



PUBLIC AGENDA

FOR THE MEETING OF

DISTRICT PLAN COMMITTEE

TO BE HELD AT THE

SELWYN DISTRICT COUNCIL OFFICES,
COUNCIL CHAMBERS

ON WEDNESDAY 12 JUNE 2019

COMMENCING AT 9:00AM

Committee Members

Chair

Environmental Services Manager Tim Harris

Selwyn District Council

Mayor Sam Broughton

Councillor Mark Alexander

Councillor Jeff Bland

Councillor Debra Hasson

Councillor Murray Lemon

Councillor Malcolm Lyall

Councillor Pat McEvedy

Councillor Grant Miller

Councillor John Morten

Councillor Bob Mugford

Councillor Nicole Reid

Councillor Craig Watson

Chief Executive David Ward

Te Taumutu Rūnanga

Hirini Matunga

Environment Canterbury

Councillor Peter Skelton

Te Ngāi Tūāhuriri Rūnanga

Tania Wati

Project Sponsor

Jesse Burgess

Phone 347-2773

Project Lead

Justine Ashley

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Agenda Items

Item	Page	Type of Briefing	Presenter(s)
Standing Items			
1. Apologies	4	Oral	The Chair
2. Declaration of Interest	4	Oral	
3. Deputations by Appointment	4	Oral	
4. Outstanding Issues Register	4	Written	
5. Confirmation of Minutes	5-9	Written	
Specific Reports			
6. Rolleston KAC Residential area <ul style="list-style-type: none"> Updated Preferred Options Report 	10-31	Written	Jessica Tuilaepa

Standing Items**1. APOLOGIES**

Councillor John Morten

2. DECLARATION OF INTEREST

Nil.

3. DEPUTATIONS BY APPOINTMENT

Nil.

4. OUTSTANDING ISSUES REGISTER

Nil

5. CONFIRMATION OF MINUTES

Minutes from the meeting of the District Plan Committee on 17 April 2019.



**District Plan Committee meeting
Held on Wednesday 17 April 2019 at 9.00am
at Selwyn District Council,
Rolleston**

Present: Mayor S Broughton (Chair), Councillors M Lemon, D Hasson, N Reid, B Mugford, P McEvedy, M Lyall, J Bland, J Morten, Mr P Skelton (Environment Canterbury), Mr D Ward (CEO Selwyn District Council) and Mr H Matunga (Te Taumutu Rūnanga).

In attendance: Messrs.' J Burgess (Planning Manager), B Rhodes (Strategy & Policy Team Leader), S Hill (Business Relationship Manager), R Love (Strategy and Policy Planner), B Baird (Strategy and Policy Planner), Mesdames' J Ashley (District Plan Review Project Lead), J Lewes (Strategy and Policy Planner), J Tuilaepa (Senior Strategy and Policy Planner), R Carruthers (Strategy and Policy Planner) and T Van der Velde (District Plan Administrator).

Standing Items:

The alternate Chair of the District Plan Committee was appointed as Mayor S Broughton who will stand in as Chair today in Mr T Harris' absence.

Moved – Councillor Lyall / Seconded – Councillor J Morten

'That Mayor S Broughton be appointed as the Chair for the District Plan Committee meeting 17/4/2019 in T Harris' absence'

CARRIED

1. Apologies

Councillors M Alexander and G Miller, Ms T Wati (Te Ngāi Tūāhuriri Rūnanga) and Mr T Harris (District Plan Review Committee Chair) for absence. Councillors N Reid, C Watson and D Hasson for lateness.

Moved – Councillor Lyall / Seconded – Councillor J Morten

'That the apologies from Committee members Councillors M Alexander and G Miller, Ms T Wati and Mr T Harris for absence and Councillors N Reid, C Watson and D

Hasson for lateness be received for information.'

CARRIED

2. Declaration of Interest

Nil.

3. Deputations by Appointment

Nil.

4. Outstanding Issues Register

Subject	Comments	Report Date	Item Resolved or Outstanding
Energy & Infrastructure – Orion Protection Corridors	<ul style="list-style-type: none"> Clarification on Orion's responsibilities in regards to maintaining vegetation under the lines in the protection corridors. Clarification if Orion has considered the financial implications of potentially having to purchase land for a protection corridor when constructing new electricity distribution lines. 	27 March 2019	Resolved (email) 17 April 2019

5. Confirmation of Minutes

Taken as read and accepted.

Moved – Mr D Ward / Seconded – Councillor Lemon

'That the Committee accepts the minutes of the 27/03/2019 as being true and correct'.

CARRIED

The Committee discussed permitting notes surrounding the Markham Way discussion at the 10 April 2019 District Plan Committee Workshop to be made available to the Public.

'That the Committee agrees that the 'Markham Way discussion notes' from the 10/4/2019 District Plan Committee Workshop be available to the public and published in the 17/04/2019 District Plan Committee meeting minutes'

Moved – Councillor Lyall / **Seconded** – Councillor Lemon

CARRIED

Markham Way Post-Consultation Update Notes from the 10 April 2019 District Plan Committee Workshop:

- A meeting was held on 4 April 2019 at Council Headquarters with residents and property owners of Markham Way, Peel Close, Wilbur Close and Landor Common.
- The meeting provided an opportunity for Councillors and Council staff to update affected residents and property owners on the new Rolleston Town Centre and library development, including changes to roading in the vicinity of Markham Way. An update on the District Plan Review proposals for rule changes in that area was also provided.
- Meeting attendees had the opportunity for questions and further feedback on these matters. Some meeting attendees opposed the proposed transitional overlay (loosening up rules adjacent to town centre). There were a number of heated discussions during that meeting. It was acknowledged that although a petition was signed, there is likely to be a variance of views. A Committee member commented that there are some resident/property owners that welcomed the opportunity that an overlay would provide.
- Conditions requested from residents/property owners include:
 1. Clear that the roading environment needs to be a 30km area
 2. Protection of parking for residents and visitors
 3. Access needs to be open to town centre, reserve and shops
- The Committee discussed the deferral of the proposed overlay as an option (5-7 year delay), as immediate changes are not envisaged. A formal submission process would be part of that process. Case law dictates that having a deferral in place with an unspecified timeframe or no identified way of lifting it will likely have legal ramifications. The recently released NPS, opened up the ability for special overlays to identify growth areas which could apply to this (future urban zones etc). A concern is how to show this for residential areas.

- It was noted that in terms of Council's own evidential base for commercial floor area in terms of need, the demand is not there. There is no economic analysis to support expansion of the town centre unless this was for aesthetic, amenity and urban form purposes.
- A resident mentioned there is allegedly a covenant that precludes anything but a residential house on the sections in that area. Council staff noted this for further investigation, and a report will be prepared to be present to the Committee in June.

Markham Way notes end.

6. Preferred Option Report and Communications and Engagement Summary Plan for Noise and Vibration – NZDF West Melton Rifle Range

Ms Barker spoke to her report. The New Zealand Defence Force (NZDF) contacted Council seeking changes to the District Plan looking for greater protection for the West Melton Rifle Range, particularly from reverse sensitivity. The West Melton Rifle Range is designated under the District Plan.

In 2018 the NZDF put forward four options for protection, Council went back to them asking for further explanation of and justification for the options. The two key options include requiring noise insulation for new noise sensitive development within a proposed noise control boundary (Option 3), or requiring a no-complaints covenant is registered on the property title at the time of subdivision or when new noise sensitive development is proposed within the proposed noise control boundary (Option 4). The proposed noise control boundary is based on noise modelling by NZDF's acoustic consultants.

In 2019 NZDF provided draft provisions to the Council based on the no-complaints covenants approach.

Legal advice was sought by Council and Council was advised that it is a legal approach, is readily enforceable if drafted well, and that there should be a covenant template in the Plan.

Ms Barker noted that the West Melton Rifle Range is strategic infrastructure under the Canterbury Regional Policy Statement (CRPS) and that Option 4 would give effect to the CRPS. Ms Barker also noted that Option 4 is a unique approach for Selwyn but that the approach is used in other district plans including the Christchurch District Plan in relation to Lyttelton Port and the Auckland Unitary Plan in relation to stadia, the Port and Airports.

Ms Barker also outlined the other approaches being proposed by the Inland Port, Christchurch International Airport, the New Zealand Transport Agency and Kiwirail, and the Dairy Processing Management Areas. There is a precedence risk with Option 4, but any proposal to use no-complaints covenants would be assessed on its merits.

A NZDF prepared map showing the remaining development potential around the West Melton Rifle Range and the proposed noise control boundary was shown to the Committee.

Ms Barker advised there have been few complaints in relation to the Range to date, but this could change in the future.

Options 3 and 4 are finely balanced, but overall the recommended option to the Committee is Option 4 the no-complaints covenant approach.

Discussion was held over existing residents and Ms Barker clarified that the provisions would apply to new developments and subdivisions only.

A Committee member asked whether other noisy activities such as motor racing could also seek a no-complaints covenant approach? Ms Barker responded that West Melton Rifle Range is recognised as strategic infrastructure and therefore such an approach is justified, however this approach is not so easily argued for activities that are not strategic infrastructure.

Mr P Skelton also confirmed his view that no-complaints covenants are a legal mechanism that can be used in a district plan context.

Moved – Councillor Mugford / **Seconded** – Councillor Morten

Recommendation

‘That the Committee:

- a) Notes the report.*
- b) Endorses the Preferred Option for Noise and Vibration – NZDF West Melton Rifle Range’ for further development and engagement, including Section 32 and plan drafting.*
- c) Notes the communications and engagement summary plan.’*

CARRIED

‘The District Plan Review Committee Meeting finished at 9.19am, with the District Plan Committee Workshop commencing at 9.30am.’

Specific Reports

6. Updated Preferred Options Report – Rolleston KAC Residential area

Author:	Jessica Tuilaepa, Senior Strategy & Policy Planner
Contact:	347 2974

Purpose

To brief the Committee on the updated Preferred Options Report, which considers whether commercial activities should be enabled within the existing residential land in the Rolleston Key Activity Centre (KAC) following further public engagement.

The options are summarised as:

- Option 1: Status Quo
- Option 2: Rezone to Town Centre
- Option 3: Full Transitional Living Overlay
- Option 4: Relax home based business provisions

The report seeks direction from the Committee on whether Council still wishes to apply the Transitional Living Overlay to Markham Way, Peel Close, Wilbur Close and Landor Common.

Recommendation

“That the Committee:

a) Notes the report.

b) That the Preferred Option 1 for ‘Rolleston KAC Residential area’ is endorsed for further development, Section 32 and drafting phases.”

Attachment

‘Rolleston KAC Residential area – Updated Preferred Options Report’

PREFERRED OPTION REPORT TO DISTRICT PLAN COMMITTEE

DATE: 12 June DPC Meeting

TOPIC NAME: Business

SCOPE DESCRIPTION: Rolleston KAC Residential area – Updated Preferred Options Report

TOPIC LEAD: Jessica Tuilaepa

PREPARED BY: Jessica Tuilaepa

EXECUTIVE SUMMARY

<i>Issue(s)</i>	Whether to enable commercial activities within the existing residential land the Rolleston Key Activity Centre (KAC)
<i>Preferred Option</i>	The Project Team recommends: 1) Option 1: Status Quo – Maintain residential zoning for Markham Way, Peel Close, Wilbur Close and Landon Common Properties within the Rolleston KAC.
<i>Recommendation to DPC</i>	a) Notes the report. b) That the Preferred Option 1 for 'Rolleston KAC Residential area' is endorsed for further development, Section 32 and drafting phases.
<i>DPC Decision</i>	



1.0 Introduction to the Issue

- 1.1 This report is an update of the previous preferred options report for this topic which originally looked at the strategic planning history of the subject sites, evaluated potential issues and options going forward. This report outlines that previous information while also updating the District Plan Committee (DPC) on the preferred options following the outcomes of community engagement.
- 1.2 The District Plan Review affords Council the opportunity to consider rezoning the existing residential land within the existing Rolleston Key Activity Centre (KAC) to meet future business demand following the recent increase in population and business growth of the Selwyn District.
- 1.3 Over the last five years the growth of Rolleston, at least in part, because it has become the recipient of the movement of populations from those parts of Christchurch affected by earthquake damage. In anticipation of and response to the growth in population, Council produced the Rolleston Town Centre Master Plan, which envisaged the Key Activity Centre (KAC) incorporating the existing Business 1 zoned land and expanding significantly into existing residential areas. The expansion process is expected to take up to 20 years and will result in Tennyson Streets being transformed into Rolleston's 'High Street'.
- 1.4 To enable this to occur over time the Rolleston Living 1 properties along the eastern side of Tennyson Street between the Police Station (Business 1 Zone) and the Moore Street intersection were placed in a Transitional Living Overlay. This Precinct was also applied along Edward Street in Lincoln to connect the two existing ends of the KAC together. The Transitional Living Overlay seeks to enable both the current residential activities and a transition to commercial activities subject to amenity standards.
- 1.5 In the middle of Rolleston's KAC surrounded on all sides by either Commercial (Business 1 – Precincts 1 and 2) or Transitional Living Overlay (Precinct 5) exists an enclave of residential properties. The properties on Markham Way, Peel Close, Wilbur Close and Landor Common were not included in the Transitional Precinct at the time this overlay came into effect. The Rolleston Town Centre Master Plan clearly states that the future of this area would be up to the individual landowners¹. It is worth noting that the Master Plan did indicate that in 15-20 years retail was likely to start expanding from the Town Centre into this residential area.
- 1.6 The future zoning of land within the Rolleston's KAC has been considered at many stages in the past. During the development of both the Rolleston Structure Plan, Town Centre Master Plan and as part of the Land Use Recovery Plan's (LURP) Action 26 and most recently at a DPC meeting in December 2018 where the decision was made to proceed with progressing the rezoning of what is presently 'Precinct 5' (in both Lincoln and Rolleston) into Town Centre Zone.

¹ Rolleston Town Centre Master Plan adopted April 2014, Executive Summary, last paragraph, Page 5.

- 1.7 This approach was taken to the affected residents for consultation. Following the 6 week consultation period a petition was lodge with Council signed by a majority of owners and occupiers and additional submissions were received in opposition to the proposal. Following the receipt of this feedback a joint public meeting was held with residents, Councillors and Planning, Assets, Property and Commercial, Communication staff to better detail how change in the area would affect the residents on 4 April 2019. The discussion on the changes to the area was not just limited to the possible planning outcomes but also included those relating to the Town Centre development and roading network.
- 1.8 At this meeting the existence of an existing 'private covenant' on the titles of the properties in the 'Rolleston Park' subdivision was brought to light. The covenant (to which Council is not party too) sought to restrict developments for non-residential purposes. The possible restrictions of this to land owners may undermine implementation of Councils preferred option of a town Centre zone along Tennyson Street and a Transitional Precinct Overlay over the Markham Way area.
- 1.9 Subsequent investigations to the covenants raised questions as to whether or not covenants had lapsed. Legal advice was sought to better understand the impact of the existing covenants. Some of covenants that restrict or control activities on the sites exist in perpetuity (have not and will not lapse), although the legal advice stated that even with the covenant in place there is nothing legally preventing Council from rezoning, applying an overlay or granting a consent in the area for a non-residential developments. However any change to the district plan (or a granted resource consent) does not override private property rights and obligations or in other words the covenant would still be relevant. The potential impact of the covenant is discussed in more detail for each of the 4 options recorded below.
- 1.10 As detailed in the previous version of this report, maintaining the status quo is an option, and following public consultation this appears to be the 'preferred option' of residents, at least in relation to the residential properties on Markham Way, Peel Close, Wilbur Close and Landor Common. Consideration has also been given to additional approaches which would be undertaken to achieve the same result, via a different method, based on the public feedback, increase the potential options from 3 to 4 being:
- Option 1: Status Quo
 - Option 2: Rezone to town centre
 - Option 3 Full Transitional living overlay
 - Option 4: Relax home based business provisions
- 1.11 This report seeks direction from the DPC on whether Council still wishes to apply the Transitional Living Overlay to Markham Way, Peel Close, Wilbur Close and Landor Common.

2.0 Current Approach of Operative District Plan

Permitted Baselines

- 2.1 It is important to consider the current planning provisions that apply to the Living 1 zoned sites in Markham Way, Wilbur Close, Peel Close and Landor Common (hatched area in centre of KAC as demonstrated below in Figure 1 below). *Tables 1-3* located in *Appendix 1* summarise these provisions. The Transitional Living Overlay has a similar permitted baseline to the adjoining Living 1 zone. However the scale of activities rules have been slightly relaxed to enable commercial services, small format retail and office activities to establish more easily. The scale and type of activities that are able to occur with the other KAC Precincts 1-4 and 8 are substantially different from the Living zone provisions.
- 2.2 It is worth noting that Precinct 5 Rule 4.18 automatically requires resource consent to be obtained for any development comprising of one or more new buildings; and/or building additions for commercial purposes; and/or conversion of all or part of an existing dwelling for commercial use. This rule provides for the consideration of urban design for the development.

Figure 1: Rolleston KAC



Resource consents granted in the Transitional Living Overlay

- 2.3 Precinct 5, the Transitional Living Overlay contains 18 sites in Rolleston. As stated above, a number of consents have been applied for/granted in the vicinity of the Town Centre in Rolleston.

- 2.4 The most recent resource consent is for a retail and hospitality development (RC185298) on the corner of Tennyson Street and Markham Way. Consent was sought for the removal of three existing dwellings, to be replaced with a two-storey commercial development. The application defaulted to 'Non-complying' because of the breach of site coverage (had the development remained within the 40% residential limit the application would have been discretionary). The application proceeded to a hearing and several submissions were received in opposition from the landowners within the Markham Way residential enclave. Concerns were raised over car parking, traffic generation, noise, lighting and the potential detrimental effects on the residential amenity of the area.
- 2.5 The Commissioner granted consent subject to specific conditions to address the concerns of the submitters. Conditions related to: the maximum of number of tenancies; limitations on the types of tenancies; restricted hours of operation; noise restrictions and other conditions relating to landscaping, urban design, lighting, waste and traffic.
- 2.6 Building work has begun on the site and it is anticipated the development will be operational by mid-2019. Further development of this nature will require additional resource consent as the rules of the transitional zone (listed in Section 2.3) do not permit food and beverage outlets outright, as they do in other parts of the KAC, including the site (currently the Reserve) directly across the road from Precinct 5.
- 2.7 The owner of the development intends to carry out further development across the road on the other corner of Markham and Tennyson (also in Precinct 5). The Rolleston Town Centre Master Plan did not anticipate Precinct 5 to be developed at this scale and pace, suggesting that it may not be commercially feasible to demolish the recently built houses. To some degree this is correct, as the houses were not demolished, they were deconstructed to be rebuilt on different sites in Rolleston, which helped with the overall cost of the Project.
- 2.8 To date 9 of the 18 properties in Rolleston Transitional Precinct (including the development above, a preschool and a dental clinic) are being used for commercial purposes in the Transitional Living Precincts.

3.0 The District Plan Review and Plan Framework

- 3.1 Baseline Assessments and Preferred Options reports have indicated that Rolleston Town centres will both become 'Town Centre Zone', replacing the current Business 1 zoning. The 'Town Centre Zone' has been selected as it best allows for the recognition of the Township Hierarchy and is described by the draft National Planning Standards as being a destination for shopping, entertainment, events, dining and night life, visitor accommodation, arts, culture and tourism activities. Provision should be made for a wide range of community and commercial activities (e.g. health and social services, museums, art galleries, libraries, movie theatres, restaurants and cafes, hotels, visitor accommodation), including residential activity

on floors above commercial and/or community activities. Town Centre Zones should have a focus on pedestrian orientation, public amenity within the town centre and at the boundaries of adjoining zones. Other amenity features include verandas, street furniture and traffic calming and the zone should make provision for public spaces including parks or squares.

- 3.2 The Draft Planning Standards also afford Councils the option of retaining the use of Precincts to help manage the character of smaller sections of a larger zone. This is the approach that both the KACs take at present, with multiple precincts managing the types of activities that can occur in different areas within each commercial centre. Markham Way, Wilbur Close, Peel Close and Landor Common of the existing KAC, which despite being part of the KAC have retained their Residential Zoning. Precincts 1-4 allow for differing types of activities to occur within different locations, e.g. Precinct 1 has a more retail focus whereas Precinct 3 has more of an office activity focus.

4.0 Summary of Options

- 4.1 The following options are put forward to address the issues identified in relation to the rezoning of additional land within the Rolleston KAC.

Options for Markham Way, Wilbur Close, Peel Close and Landor Common Properties (Rolleston KAC)

Option 1 – Maintain status quo

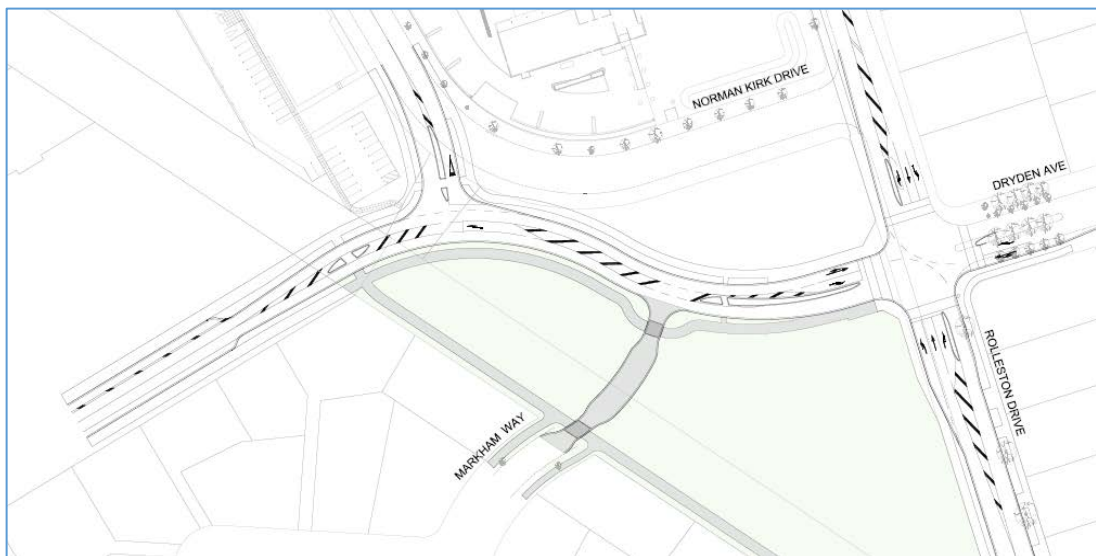
- 4.2 Under this option, the existing provisions and Living 1 zoning would be retained for the properties located in Markham Way, Wilbur Close, Peel Close and Landor Common (excluding those otherwise currently located in Precinct 5).

Effectiveness in addressing the issue:

- 4.3 This option would entail the site retaining their residential zoning and the sites in question continuing to be used for residential purposes. The sites would be subject to the proposed General Residential Zone rules. By maintaining the status quo, this protects the current level of amenity for the residents in the surrounding zone by restricting the potential use of the land for other uses.
- 4.4 As outlined in the introduction it has come to Council's attention that there are underlying private land covenants on these properties which exist in perpetuity. The covenants seek to avoid anything other than residential dwellings from being erected on the properties. Different activities on the site would continue to require resource consent if they do not meet permitted standards as they have done in the past. Home based occupations would continue to be permitted in the residential zone (subject to standards). However the overall intent of the zone would align with the intent of the private land covenants.
- 4.5 The approach is with the Rolleston Town Centre Masterplan which identified this area as residential, with retail filtering into the space in 15+ years.

- 4.6 It is worthwhile noting that once the proposed roading changes are made, which will see access to Markham way also possible via the realignment of Norman Kirk Drive and Moore Street extension, the character of the area is likely to change (as demonstrated in Figure 1). It would make sense to wait until residents can see and experience the changes and the impact they will have on their properties before implementing a Transitional Precinct Overlay. The roading improvements are scheduled to begin before the end of the year. The District Plan process is not the only avenue available to reconsider the future of the area, the Rolleston Town Centre Masterplan review will likely commence before the end of 2019 and this will provide an opportunity to consider the future of the KAC as a whole.

Figure 1: preliminary roading design



Risks:

- 4.7 This approach does not preclude residents of Markham Way, Wilbur Close, Peel Close and Landor Common from seeking alternative zoning as part of the District Plan Review process. This option simply means that the investigation costs and s32 evaluation will be borne and undertaken by the submitter to support their submission for rezoning. Council's cost will be limited to reviewing the information and making a recommendation to accept or reject the submission, which are costs that will be inevitable regardless of the option selected. This option leaves the cost to the market, which if taken up would indicate a demand and/or opportunity for growth, more so than Council proactively rezoning ahead of any substantial land capacity requirements.

Budget or Time Implications:

- 4.8 Applying the proposed 'General Residential Zone' provisions to the area will not impact on the existing DPR timeline or budget.

Recommendation:

- 4.9 This option is recommended to be carried forward into the Proposed District Plan.

Option 2 – Rezoning to Town Centre

- 4.10 This approach involves Council undertaking the work to potentially rezone all residential sites currently located in Markham Way, Peel Close, Wilbur Close and Landor Common to a Town Centre Zone and to notify this rezoning proposal through the DPR process.

Effectiveness in Addressing the Issue:

- 4.11 This option would increase business land supply, whilst enabling the area to redevelop and providing more certainty as to what activities could occur. However, it is also considered to be inconsistent with the timing of the Rolleston Town Centre Masterplan which identified this area as residential, with retail not filtering into the space until 15+ years. It is relevant to note that in the Rolleston Town Centre Master Plan, it was identified that the future of Markham Way would be determined by the land owners², which recognises previous requests from landowners to maintain their residential zoning.
- 4.12 It is also considered that the provision of additional commercial zoned land is not supported by the Selwyn Capacity Growth Model (SCGM) which indicated that there is no shortfall of business zoned land in the Rolleston Town centre in the next 10 years.
- 4.13 As mentioned above, Council is aware of the private covenants on the titles of these properties which seek to avoid anything other than residential dwellings from being erected on the properties. Legal advice provided to Council from their lawyers Adderley Head indicates that there is legally nothing preventing Council from rezoning these properties, however, the existence of the covenants may discourage developers from acting on the rezoning as they may face legal action from those parties of the covenant. There is also nothing legally preventing SDC from granting a resource consent for these properties as the covenants are between land owners and Council is not a party to them.

Budget and Time Implications:

- 4.14 As noted previously, given the evaluative nature of the s32 process that is required to determine the costs and benefits (and overall merit) of a rezoning proposal there is a risk that even after completing the site specific investigations, the s32 evaluations may not support rezoning (e.g. the costs outweigh the benefits). If Council decides to proceed with a rezoning consideration will then be required around whether it continues to fund the progression of any rezoning proposal and defend its inclusion in the Proposed District Plan through the submission, hearing and appeal stages of the DPR.
- 4.15 As well as taking on the evaluation costs and the costs of progressing through the DPR process Council will also be financing the development/upgrade of servicing infrastructure, if required. Although infrastructure provision is one of Councils core roles it is often provided in response to demand or a private plan change, where costs can be recouped with some confidence or

² Rolleston Town Centre Master Plan adopted April 2014, Executive Summary, last paragraph, Page 5.

met by a developer. If Council is to proactively zone then it will need to be prudent in its assessment of the demand for development of a 'business land' proposal to ensure that the cost of improving or developing new infrastructure can be recouped.

Risk:

- 4.16 Further to the above if any proactive zoning is promoted by Council then this is likely to generate submissions on the notified District Plan from other landowners not identified as having preferred sites for rezoning. The evaluation of these alternative submission sites (which are inevitable and which may also be potentially suitable for development) comes with substantial further costs in reviewing technical assessments and reporting on submissions. It is recognised that evaluating and responding to submissions will also be required in Options 1A and 1C. However in Option 1A Council will not have already undertaken the cost and time of promoting new business sites, as well as assessing others.
- 4.17 Whilst rezoning the land will provide more opportunities in terms of development, potential developments may impact on the current level of amenity for the residents in the surrounding zone. For example, the construction of a large permitted building near the boundary of an existing dwelling, or from the types of use and the associated effects of business activities. As demonstrated in **Appendix 1, Tables 1 and 3**, the permitted baseline for activities that can occur in the Town Centre is substantially different than that of a residential zone. Whilst most of these different business activities on the site would require resource consent, mainly for urban design reasons, noise limits, hours of operation and parking requirements are substantially different.
- 4.18 Given what we know in relation to the underlying land covenants, legal advice received from Adderley Head advises Council to take more conservative stance, being: If the covenants are removed by land owners in the future and there is a demand for additional commercial land in Rolleston, then rezoning should be considered.

Recommendation:

- 4.19 This option not be carried through into the Proposed District Plan.

Option 3 – Extend Transitional Living Overlay over entire area

- 4.20 This approach was the preferred approach endorsed for further investigation by the District Plan committee in December 2018. The Transitional Living Overlay (planning map notation) would be applied over the subject area and the underlying residential zoning retained. This approach is currently applied to Precinct 5 of the KAC's in Lincoln and Rolleston which are still zoned Living 1 but some of the rules have been relaxed to encourage business development.

Effectiveness in Addressing the Issue:

- 4.21 This approach is not inconsistent with the SCGM as the land would continue to be zoned residentially and would have no impact on Rolleston's business land capacity, as calculated by the SCGM. The Rolleston Town Centre Master Plan recognised the ongoing residential zoning of this residential enclave with retail activities filtering into the area in 15+ years, by applying

the Transitional Living Overlay other commercial activities could filter into the area earlier. This approach has already been undertaken in the Town Centre (Precinct 5), whereby rules have been relaxed to allow some types of commercial development to occur. However, given the location of Precinct 5 on Rolleston's future 'High Street', instead of development occurring within the existing residential dwellings, land owners are opting to completely redevelop sites which results in a more complex process than the transitional precinct current allows.

- 4.22 With this option, amenity is managed to a degree, specifically on adjoining residential properties through retention of those rules relating to built-form and nuisance, but relaxing provisions relating to business activities and scale. This approach still allows landowners to determine the future use of the site and if a house is to be removed and replaced with a commercial building it would be a controlled activity. The use of any site would also be restricted by the permitted activity standards.
- 4.23 As discussed earlier in this report it has come to Council's attention that there are underlying private land covenants on these properties which exist in perpetuity. The covenants seek to avoid anything other than residential dwellings from being erected on the properties. Legal advice provided to Council from their lawyers Adderley Head indicates that there is legally nothing preventing Council from altering the existing rules as they relate to these properties and nothing legally preventing SDC from granting a resource consent for these properties as the covenants are between land owners and Council is not a party to them. However the existence of the covenant may discourage land owners from implementing the provisions of the Transitional Living Overlay.

Risk:

- 4.24 The transitional overlay provisions are designed to allow the existing dwelling on the site to be used for commercial purposes, as opposed to existing dwellings being demolished and replaced on the site, therefore the transitional overlay is not in competition with the covenant, however, if parties purchased properties with the intention of creating a bespoke commercial development (like JP Singh's development on the corner of Tennyson and Markham) there may be legal action from residents to enforce the covenant.

Budget and Time Implications:

- 4.25 If Council decides to proceed with the overlay approach consideration will then be required around whether it continues to fund the progression of the proposal and defend its inclusion in the Proposed District Plan through the submission, hearing and appeal stages of the DPR.
- 4.26 As well as taking on the evaluation costs and the costs of progressing through the DPR process Council will also be financing the development/upgrade of servicing infrastructure, if required.

Recommendation:

- 4.27 This option not be carried through into the Proposed District Plan.

Option 4 – Relax home based occupation rules

- 4.28 This approach would retain the current residential zoning but take a different approach to achieve a similar outcome. Instead of creating additional rules to enable development, this approach would alter the proposed 'home business' provisions to allow 6 staff instead of 2. This would further restrict the types of activities that could establish in the existing dwellings because of the types of activities that are managed under the existing home business rule and would also go a step further in retaining residential amenity as it is intended that home based businesses are operated by people who are also living in the dwelling.

Effectiveness in Addressing the Issue:

- 4.29 This approach is not inconsistent with the SCGM as the land would continue to be zoned residentially and would have no impact on Rolleston's business land capacity. The Rolleston Town Centre Master Plan recognised the ongoing residential zoning of this residential enclave with retail activities filtering into the area in 15+ years, by applying the Transitional Zoning other commercial activities could filter into the area earlier.
- 4.30 With this option, amenity is managed to a degree, specifically on adjoining residential properties through retention of those rules relating to built-form and nuisance, but relaxing provisions relating to home business activities and scale. This approach still allows landowners to determine the future use of the site and if a house is to be removed and replaced with a commercial building it would require a resource consent. The use of any site would also be restricted by the permitted activity standards.
- 4.31 The underlying private land covenants seek to avoid anything other than residential dwellings from being erected on the properties and this approach would be the most consistent with the current covenants as the rules anticipate existing dwellings are used by existing residents to operate home businesses.

- 4.32 The draft provisions for home businesses are as follows:

RZ – R4	Home Business	
All zones	<p>Activity status: P</p> <p>Where:</p> <ol style="list-style-type: none"> 1. The home business shall have a maximum floor area of 40m² 2. At least one person engaged in the home business must use the residential unit as their principal place of residence. 3. No more than two persons who are not permanent residents of the site shall be employed on site at any one time. 4. The home business shall take place entirely within a building and no goods, 	<p>Activity status when compliance not achieved: RD</p> <p>Matters over which discretion is reserved:</p> <ol style="list-style-type: none"> 1. Effects on amenity values of the residential area. 2. Hours of operation. 3. Parking and access; safety, efficiency and impacts on street parking and neighbours.

	<p>materials or equipment shall be stored outside a building.</p> <p>5. Unloading or loading of vehicles or the receiving of customers or deliveries only occurs after 6.30am or before 6.00pm on any day.</p> <p>6. Machinery may be operated between 6.30am and 6.00pm on any day.</p>	
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And the following definition (as provided by the National Planning Standards is applicable):

home business	means an occupation, craft, service or profession that is secondary to the use of the site for a residential activity .
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If this approach was selected the proposed changes to the existing rule would look something like this:

RZ – R4	Home Business	
Residential properties with 'Rolleston KAC'	<p>Activity status: P</p> <p>Where:</p> <p>7. The home business shall have a maximum floor area of 40200m²</p> <p>8. At least one person engaged in the home business must use the residential unit as their principal place of residence.</p> <p>9. No more than twosix persons who are not permanent residents of the site shall be employed on site at any one time.</p> <p>10. The home business shall take place entirely within a building and no goods, materials or equipment shall be stored outside a building.</p> <p>11. Unloading or loading of vehicles or the receiving of customers or deliveries only occurs after 6.30am or before 6.00pm on any day.</p> <p>12. Machinery may be operated between 6.30am and 6.00pm on any day.</p>	<p>Activity status when compliance not achieved: <u>D</u></p>

4.33 The difference between this approach and the transitional overlay is that the scale of the activity is reduced, the business must occur within the existing dwelling, the residential

signage rules apply and there is a requirement for all carparking for the activity to be provided on site. This approach could be considered less restrictive in terms of the types of activities that are enable on the site as most things could be considered home based businesses as long as a resident lived on site. There are restrictions on industrial types home based activities.

Risk:

- 4.34 Further to the above if any proactive zoning is promoted by Council then this is likely to generate submissions on the notified District Plan from other landowners not identified as having preferred sites for the policy overlay to apply. The evaluation of these alternative submission sites (which are inevitable and which may also be potentially suitable for development) comes with substantial further costs in reviewing technical assessments and reporting on submissions. It is recognised that evaluating and responding to submissions will also be required in all Options discussed above.
- 4.35 There may be other properties in close proximity of town centre who would also appreciate the ability to operate a larger scale home business which could result in businesses being taken away from the KAC. The point of differentiation is that these properties are already located inside the previously determined Key Activity Centre.

Budget and Time Implications:

- 4.36 If Council decides to proceed with the rule change approach consideration will then be required around whether it continues to fund the progression of the proposal and defend its inclusion in the Proposed District Plan through the submission, hearing and appeal stages of the DPR. Please note this is the case with all other proposed plan provisions.

Recommendation:

- 4.37 This option not be carried through into the Proposed District Plan.

5.0 Conclusion

- 5.1 The Regional Policy Statement and Selwyn 2031 provide direction for strategic planning and management of KAC growth and outline opportunities and constraints for business development.
- 5.2 Whilst the DPR provides an opportunity for Council to consider rezoning the existing residential land within the existing Rolleston and Lincoln Key Activity Centres (KAC) where a shortfall in business capacity exists, there are significant costs involved in the investigations. Modelling demonstrates there is capacity in Rolleston.
- 5.3 Despite having some relaxed planning provisions for commercial development, the properties within the Transitional Living Overlay are still technically zoned residential therefore applying a commercial zoning would help meet this forecast shortfall in supply, but further strategic planning work should be undertaken (e.g. via a Master Planning and/or other processes) first

to determine the right zoning is applied to the right amount of land in the right locations. The review of the Town Centre Master Plan is scheduled to be in late 2019, and this will provide an opportunity to consider the future of the Rolleston KAC as a whole.

- 5.4 Maintaining 'status quo' removes the burden of Section 32 costs and potential inefficiencies from Council. The cost and risk is effectively left to the market to respond to opportunities and demand. This would give more surety that any proposal for rezoning is feasible as it is driven and paid for by the market and would also afford Council the time to consider through more strategic processes that supply and demand will align.
- 5.5 Owners and occupiers of the properties in question have indicated their preference is to retain their residential zoning, which Options 1, 3 and 4 enable and for their properties to not be subjected to a transition overlay, which Options 1 and 4 enable.
- 5.6 Although there is nothing legally preventing a rule change, zoning change or any resource consent being granted, the existence of the previously discussed covenants could prevent the any such rule or zone change from having the desired effect. Legal advice provided by Adderley Head indicated Council should take a conservative stance in this instance.

6.0 Recommendations

- 6.1 Based on the preceding assessment, the Project Team recommends that:

- 1. **Markham Way, Peel Close, Wilbur Close and Landon Common Properties (Rolleston KAC)**

- Option 1 – Main Status Quo

7.0 Next steps

- 7.1 If direction of the DPC is that status quo is to be maintained staff can develop an engagement plan to advise landowners of the opportunity to lodge a submission on the Proposed District Plan (and the associated information requirements).
- 7.2 Alternatively, if DPC seeks to proactively rezone as part of the notified Proposed District Plan then a further discussion will be required to be determine the scope of this work, impact on the DPR budget and timeframe for engagement and notification of the Proposed District Plan.

Appendix 1

Permitted Baseline – What the current District Plan provisions allow to occur on site as of right.

Table 1: Living 1 Rules

Rule	Permitted Standard	Notes
4.6 Buildings and building density	One dwelling and one family flat up to 70m ² in floor area.	
4.7 Buildings and site coverage	40%	Maximum site coverage does not apply to any buildings, tent, caravan, trailer or marquee erected for a temporary activity, provided the structure is removed within 2 days of the activity ceasing.
4.8 Building Height	Maximum height of 8m.	
4.9 Building Position	<p>Recession Planes The construction of any building which complies with the Recession Plane A requirements set out in Appendix 11;</p> <p>Setbacks <i>Dwelling or Principal Buildings</i> 2m internal 4m road <i>Garage: wall length 7m or less and vehicle door faces road</i> 1m internal 5.5m road <i>Garage: wall length greater than 7m and vehicle door faces road</i> 2m internal 5.5m road <i>Garage: wall length 7m or less and vehicle door faces internal boundary</i> 1m internal 2m road <i>Garage: wall length greater than 7m and vehicle door faces internal boundary</i> 2m internal 4m road <i>Accessory building wall length 7m or less</i> 1m internal 2m road <i>Accessory building wall length greater than 7m</i> 2m internal 4m road <i>Utility Structures</i> 0m internal 0m road</p>	<p>Where a garage is proposed on a corner site i.e. has two road frontages, only one wall may be located up to 2m from a road boundary, provided that that wall does not contain a vehicle door and is less than 7m in length. All other walls are to be set back at least 4m from the road boundary, with walls containing a vehicle door set back 5.5m from the road boundary.</p> <p>Setback do not apply to temporary activities</p>

4.10 Relocated Buildings	Relocated building is a garage or accessory buildings	
5.5 Vehicle parking and cycle parking	Car park complies with Appendix 13	
6.1 Outdoor signs	Sign relates to products or services sold on the site. Total number of signs on the site does not exceed 2 (include free standing signs) Sign does not exceed 1m ² in size	
9.1 Waste	Any activity, which is not a residential activity, which generates not more than 1 cubic metre of solid waste on average per week over a year, other than inert landfill, shall be a permitted activity.	
10.6 Noise	Any activity which is not a residential activity, spiritual activity or educational activity, shall be a permitted activity if the following noise limits are not exceeded within the time-frames stated. 6.30am – 8.00pm 50 dBA L ₁₀ 8.00pm – 6.30am 35 dBA L ₁₀ 6.30am – 8.00pm 85 dBA L _{max} 8.00pm – 6.30am 70 dBA L _{max}	Does not apply to sirens or warning devices associated with emergency service facilities.
10.8 Scale of Activities – Living Zone general	Any activity, which is not a residential activity, shall be a permitted activity if the following conditions are met: <i>10.8.1.1</i> No more than two full time equivalent staff employed on the site live off site, and <i>10.8.1.2</i> The gross floor area of any building(s) other than a dwelling does not exceed 300m ² , or in the case of any building used for spiritual activities does not exceed 500m ² , and <i>10.8.1.3</i> Vehicle movements do not exceed: State Highways, Arterial Roads and Collector Roads: 40 per day plus 4 heavy vehicle movements per day	Does not apply to temporary activities, existing schools or police stations. Does not apply to Precinct 5 (transitional living).

	Local Roads: 20 per day plus 2 heavy vehicle movements per day. (PC42) Except that a public Parking Area is a permitted activity in Precinct 6 (Rolleston Reserve) of the Rolleston Key Activity Centre.	
10.9 Hours of operation	Any activity, which is not a residential activity, shall be a permitted activity if the following conditions are met: <i>10.9.1.1</i> The employment of staff who are not resident on the site; and <i>10.9.1.2</i> Visits by customers, patrons, clients or other people to the site, who are not resident on the site shall only occur between the hours of 7:00am and 10:00pm on any day.	

Table 2: Living 1 (Transitional Zoning) (Precinct 5) – where varied from Table 1.

Rule	Permitted Standard		Notes
5.5 Vehicle parking and cycle parking	ACTIVITY	MINIMUM PARKING SPACES TO BE PROVIDED	In Lincoln, for Retail and Food and Beverage in Precinct 5, Table 13.1(a) applies.
	Retail	Nil spaces - no car parking required.	
	Commercial services		
	Offices		
	Any other activities	The number of car parks provided is to comply with the relevant requirements of Table 13.1(a) .	
19.1 Outdoor Signs (Business sign rules apply in Precinct 5)	The sign is erected on the site to which it relates The sign does not exceed the height of the building or structure to which it is attached The sign does not exceed 3m ² in area where it is not attached to a building		
10.8 Scale of Activities – Precinct 5	Any Commercial Services, Small Format Retail or Office Activities in Rolleston Precinct 5 (Transitional Living) within the Key Activity Centre identified in Appendix 29A and any Commercial Services or Office Activities in Lincoln Precinct 5 (Transitional		Does not apply to temporary activities, existing schools or police stations.

	<p>Living) within the Key Activity Centre identified in Appendix 29B, if the following conditions are met:</p> <p>10.8.2.1</p> <p>(a) No more than six full time equivalent staff employed on the site live off the site; and</p> <p>(b) The gross floor area of any building(s) does not exceed 300m².</p>	
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Table 3: Business 1 (Rolleston KAC)

Rule	Permitted Standard	Notes
13.2 Status of Activities	<p>Small format retail</p> <p>Large format retail</p> <p>Supermarkets</p> <p>Department Stores</p> <p>Offices</p> <p>Food and Beverage</p> <p>Drive through facilities</p> <p>Commercial Services</p> <p>Furniture and Lighting Outlets</p> <p>Public Transport and Parking facilities</p> <p>Community Facilities</p>	<p>In Precincts 1 and 8</p> <p> *Residential Activities are Non-complying</p>
16.1.1 Buildings	Any principle building is permitted subject to the Rules conditions	<p>In Precincts 1 to 4, 7 and 8</p> <p>Defaults to a controlled activity under the Urban Design Rules 16.12</p>
16.5 - Buildings and Site Coverage	No maximum site coverage	
16.6 - Building height and reflectivity	Maximum height of a building is 15 metres, and 25 metres for a structure.	Precincts 1 and 8
16.7 - Building and Building Position	<p>In Precinct 2 (Retail Fringe) at Rolleston as identified in Appendix 29A:</p> <ul style="list-style-type: none"> • Rolleston Drive - 3 metres; • Boundaries where Precinct 2 adjoins any Living Zone - 12 metres (the 12 metre setback shall be measured from the Living Zone boundary, except where that boundary is a road boundary.) <p>16.6.2.2 In Precinct 3 (Office) at Rolleston as identified in Appendix 29A, a 10 metre setback from Rolleston Drive applies.</p>	<p>No setback in Precincts 1 and 8.</p> <p>Recession Plains Apply</p>

	16.6.2.3 In Precinct 4 (Commercial Fringe) at Rolleston as identified in Appendix 29A , a 3 metre setback from Rolleston Drive applies	
16.8 Relocated Buildings	Permitted subject to conditions	
16.9 Small Scale Commercial developments	<p>16.9.1 In the Business 1 zone, developments comprising:</p> <ul style="list-style-type: none"> (a) one or more new commercial buildings, and/or (b) commercial building additions, and/or (c) conversion of all or part of an existing dwelling for commercial use.... <p>16.9.1.2 Except for c) above, at least 50% (by length) of each building frontage which fronts or directly faces on-site public space, or a road or other area where the public have a legal right of access, shall be installed and maintained as active commercial frontage; and</p> <p>16.9.1.3 The maximum height of any fence between any building façade and the street or a private Right of Way or shared access over which the allotment has legal access, shall be 1m; and</p> <p>Except for c) above, every building adjoining or within 3m of a road boundary shall be provided with a verandah to the following standards:</p> <ul style="list-style-type: none"> (a) Verandahs shall be set at least 0.5m behind the kerb face; and (b) Verandahs shall have a minimum depth 3m except where this would entail a breach of rule a, above; and (c) Verandahs shall extend along the entire frontage of the building facing the road boundary, and shall adjoin verandahs on adjacent buildings 	
22.4 Noise	Any activity conducted on any day, except any residential activity, shall be a permitted activity, provided that the following noise limits are not exceeded with the time-frames stated.	

	<p>Business 1, 1A & 3 Zones (with the exception of the West Melton Business 1 Zone):</p> <p>22.4.1.1</p> <p>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:</p> <table><tr><td>6.30am – 8.00pm</td><td>60 dBA L10</td></tr><tr><td>8.00pm – 6.30am</td><td>45 dBA L10</td></tr><tr><td>6.30am – 8.00pm</td><td>85 dBA Lmax</td></tr><tr><td>8.00pm – 6.30am</td><td>70 dBA Lmax</td></tr></table> <p>22.4.1.2</p> <p>Noise assessed within a Living zone or within the notional boundary of any dwelling within any Rural zone:</p> <table><tr><td>6.30am – 8.00pm</td><td>55 dBA L10</td></tr><tr><td>8.00pm – 6.30am</td><td>40 dBA L10</td></tr><tr><td>6.30am – 8.00pm</td><td>85 dBA Lmax</td></tr><tr><td>8.00pm – 6.30am</td><td>70 dBA Lmax</td></tr></table>	6.30am – 8.00pm	60 dBA L10	8.00pm – 6.30am	45 dBA L10	6.30am – 8.00pm	85 dBA Lmax	8.00pm – 6.30am	70 dBA Lmax	6.30am – 8.00pm	55 dBA L10	8.00pm – 6.30am	40 dBA L10	6.30am – 8.00pm	85 dBA Lmax	8.00pm – 6.30am	70 dBA Lmax	
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6.30am – 8.00pm	85 dBA Lmax																	
8.00pm – 6.30am	70 dBA Lmax																	
22.5.1 Light spill	<p>The following activities shall be permitted activities:</p> <p>22.5.1.1</p> <p>Any fixed, exterior lighting if it is directed away from adjacent properties and roads.</p> <p>22.5.1.2</p> <p>Any other lighting if it does not exceed:</p> <p>(a) 3 lux spill (horizontal or vertical) on to any part of any adjoining property in a Living zone or within the notional boundary of any dwelling within any Rural zone; and</p> <p>(b) 10 lux spill (horizontal or vertical) on to any part of any adjoining property within the same Business zone.</p> <p>(c) 3 lux spill (horizontal or vertical) on to any part of any adjoining property in the Rural zone which has a common boundary with either the Business 2A Zone as depicted on the Outline Development Plan at Appendix 22, or the Business 2B Zone as depicted on the Outline</p>																	

	Development Plan for ODP Area 5 at Appendix 37 .	
22.6.1 Screening and dust	Outdoor storage of materials is permitted if the area is screening from a road or internal living zone boundary by a 1.8 m high fence, wall, or vegetation.	
Table E13.1(a): Minimum Parking spaces to be provided	3.5 spaces per 100sqm GFA 2.5 spaces per 100sqm GFA 0.8 spaces per 100sqm GFA	For Retail, Food and beverage, commercial services, trade suppliers and furniture and lighting outlets. For Offices Residential Activities
Table C24.1: Subdivision	No average allotment size	