focused on the commercial needs of West Melton, however, and the Council may wish to consider this issue further in future. At this stage, however, a plan change request has been received and must be assessed in accordance with the provisions of the Act. I also note that Mr Friedel considered alternatives in the original Section 42A report⁴ and concluded that there were no alternative locations available within the township that had the opportunities presented by the subject site, and I accept Mr Friedel's view.

Outline Development Plan ("ODP")

- 7.7 As I understand it, Objective B4.3.3, which seeks that development be in accordance with an operative ODP, was introduced by Plan Change 7 ("PC7") and had legal effect from the date of notification in February 2010. As such, the PC7 objective amendments were relevant to PC30 at the time of its notification, albeit subject to considerations on the weight to be afforded.
- 7.8 Mr Friedel considered the purpose of ODPs in general, and advised that they are used as a tool to ensure development is integrated with adjoining land uses and coordinated with

⁴ Section 42A report, page 13

network infrastructure, including transport, wastewater and water services. He also advised that ODPs are the primary tool utilised under PC7 to ensure 'Greenfield' areas are coordinated within adjoining areas from an urban design and infrastructure servicing perspective.

- 7.9 In considering the lack of an ODP for the subject land, Mr Friedel noted that it comprised a vacant lot in single ownership that is surrounded by established activities where infrastructure services are already available and no new public roads or connections are required. He also noted that an ODP could have been beneficial with respect to confirming access arrangements to the site, but concluded that an ODP was not necessary under the circumstances.
- 7.10 At the hearing, Mr Glasson generally accepted the views of Mr Friedel in the s.42A report, and advised that the applicants sought to continue pursuing a rules-based plan change, rather than providing an ODP, given the stage at which the request was within the plan change process and in order to enable flexibility when it came time to develop the zone.
- 7.11 My view is that the provision of an ODP would have been beneficial and less onerous than resource consent and would have provided a greater degree of certainty for the applicants in relation to matters such as access arrangements, building location and urban design, potential noise effects and the interface with the reserve; however, I accept that this may have been considered less flexible, cost-effective and efficient for the applicants, and agree with the planners that an ODP is not necessary in these particular circumstances and that Plan rules can effectively address the relevant matters that need to be integrated.

Conclusion

- 7.12 Overall, I consider that PC30 is generally consistent with the relevant 'Growth of townships' objectives (with the exception of the lack of an ODP), and that the business rezoning will be the most appropriate way to achieve these objectives.
- 7.13 In relation to an ODP, I agree with the planners that an ODP is not necessary in this case and that any integration issues can be addressed by Plan rules, albeit that this may be somewhat more onerous for the applicants in terms of consenting processes but less onerous in terms of flexibility, which the applicants have indicated they would prefer. In my view, the lack of an ODP does not threaten the integrity of PC30 as a whole.

RETAIL DISTRIBUTION EFFECTS

- 7.14 The plan change request proposed a rule which sought to limit the total gross floor area ("GFA") of commercial or retail activities and the GFA of any single retail grocery and foodstore tenancy (and sought to define grocery/foodstore as not including restaurant/café).
- 7.15 Mr Heath assessed the proposed rule in relation to retail distribution effects. He considered a 350m² GFA maximum tenancy limit for all activities would be more appropriate in order to ensure consistency across the Business 1 zones in the Plan, and noted that this slightly lower limit would not jeopardise the role, function or viability of the proposed West Melton Centre. In relation to the wider effects, Mr Heath considered that the West Melton Centre would not undermine the commercial viability, function, role or

amenity of any existing centre, and would provide economic and social benefits to its local community.

- 7.16 Mr Friedel advised that discussions between the applicants and Mr Heath resulted in an exception being suggested for a single tenancy occupied by a restaurant, café or tavern. In relation to the scope afforded to the Council, I note that restaurants and cafes were notified as being exempt from the GFA size limit; therefore, I agree that it is within scope for these exemptions to be reintroduced. In the absence of any submissions seeking relief that would support taverns being unlimited in size, however, I consider it outside of the scope of the relief sought for the Council to exempt taverns from the GFA limit. Therefore, I recommend deleting the tavern exemption.
- 7.17 In conclusion, I generally accept Mr Heath's assessment of retail distribution effects, including the 350m² limit proposed, and Mr Friedel's recommended 'Reasons for Rules'; however, recommend amendments to delete references to taverns as discussed above in relation to scope, and to ensure consistency of format within the Plan.

CHARACTER AND AMENITY

- 7.18 The issues raised by submissions include the following:
- change in use of the site could compromise the existing and future anticipated character and amenity of the site and surrounds. It is foreseeable that commercial use of the site will result in increased noise and traffic, loss of privacy and negative impact on visual amenity,
 - failure to provide an adequate assessment of the proposed change in use from residential to commercial activity,
 - the request does not provide an urban design assessment or landscape assessment, nor does it propose any provisions to ensure an appropriate level of visual amenity is maintained within the site and that future buildings will respect the surroundings,
 - increased traffic to and from the site, over and above that anticipated by a complying residential use of the site, could result in significant adverse effects on the character and amenity of the surrounding residential area,
 - PC30 makes no attempt to demonstrate how the proposal can incorporate urban design elements in order to respect the character of the surrounding living zone, and no assessment against the provisions of PC29 has been provided,
 - discussion in relation to adjoining property to the south – building can be built right on the boundary – relief sought includes keeping the site closest to the adjoining property as residential, the applicants purchasing the adjoining property or providing a 3m or 4m setback and starting the recession plane from this new position,
 - a shopping centre would further detract from the rural “feel” of the current community at West Melton village – decline the plan change application,
 - litter problems, people congregating, increased foot traffic in Laird Place and West View Crescent and through the school.
- 7.19 In terms of the Plan, the overarching objective in this regard (B3.4.2) seeks to maintain the character and amenity values of each zone. The associated policies seek to provide

Business 1 zones which enable a range of business activities while maintaining existing environmental quality and aesthetic, character and amenity values, including ensuring that noise does not adversely affect the health or well-being of people.

- 7.20 The associated policy relevant to urban design (B3.4.23a) seeks that Business 1 zoned town centres are walkable and well integrated, and that development in the town centres contributes to the economic and social vibrancy of the District's town through, in summary, best practice urban design principles and implementation. Policy B4.3.5 of the 'Growth of townships' section seeks to ensure that land to be rezoned to Business 1 is assessed as to whether it can achieve the type of environment sought by B3.4.23a.
- 7.21 Turning to this latter matter first, I consider that the subject land can be developed in accordance with Policy B3.4.23a. In my view, the dimensions and characteristics of the site would allow for the factors sought to be provided, i.e. in summary:
- complementing public spaces with high quality active frontage,
 - bringing activity to street frontages by, where possible, positioning buildings and active frontage along the street boundary and not locating car parking between buildings and a road,
 - providing for direct and logical pedestrian routes within and through larger sites and to entranceways,
 - allowing for a variety of building typologies.
- 7.22 I am aware that the indicative concepts for the site provided by the applicants are not entirely consistent with the above points; however, given that no ODP has been provided/assessed, these concepts are not at all binding on the applicants or the Council. In any event, whether or not the land is finally developed in the manner sought by the policy (as summarised above) is not a matter to be considered by this process; I am only required to consider whether the shape of the land would allow for the creation of the type of environment sought by Policy B3.4.23a, and I am satisfied that it would.
- 7.23 In relation to character and amenity in general, I note that the character of the area is mixed, and could not be considered wholly rural or residential in character. The existing business and community facilities located in the immediately surrounding area create an existing focal point for the town and I consider that a shopping centre will not erode the rural aspect of West Melton or be out of character with the adjoining non-residential activities or the adjoining residential area in general, subject to that centre reflecting the existing quality of the environment and amenity values in West Melton in its design. To that end, consideration of the Business 1 provisions is necessary in relation to their appropriateness in the context of West Melton.
- 7.24 In the s.42A addendum report, Mr Friedel expanded on his assessment within the original s.42A report in relation to the specific provisions of the zone and what type of development might be expected on the site. He also advised that PC29 had become operative and would address urban design issues. Mr Friedel discussed issues relating to height, site coverage, setbacks, landscaping, signage, noise and residential character, and concluded that the existing Business 1 standards were generally appropriate in the West Melton context, but that additional 'character and amenity'-related rules were required in relation to noise, setbacks, landscaping and residential density. I generally agree with the discussion and conclusions of Mr Friedel, with the exception of some aspects of detail, which are discussed below.

- 7.25 I firstly recommend an amendment to the setback rule, in order to ensure that the setback does not apply between adjoining business zoned sites that might be created within the zone, and some minor amendments to ensure consistency of format within the Plan.
- 7.26 With respect to landscaping in general, I note that the provisions introduced by PC29 will require landscaping issues to be considered in relation to large scale developments, and will require landscaping within car parking areas. I agree that the interface between the site and the Council reserve is important in relation to the function and amenity of the reserve; however, I recommend some amendments in order to clarify the matters for discretion further and to ensure consistency with the existing format of the Plan.
- 7.27 In relation to residential density, I agree that it is appropriate that the Living 1 Zone rules apply; however, I consider some amendments necessary to ensure that the business rules will not apply to dwellings in addition to the living zone rules, to include matters for discretion and to ensure consistency in the use of terms and formatting within the Plan.
- 7.28 I also note that the noise rules recommended by Mr Camp sought that all dwellings were a restricted discretionary activity in relation to noise, and consider it appropriate that these rules are included and combined under the 'Dwellings' rules. Therefore, I consider restricted discretionary status to be appropriate for the 'Dwellings' rules as a whole.
- 7.29 In addition, I recommend including 'residential density' assessment matters in order to address situations where land is subdivided for business purposes and then land use consent for dwellings is sought on those business-sized sites. I also recommend removing reference to separation distances in the 'Reasons for Rules', as other measures, such as acoustic insulation, might also be considered appropriate on assessment.

Noise

- 7.30 By way of background, the plan change request, as notified, adopted the Business 1 Zone noise provisions. I understand that, following submissions, the applicants then proposed rules which applied the Living zone noise standards (Rule 22.4.1.3 in the Section 42A report), and made all activities within the zone restricted discretionary with respect to noise (Rule 22.4.2.1).
- 7.31 In relation to the latter rule, although the rule (as drafted) appeared to apply to all activities, Mr Friedel indicated⁵ that it was intended to apply to activities that failed to comply with the noise standards during the prescribed hours of operation. At the hearing, however, Mr Glasson indicated⁶ that it was intended to apply to any activities operating after 8pm (and this was reinforced in the applicants' response to the first Minute). Notwithstanding this, I considered that acoustic expert assessment was required in any event in order to assist in the evaluation of the appropriateness of these rules, and Minutes were issued on 12 and 19 June 2012.
- 7.32 It was indicated in the Minutes that car parks to the front of the building would not be consistent with the provisions introduced by PC29 and that the assessment was to be in relation to activities and their car parks being located in any location on the site. It was also advised that the indicative plans provided by the applicants were not binding and that no ODP was provided; therefore, PC30 was not for a specific zone layout but for an open change of zoning from living to business. As such, it was indicated that the noise/disturbance impacts must be considered on that basis by the acoustic expert.

⁵ Section 42A report, paragraph 5.50 and Attachment H, Recommendation 3

⁶ Glasson evidence, page 12, paragraph 31

- 7.33 Unfortunately there seems to have been a misunderstanding and the acoustic assessment provided in response to the Minutes is based on the indicative site layout provided by the applicants⁷. Again, I note that this layout is non-binding and may or may not eventuate; therefore, this will affect the weight that can be given to the noise assessment and the provisions recommended. I have, however, reviewed the acoustic assessment and consider it to provide adequate information in relation to the relevant acoustic principles and practicalities to enable me to make a recommendation with respect to the noise rules.
- 7.34 While Mr Camp's recommendations might be considered appropriate in relation to the indicative plan provided, it is my view that it would not be appropriate to include noise provisions in the Plan which required a specific building and car parking layout which may be considered inconsistent with the urban design provisions introduced by PC29. Instead, I consider that parameters have been provided in the Plan in relation to urban design, and parameters can be provided in terms of noise, without predetermining the zone/building layout at this stage. The onus will be upon the developer of the site to address urban design and noise/hours of operation factors when designing the development. If it is found that some compromise is required at that stage in the process, either in relation to urban design or noise/hours of operation, then this will be a matter for resource consent and a balanced assessment of a particular proposal will be necessary.
- 7.35 This also applies in relation to the requirement to have a continuous built form on the site. In my view, this lacks the flexibility the applicants originally sought in not providing an ODP, other building configurations might be considered appropriate on the site in the future, no urban design assessment of this configuration has been provided and requiring this particular built form predetermines the Council's urban design assessment; therefore, I recommend that Rule 22.4.2.4 be deleted.
- 7.36 I acknowledge that deletion of this rule has implications in relation to the recommended outdoor seating provisions, which I understand rely on the provision of this built form to a degree. In the absence of this, I consider it appropriate that outdoor areas are simply subject to the 20m setback and the noise standards of the Plan. The developer will need to ensure compliance through appropriate design of any outdoor area. I also consider that the noise standards only should apply in relation to external mechanical plant and vents. Therefore, I recommend the deletion of Rules 22.4.2.3 and 22.4.2.5. I note that the simplification of these rules also maintains some consistency with the existing formatting of noise provisions within the Plan.
- 7.37 In relation to Rule 22.4.2.6, I do not consider it appropriate to curtail the operation of anticipated business activities by requiring that they comply with the noise standards at the facades of dwellings within the business zone, but agree that it is appropriate to consider reverse sensitivity issues when any dwelling seeks to establish in a business zone (Rule 22.4.7). I do, however, consider that this latter issue can be more appropriately dealt with under the restricted discretionary 'Dwelling' rules, as discussed in relation to residential density above, rather than within these noise rules.
- 7.38 With respect to the hours of operation, I do not consider it appropriate to allow unlimited night time operation without further assessment, including in relation to potentially affected parties. I accept that it may be unlikely that a late/all night activity will be proposed at this stage; however, this plan change needs to address all potential activities that could occur into the future. In my view, the hours of operation proposed for a late

⁷ Section 42A addendum report, Attachment B, page 4, 2.0 – third paragraph

night activity would need to be considered in relation to the noise standards, but also in relation to the potential disturbance that could result, e.g. from people and vehicles leaving the activity.

- 7.39 The difficulty here is that the Plan night time noise hours begin at 8pm, but activity within and outside dwellings would be expected beyond 8pm and I would also consider it unreasonable, inefficient and potentially costly to require activities in a town centre to close at 8pm or be subject to a resource consent process to operate after 8pm. With respect to Section 32(4)(b), it is my view that the “*risk of acting*” and recommending later hours of operation where I have not been supplied with specific assessment in relation to those hours is minimal, given that the original plan change request, as notified, adopted the less restrictive noise standards applying in other Business 1 zones with no limits on the hours of operation, the adjoining residential property owners did not submit in relation to noise (although other submitters did), the night time noise standards will still apply, and a later closing time will provide more certainty and flexibility for the applicants than the provision sought by Mr Glasson.
- 7.40 As such, I have considered this issue carefully and it is my view that a closing time of 11pm allows for the types of activities described in the plan change request, as notified, and provides a reasonable and effective middle ground between ensuring a level of amenity for residents at night and providing certainty and a flexible business environment for the applicants. It should be noted, however, that the night time noise standards will still apply from 8pm, as it would not be within scope to change this threshold; therefore, again, the particular design and management of the zone/activities will be pivotal to ensuring that effects can be suitably managed and that compliance can be achieved.
- 7.41 I also recommend that the “*hours of operation*” wording be changed to “*hours of opening*” so that activities can operate outside of these hours, so long as they do not receive the public, clients or deliveries during this time. This would enable activities such as a bakery, where early morning starts might be expected for staff.
- 7.42 I agree with the intent of the note proposed under Rule 22.4.5, but consider that it needs to be made a rule, rather than a note, in order to ensure it has the necessary exemption status required.
- 7.43 Given the broad amendments made within Appendix 1, I consider it useful to include the finally recommended noise rule at this point, for the sake of clarity, as follows:

“Business 1 Zone West Melton

22.4.2 Any activity conducted on any day shall be a permitted activity, provided that the following standards are complied with:

22.4.2.1 Hours of opening to the public, clients or deliveries shall be within 7.30am to 11.00pm.

22.4.2.2 Outdoor areas intended for the consumption of food or beverages and/or smoking shall be located no less than 20 metres from the zone boundary.

22.4.2.3 Noise assessed within the Living zone or within the notional boundary of any dwelling within any Rural zone shall not exceed the following:

7.30am – 8.00pm 50 dBA L₁₀ and 85 dBA L_{max}

8.00pm – 7.30am 35 dBA L₁₀ and 70 dBA L_{max}

Except that rule 22.4.2.2 shall not apply to the western boundary with the gazetted recreation reserve, and the noise standards of rule 22.4.2.3 shall not apply within that reserve.

- 22.4.3 Rules 22.4.1 and 22.4.2 do not apply to the use of sirens or warning devices associated with emergency service facilities.

Restricted Discretionary Activities – Activities and Noise

- 22.4.4 Any activity within the West Melton Business 1 Zone that does not comply with Rule 22.4.2.1 shall be a restricted discretionary activity.

- 22.4.5 Under Rule 22.4.4, the Council shall restrict the exercise of its discretion to the consideration of:

- 22.4.5.1 The hours of operation proposed,
- 22.4.5.2 The degree to which the activity meets the Living zone night time noise standards within any Living zone or within the notional boundary of any dwelling within any Rural zone,
- 22.4.5.3 Amenity effects in relation to noise and disturbance on the residential neighbourhood, including in relation to effects resulting from servicing, outdoor areas, car parking areas and people leaving the activity.

- 22.4.6 Any activity within the West Melton Business 1 Zone that does not comply with Rule 22.4.2.2 shall be a restricted discretionary activity.

- 22.4.7 Under Rule 22.4.6, the Council shall restrict the exercise of its discretion to the consideration of:

- 22.4.7.1 Amenity effects in relation to noise and disturbance.

Discretionary activities

- 22.4.8 Any activity that is not residential which does not comply with Rule 22.4.1 shall be a discretionary activity.

- 22.4.9 Any activity within the West Melton Business 1 Zone that does not comply with Rule 22.4.2.3 shall be a discretionary activity.

Reasons for Rules

...

Noise

...

Noise effects within the West Melton Business 1 Zone are managed in a manner that is consistent with the adjoining Living 1 Zone in order to avoid adverse nuisance effects. Activities within the zone that operate during the stated hours and satisfy the outdoor area setback and prescribed noise standards are provided as a permitted activity. Failure to accord with the noise performance standards will generate a discretionary activity resource consent. Failure to accord with the outdoor area setback will generate a restricted discretionary activity resource consent. Any activity seeking to operate after 11pm is also a restricted discretionary activity, recognising that night time activity may be appropriate in certain circumstances. Smaller scale activities seeking to operate after 11pm or certain development configurations may result in insignificant or no adverse effects on neighbours, depending on the particular circumstances, whereas larger scale activities or certain other development configurations may result in potential adverse effects on residential neighbours. The requirement for resource consent will enable a case by case assessment of activities that may seek to operate at night in the West Melton Business 1 Zone."

- 7.44 In conclusion, the noise rules recommended above fall generally between those recommended by Mr Glasson, representing the applicants, and those recommended by Mr Camp, representing the Council. In my opinion, they maintain the integrity of the PC29 urban design provisions and adequately address noise effects, allowing consideration of both urban design and noise elements at the design stage without pre-determining the zone layout. They simplify the rules to be more compatible with the existing Plan and to ensure ease of use, albeit that they will require the developer to carefully consider future compliance with the noise standards at the design stage. In my view, the rules are not unduly onerous and allow development of the zone for its primary business purpose, whilst indicating that night time and residential use may be appropriate subject to further assessment of specified matters. I consider the amended rules to be the most appropriate way of achieving the relevant 'Quality of the environment' objectives in West Melton.

TRANSPORTATION

- 7.45 The issues raised by submissions include the following:
- potentially significant adverse effects on the safety and efficiency of the Weedons Ross Road/State Highway 73 intersection need to be mitigated in the form of upgrades to this intersection,
 - additional demand for on-street car parking will reduce the current level of parking available on Weedons Ross Road, which could be particularly problematic during school start and end times,
 - the plan change request traffic assessment identifies a total building footprint of 2,050m², but the rules allow significantly more GFA,
 - the location of the site is inappropriate due to its close proximity to a primary school and early childcare facility, giving rise to potential adverse cumulative effects in terms of traffic congestion and road safety – would present safety problems for children crossing the road,
 - PC30 has the potential to create significant adverse effects on the safe and efficient functioning of the existing roading network,
 - traffic passing through West Melton on the Main West Coast Road but stopping to shop would add to congestion – it would also add to the problem already faced at the intersection with traffic turning in the path of oncoming traffic – it is already a busy intersection (expanded on in a written statement to the hearing).
- 7.46 The relevant Plan objective (B2.1.1) was amended by PC12 and therefore had legal effect from December 2010 when it was notified, although I note that the wording pre-PC12 was very similar. Objective B2.1.1 (as amended by PC12) seeks an integrated approach to land use and transport planning to ensure the safe and efficient operation of the District's roads, pathways, railway lines and airfields is not compromised by adverse effects from activities on surrounding land uses or by residential growth.
- 7.47 Mr Metherell and Mr Mazey considered the transportation-related effects of PC30. Mr Mazey, in the Section 42A report, discussed the relevant considerations and concluded that a transport management plan was required in relation to how main vehicular and pedestrian accesses would be provided to and through the site. Recognising the submitter's concerns in relation to the accuracy of the traffic assessment included in the

plan change request, Mr Mazey requested updated assessment in relation to the 3,000m² of commercial/retail activity now sought. Mr Mazey also noted that the applicants would be responsible for upgrading the eastern side of Weedons Ross Road along the frontage of the development site.

- 7.48 Mr Metherell provided the updated assessment and concluded that the business zone development could be accommodated safely and efficiently in relation to transportation effects. Mr Metherell considered the amended rule recommended by Mr Friedel, as provided at the hearing, and supported its wording and the requirement for a Transport Management Plan.
- 7.49 In the absence of an ODP, and given that Mr Mazey and Mr Metherell were confident that any potential adverse effects could be dealt with, I accept that a Transport Management Plan is appropriate in this instance.
- 7.50 At the hearing, Mr Glasson proposed amended wording that had been developed in conjunction with submitters AM & DM Henderson. This effectively sought that the southern access point be set back a distance of at least 17.6 metres from the southern boundary of the site. Ms Eveleigh presented submissions essentially stating that the submitters supported this addition to the rule and that an intersection upgrade was being discussed with NZTA outside of the plan change process.
- 7.51 In response to a question, Mr Mazey advised that he did not consider this rule to be necessary in relation to the mitigation of adverse effects, but also did not consider that it would preclude a best practice design for the site in the context of a management plan.
- 7.52 I must recognise at this point that I am required to evaluate if the rules are the most appropriate way to achieve the objectives. In this case, I agree that a transport management plan is the most appropriate way to deal with the vehicular/pedestrian access and infrastructure matters raised. I do not, however, consider the access setback to be appropriate, given the views expressed by Mr Mazey and Mr Metherell. Neither traffic expert considered that the rezoning would result in adverse effects that would compromise the safe and efficient operation of the District's roads, and neither indicated that this setback rule was necessary in order to mitigate adverse effects; therefore, it would be difficult to justify a setback provision that triggered a non-complying activity status consent, and I do not consider it appropriate under the Act. I do, however, recognise that safety and efficiency considerations will need to be assessed in relation to access positions at the time of any resource consent application and recommend a slight amendment to an assessment matter, which may go some way towards meeting the submitters' concerns. Consequently, I do not recommend that the setback amendment be incorporated into the Plan, but recommend that the amended rule wording proposed by Mr Friedel at the hearing, and supported by the traffic experts, be included in PC30 (with minor amendment).

GEOTECHNICAL CONSIDERATIONS

- 7.53 Mr McCahon assessed the geotechnical suitability of the site, in relation to geology, groundwater, liquefaction hazard and building foundations. He concluded that the site is geotechnically suitable for the commercial use proposed.
- 7.54 I note that the assessment was carried out as a desktop study and that Mr McCahon did not consider that site work was necessary given the knowledge of the general geology. He did recommend, however, that a specific site investigation be carried out at the

building consent stage to verify the assumed conditions and to ensure that the foundations are designed to suit the conditions.

- 7.55 The issue of site works will be discussed in further detail in relation to the Recovery Strategy for Greater Christchurch later in this document. At this point, I accept the views of Mr McCahon and conclude that the zone is geotechnically suitable for development. I agree with Mr Friedel that the Plan objective (B3.1.3), seeking to ensure potential loss of life or damage to property from natural hazards is mitigated, can be achieved by this proposal.

CONCLUSION

- 7.56 In conclusion, having considered the provisions proposed for West Melton in detail and as a whole, it is my view that, overall, the rules and methods of PC30 (as amended) are the most appropriate way to achieve the objectives of the Plan.
- 7.57 I note that, during this process, I received evidence that indicated there may be deficiencies in the existing provisions that relate to other Business 1 Zones in the District, particularly in relation to noise, internal building setback and dwellings. The Council will be aware of these issues; however, they are noted here for information purposes and the sake of completeness.

8.0 REGIONAL POLICY STATEMENT AND OTHER RELEVANT DOCUMENTS

- 8.1 As noted above, s.74 and s.75 require, respectively, that regard be had to a proposed 'Regional Policy Statement' ("RPS") and that the Plan give effect to the operative RPS. I firstly note that the RPS provisions have been somewhat changeable since the hearing, as discussed below.

OPERATIVE RPS AND PROPOSED PLAN CHANGE 1 TO THE RPS

- 8.2 The relevant provisions of the operative RPS, at the time of the hearing, were identified by Mr Friedel. The relevant objectives and policies were found in Chapters 7 (Soils and Land Use), 12 (Settlement and the Built Environment) and 12A (Development of Greater Christchurch), and I accepted Mr Friedel's views and considered that PC30 gave effect to the RPS. I also consider the amendments proposed above to be consistent with that conclusion.
- 8.3 Chapter 12A has, however, been subject to change since the hearing. On 24 July 2012, a High Court Judgment set aside the Minister for Canterbury Earthquake Recovery's decision, which had previously inserted Chapters 12A and 22 into the operative RPS and revoked Proposed Plan Change 1 ("PC1"). The Judgment reinstated the Commissioners' decision version of PC1, returning it to the Environment Court. As such, I have revisited the Commissioners' decision version of PC1, noting that Chapter 12A essentially reflected the majority of the PC1 provisions, and conclude that PC30 is also consistent with PC1 to the RPS.

PROPOSED RPS

- 8.4 Mr Friedel, at the time of the hearing, considered [future] Chapter 6 (Development of Greater Christchurch) of the proposed RPS to be particularly relevant. I accepted the

assessment of Mr Friedel, and, in my view, PC30 (as amended) was consistent with the proposed RPS.

- 8.5 After the hearing, on 21 July 2012, the decisions on the Proposed RPS were notified, and applied from that date. The decisions were open for appeal until 10 August 2012 and four appeals have been lodged. I understand that no provisions will be made operative until these appeals have been resolved. As such, I have reviewed the provisions as amended by decisions (including Chapter 5), and, taking into account the provisions of PC1 and the previous view of Mr Friedel, it is my opinion that PC30 (as amended) is consistent with the proposed RPS as amended by decisions and PC1.

OTHER RELEVANT PLANS AND STRATEGIES

- 8.6 Section 74 requires that regard be had to any management plans and strategies prepared under other Acts.
- 8.7 The s.42A report provides discussion in relation to other documents relevant to PC30. Taking this discussion into account, it is my view that appropriate regard has been had to the following relevant documents in the consideration of PC30:
- National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health
 - Greater Christchurch Urban Development Strategy
 - Christchurch, Rolleston and Environs Transportation Study 2007
 - Canterbury Regional Land Transport Strategy 2012-2042
 - Selwyn District Council Walking and Cycling Strategy and Action Plan 2009

Recovery Strategy for Greater Christchurch Mahere Haumanutanga o Waitaha ("the Recovery Strategy")

- 8.8 After the hearing, on 1 June 2012, the Recovery Strategy came into effect. As such, in accordance with the Canterbury Earthquake Recovery Act 2011, specific documents must not be interpreted or applied in a way that is inconsistent with the Recovery Strategy. These documents include the Regional Policy Statement, District Plans, long-term plans, regional land transport strategies and regional public transport plans.
- 8.9 I have reviewed statutory sections 3 to 8 of the Recovery Strategy, and consider PC30 to be generally consistent with the goals and provisions, particularly in relation to the Economic Recovery and Built Environment Recovery goals. I note, however, that section 5 states:

"when making a resource consent application or a request for a plan change for the subdivision of land, the person proposing the subdivision must address the risk of liquefaction. As a minimum, that person must provide the local authority with a geotechnical assessment in accordance with the Guidelines for the geotechnical investigation and assessment of subdivisions in the Canterbury region (Department of Building and Housing, 14 November 2011)."

- 8.10 Given the wording used - "request for a plan change for the subdivision of land", it is not entirely clear if every rezoning application, and this request in particular, should be subject to this provision, given that subdivision is not an absolute certainty; however, if it is assumed that the Guidelines do apply in this instance, then they require on-site geotechnical investigations as part of a plan change request.

- 8.11 In this instance, a desktop geotechnical assessment without on-site investigations was provided on 16 November 2011. In that assessment, Mr McCahon concluded that the risk of liquefaction was extremely low and that the site was geotechnically suitable for the commercial use proposed. The Recovery Strategy then came into effect after the hearing. The question, then, is whether the applicants should now be required to carry out on-site investigations and provide further information as part of this plan change process.
- 8.12 I note that the Canterbury Earthquake Recovery Authority (“CERA”) fact sheet distributed to Councils in relation to this matter states that, for any application lodged prior to 1 June 2012, the Recovery Strategy (including the requirement for geotechnical assessment) will be a matter to consider in making the decision on any plan change after 1 June 2012.
- 8.13 Given the combination of specific circumstances in this instance – the timing within the process, the relatively small size of the site, its single ownership, the fact that it is already zoned for urban purposes (Living 1), the expert view of Mr McCahon, and that on-site investigations will be required at the time of any subdivision or building consent in any event – it is my view that it would be unduly onerous to delay the Council’s decision and require specific on-site investigations at this late stage in the process; therefore, I do not recommend requiring further information in this regard.
- 8.14 In conclusion, it is my view that, should PC30 be approved, the Plan will be generally consistent with the Recovery Strategy overall, albeit that on-site geotechnical investigations will be undertaken at a later stage.

9.0 CONCLUSIONS ON STATUTORY CONSIDERATIONS

- 9.1 The applicable Part 2 matters include the enablement of people and communities to provide for their social, economic and cultural well-being and for their health and safety, sustaining the potential of physical resources to meet the needs of future generations, avoiding, remedying or mitigating adverse effects, the efficient use and development of natural and physical resources, the maintenance and enhancement of amenity values and the quality of the environment (s.5, s.7(b), 7(c) and 7(f)). I note that no Treaty of Waitangi issues have been raised in the documentation or at the hearing.
- 9.2 I agree with Mr Friedel’s assessment in relation to Part 2. In summary, it is my view that PC30 (as amended) will contribute towards the provision of social and economic well-being for the West Melton community, whilst addressing relevant adverse effects, amenity and environmental quality. I consider that PC30 (as amended) changes the Plan in accordance with the Part 2 purpose and principles of the Act.
- 9.3 I consider that PC30 (as amended) achieves integrated management of the effects of the use and development of land and physical resources, and that it clearly falls within the s.31 functions of the Council for the purpose of giving effect to the Act.
- 9.4 I have reviewed the plan change request, the s.42A reports, submissions, evidence and statements, and have considered the relevant provisions in relation to their benefits, costs, efficiencies and effectiveness. In relation to s.32 of the Act, I conclude that the rules/methods (as amended) are the most appropriate for achieving the objectives.
- 9.5 I have assessed the provisions of the relevant Regional documents and conclude that PC30 (as amended) is consistent with them, and that it gives effect to the operative RPS.

I have had regard to relevant documents prepared under other Acts, and consider PC30 to be consistent with them. Overall, I do not consider that the Plan will be inconsistent with the Recovery Strategy, should PC30 be approved. Therefore, I consider that PC30 meets the requirements of s.74 and s.75 of the Act.

10.0 RECOMMENDATION

- 10.1 In conclusion, my recommendation on PC30 is that it be **approved with modifications**, for the reasons discussed above. The recommended modifications are attached as **Appendix 1**.

APPENDIX 1

RECOMMENDED MODIFICATIONS TO “PC30 SCHEDULE OF AMENDMENTS” (AS PER ATTACHMENT D, SECTION 42A ADDENDUM REPORT)

This appendix shows the recommended amendments to Attachment D of the s.42A addendum report.

Text proposed to be added is shown as **shaded, bold underlined** and text to be deleted as **~~shaded, bold strikethrough~~**.

AMENDMENT 1: District Planning Maps

Amend Sheets 1 and 2 of Planning Maps 018, 88 and 89 to rezone Lot 1 DP 398852 from a Living 1 Zone to a Business 1 Zone – see six maps at end of this appendix.

AMENDMENT 2: Add permitted and discretionary rules and any subsequent renumbering (C22-010) and Reasons for Rules (C22-014) in the Business 1 Zone Rules – Development within the West Melton Business 1 Zone to manage the scale of business activities able to be developed within the West Melton Business 1 Zone.

22.15 DEVELOPMENT WITHIN THE BUSINESS 1 ZONE, WEST MELTON

Permitted Activities – Development within the Business 1 Zone, West Melton ~~on Lot 1 DP 398852~~

Rule 22.15.1 Development within the West Melton Business 1 Zone shall be a permitted activity provided that the following conditions are met:

Rule 22.15.1.1 Any group of commercial or retail activities ~~shall not exceed with~~ a total combined maximum Gross Floor Area ~~not exceeding of~~ 3,000m²

Rule 22.15.1.2 Any retail or commercial tenancy, excluding restaurant, ~~or café or tavern~~ activities, ~~shall not exceed with~~ a Gross Floor Area ~~not exceeding of~~ 350m²

Discretionary Activities – Development within the West Melton Business 1 Zone

Rule 22.15.2 Any activity which does not comply with Rules 22.15.1.1 ~~or 22.15.1.2~~ shall be a discretionary activity.

...

Reasons for Rules

Development within the Business 1 Zone, West Melton

A maximum Gross Floor Area for individual tenancies within the West Melton Business 1 Zone has been restricted to 350m² to ensure the scale and function of any future developments within the zone is consistent with the size of the town it is serving. An exemption to this restriction is provided for ~~taverns~~, restaurants and ~~cafés~~ in recognition that these activities will not undermine the viability of other town centres, commercial nodes or Business 1 zones. A maximum Gross Floor Area of 3,000m² also applies to the West Melton Business 1 Zone to ensure the size and function of the centre is commensurate to West Melton and does not contribute to any adverse retail distribution effects.

AMENDMENT 3: Add permitted (C22-004), ~~controlled (C22-004)~~, and restricted discretionary (C22-004) rules, amend the discretionary activity rule (C22-004) and any subsequent renumbering and Reasons for Rules (C22-012) to manage noise related effects within the West Melton Business 1 Zone

Permitted Activities – Activities and Noise

...

Business 1, 1A & 3 Zones (with the exception of the West Melton Business 1 Zone):

22.4.1.1 Noise assessed within the boundary of any other site NOT within a Living zone or within the notional boundary of any dwelling within any Rural zone...

...

Business 1 Zone West Melton

22.4.2 Any activity conducted on any day, ~~except any residential activity~~, shall be a permitted activity, provided that the following standards are complied with:

22.4.2.1 Hours of ~~operation~~ opening to the public, clients or deliveries shall be within 7.30am to ~~8~~ 11.00pm.

22.4.2.2 Outdoor ~~seating~~ areas intended for the consumption of food or beverages ~~and/or smoking~~ shall be located no less than 20 metres from the zone boundary.

~~22.4.2.3 There shall be no external mechanical plant or vents, except air conditioning condensers less than 5kW in capacity.~~

~~22.4.2.4 The site layout shall incorporate a continuous built form extending along the full length of the site to serve as noise mitigation, being between 6 and 10 metres from the Living zone on the eastern rear boundary and no more than 15m metres from the southern and northern boundaries.~~

~~22.4.2.5 No outdoor seating and/or dining areas shall be permitted until all buildings on the site are constructed in general accordance with the setbacks prescribed in Rule 22.4.3.4.~~

~~22.4.2.6 Noise assessed at the façade of any dwelling in the West Melton Business 1 zone shall not exceed the following:~~

~~7.30am – 8.00pm 60 dBA L₁₀ and 85 dBA L_{max}~~

22.4.2.37 Noise assessed within the Living zone or within the notional boundary of any dwelling within any Rural zone shall not exceed the following:

7.30am – 8.00pm 50 dBA L₁₀ and 85 dBA L_{max}

8.00pm – 7.30am 35 dBA L₁₀ and 70dBA L_{max}

Except that rule 22.4.2.2 shall not apply to the western boundary with the gazetted recreation reserve, and the noise standards of rule 22.4.2.3 shall not apply within that reserve.

~~22.4.3 Any dwelling that is established prior to any commercial activity within the zone shall be a permitted activity.~~

~~Note: For the purposes of applying Rule 22.4.2.4, the buildings do not need to be completed, provided the eastern walls are in place.~~

22.4.34 Rules 22.4.1 and 22.4.2 do not apply to the use of sirens or warning devices associated with emergency service facilities.

Controlled Activities – Activities and Noise

Business 1 Zone West Melton:

~~22.4.5 Any activity that does not meet rules 22.4.2.21 – 22.4.2.5 shall be a controlled activity if the following standards are met:~~

~~22.4.5.1 An acoustic report from a qualified acoustic engineer is provided showing that noise levels of the activity meet the following noise standards:~~

~~Noise assessed at the façade of any dwelling in the West Melton Business 1 Zone~~

~~7.30am – 8.00pm 60dBA L₁₀ and 85dBA L_{max}~~

~~8.00pm – 7.30am 45dBA L₁₀ and 70dBA L_{max}~~

~~Noise assessed within any Living zone or within the notional boundary of any dwelling within any Rural zone:~~

~~7.30am – 8.00pm 50dBA L₁₀ and 85dBA L_{max}~~

8.00pm – 7.30am 35 dBA L10 and 70 dBA L_{max}

Note: These noise standards shall not apply within the gazetted recreation reserve adjoining the western boundary of the West Melton Business 1 Zone.

~~22.4.5.2 Any application arising from Rule 22.4.5 will not require the written approval of other persons and shall be non-notified.~~

~~22.4.6 Where rule 22.4.5 is fully complied with Councils discretion shall be limited to matters relating to the compliance of with rule 22.4.5.1.~~

Restricted Discretionary Activities – Activities and Noise

~~22.4.7 Any dwelling within the West Melton Business 1 Zone that does not meet Rule 22.4.3 shall be a restricted discretionary activity.~~

~~22.4.8 Under Rule 22.4.7 the Council shall restrict the exercise of its discretion to:~~

~~22.4.8.1 The consideration of adverse reverse sensitivity effects on commercial activities that have already established within the West Melton Business 1 Zone.~~

~~22.4.8.2 All other relevant noise effects associated with the introduction of a residential living activity within the Business 1 Zone.~~

~~22.4.4 Any activity within the West Melton Business 1 Zone that does not comply with Rule 22.4.2.1 shall be a restricted discretionary activity.~~

~~22.4.5 Under Rule 22.4.4, the Council shall restrict the exercise of its discretion to the consideration of:~~

~~22.4.5.1 The hours of operation proposed.~~

~~22.4.5.2 The degree to which the activity meets the Living zone night time noise standards within any Living zone or within the notional boundary of any dwelling within any Rural zone.~~

~~22.4.5.3 Amenity effects in relation to noise and disturbance on the residential neighbourhood, including in relation to effects resulting from servicing, outdoor areas, car parking areas and people leaving the activity.~~

~~22.4.6 Any activity within the West Melton Business 1 Zone that does not comply with Rule 22.4.2.2 shall be a restricted discretionary activity.~~

~~22.4.7 Under Rule 22.4.6, the Council shall restrict the exercise of its discretion to the consideration of:~~

~~22.4.7.1 Amenity effects in relation to noise and disturbance.~~

Discretionary activities

~~22.4.89~~ Any activity that is not residential which does not comply with Rule 22.4.1 shall be a discretionary activity.

~~22.4.910~~ Any activity within the West Melton Business 1 Zone that does not comply with Rules ~~22.4.2.36, 22.4.2.7 or Rule 22.4.5~~ shall be a discretionary activity.

Reasons for Rules

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Noise

...

Noise effects within the West Melton Business 1 Zone are managed ~~in a hierarchy of rules to ensure that the noise effects are managed~~ in a manner that is consistent with the adjoining Living 1 Zone ~~in order~~ to avoid adverse nuisance effects. Activities within the zone that operate during the ~~stated~~ ~~day time~~ hours and satisfy the ~~outdoor area setback~~

~~and prescribed noise standards requirements are provided as a permitted activity. Any activities that fail to accord with the permitted activity rules requires an expert noise assessment to demonstrate that the activity complies with the stated noise performance standards. Satisfactory compliance with the noise performance standards enables a controlled activity consent to be considered without public notification or the written approval of other land owners. Failure to accord with the noise performance standards will generate a discretionary activity resource consent. Rules 22.4.7 and 22.4.8 require a restricted discretionary activity resource consent to consider adverse reverse sensitivity effects that may arise with the establishment of a dwelling within the West Melton Business 1 Zone. Any activity seeking to operate after 11pm is also a restricted discretionary activity, recognising that night time activity may be appropriate in certain circumstances. Smaller scale activities seeking to operate after 11pm or certain development configurations may result in insignificant or no adverse effects on neighbours, depending on the particular circumstances, whereas larger scale activities or certain other development configurations may result in potential adverse effects on residential neighbours. The requirement for resource consent will enable a case by case assessment of activities that may seek to operate at night in the West Melton Business 1 Zone.~~

AMENDMENT 4: Insert new permitted (C16-007~~8~~) and discretionary and any subsequent renumbering (C16-009) rules and Reasons for Rules (new 4th paragraph in the 'Building Position' section C16-014) to prescribe a 3m minimum building setbacks for the West Melton Business 1 Zone

16.7 BUILDINGS AND BUILDING POSITION

Permitted Activities – Buildings and Building Position

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Setbacks from Boundaries

16.7.2.~~28~~ Any building on the West Melton Business 1 Zone shall be located a minimum of three metres from any site Living zone boundary.

...

Restricted Discretionary Activities – Building and Building Position

...

16.7.5 Any activity which does not comply with Rules 16.7.2.~~32~~–16.7.2.~~87~~ shall be a restricted discretionary activity.

...

Discretionary Activities – Building and Building Position

16.7.7 Any activity which does not comply with Rules 16.7.2.1 or 16.7.2.2 shall be a discretionary activity.

Notes

1. There are no building setback requirements for the Business 1 Zone, except as specified in above rules 16.7.2.1 (Rolleston) and 16.7.2.2 (West Melton).

...

Reasons for Rules

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A minimum building setback of 3m is necessary within the West Melton Business 1 Zone in recognition that this site directly adjoins residential sections and established dwellings. The 3m setback ensures that sufficient outlook and amenity is retained within the neighbouring Living 1 Zone.

AMENDMENT 5: Add a restricted discretionary landscaping and any subsequent renumbering (C16-003) rule and Reason for Rules (new 3rd paragraph under the heading

‘Landscaping’) to assess the landscape effects of the West Melton Business 1 Zone on the Council reserve

Restricted Discretionary Activities – Buildings and Landscaping

16.1.5 ~~Landscaping along the western boundary of~~ Any principal building within the West Melton Business 1 Zone site shall be a restricted discretionary activity. The exercise of Council's discretion shall be limited to the consideration of:

16.1.5.1 The effects of landscaping on the function and amenity of the adjacent reserve, and water race.

...

Reasons for Rules

Landscaping

...

A landscaping plan for the West Melton Business 1 Zone is necessary to address the impact landscaping may have on the function and amenity of the Council administered reserve and water race located to the west between the Business 1 Zone and Weedons Ross Road. Given the broad definition of ‘landscaping’, all planting and interface treatments (built and/or surface treatments) adjoining the boundary between the Business 1 Zone and the reserve will be subject to assessment.

~~, to formalise an appropriate planting list, formulate design features with approaches/bridged crossings and to confirm interface treatments between the Business 1 Zone and the reserve.~~

AMENDMENT 6: Add restricted discretionary (C17-007) ~~and non-complying rules~~ and any subsequent renumbering (C17-008) and Reason for Rules in the Business Zone – Roadway provisions to require a Transport Management Plan to be prepared to determine the access arrangements and infrastructure upgrades for the West Melton Business 1 Zone.

17.8 ACCESS ARRANGEMENTS FOR THE WEST MELTON BUSINESS 1 ZONE

Restricted Discretionary Activities

17.8.1 Access arrangements for the West Melton Business 1 Zone ~~site~~ shall be a restricted discretionary activity. ~~provided that no part of any access point to the West Melton Business 1 Zone is located closer than 17.6 metres from the north-western corner of the West Melton Presbyterian Church (being the land legally described as Pt RS 6543 contained in Computer Freehold Register CB396/163).~~

17.8.2 Under Rule 17.8.1, the applicant shall provide a Transport Management Plan and the Council shall restrict the exercise of its discretion to the consideration of:

17.8.2.1 ~~The provision of a Transport Management Plan prepared by the land owner prescribing the following:~~

the main vehicular and pedestrian access arrangements to and through the site where ~~it~~ they interacts with existing public roads, including in relation to effects on the safety and efficiency of the transport network.

17.8.2.2 all other necessary infrastructure upgrades to rationalise transport connectivity, access arrangements and pedestrian facilities, including safe crossing points, arising as a direct result of the proposed development of the West Melton Business 1 Zone.

Non-Complying Activities

~~17.8.3 Any activity within the West Melton Business 1 Zone that does not comply with Rule 17.8.1 shall be a non-complying activity.~~

Reasons for Rules

The requirement for a minimum distance for the proposed access from the southern boundary of the West Melton Business 1 Zone is to reduce the possible adverse efficiency impacts on Weedons Ross Road, including existing vehicle access points, between the State Highway 73 intersection and southernmost access point to the Business 1 Zone.

AMENDMENT 7: Insert a new note under 13.1 (C13-001) to advise that most of the Business Zone Rules do not apply to dwellings in the West Melton Business 1 Zone.

Note: Most of the Part C Business Zone Rules do not apply to dwellings in the West Melton Business 1 Zone - see Rule 22.9.4.

AMENDMENT 87: Insert a new **controlled restricted discretionary** and amend the existing discretionary (C22-007) rules and Reasons for Rules (C24-013) to ensure that any buildings that are to be utilised for residential living purposes in the West Melton Business 1 Zone satisfy the Living 1 Zone rules **and are assessed in relation to character and amenity.**

22.9 DWELLINGS

Controlled Restricted Discretionary Activities – Dwellings - West Melton

...

22.9.4 **The West Melton Business 1 Zone rules shall not apply to dwellings, with the exception of Rules 22.9.5-7 (Dwellings) below, and Rule 24.1.3.21 (Subdivision).**

22.9.5 The erection of any dwelling in the West Melton Business 1 Zone **shall be a restricted discretionary activity if the dwelling complies with** ~~that satisfies~~ the West Melton Living 1 zone Rules.

22.9.6 Under Rule 22.9.5, the Council shall restrict its discretion to consideration of:

22.9.6.1 **Effects of the residential density proposed on adjoining residential land uses.**

22.9.6.2 **Effects of the residential density proposed on the character of West Melton.**

22.9.6.3 **Reverse sensitivity effects on existing or future activities within the business zone.**

22.9.6.4 **Effects on the future amenity of business zone residents, including in relation to noise.**

Discretionary Activities – Dwellings

22.9.**74** Any dwelling which does not comply with Rules 22.9.1 and 22.9.**54** shall be a discretionary activity.

...

Reasons for Rules

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Additional controls within the West Melton Business 1 Zone are provided to ensure that any effects associated with ~~the construction of~~ dwellings within this environment are managed appropriately. Rule 22.9.**54** requires any dwelling within the zone to be subject to the Living 1 zone rules **and assessment** to ensure that the ~~scale and form~~ **density** of development is appropriate with respect to the adjoining residential land uses **and the character of West Melton.**

~~and to ensure sufficient separation is provided from established commercial activities to avoid the avoidance of~~ adverse reverse sensitivity effects ~~and to ensure a level of amenity for future business zone residents~~. Failure to accord with the ~~controlled restricted discretionary~~ activity Living 1 Zone rules for dwellings within the West Melton Business 1 Zone requires a discretionary activity resource consent to enable a full assessment to be undertaken. ~~with respect to the effects of dwellings on the existing activities within the zone as well as the adjoining Living zones.~~

AMENDMENT 98: Insert a new restricted discretionary (C24-005) and discretionary (C24-010) rules, any subsequent renumbering and Reasons for Rules (C24-016) to ensure that any subdivision to create parcels to accommodate residential developments are subject to the Living 1 Zone subdivision performance standards and minimum average allotment sizes.

PART C SECTION 24 BUSINESS ZONE RULES - SUBDIVISION

Restricted Discretionary Activities – Subdivision - General

...

West Melton Business 1 Zone

24.1.3.21 In the West Melton Business 1 Zone, any subdivision to create allotments to be utilised ~~of for~~ residential purposes shall comply with ~~satisfy~~ the Living zone subdivision performance standards and accord with the minimum average allotment size of 1,000m² prescribed in Table C12.1 – Allotment sizes.

...

Discretionary Activities – Subdivision – General

West Melton Business 1 Zone

24.1.5 Any subdivision which is subject to Rule 24.1.1 which complies with all standards and terms in Rule 24.1.3, except Rule 24.1.3.21 that fails to satisfy Rule 24.1.3.20 shall be a discretionary activity.

Non-Complying Activities – Subdivision – General

24.1.~~65~~ Any subdivision which is subject to Rule 24.1.1 and does not comply with 24.1.3, except as provided for in Rule 24.1.5.

Reasons for Rules

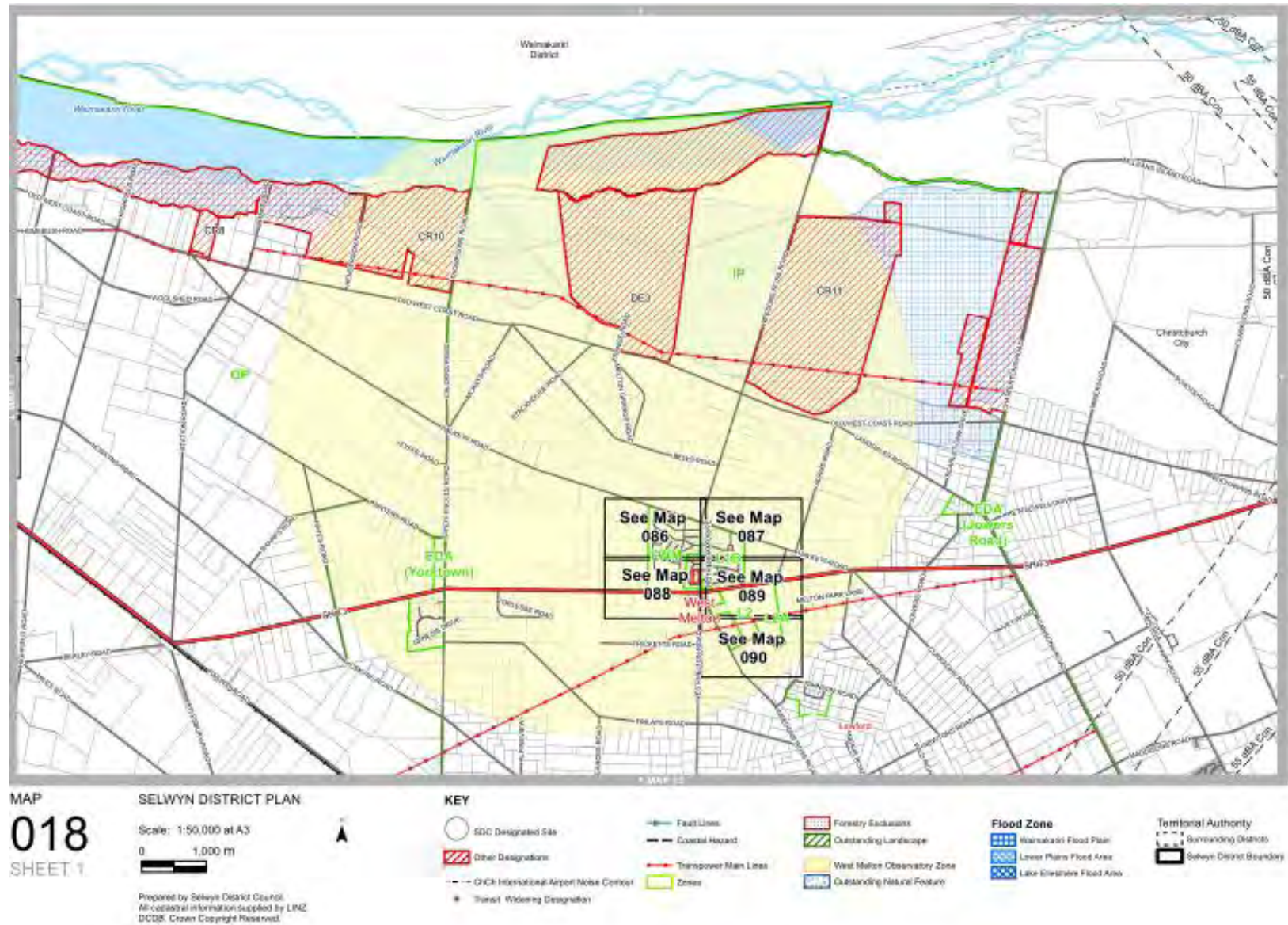
...

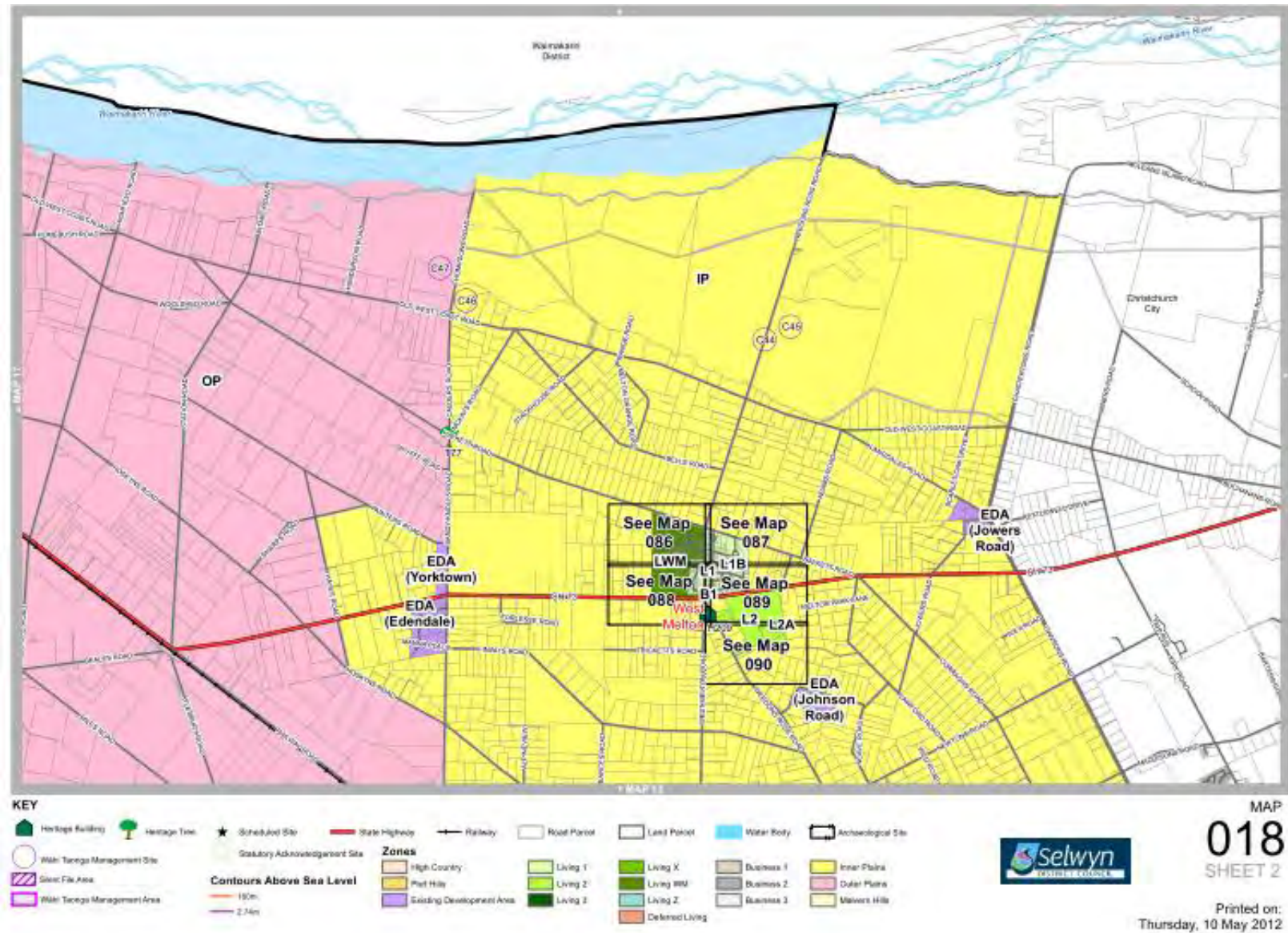
Rule 24.1.3.21 requires any subdivision within the West Melton Business 1 Zone to accord with the Living zone subdivision performance standards, including the minimum average allotment size of 1,000m². This is to ensure that the density of sections to accommodate dwellings is consistent with the scale of residential development within the township. Failure to accord with the Living zone subdivision rules necessitates a discretionary activity resource consent to enable a full assessment to be undertaken to consider the effects of any sections being created to accommodate dwellings on existing activities established within the zone as well as adjoining Living zones.

AMENDMENT 10: Complete any consequential Plan renumbering and ‘underlining of defined terms’ that may be required in order to give effect to Plan Change 30 within the existing format of the Plan.

END OF AMENDMENTS

SIX ‘AMENDMENT 1’ MAPS FOLLOW





AMENDMENT 1: District Planning Maps



MAP
088
SHEET 1

SELWYN DISTRICT PLAN

Scale: 1:4,000 at A3

0 100 m

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KEY

○ RDC Designated Site

▨ Other Designations

--- CASH Intersecting Airport Noise Control

★ Transit Widening Designation

→ Field Lines

--- Coastal Habitat

→ Transpower Main Lines

□ Zones

▨ Foresty Exclusions

▨ Outstanding Landscapes

▨ (Wild) Māori Cultural Zone

▨ Outstanding Natural Features

Flood Zone

▨ Waikato/10 Flood Plain

▨ Lower Plains Flood Area

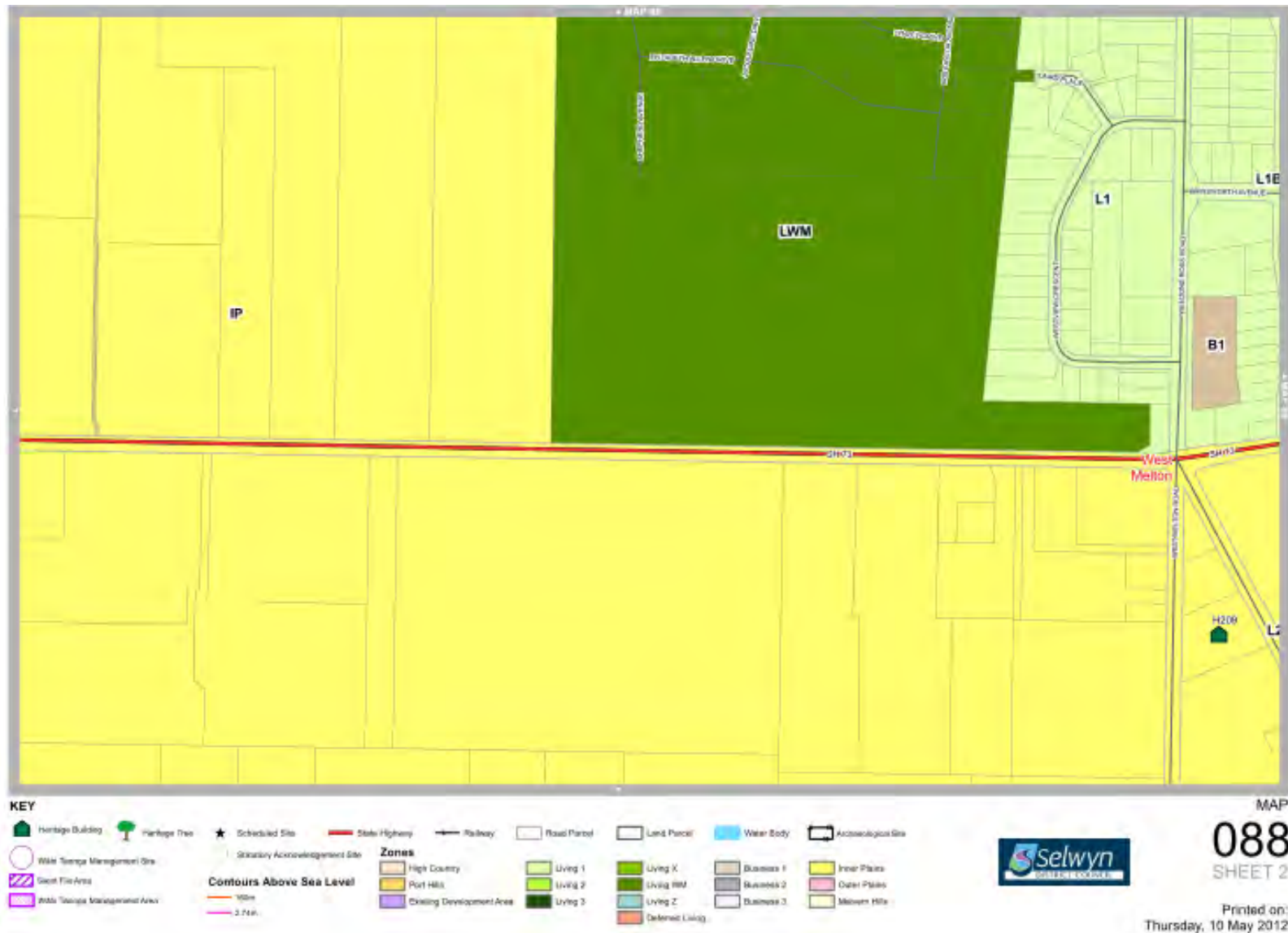
▨ Lion Cleaners Flood Area

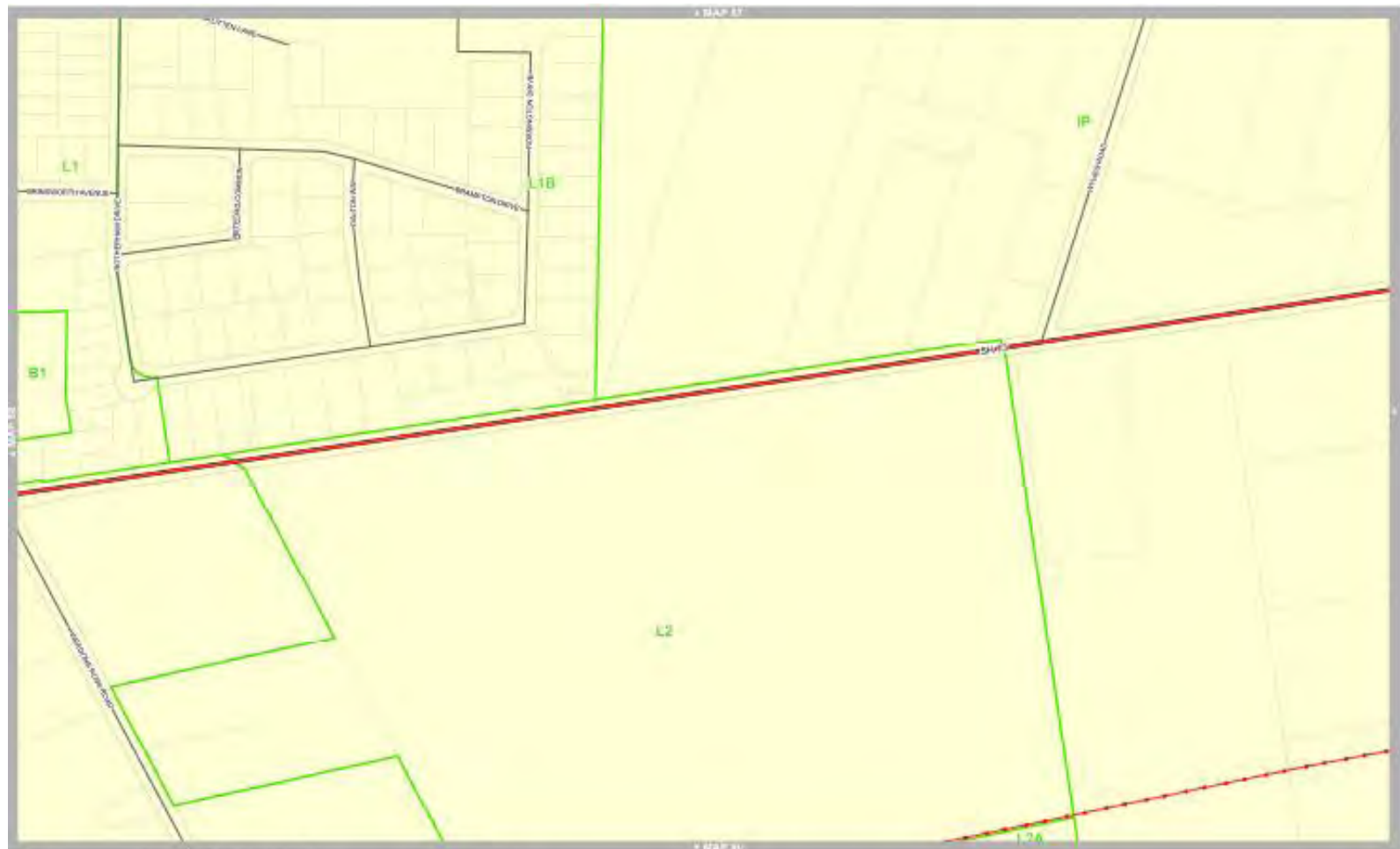
Teritorial Authority

▨ Surrounding Districts

▨ Selwyn District boundary

AMENDMENT 1: District Planning Maps





MAP
089
SHEET 1

SELWYN DISTRICT PLAN

Scale: 1:4,000 at A3

0 100 m

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KEY

○ SDC Designated Site

▨ Other Designations

--- CSD International Airport Noise Contour

★ Transit Widening Designation

→ Felt Lines

--- Coastal Hazard

→ Transport Main Lines

→ Zones

▨ Fensby Exclusions

▨ Outstanding Landscape

▨ West Melton Observatory Zone

▨ Outstanding Natural Features

Flood Zone

▨ Wairarapa Flood Plain

▨ Lower Plains Flood Area

▨ Lake Ellesmere Flood Area

Territorial Authority

▨ Surrounding Districts

▨ Selwyn District Boundary

AMENDMENT 1: District Planning Maps

