

PREFERRED OPTIONS REPORT TO DISTRICT PLAN COMMITTEE

DATE:	14 June 2018
TOPIC NAME:	Residential
SCOPE DESCRIPTION:	RE008 Home Based Business Activities in Living and Rural Zones and Business Activities (Not Home Based) in Living Zones
TOPIC LEAD:	Jocelyn Lewes
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EXECUTIVE SUMMARY

<i>Issue(s)</i>	<ul style="list-style-type: none"> • <i>There is no definition of home based business in the Township Volume of the District Plan and objectives, policies and rules do not specifically address home based business in either volume.</i> • <i>There is disparity in the scale of business activity that may be established in the Living and Rural Zones, not only between zones but also in relation to the intensity of the activity relative to the primary purpose of the underlying zone.</i> • <i>The scale of business activity currently permissible in Living Zones has the potential to impact on the hierarchy of activity centres identified in Selwyn 2031.</i>
<i>Preferred Option</i>	<i>That home based businesses are managed by amendments to definitions, policies and rules within the Proposed District Plan to ensure that that they remain secondary to the primary purpose of the zone and do not detract from the economic viability of centres, as set out in Section 7 of this report.</i>
<i>DPC Decision</i>	<i>That the Committee endorses the Preferred Option for 'Home Based Business Activities in Living and Rural Zones and Business Activities (Not Home Based) in Living Zones' for further development and engagement.</i>



1.0 Introduction

This report is a summary of the *Home Based Business Activities in Living and Rural Zones and Business Activities (not home based) in Living Zones Baseline Report* (Baseline Report RE008), the purpose of which was to undertake an assessment of home based business activity as well as larger scale businesses in Living Zones in Key, Service and Rural Activity Centres, as defined in Selwyn 2031: District Development Strategy (Selwyn 2031). This summary should be read in conjunction with the full Baseline Report RE008, which is attached as **Appendix 1**.

At the very simplest, a home based business is an activity for the purposes of deriving an income that is undertaken from the home. It relies on the home still fulfilling its primary role as being a building for residential and domestic purposes. It must involve a member of the household unit residing on the site, and may involve other employees that do not live on the site. The occupation, business, trade, craft or profession is a secondary and lesser use of the site, compared to the primary residential activities.

Home based businesses are usually undertaken inside a building, whether it be the dwelling or an accessory building, but they may also be undertaken outside depending on the activity. Some home based businesses require clients or customers to visit the site such as hairdressers, while others may be purely self-contained e.g. data analysis.

Home based businesses are not limited to residential zoned sites however, they can also establish in rural zoned sites. Home based businesses in the rural areas are a little more complex to manage because often the primary purpose of a rural site is to generate income from the primary productive potential of the land, with domestic uses being secondary.

For clarity, business activities that establish in residential and rural zoned land and do not have a primarily domestic purpose are not home based businesses. Examples of this is where offices establish in a residential zone and do not have any associated residential activity. For the purposes of this report, commercial activities that establish on residential and rural zoned land and do not have a primarily domestic purpose are not home based businesses and are referred to as “business activities”.¹

Home based businesses can have both positive and negative effects. Home based businesses are an effective way of establishing a small business without the capital outlay required for a business-zoned site. However depending on the business and the scale, home based businesses can create effects that erode the character of an area with additional traffic movements, signs and increased noise.

2.0 Statement of Operative District Plan Approach

The provisions of the Operative District Plan manage both home based businesses as well as larger businesses in both the Living and Rural Zones.

¹ Activities of this nature are being addressed within the Rural and Business work streams as well as by the District Wide topics such as Community and Recreation Facilities.

2.1 Definitions

While the Selwyn District Plan manages land uses in the Living and Rural Zones, it does not specifically list home based business in the Living Zones. There is no definition for home based businesses in the Living Zone. In contrast the Rural Volume contains the following definition:

***“Home Based Occupation** includes the use of a site for an occupation, business, trade or profession in conjunction with the use of the same site for residential activities. A home based occupation is undertaken by a person(s) permanently residing on the site.”*

2.2 Objectives and Policies

The objectives and policies do not specifically address home based business for either Living or Rural Zones, however they do set out the expectations and approach to business activities in both areas.

In Living Zones, the objectives and policies recognise that a variety of activities can be expected in urban areas, but the need for high quality residential amenity is also recognised. The District Plan has an enabling approach to managing activities in zones, with a focus instead on controlling their adverse effects on character, quality of the environment and amenity values. With the focus on controlling adverse effects, the management of business activities also requires consideration of other aspects such as traffic generation, signage, noise, dust, glare, lighting etc.

The objectives and policies in the Rural Volume recognise that business activities and in particular those associated with primary production, are appropriate. The policies in particular seek to retain amenity through management of effects such as noise, vibration, lighting, glare and dust. While these are not in any way specific to home based business, the policies set an expectation for such activities.

2.3 Rules

Building on the objectives and policies in the Township Volume of the Plan, the rules in this volume enable any activity, including business activities, to be established in the Living Zones, provided any effects of the activity are compatible with the character of the zone within which it will be established. The Plan achieves this by focusing largely on the amenity standards rather than the activities themselves. Chapter C outlines the rules for the Living Zone but does not contain any rules that relate solely to home based business.

There are several business activities identified in the Living Zones which are attributed a particular activity status. Other than these, all other all business activities are permitted in the Living Zones (no matter how large or small) so long as the activity can comply with all the standards. There is no requirement for there to be a residential component on the site although Rule 10.8.1.1 requires no more than two full time equivalent staff employed on the site live off site. Rule 10.8.1.2 limits the gross floor area for building(s) other than a dwelling to 300m². There are standards for vehicle movements although these are not specific to home based businesses or business activities.

The standards most relevant to undertaking business activities in the Living Zone include signs (Rule 7.1 where the sign can be a maximum of 2m height and 1m² area), noise (Rule 10.6), lightspill (Rule 10.7) and activities and hours of operation (Rule 10.9). There are no specific parking standards for home based

businesses, but there are parking requirements for a range of activities including residential, offices, industrial etc.

The Plan recognises the Rural Zones as being primarily for business, with rules designed to allow people to undertake farming and other business activities. Chapter 9 in the Rural Volume sets out the rules relevant to the Rural Zones. The Rural Volume adopts a similar approach to the Township Volume and activities are permitted so long as they comply with all the standards and are not specifically listed as a discretionary or non-complying activity.

In addition to the rules which apply to all Rural Zones, the rules outline activities specific to particular areas. Home based businesses are specifically identified as a permitted activity in Port Hills, Malvern Hills and High Country. Non-rural based activities are permitted so long as the activity occupies a maximum space of 100m² and no more than 2 full time equivalent persons are employed (Rule C9.4).

There are standards which home based businesses would be required to comply with, although these are not specific to home based businesses and apply to all activities in the Rural Zones. These include vehicle movements (Rule C9.13), noise and vibration (Rule C9.16), blasting and vibration (Rule C9.17), glare (Rule C9.18) and dust (Rule C9.19).

The approach of the Rural Zones is similar to the Living Zone where home based businesses are not specifically listed as an activity, and instead standards are relied upon to manage any effects. The effect of this is that there is maximum flexibility as to the activities that can be undertaken. There is no limit on the business activities that can be established in the Rural Zone without need for a domestic or residential component (i.e. a purely commercial use). The only limits are on rural based industries and other industries in terms of area and number of employees.

3.0 Summary of relevant statutory and/or policy context

The following key strategic planning documents are relevant to the management of home based business and business activities.

3.1 Canterbury Regional Policy Statement (RPS)

The Canterbury Regional Policy Statement (revised 2017) gives an overview of the significant resource management issues facing the region, including issues of resource management significance to Ngāi Tahu. The purpose of the CRPS is to set out objectives, policies and methods to resolve those resource management issues and to achieve the integrated management of the natural and physical resources of Canterbury.

The RPS directs territorial authorities to set out objectives, and policies, and may include methods in district plans which establish an approach for the integrated management of urban and zoned rural residential development with the primary focus of ensuring consolidated, well-designed and more sustainable urban patterns including the avoidance, remediation or mitigation of reverse sensitivity effects.

The objectives and policies expressed in Chapter 5 Land Use and Infrastructure, which applies predominately to the parts of the District outside of Greater Christchurch, are not particularly directive as

to how or where business activities are to be provided for within urban areas, provided that they avoid conflict between incompatible activities and maintain and enhance amenity values.

Within the rural environment, the objectives and policies of Chapter 5 are more directive and provides clear direction as to the types of businesses that are to be enabled within the rural environment. Policy 5.3.12(c) seeks to avoid proliferation of employment that is not linked to the productive capacity of the rural environment.

In terms of the objectives and policies expressed in Chapter 6 Recovery and Rebuilding of Greater Christchurch, RPS takes a slightly more directive approach to business activities in terms of encouraging the consolidation of business activities around the Central City, Key Activity Centres and Neighbourhood Centres (Objective 6.2.5). Centres are not necessarily business-zoned land, but instead include the whole urban areas of the centre, including residential areas. Thus the RPS does not direct business activities into business zoned land, but the general urban areas that comprises a centre.

The RPS does not specifically reference home based businesses, and instead addresses business at a more strategic level.

3.2 Selwyn 2031 and Area Plans for Malvern and Ellesmere.

Selwyn 2031: District Development Strategy provides an overarching strategic framework for achieving sustainable growth across the Selwyn district to 2031, so that Selwyn can achieve its vision to “grow and consolidate Selwyn District as one of the most liveable, attractive and prosperous places in New Zealand for residents, businesses and visitors”. Four key actions have been identified with respect to business, including building on economic strengths and higher quality living and business environments.

A feature of Selwyn 2031 was the development of a Township Network and Activity Centre Structure applicable to each township. The Strategy supports the development of the centres as the focus for business activities, however it does not distinguish between business or living zoned areas, and instead considers the urban extent of each centre as a whole. The Strategy establishes the role of each Centre and creates a hierarchy of towns to guide business activity.

The preparation of Area Plans for Malvern and Ellesmere was identified as an action in Selwyn 2031. Area Plans are non-statutory long-term strategic urban growth plan covering a wide geographic area and incorporating a number of townships. The primary purpose of these plans is to provide high-level planning direction to guide the growth and sustainable management of the townships identified through to the year 2031, to assist in the delivery of the Selwyn 2031.

The Area Plans identified that most of the rural townships do not have any Business Zoned land, therefore the small amount of business activity is located on Living Zoned sites. In order to enable these townships to continue providing the rural township role and providing some services to the surrounding rural area, business activities must continue to be enabled in Living Zoned sites in these areas.

3.3 Mahaanui Iwi Management Plan.

The Mahaanui Iwi Management Plan provides a policy framework for the “protection and enhancement of Ngāi Tahu values, and for achieving outcomes that provide for the relationship of Ngāi Tahu with natural resources across Ngā Pākihi Whakatekateka o Waitaha and Te Pātaka o Rākaihautū.”

No specific policies relating to home based businesses / business activities were identified.

4.0 Summary of Issues

In summary the issues identified in Baseline Report RE008 are:

- There is no definition of home based business in the Township Volume of the District Plan.
- Objectives, policies and rules in the District Plan do not specifically address home based business.
- There is disparity in the scale of business activity that may be established in the Living and Rural Zones, relative not only to each other but also to the intensity of the activity in relation to the primary purpose of the underlying zone.
- The scale of business activity currently permissible in Living Zones has the potential to impact on the hierarchy of activity centres identified in Selwyn 2031.

5.0 Summary of Approaches in Other Districts

The approaches of other districts to providing for home based business activities was considered, as set out in Section 5 of Baseline Report RE008.

Definitions of ‘home occupation’ or ‘home based business’ across the five plans vary considerably, however all of the District Plans recognise that home based business is secondary to the dominant use of the site for residential purposes. This is achieved through wording such as “primary use of the site”, “secondary to the use of the site as a dwelling” and “incidental to the residential use of the site”. The definitions also recognise the need for a person residing on the site to be involved in the home based business.

The objectives and policies of each of the District Plan reviewed recognise that home based businesses are appropriate so long as they do not adversely affect the amenity and character of the residential area. The policies outline how this is to be achieved through ensuring that the home based business is secondary to the residential purpose of the site, and managing effects such as noise, glare, odour, dust, smoke, fumes, other nuisances, traffic, parking, and transport networks.

The objectives and policies also address non-residential activities including business activities located in a residential zone. This is essentially different from home based enterprises and is usually where a residential site is used entirely for business purposes. The objectives and policies on this matter seek to protect the amenity and character of the residential area, but also recognise the potential for these activities to detract from the vitality and economic viability of the business Centres.

Most of the district plans enable a sliding scale between home based businesses at one end and business activities at the other through allowing non-compliance with home based business standards being a discretionary activity.

In all five district plans, home based businesses are permitted in the general residential zones provided they meet all the standards specific to that activity as well as the more general district-wide rules. In the more intensive residential zones, home based businesses generally require resource consent. Standards applying to home based businesses include:

- Maximum gross floor area of the building, plus the area used for outdoor storage area;

- Number and residency of employees;
- Location of the activity;
- Limits on the goods retailed;
- Hours of operation;
- Location of parking areas;
- Number, location and sizes of signs;
- Maximum number of vehicle trips;
- Storage of materials;
- Number and frequency of heavy vehicle trips; and
- Generation of nuisances including smoke, noise, dust, vibration, glare, and other noxious or dangerous effects

In the district plans evaluated, there are a range of business activities which are classified separately to home based businesses in the residential and rural zones. Some of the more common business activities listed include retail, dairies, offices, commercial activities, industrial activities, cafes and restaurants, care of children, bed and breakfast and homestay accommodation. Each district plan assessed classifies each of the activities quite differently and there is little alignment between the district plans in terms of activity status.

6.0 Summary of Stakeholder Engagement

As part of the preparation of the baseline assessment, feedback was sought and provided from the SDC Consenting and Compliances teams as to the issues with the administration and enforcement of the current District Plan provisions.

The completed baseline report was forwarded to Environment Canterbury and Mahaanui Kurataiao Ltd. Environment Canterbury advised that they supported the conclusions reached in principle as they give effect to the direction within the RPS.

The view of both internal and external stakeholders has been incorporated into this preferred options report.

7.0 Options to address Issues

7.1 Option 1: Enable all business activities in all zones

This option would mean that the district plan allowed any business activity in all zones, including residential and rural zones. No resource consent would be required and there would be no restriction on the type, location, or size of activity.

Effectiveness in Addressing Issue: This option would not give effect to the RPS, in that it would not achieve consolidated, well designed and sustainable growth in and around existing urban areas.

Risks: This approach is likely to result in adverse effects on the character and amenity of the residential and rural zones and significantly impact on the integrity and economic viability of centres. This approach would also not align with other work streams being undertaken as part of the District Plan Review.

Budget or Time Implications: This option would require drafting, engagement and testing of new provisions as the Operative District Plan provisions seek to limit the range and scale of business activities in Living and Rural Zones.

Stakeholder and Community Interests: All district residents.

Recommendation: This option is not recommended as it does not give effect to the RPS.

7.2 OPTION 2: Maintain the status quo

This option involves no changes to current plan provisions. The approach in both the Township and Rural Volumes does not specifically list home based businesses as an activity but rather relies on standards to manage any effects. As a result there is maximum flexibility as to the activities that can be undertaken. There is no limit on the business activities that can be established in either the Living or Rural Zones without need for a domestic or residential component (i.e. a purely commercial use). The only limits are on the size of the activity, as determined by the maximum space that the activity can occupy, and the number of off-site employees.

Effectiveness in Addressing Issue: Continuation of the current provisions would not address the known issues in the Operative District Plan and is therefore considered ineffective.

Risks: Not addressing the identified issues with the current provisions would be a lost opportunity given the District Plan review is underway.

Budget or Time Implications: This option will be the most cost effective and require the least amount of time.

Stakeholder and Community Interests: All district residents.

Recommendation: This option is not recommended as it does not address the issues with the Operative District Plan.

7.3 OPTION 3: Restrict business activities to only home based business

This option involves enabling home based businesses but not providing for any other business activity to establish within the Living and Rural Zones that falls outside the definition of a home based business as a permitted activity. There are many types of activities which could potentially be home-based businesses. The policy and rule framework recommended below focuses on the effects of home-based businesses, and so long as home-based business can meet the standards then there is no need to constrain the type of activity.

Activities other than home based businesses would require a resource consent. It is recommended that the rule framework needs to acknowledge that some business activities are more appropriate in the Living and Rural Zones than Business Zones such as pre-schools and medical facilities. These provide an important social function and are appropriate to be part of the residential and rural community. It is recommended these activities are given a more enabling activity status such as restricted discretionary to indicate that they may be appropriate if the effects can be appropriately managed. If business activities were to be discouraged, then a discretionary or non-complying activity status would be appropriate. This approach would require clear objectives to set the strategic direction, and policies to achieve that outcome.

The recommended approach to either being a home-based business because it complies with all the standards for a home-based business, or some other business activity that requires a resource consent makes this distinction very clear.

This option would logically still enable rural business activities which depend on the productive capacity of the rural environment to continue, but would discourage business activities such as industries which do not depend on primary production derived from the Rural Zone.

The following outlines principles to assist in drafting revised district plan provisions to manage home based businesses.

It is recommended that there is one definition that applies to both Living and Rural Zones, which recognises the concept of the home based business being secondary to the residential use of the site and requires the activity to be undertaken by a person(s) permanently residing on the site. Clarification that activities which do not meet all of the standards relevant to home based businesses are not home based businesses could be contained in either the definition or at the start of the standards themselves.

In order to implement Option 3, it is recommended that policies be drafted to provide policy support for the approach. The policies should spell out the broad approach being taken i.e. that home based businesses are permitted but must meet standards. Activities not meeting all standards are not considered home based business. A policy could also establish the approach to controlling the effects of home based business activity standards, as discussed in Section 7 of Baseline Report RE008.

Resource consent will be required for business activities (i.e. activities that are not home based businesses) and activities will only be considered to be appropriate if, amongst other things, they are of a scale and intensity anticipated within the zone and the adverse effects are adequately avoided, remedied or mitigated.

A supplementary policy should enable rural industries and rural commercial services which are legitimate activities appropriate for the Rural Zone.

It is recommended that rules be drafted which address the following matters for home based businesses:

- A requirement for at least one person engaged in the home based business must use the dwelling on the site as their principal place of residence.
- Maximum number of people employed who do not live on site.
- Maximum floor area expressed as metres squared (m²). Appropriate maximum floor areas are considered to be 40m² in residential zones and 100m² in rural zones.
- The activity should take place entirely within a building and no goods, materials or equipment should be stored outside a building.
- Hours of operation in terms of visits to the home.

Other standards not specific to home based business but applicable across the district, like signage, parking and nuisance such as noise, dust, vibration, may also be required to be complied with.

The following activity status is recommended:

- home based businesses complying with all standards for home based businesses – permitted activity
- Specifically listed business activities that are appropriate in the Living and Rural Zones and will not undermine the viability of the Centres – restricted discretionary or discretionary activities².
- Other business activities – non-complying activity

Effectiveness in Addressing Issue: Updating the provisions would address the issues identified in Section 4 of this report.

Risks: In some instances, a tightening of the rules around home based businesses may not be favoured by the community, particularly in relation to maximum floor areas.

Budget or Time Implications: New provisions addressing home based business, as expressed above, would have to be drafted, tested and consulted on.

Stakeholder and Community Interests: All district residents.

Recommendation: This option is recommended as it addresses the issues with the Operative District Plan and is consistent with the direction of the RPS.

7.4 OPTION 4: Discourage business activities including home based business

This option would mean that any business activity in Living and Rural Zones would be classified as a non-complying activity and would require resource consent. It would enable all effects to be considered. This would enable the focus of the Living and Rural Zones to be for residential and rural production purposes respectively rather than any commercial activities. This option would involve the inclusion of objectives and policies relating to retaining the integrity of the residential areas for residential activities, and similarly the rural zones for rural purposes.

If this option were pursued, careful consideration would need to be given to defining rural production activities (which are to be encouraged) separately from business activities that were not dependent on the primary productive capacity of the rural environment (which would be discouraged).

This option would mean that home based businesses would also be non-complying activities, regardless of size and would effectively prevent people working from home.

Effectiveness in Addressing Issue: This option would be partially effective in retaining the integrity of the Rural and Living Zones for their primary purposes, as well as ensuring that the economic viability of centers is maintained.

Risks: This approach is overly restrictive and would not align with the direction set out in the RPS which seeks to enable development provided that adverse effects are avoided, remedied or mitigated.

Budget or Time Implications: This option would require drafting, engagement and testing of new provisions as the Operative District Plan seek to enable a range of business activities in Living and Rural Zones, at an appropriate scale.

² Business activities considered appropriate in Rural and Living Zones will be identified within the Rural and Business work streams as well as District Wide topics such as Community and Recreation Facilities.

Stakeholder and Community Interests: All district residents.

Recommendation: This option is not recommended as it does not align with the direction of the RPS.

8.0 Preferred Options for Further Engagement

The Project Team recommends that Option 3 as outlined in Section 7.3 above is endorsed by the Council for further development.

Appendix 1: Baseline Report RE008