

Plan Change A:

Removal of Opening Hour Rules for Activities Involving the Sale of Alcohol

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Palmerston North City District Plan

Proposed District Plan Change A: Removal of Opening Hour Rules for the Sale of Alcohol

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Part I - Proposed Plan Change

1 Description of the Proposed Plan Change

Proposed District Plan Change A (PPCA) proposes to remove references to hours of operation for the sale of alcohol within the entirety of the District Plan. The change results from the development of the draft Palmerston North Local Alcohol Policy (LAP) under the Sale and Supply of Alcohol Act 2012 (SSAA).

The standards for hours of operation for activities involving the sale of alcohol was included in the District Plan when it was prepared in 1995. In 2011 the Business Zones section of the District Plan was reviewed, and these standards were carried through. Subsequent to the 2011 Business Zone review, the SSAA was introduced.

The SSAA includes specific hours of operation for the sale and supply of alcohol, but also allows for local authorities to develop a LAP. An LAP can include specific alcohol opening hours, and must be taken into account by District Licencing Committees when processing alcohol licence applications.

In 2017 the Palmerston North City Council began development of its LAP. Section 93 of the SSAA provides instruction on how local authorities are to deal with conflicts between hours of operation set out in a LAP and any hours of operation set out in a District Plan. Through the development of the draft LAP, PNCC discovered that the provisions in the District Plan would cause difficulties in developing a comprehensive and holistic LAP. As a result of this and submissions received in late 2017, PNCC made the decision to halt development of the LAP until the potential conflict caused by the District Plan provisions could be resolved.

The object of the SSAAct is set out in section 4 and states:

(1) The object of this Act is that –

- (a) The sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and*
- (b) The harm caused by the excessive or inappropriate consumption of alcohol should be minimised.*

(2) For the purposes of subsection (1), the harm caused by the excessive or inappropriate consumption of alcohol includes –

- (a) Any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and*
- (b) Any harm to society generally or the community, directly or indirectly causes, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a)*

In summary, the purpose of the SSAA is aimed around the managing the social and health effects of the sale and consumption of alcohol. In comparison, the purpose of the Resource Management Act is to promote the sustainable management of natural and physical resources.

The relevant effects of the sale of alcohol when considered in the context of the purpose of the RMA is restricted to the management of noise levels from the site. Social and off-site effects from the sale

of alcohol such as general disorder, disturbance, violence and property damage are not effects that the RMA and District Plan are tasked to manage. Given that the District Plan already contains noise standards, and bearing in mind the different purposes of these Acts, it is considered that the most appropriate mechanism for managing the hours of operation for activities involving the sale of alcohol are those provided for in the SSAA, rather than the District Plan under the RMA.

No new objectives, policies or rules are proposed, rather a removal of all references to hours of operation for the sale of alcohol within the performance standards in the rules of the District Plan is proposed.

2 Proposed amendments to the District Plan

2.1 Business Zones

1. Delete Rule 11.6.1.1(g) from Section 11 Inner Business Zone Rules as follows:

~~Hours of Operation for Activities Involving the Sale of Alcohol~~

- ~~i. Any activity involving the sale of alcohol for consumption on or off the premises, where the site on which it is located fronts or adjoins a site in the Residential Zone, must comply with the following hours of operation:
Sunday to Thursday 7:00 am to 1:00 am the following morning
Friday and Saturday 7:00 am to 3:00 am the following morning~~
- ~~ii. Any activity involving the sale of alcohol for consumption on or off the premises, where the site on which it is located does not front to or adjoin a site in the Residential Zone, must comply with the following hours of operation:
Monday to Sunday 7:00 am to 3:00 am the following morning~~
- ~~iii. The requirements contained in (i) and (ii) above must not apply to any lodger or employee of a licensee (as defined by the Sale of Liquor Act 1989) who is, for the time being, living in any premises where the sale of alcohol occurs.~~
- ~~iv. Nothing in (i) and (ii) above must affect the sale or supply of alcohol pursuant to, and in accordance with, any special licence granted under the Sale of Liquor Act 1989.~~

~~Explanation~~

~~Where alcohol is sold or consumed there is the potential for disturbance to arise from excessive noise particularly late at night. While the Sale of Liquor Act 1989 controls some of the effects of this through restrictions on hours of operation, decisions emerging from the use of that Act mean that it is appropriate to back it up with restrictions in the District Plan. It is of particular importance where sites involved in the sale or consumption of alcohol are close to residential areas.~~

2. Delete Rule 11.9.1.1(i) from Section 11 Outer Business Zone Rules as follows:

~~Hours of Operation for Activities Involving the Sale of Alcohol~~

~~Compliance with Rules 11.6.1.1(g).~~

3. Delete Rule 11.10.2.1 (g) from Section 11 Local Business Zone as follows:

~~Hours of Operation for Activities Involving the Sale of Alcohol~~

~~Any activity involving the sale of alcohol for consumption on or off the premises shall comply with the following maximum hours of operation:~~

- ~~— Sunday — Thursday 7.00 am to 11.30 pm~~
- ~~— Friday and Saturday 7.00 am to 1.30 am the following morning~~

4. Delete Rule 11.11.5.1 (g) from Section 11 Fringe Business Zone as follows:

~~Hours of Operation Involving the Sale of Alcohol~~

~~Compliance with Rule 11.6.1.1(g).~~

2.2 **Industrial Zone**

1. Delete Rule 12.4.1(i) from the Industrial Zone (as amended by PC15A-H) as follows:

~~Hours of Operation Involving the Sale of Alcohol~~

~~Compliance with Rule 11.6.1.1(g).~~

2.3 **Consequential Changes**

1. Make consequential changes, including numbering changes, as a result of the deletion of performance standards, including Rules 11.10.3.1, 11.10.2.2(h), 11.11.6.5(iv), 12.6.4 and 12.8.2.

Part II - Section 32 Report

1 INTRODUCTION

1.1 This report provides a summary of the evaluation undertaken by the Palmerston North City Council (the Council) in accordance with Section 32 of the Resource Management Act 1991 (RMA or the Act) in relation to Proposed District Plan Change A: Removal of Opening Hour Rules for the Sale of Alcohol (PDPCA) to the operative Palmerston North City District Plan (the District Plan or the Plan). PDPCA is not part of the Palmerston North City Sectional District Plan Review; rather it is a standalone plan change.

1.2 The report should be read in conjunction with the proposed amendments to the District Plan in Part 1 of this report, and the accompanying expert report and research supporting the proposed plan change, Appendix 2.

1.3 This report is structured in six parts:

Part 1: Introduction

The purpose of Proposed District Plan Change A
An overview of the District Plan requirements under the Resource Management Act 1991
Background to Proposed District Plan Change A

Part 2: Regulatory and Policy Context

Current District Plan approach
Proposed changes to the District Plan
Supporting documents and expert reports
Record of consultation on proposed plan change

Part 3: Evaluation of Alternatives and the Preferred Option

Examining whether the proposed plan change is the most appropriate way to achieve the purpose of the Resource Management Act 1991

Part 4: Implementation of Preferred Option: Removal of Rules

Examining the appropriateness of the proposed removal of rules

Part 5: Statutory Evaluation and Summary

List of Abbreviations

1.4 The following is a list of abbreviations referred to throughout the report:

- PDPCA – Proposed District Plan Change A: Removal of Opening Hour Rules for the Sale of Alcohol
- RMA or the Act – Resource Management Act 1991
- SSAA – Sale and Supply of Alcohol Act 2012
- The Council or PNCC – Palmerston North City Council
- The District Plan – Palmerston North City District Plan
- Local Alcohol Policy - LAP

The Purpose of PDPCA

1.5 The primary purpose of PDPCA is to remove reference to opening hour rules for activities involving the sale of alcohol from the District Plan. This change is as a result of the SSAA, which enables

Council to develop a LAP to prescribe controls relating to licensing alcohol sales. The SSAA and a LAP is considered the best mechanism to manage opening hours for the sale of alcohol. The removal these references also addresses the potential for conflict between the LAP and the District Plan.

Statutory Requirements under the RMA

- 1.6 **The Purpose of the RMA** – The purpose of the RMA is to promote the sustainable management of natural and physical resources. Section 5(2) of the Act states:

*“In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enable people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while –*

- a. Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- b. Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- c. Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

- 1.7 **Section 32 of the RMA** – The 2013 Resource Management Act amendments have altered the requirements under section 32 of the RMA which now states:

“(1) An evaluation report required under this Act must -

- (a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and*
- (b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by -*
 - (i) identifying other reasonably practicable options for achieving the objectives; and*
 - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
 - (iii) summarising the reasons for deciding on the provisions; and*
- (c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*

(2) An assessment under subsection (1)(b)(ii) must -

- (a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for -*
 - (i) economic growth that are anticipated to be provided or reduced; and*
 - (ii) employment that are anticipated to be provided or reduced; and*
- (b) if practicable, quantify the benefits and costs referred to in paragraph (a); and*
- (c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

- (5) *The person who must have particular regard to the evaluation report must make the report available for public inspection -*
- (a) *as soon as practicable after the proposal is made (in the case of a standard or regulation); or*
 - (b) *at the same time as the proposal is publicly notified.*
- (6) *In this section, objectives means -*
- (a) *for a proposal that contains or states objectives, those objectives:*
 - (b) *for all other proposals, the purpose of the proposal*
- proposal means a proposed standard, statement, regulation, plan, or change for which an evaluation report must be prepared under this Act.*
- provisions means -*
- (a) *for a proposed plan or change, the policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change;*
 - (b) *for all other proposals, the policies or provisions of the proposal that implement, or give effect to, the objectives of the proposal.”*

- 1.8 Section 32 stipulates the content and evaluation necessary prior to notification. The evaluation report focuses only on those parts of the District Plan where changes are being proposed. In this instance, the proposed changes are the deletion of a number of rules. On that basis, a full assessment is included in this report.
- 1.9 Section 32AA requires Council to undertake a further evaluation if any further changes are proposed prior to making a decision on a plan change, for example, in response to submissions received. This further evaluation must be cited at any subsequent hearing.
- 1.10 **Functions of District Councils** – The Council has statutory functions under section 31 of the RMA, which include the establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district.
- 1.11 **The Purpose of District Plans** – The purpose of a district plan under section 72 of the RMA is to assist territorial authorities to carry out their functions in order to achieve the purpose of the Act.
- 1.12 **Preparation of District Plans** – Section 73 states that there must be at all times one district plan for each district prepared by the Council in a manner set out in the First Schedule of the Act.
- 1.13 **Matters to be Considered by Territorial Authorities** – The matters to be considered by a district council when preparing or changing its district plan are set out in section 74 of the Act. This requires councils to act in accordance with its functions under section 31, the provisions of Part 2, and its duty under section 32. Section 74(2) also sets out a number of other matters Council shall have regard to including plans and strategies prepared under other acts. Importantly, section 74(3) states that when preparing a change to a district plan a territorial authority must not have regard to trade competition.

Background to PPCA

- 1.14 The performance standards relating to the hours of operation for activities involving the sale of alcohol were included in the first-generation District Plan in 1995. When the Business Zones were reviewed in 2011, these provisions were carried through.

- 1.15 As set out in the report attached in Appendix I, the SSAA was passed in December 2012. This legislation provided the ability for Council's to develop a LAP. This policy must be taken into account by District Licensing Committees when they make decisions on whether to grant or refuse a new or renewed license.
- 1.16 A LAP provides the ability to set different maximum trading hours than that set in the SSAA, taking into consideration each District and recognising any location specific issues. A LAP is not restricted to zoning as provided in District Plans, and can consider the residential interface for sites located adjacent to but not within the Residential Zone.
- 1.17 The current District Plan includes maximum trading hours for activities involving the sale of alcohol. To address this potential conflict, section 93 of the SSAA states:
- (1) A local alcohol policy may contain a policy more restrictive than the relevant district plan.*
- (2) A local alcohol policy does not authorise anything forbidden by the relevant district plan.*
- 1.18 In summary, this allows a LAP to set hours more restrictive than hours set out in the District Plan, but not more permissive than hours set in the District Plan.
- 1.19 The purposes of the SSAA and the Resource Management Act differ and seek to manage different issues and effects. The SSAA seeks to manage the social and health effects of the sale, supply and consumption of alcohol, while the RMA seeks to sustainably manage natural and physical resources.
- 1.20 Retaining provisions in the District Plan is likely to result in potential confusion between which regulatory mechanism is controlling the hours of operation, especially when differing hours of operation are set out. With respect to the RMA, the only effect of opening hours for activities involving the sale of alcohol requiring control under the District Plan is noise.
- 1.21 In developing the draft LAP in 2017, Council identified a potential problem and inconsistency between the District Plan and any future LAP. In considering all legislation it is considered that managing trading hours for the sale of alcohol is best managed through the mechanisms in the SSAA rather than the RMA. This will avoid the potential for conflict between a LAP and the District Plan. It will also enable the future development of a LAP to be undertaken in a considered manner and avoid potential conflicts in operation hours. Noise effects from activities involving the sale of alcohol will continue to be managed by the existing noise standards in the District Plan.
- 1.22 It is also noted that the existing rules in the District Plan have not resulted in any improvement to managing the effects of the sale of alcohol. This has largely been done through alcohol licencing. In addition, no consents have been issued for activities seeking to operate beyond the hours currently set in the District Plan.

2 REGULATORY AND POLICY CONTEXT

Current District Plan Framework

- 2.1 **Section 2: City View Resource Management Issues and Objectives** – The overarching resource management issues and objectives for the City are outlined under Section 2 of the District Plan. These Issues and Objectives establish the intent of the Plan at the strategic level. The strategic approach set out by the City View section provides a basis and direction for the identification of lower level and more specific resource management issues, objectives, policies and methods for the specific zones in the District Plan.

- 2.2 The City View Issues and Objectives were reviewed and updated as part of Plan Change 8. There are no City View issues or Objectives that are directly applicable to the proposed change.
- 2.3 **Section 11: Business Zones** – The existing Business Zone Sections of the District Plan seek to promote the efficient use of physical resources, protect amenity values within the zone, promote the hierarchy of the various business zones, and avoid, remedy or mitigate effects of activities within the zone on the use of the City’s infrastructure and physical resources.
- 2.4 The only references to hours of operation for activities involving the sale of alcohol within the various Business Zones of the District Plan are performance standards contained in the rules for each Business Zone within Section 11. This method is not supported or guided by any Objectives or Policies.
- 2.5 The performance standards for hours of operation for activities involving the sale of alcohol are included in all business zones, those being the Inner Business Zone, Outer Business Zone, Local Business Zone and the Fringe Business Zone. The operation of an activity involving the sale of alcohol not meeting these performance standards in any of the Business Zones is a Discretionary Activity.
- 2.6 The section 42A reports associated with the review of the Business Zone provisions in 2011 noted that the purpose of the performance standards was to manage the potential disturbance arising from excessive noise and social effects. The report also noted that District Plan rules relating to opening hours is not the primary mechanism to control the effects of alcohol consumption. Other mechanisms available at the time of the Business Zones review were mechanisms under the Sale of Liquor Act 1989, which was replaced by the SSAA in 2012.
- 2.7 **Section 12: Industrial Zone** – The existing Industrial Zone Section of the District Plan seeks to promote the efficient use of physical resources, enable development and growth of industry which is not unduly impeded by incompatible land uses and maintain or enhance the amenity values of those areas which interface with the Industrial Zone.
- 2.8 The only reference to hours of operation for activities involving the sale of alcohol within the Industrial Zone of the District Plan is performance standard Rule 12.6.1(i) of Section 12. This method is not supported or guided by any Objectives or Policies. The operation of an activity involving the sale of alcohol not meeting this performance standard in the Industrial Zone is a Discretionary Activity.

Proposed Changes to the District Plan

- 2.9 PDPCA involves the removal of performance standards restricting the hours of operation for activities including the sale of alcohol. Changes are proposed to ensure a consistent approach to setting of hours by enabling these to be set under a future LAP. Given the differing purposes of the SSAA and the RMA, it is considered that a LAP under the SSA is the correct mechanism for managing operating hours for the sale of alcohol.
- 2.10 A copy of the Business and Industrial sections of the District Plan with all proposed changes is included in Appendix 1.

Chronology

- 2.11 The following outlines the key milestones in preparing the Proposed Plan Change to date:

July 2017 Council approved the draft LAP for public consultation.

October 2017	Oral submissions to the draft LAP heard.
December 2017	Council – Community Development Committee meeting – recommendation made to initiate a District Plan change to remove reference to hours of trade invoking the sale of alcohol and to suspend the development of the LAP until this plan change is completed.
May – July 2018	Preparation of the PDPCA and corresponding Section 32 report.
June 2018	Meeting with Liquor Liaison Group to discuss proposed plan change.
July 2018	Consultation on Draft Plan Change with key stakeholders and Iwi

Consultation with key stakeholders

- 2.12 The Liquor Liaison Group includes licensees, policy, hospitality representatives, public health and various interested stakeholders. Consultation with this group and the wider public on the draft LAP was undertaken between July and October 2017.
- 2.13 A presentation to the Liquor Liaison Group was made on 20 June 2018, to discuss the proposed changes to the District Plan. To date no feedback has been received from this group.
- 2.14 A letter was sent out to stakeholders involved in the 2017 LAP process on 4 July and a meeting with Iwi to discuss the plan change was held on 5 July 2018. Questions of clarification were received from some of the stakeholders to the 2017 LAP process was received. These included questions around the reasons for the proposed change and management of opening hours in the time between the change to the District Plan and implementation of an LAP. These were responded to by Mr Ridge.
- 2.15 It is worth noting that as part of the review of the Business Zones in 2011, one submission was received which requested changes to the closing times for activities involving the sale of alcohol. Paragraph 4.241 of the planner's report noted that the purpose of the District Plan rules restricting the hours of operation related to managing the potential disturbance from excessive noise. The submitter in this case noted that social effects such as general disorder, violence, disturbance to passers-by and property damage also occur. The planners report noted that the District Plan rules relating to opening hours are not the primary regulatory mechanism to control the effects of alcohol consumption, but are a back up to the rules set out in what was then the Sale of Liquor Act 1989. At the time of this submission and zone review, the planner noted that it was not possible to engage expert evidence in response, and taking into account the significant implications associated with the submission, on balance it was recommended that the status quo was retained.
- 2.16 To date, no further comments have been received from stakeholders or those parties consulted with as required by clause 3 of Schedule 1 of the RMA.

Supporting evidence

- 2.17 In considering and preparing PDPCA the Council commissioned the technical report '*Report on Development of the Palmerston North Local Alcohol Policy*' (see Appendix 2).
- 2.18 Other relevant documents of the City Council have also been considered, including:
- Connected Community Strategy (2018)
 - City Development Strategy (2018)

2.19 The key findings of these reports are outlined below.

Report on Development of the Palmerston North Local Alcohol Policy

2.20 A report has been prepared on the development of the Palmerston North LAP by Mr Peter Ridge, Policy Analyst at Palmerston North City Council. Mr Ridge has been leading the development of Council's draft LAP to date. The report contains discussion on the SSAA, background, preparation and consultation on the draft LAP.

2.21 Mr Ridge advises that the SSAA enabled Council to develop a LAP which prescribes certain elements relating to licencing of alcohol sales, including setting different maximum trading hours than that provided in the Act.

2.22 The current District Plan also sets maximum trading hours for activities involving the sale of alcohol. The SSAA manages conflict between the LAP and the District Plan in section 93.

2.23 The inclusion of maximum operating hours for activities involving the sale of alcohol was introduced into the 1995 District Plan, with the following explanation:

2.24 *"Where alcohol is sold or consumed there is the potential for disturbance to arise from excessive noise particularly late at night. While the Sale of Alcohol Act 1989 controls some of the effect of this through restrictions on the hours of operation, decisions emerging from the use of that Act mean that it is appropriate to back it up with restrictions in the District Plan. It is of particular importance where sites involved in the sale or consumption of alcohol are close to residential areas".*

2.25 Mr Ridge notes that at the time of this inclusion in the District Plan, there was discussion around whether the District Plan was the most appropriate regulatory instrument to address social issues. The section 32 report for the 1995 District Plan contained no analysis of this resource management issue.

2.26 In 2011, the Business Zone section was reviewed and as a result of a submission on this matter, discussion was had over the effects over which these rules are seeking to manage. The s42a report noted that any decision on this matter will be finely balanced between promoting social and economic enablement while protecting the health and safety of the community. The report states:

2.27 *"It has not been possible, or appropriate, to engage expert evidence upon which to base a recommendation in respect of this submission. The request has wider social, economic and cultural implications for the community. Taking account of the significant implications involved with the request; the supporting function of the rule in the wider management of the sale of alcohol; and the lack of stakeholder engagement with the issue through the Plan Change process, on balance it is recommended that the status quo is retained".*

2.28 Mr Ridge goes onto note that the purpose of the Act is to promote the sustainable management of natural and physical resources, and its primary purpose is not to manage social issues resulting from the use of natural and physical resources. It is noted that District Plans seeks to manage effects at a site-specific level, and are not well suited to manage off-site effects regulating to general disorder, disturbance, violence and property damage.

2.29 The District Plan includes noise standards which apply to all activities within a zone. These are to manage noise effects on neighbours at a site level but are unable to address off-site effects such as general disorder, disturbance, violence and property damage associated with anti-social behaviour. For these reasons, Mr Ridge considers that the District Plan is not the appropriate regulatory instrument to manage off-site social issues associated with activities involving the sale of alcohol. Mr

Ridge further notes that the Palmerston North City District Plan is one of the very few District Plans in the country that contains controls on hours of operation for activities involving the sale of alcohol.

Relevant Council Documents

- 2.30 The following provides a general outline of the relevant Council documents and strategies that have also informed PPCA.

Connected Community Strategy (2018) To fulfil the vision of *small city benefits, big city ambition*, the Connected Community Strategy has been developed to achieve Goal 3: A connected and safe community,

Priority 4 of the Strategy is to *become a city where people feel safe and are safe*. The Strategy notes the following:

"The Council is committed to increasing and promoting safety in a range of areas, including the design of public spaces, city streets, readiness for natural disaster, alcohol-related harm and family/whanau well-being."

PDPCA aligns with the Connected Community Strategy by ensuring the most appropriate regulatory instrument is used to manage the sale and supply of alcohol in the city. The development of a LAP under the SSAA seeks to manage the social and health effects of the sale, supply and consumption of alcohol. In the regard, the focus of the SSAA responsive than the RMA which seeks to sustainably manage natural and physical resources.

City Development Strategy (2018) – The City Development Strategy had been developed to achieve the goal of developing an innovative and growing city. It aspires for Palmerston North to be a city that *"is clever about the way it uses its natural resources to encourage and support innovation, entrepreneurship and new industries, and positions itself to take advantage of change to fuel sustainable growth, prosperity and wellbeing"*. It has a target of 12,000 more jobs in Palmerston North by 2028.

PDPCA will ensure businesses have certainty regarding the regulatory pathway when applying for an alcohol license. This will contribute to achieving the goal of a growing city.

3 EVALUATION OF ALTERNATIVES AND THE PREFERRED OPTION

Introduction

- 3.1 A key matter referred to in section 32(3)(a) is that a proposed plan change must be assessed in terms of whether it is the most appropriate way to achieve the purpose of the Act.
- 3.2 Appropriateness means the suitability of any particular alternative in achieving the purpose of the RMA. To assist in determining whether the alternative (i.e. regulation or other methods) is appropriate, then the effectiveness and efficiency of the alternative should be considered.
- 3.3 Section 32 of the Act sets out a methodology for assessing changes to a Plan, with a focus on the consideration of alternatives, benefits and costs. In considering the alternative methods, it is necessary to consider different planning methods to achieve the purpose of the Act, including retaining the status quo, non-regulatory methods and the proposed plan change.

3.4 This part of the report identifies the alternatives considered as part of the plan change. The following two options are evaluated:

1. Retain the status quo;
2. Plan change as proposed.

Alternative One: Retain the status quo

Retain Status Quo	
Retain the existing regulatory framework of performance standards within rules restricting the hours of operation involving the sale of alcohol contained in the operative District Plan for all the Business Zones and the Industrial Zone.	
Benefits	Costs
<ul style="list-style-type: none"> • Provides a continuation of the existing District Plan approach which has a level of familiarity for Plan users. • Avoids the costs associated with preparing and implementing new District Plan provisions. 	<ul style="list-style-type: none"> • Potential conflict between the existing District Plan provisions and any future LAP restricts the ability of Council to appropriately manage operating hours of activities involving the sale of alcohol. • Managing hours of operation through two different mechanisms has increased costs for parties undertaking activities involving the sale of alcohol. • Potential confusion of requirements of activities involving the sale of alcohol and which document has precedent. • Retaining the District Plan potentially results increased costs of the preparation of and consultation on any future LAP given the potential conflicting provisions of the District Plan. • Council would not be meeting its function under section 31(1)(a) to review objectives, policies and methods to achieve integrated management of the effects of the use and development of land and physical resources of the district.
<p>Efficiency: The costs associated with this option outweigh the benefits and therefore the status quo is not considered to be an efficient alternative. The costs associated with this option create conflict between the two documents. This option would not enable a holistic view or approach to the development of a LAP.</p>	
<p>Effectiveness: This option is not effective as it would create potential conflict between any future LAP prepared by Council, and result in uncertainty of which mechanism is best to manage this issue and which provisions have priority. Noise from sites will continue to be controlled by the existing noise provisions of the District Plan. A LAP is considered to be the most effective method for controlling hours of operation for the sale of alcohol because it enables a holistic approach to manage the sale and supply of alcohol for Palmerston North. The reliance on two documents under two separate legislation results in ineffectiveness. As such, this option does not present an effective alternative.</p>	
<p>Opportunities for Economic Growth and Employment: This option has a negative impact in terms of economic growth and employment. Conflicts between the provisions of the District Plan and the LAP will create uncertainties as to what opening hours are permitted. Historical liquor licences obtained under the SSAA or its predecessor could be in direct</p>	

<p>conflict with the District Plan, creating uncertainty around enforcement of District Plan provisions. This could see potential businesses hesitate to develop in the City and increase the cost of doing business in the city.</p>
<p>Risk of acting or not acting if there is uncertain or insufficient information: There is sufficient information regarding the proposed change. Considerable work has been undertaken by Council in preparation of the draft LAP. Given the provisions of section 93 of the SSAA, which provides guidance on conflicts between LAPs and District Plans, it is considered that removing conflicts between various statutory documents warrants change. To retain the existing provisions would mean potential conflicts that are not necessary, given the ability of a LAP to adequately cover this issue. A more holistic approach to the sale and supply of alcohol can be achieved under the SSAA rather than the RMA. Retaining these provisions in the District Plan is not considered an appropriate planning response.</p>
<p>Appropriateness: This option is no longer appropriate in terms of the Council's functions and responsibilities under the RMA. The effects of the sale of alcohol to be managed by the RMA, being noise, is already managed through other rules within the District Plan. The status quo will not ensure best planning practice for controlling the effects associated with the operating hours for the sale of alcohol.</p>

Alternative Two: Plan Change as proposed

Plan Change as proposed	
Remove the existing regulatory framework of performance standards within rules restricting the hours of operation involving the sale of alcohol contained in the operative District Plan for all the Business Zones and the Industrial Zone.	
Benefits	Costs
<ul style="list-style-type: none"> The removal of these rules ensures the most appropriate mechanism manages the hours of operation for activities involving the sale of alcohol, that being a LAP prepared under the SSAA. Removes potential conflict between the District Plan and the draft LAP, which creates more certainty for local businesses and the community with respect to maximum opening hours. Reduced costs of managing operating hours for the sale of alcohol as it would be controlled under one mechanism rather than two 	<ul style="list-style-type: none"> The costs of formulating and implementing changes to the District Plan and preparing a plan change. Removal of a rule in the District Plan that businesses understand.
<p>Efficiency: The benefits associated with this option outweigh the costs and therefore the plan change, as proposed, is the preferred option. PDPCA is considered to be an appropriate amendment to remove the rules restricting operating hours of activities involved in the sale of alcohol. The change will result in efficiency through managing operating hours through the more appropriate mechanism, being a LAP under the SSAA. A LAP is considered to be the more appropriate mechanism as it will provide for the more holistic management of the sale and supply of alcohol and manage social and off-site effects not controlled by the District Plan. It will remove potential conflict and provide greater certainty and subsequently efficiency for business owners and the community.</p>	
<p>Effectiveness: The provisions of PDPCA are considered to be effective in enabling a change in how operating hours for the sale of alcohol are managed and ensure that the most appropriate mechanism is used for its purpose. It will be effective in that it removes potential conflict between any future LAP and the District Plan, while still managing the hours of operation effectively</p>	

Opportunities for Economic Growth and Employment

This option has a positive impact in terms of economic growth and employment. Potential conflicts between the provisions of the District Plan and the LAP will be removed which will create greater certainty for business and the community.

Risk of acting or not acting if there is uncertain or insufficient information:

There is sufficient information regarding the proposed change. Considerable work has been undertaken by Council in preparation of the draft LAP. Given the provisions of section 93 of the SSAA, it is considered that removing potential conflicts between various statutory documents warrants change. To retain the existing provisions would mean continued potential conflicts that are not necessary, given the ability of the LAP to cover this issue. Removing these provisions in the District Plan is considered an appropriate planning response.

Appropriateness:

The removal of these provisions is considered to be the most appropriate way to achieve the purpose of the Act and to fulfil Council's statutory obligation to ensure that a District Plan sustainably manages the natural and physical resources of the City. Specifically, the effects that these rules sought to control are off-site social effects, which are not well controlled by the District Plan. Managing the opening hours through a LAP is considered to be the most appropriate legislative mechanism. On-site noise from these activities will continue to be managed through the existing noise standards in the District Plan which are not proposed to be changed.

As detailed in the assessment above, there are a number of benefits to removing the opening hours for activities involved with the sale of alcohol. As such, these changes are considered to be the most appropriate option.

4 IMPLEMENTATION OF THE PREFERRED OPTION: OBJECTIVES, POLICIES AND RULES

Introduction

- 4.1 Under Section 32(1)(b), the RMA requires an assessment of the extent to which each objective is the most appropriate to achieve the purpose of the Act. The RMA has an overarching single purpose of sustainable management. The intention of PDPCA is to ensure the District Plan is consistent with the purpose of the Act. The application of section 5 of the Act involves an overall broad judgment of whether a proposal will promote the sustainable management of natural and physical resources.
- 4.2 Under Section 32(3)(b) of the RMA the Council must examine whether, having regard to the efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives of the plan change.

Assessment of Proposed Objectives and Policies – Business Section and Industrial Section

- 4.3 There are currently no Objectives or Policies within the District Plan which are relevant to controlling the hours of sale of alcohol. No changes or new objectives or policies are proposed as part of this plan change. This is due to PDPCA proposing to remove all control of the hours of sale of alcohol from the District Plan. For the reasons above, it is considered inappropriate to retain performance standards when there are no objectives or policies to provide guidance to their implementation.

Appropriateness of Rules to Achieve Objectives

- 4.4 The PDPCA proposes to remove all rules restricting the hours of the sale of alcohol. The following table provides an assessment of this option and whether it is the most appropriate to achieve the purpose of the Act.

Key Provisions	Rule Provisions
<p>Rule 11.6.1.1(g)</p> <p>Hours of Operation for Activities Involving the Sale of Alcohol</p> <p>Inner Business Zone</p>	<p>Hours of Operation for Activities Involving the Sale of Alcohol</p> <p>i. Any activity involving the sale of alcohol for consumption on or off the premises, where the site on which it is located fronts or adjoins a site in the Residential Zone, must comply with the following hours of operation: Sunday to Thursday 7:00 am to 1:00 am the following morning Friday and Saturday 7:00 am to 3:00 am the following morning</p> <p>ii. Any activity involving the sale of alcohol for consumption on or off the premises, where the site on which it is located does not front to or adjoin a site in the Residential Zone, must comply with the following hours of operation: Monday to Sunday 7:00 am to 3:00 am the following morning</p> <p>iii. The requirements contained in (i) and (ii) above must not apply to any lodger or employee of a licensee (as defined by the Sale of Liquor Act 1989) who is, for the time being, living in any premises where the sale of alcohol occurs.</p> <p>iv. Nothing in (i) and (ii) above must affect the sale or supply of alcohol pursuant to, and in accordance with, any special licence granted under the Sale of Liquor Act 1989.</p> <p>Explanation Where alcohol is sold or consumed there is the potential for disturbance to arise from excessive noise particularly late at night. While the Sale of Liquor Act 1989 controls some of the effects of this through restrictions on hours of operation, decisions emerging from the use of that Act mean that it is appropriate to back it up with restrictions in the District Plan. It is of particular importance where sites involved in the sale or consumption of alcohol are close to residential areas.</p>
<p>11.9.1.1(i)</p> <p>Hours of Operation for Activities Involving the Sale of Alcohol</p> <p>Outer Business Zone</p>	<p>Hours of Operation for Activities Involving the Sale of Alcohol</p> <p>Compliance with Rules 11.6.1.1(g).</p>
<p>Rule 11.10.2.1 (g)</p> <p>Hours of Operation for Activities Involving the Sale</p>	<p>Hours of Operation for Activities Involving the Sale of Alcohol</p> <p>Any activity involving the sale of alcohol for consumption on or off the premises shall comply with the following maximum hours of operation:</p> <p>Sunday Thursday 7.00 am to 11.30 pm</p>

<p>of Alcohol</p> <p>Local Business Zone</p>	<p>Friday and Saturday 7.00 am to 1.30 am the following morning</p>
<p>11.11.5.1 (g)</p> <p>Hours of Operation for Activities Involving the Sale of Alcohol</p> <p>Fringe Business Zone</p>	<p>Hours of Operation Involving the Sale of Alcohol</p> <p>Compliance with Rule 11.6.1.1(g).</p>
<p>Rule 12.4.1(i)</p> <p>Hours of Operation for Activities Involving the Sale of Alcohol</p> <p>Industrial Zone</p>	<p>Hours of Operation Involving the Sale of Alcohol</p> <p>Compliance with Rule 11.6.1.1(g).</p>
<p>Alignment with Objectives</p>	
<p>Purpose: There are no objectives or polices or other methods in the District Plan which seek to control the operating hours of activities involving the sale of alcohol, or reference to managing any effects of these activities. The purpose of the RMA and District Plan is to manage natural and physical resources, such as noise. It is considered that noise is sufficiently managed through separate noise standards in the District Plan. In light of the discussion regarding the appropriateness of managing these activities through the LAP rather than the District Plan, it is considered that the deletion of these rules meets the purpose of the RMA and the District Plan.</p> <p>Consequential changes to performance standard numbering in Rules 11.6.1.1, 11.9.1.1, 11.10.2.1, 11.11.5.1 and 12.6.1.</p> <p>Benefits and Costs: The benefits of the proposed change outweigh the costs, as hours of operation for the sale of alcohol will be managed through a future LAP. Given the differing purposes of the SSAA and the RMA, a LAP is considered to be the more appropriate mechanism. The change will ensure that environmental effects such as noise are managed under the RMA and social effects such as general disorder, disturbance, violence and property damage are managed under the SSAA.</p> <p>Risks: The changes are not considered to result in any risks. Hours of operation will be managed under a future LAP and the SSAA. Noise will continue to be managed by the existing noise standards under the District Plan. There is sufficient information to make the proposed changes. The risks involved with not making the change relate to the ability of PNCC to the prepare a holistic LAP and the potential conflict between two documents managing the same activity differently.</p> <p>Efficiency and Effectiveness: The proposed changes are efficient in that they enable hours of operation for activities involving the sale of alcohol to be managed by a more appropriate legislative mechanism, being a LAP developed under the SSAA. The management of noise will</p>	

continue to be managed under the District Plan as an effect to be managed under the RMA.

Reasonably Practicable Alternatives: The main alternative options considered include:

- Retaining the rules in the District Plan as currently stated.

5 STATUTORY EVALUATION

5.1 The purpose of the Act (Section 5(1)) is to promote the sustainable management of natural and physical resources. Enabling people to make provision for their social, economic and cultural well-being and health and safety, is qualified by the goals described in paragraphs (a), (b) and (c) of Section 5(2) as follows:

- (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) *Safeguarding the life supporting capacity of air, water, soil and ecosystems; and*
- (c) *Avoiding, remedying, mitigating any adverse effects of activities on the environment.*

Section 5 Purpose of the Act

5.2 With respect to this plan change, section 5(c) is considered to be most relevant. This plan change proposes to remove performance standards from rules which are not considered to be a meaningful way to manage the adverse effects of activities on the environment. The proposed changes remove consideration of the operation hours of activities involving the sale of alcohol, to a more appropriate mechanism, that being the LAP under the SSAA. Consideration of amenity effects in the form of noise will continue to be controlled under the District Plan as is considered appropriate. Overall, the PPCA is considered consistent with promoting the purpose of the Act.

Section 6 Matters of National Importance

5.6 Section 6 of the Act identifies matters of national importance for consideration. No matters of national importance are considered relevant to PPCA. Overall, PPCA is considered to have regard to these matters, as required by Section 6 of the Act.

Section 7 Other Matters

5.7 Section 7 raises a number of related matters, with respect to:

- (b) *The efficient use and development of natural and physical resources;*
- (c) *The maintenance and enhancement of amenity values; and ...*
- (f) *Maintenance and enhancement of the quality of the environment.*

5.8 While the explanatory note in the District Plan to these provisions advises that the intent is to manage amenity effects of the sale of alcohol, specifically noise, activities involving the sale of alcohol will still be subject to the existing noise standards contained in the various sections of the Plan. It is considered that these provisions will ensure that amenity values and the quality of the environment are maintained. Social effects are considered to be best dealt with through the L, as allowed for by the SSAA. PDPCA is therefore considered to have particular regard to these matters, as required by Section 7 of the Act

Section 8 Treaty of Waitangi

- 5.9 PDPCA does not affect the principles of the Treaty of Waitangi. Overall, the proposal is considered to be consistent with Section 8 of the Act.

Other Matters to be considered

- 5.10 The Act requires consideration to also be given to other statutory documents where these are relevant. Those documents include:

- Any National Policy Statement;
- Any National Environmental Standards;
- New Zealand Coastal Policy Statement;
- Regional Policy Statement;
- Regional Plans;
- Plans of adjacent territorial authorities;
- Relevant management plans under other statutes;
- Relevant planning documents recognised by an iwi authority.

PCA shares no relationship with the statutory documents listed above.

Horizons Regional Council

- 5.11 The provisions of the One Plan are not considered to be relevant to this plan change. Therefore, overall it is considered that PPCA is consistent with the objectives and policies in the One Plan.

Summary

- 5.12 On the basis of the above assessment, and with reference to other discussion and assessment in this Report, the proposed changes presented in PPCA are consistent with Council's statutory obligations under the Act.
- 5.13 This plan change will enable the community to provide for their social, economic and cultural wellbeing.
- 5.14 This evaluation has been undertaken in accordance with Section 32 of the Act in order to identify the need, benefits and costs arising from PPCA and the appropriateness of the proposed approach having regard to its effectiveness and efficiency relative to other means of achieving the purpose of the Act. The evaluation demonstrates that the proposed plan change meets the requirements of Section 32 of the Act.

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PLEASE NOTE: ONLY THOSE PARTS OF THE SECTION AFFECTED BY THE PROPOSED PLAN CHANGE HAVE BEEN SUPPLIED

Explanation

The Council has, through its Sustainable City Strategy, Urban Design Strategy and Economic Well-Being Strategy, made a commitment to encourage energy efficiency and the use of renewable energy. With respect to the Inner Business Zone, this may be in the form of new development incorporating sustainable and energy efficient building design principles, and the use of renewable energy sources for space and water heating, and electricity generation. This may involve using passive design principles such as considering the orientation of openings to assist with solar heating, screening and shade cooling, and natural light and ventilation. Many of these activities may not require resource consent, but the Council recognises its responsibilities in terms being a role model and advocate to encourage the use of renewable energy and energy efficiency.

OBJECTIVE 9

To retain and protect heritage buildings and areas, and respect the setting of heritage items and identified heritage areas in the Inner Business Zone.

POLICIES

- 9.1 To identify heritage areas that include groups of buildings, structures, spaces and other features which collectively have historic heritage.
- 9.2 To protect buildings, structures, spaces and other features that contribute to the value of heritage areas from demolition, destruction or relocation.
- 9.3 To maintain and enhance the heritage values, qualities and character of identified heritage areas.
- 9.4 To ensure additions and alterations to existing buildings, any new buildings or subdivision do not compromise the context, setting and streetscape value of adjacent heritage buildings and areas, through the management of building bulk and height.

Explanation

The Council has recognised the city centre as a heritage resource. The Plan contains methods that give greater recognition to heritage buildings and areas by ensuring new development does not compromise the context, setting and streetscape value. In particular, the North West Square Heritage Area recognises the importance of retaining this distinctive area in order to enrich the public built environment and enhance the special character of the City. The Heritage Area provisions protect the heritage values of existing groups of buildings and ensures that new development contributes to the qualities and values of the heritage area.

11.6 Inner Business Zone Rules**11.6.1 RULES: PERMITTED ACTIVITIES****R11.6.1.1 Permitted Activities**

Any Activity Except For:

- Those Specified as Restricted Discretionary Activities or Discretionary Activities
- Offensive Activities, Industrial Activities, Crematoria and Residential Development at Ground Floor Level which are Non-Complying Activities

is a Permitted Activity, provided that the following performance standards are complied with:

Performance Standards**(a) Lighting****Car Park Lighting**

- i. All external car parking areas must provide lighting designed and installed in accordance with the P11a lighting subcategory of AS/NZS Standard 1158.3.1:2005.
- ii. Designated external car parking spaces specifically intended for people with disabilities must

provide lighting designed and installed in accordance with the P12 lighting subcategory of AS/NZS Standard 1158.3.1:2005.

- iii. All internal car parking building areas must provide internal lighting designed and installed in accordance with AS/NZS Standard 1680.2.1:2008.

Pedestrian Lighting

- iv. All verandas must provide pedestrian lighting designed and installed in accordance with the P2 lighting subcategory of AS/NZS Standard 1158.3.1:2005.
- v. All public and private pedestrian routes must provide pedestrian lighting designed and installed in accordance with the P2 lighting subcategory of AS/NZS Standard 1158.3.1:2005.

Negative Effects of Exterior Lighting

- vi. All exterior lighting must be designed and installed to ensure compliance with AS Standard 4282.

White Light

- vii. All exterior lighting must use “white light” sources.

Explanation

The lighting rules are designed to ensure that places available for public use are safely illuminated, and that the amenity of residential dwellers in any zone is reasonably protected. In all cases, the Council will seek to ensure public space is safely illuminated and that adverse effects of glare from lighting sources are appropriately managed.

(b) Storage Areas

Explanation

Storage areas and particularly those used for the storage of waste, can detract from the visual amenity of public areas such as footpaths, roadways or reserves. While servicing might occur at the street edge, waste and storage areas should not be visible. If small areas are required for servicing or storage, these should be enclosed within the building.

- i. No outdoor storage areas are permitted at the street edge.
- ii. No outdoor or indoor storage areas are permitted to be visible from the street edge.

(c) Loading and Access

- i. Compliance with R20.3.8.1, Loading Standards.
- ii. Compliance with R20.3.9.1, Access Standards.

(d) Vehicle Parking

- i. Compliance with R20.3.7.1, Parking Spaces for People with Disabilities.
- ii. Compliance with R20.3.7.4, Maximum Parking Provision Standards for the Inner Business Zone.
- iii. Compliance with R20.3.7.6, Formation of Parking Spaces.

(e) Car Park Landscape Design

Compliance with R20.3.7.5, Car Park Landscape Design.

NOTE TO PLAN USERS

Most activities in the Inner Business Zone are not required to provide on-site vehicle parking, but where parking is provided compliance is required with R20.3.7.1, R 20.3.7.4, R20.3.7.5, R 20.3.7.6, R20.3.8.1, and R20.3.9.1.

(f) Signs

Compliance with R6.1.5.1

Explanation

Signs are essential to the city's commercial character and activity. They communicate information, add vitality and provide a sense of direction. However, while they can enhance the cityscape, they can also diminish it. Advertising signs can be categorised into those that identify the building or activity; advertising related to the activity on the site; and 'third party advertising' signs. If related to the activity, signage can assist with way finding, and contribute to user understanding of the city. If not, like third party advertising, signage can compromise legibility, and risks visual cacophony.

(g) Hours of Operation for Activities Involving the Sale of Alcohol

- i. Any activity involving the sale of alcohol for consumption on or off the premises, where the site on which it is located fronts or adjoins a site in the Residential Zone, must comply with the following hours of operation:
 - Sunday to Thursday — 7:00 am to 1:00 am the following morning
 - Friday and Saturday — 7:00 am to 3:00 am the following morning
- ii. Any activity involving the sale of alcohol for consumption on or off the premises, where the site on which it is located does not front to or adjoin a site in the Residential Zone, must comply with the following hours of operation:
 - Monday to Sunday — 7:00 am to 3:00 am the following morning
- iii. The requirements contained in (i) and (ii) above must not apply to any lodger or employee of a licensee (as defined by the Sale of Liquor Act 1989) who is, for the time being, living in any premises where the sale of alcohol occurs.
- iv. Nothing in (i) and (ii) above must affect the sale or supply of alcohol pursuant to, and in accordance with, any special licence granted under the Sale of Liquor Act 1989.

Explanation

Where alcohol is sold or consumed there is the potential for disturbance to arise from excessive noise particularly late at night. While the Sale of Liquor Act 1989 controls some of the effects of this through restrictions on hours of operation, decisions emerging from the use of that Act mean that it is appropriate to back it up with restrictions in the District Plan. It is of particular importance where sites involved in the sale or consumption of alcohol are close to residential areas.

(g) Hazardous Substances

Compliance with the provisions of Section 14 Hazardous Substances.

(h) Noise

Compliance with R11.6.6.1.

NOTE TO PLAN USERS

Also refer to: R23.7.1(i) – Radiofrequency Field Exposure.

R11.6.1.2 Construction, External Alteration or Addition to a Building

The Construction, External Alteration or Addition to a Building is a Permitted Activity provided the following Performance Standards are complied with:

NOTE TO PLAN USERS

Plan users are advised to check the Schedule of Buildings and Objects of Cultural Heritage Value to ensure that the building is not subject to the additional provisions of the Cultural Heritage Section. In the North West Square Heritage Area all new buildings, any external alteration or addition to an existing building are Restricted Discretionary Activities – see R11.6.2.5.

of any future redeveloped area within the adjacent Outer Business Zone area identified in Figure 11.2. (Policy 7.4)

11.9 Outer Business Zone Rules

11.9.1 RULES: PERMITTED ACTIVITIES

R11.9.1.1 Permitted Activities

Any activity is a Permitted Activity except for:

- Those specified as Controlled Activities, Restricted Discretionary Activities or Discretionary Activities;
- Offensive Activities which are Non-Complying Activities.

provided that the following performance standards are complied with:

Performance Standards

(a) Maximum Number of Retail Activities Below 300m² of Merchandising Area

- i. Not more than one retail activity having a Merchandising Area below 300m² is permitted per site or development.
- ii. Performance standard (i) does not apply to:
 - Prepared Food and Beverage Outlets;
 - Restaurants;
 - Automotive and Marine Suppliers;
 - Service Stations;
 - Floor Covering Showrooms;
 - Building Suppliers;
 - Auction Rooms;
 - Farming and Agricultural Suppliers;
 - Garden and Patio Suppliers;
 - Office Product Suppliers;
 - Trade Suppliers; and
 - Retail Ancillary to Industrial or Commercial Service Activities.

Explanation

The Outer Business Zone provides for a diverse range of activities, including small scale convenience and general merchandising retail. The purpose of the performance standard is to provide for the continued operation of small scale retail activities while discouraging development which could lead to the creation of a comparison shopping retail node similar in scale and pedestrian focus to the Inner Business Zone.

(b) Lighting

- i. Compliance with R11.6.1.1(a) (i), (ii), (v), and (vi).
- ii. Car park lighting may be turned off 30 minutes after the last business served by the car park closes.

Explanation

The Outer Business Zone shares an extensive interface with the Residential Zone. The Plan seeks to manage the negative effects of exterior lighting on residential activities in all zones by avoiding light spill, glare, and other potentially obtrusive effects of exterior lighting.

(c) Storage Areas

- i. Any outdoor storage area visible from any residential zone or public area will be screened from view by either a fence or wall of not less than 1.8 metres in height or dense planting of vegetation capable of growing 1.8 metres in height.
- ii. No storage area or yards are permitted at the street edge.

Where any area is used for the outdoor storage of goods it must comply with the following:

- iii. All activities must accommodate the storage of goods, materials, and waste products in a manner that does not conflict with vehicle access, manoeuvring, and parking.
- iv. Any outdoor storage area must be maintained with an all-weather dust free surface.
- v. No outdoor storage area must encroach onto the required parking, loading or planting areas.

Explanation

Outdoor storage areas and particularly those used for the storage of waste, can detract from the visual amenity of neighbouring residential properties or public areas such as footpaths, roadways or reserves. Suitable screening and well maintained storage areas mitigate effects associated with rubbish and dust in storage areas. Screening of such areas should ensure that the standard of amenity experienced in the Outer Business Zone and in nearby residential areas does not deteriorate.

(d) Loading and Access

- i. Compliance with R20.3.8.1, Loading Space Standards.
- ii. Compliance with R20.3.9.1, Access Standards.

(e) Vehicle Parking

- i. Compliance with R20.3.7.1, Parking Spaces for People with Disabilities.
- ii. Compliance with R20.3.7.3, Parking Provision Standards for the Outer Business Zone.
- iii. Compliance with R20.3.7.6, Formation of Parking Spaces.

(f) Car Park Landscape Design

Compliance with R20.3.7.5, Car Park Landscape Design.

(g) Servicing and Loading Hours

Any Permitted Activity situated on any site which adjoins any part of a site in a residential zone or directly faces any part of a site in a residential zone, across a road, right-of-way, access strip, service lane or drain must only undertake the delivery of goods, product, waste or material and/or the distribution of goods, products or materials between 6:00 am and 10:00 pm.

Except that this rule must not apply where:

- i. On-site road access and manoeuvring area for vehicles involved in the delivery and/or distribution of goods, products or materials are located at least 80 metres from the boundary of the nearest property in a residential zone; and

- ii. Loading and unloading areas for vehicles involved in the delivery and/or distribution of goods, products or materials are located at least 80 metres from the boundary of the nearest property in a residential zone.

Explanation

Where properties in residential zones come in close contact with business areas these properties can be adversely affected by night-time delivery, distribution, and loading activities. For example, noise from idling vehicles or the opening and closing of doors. By controlling servicing and loading hours at the residential interface, it should be possible to reduce the disturbance to nearby residential neighbours.

(h) Signs

Compliance with R6.1.5.1

~~**(i) Hours of Operation for Activities Involving the Sale of Alcohol**~~

~~Compliance with R11.6.1.1 (g).~~

(i) Hazardous Substances

Compliance with the provisions of Section 14 Hazardous Substances.

(j) Noise

Compliance with R11.9.7.1.

NOTE TO PLAN USERS

Also refer to:

R23.7.1 (i) – Radiofrequency Field Exposure.

R11.9.1.2 Construction, External Alteration or Addition to a Building

The Construction, External Alteration or Addition to a Building is a Permitted Activity provided the following Performance Standards are complied with:

NOTE TO PLAN USERS

Plan users are advised to check the Schedule of Buildings and Objects of Cultural Heritage Value to ensure that the building is not subject to the additional provisions of the Cultural Heritage Section.

Performance Standards

(a) Maximum Floor Area

- i. The construction of all buildings with a total gross floor area of up to 500m² are permitted.
- or
- ii. In respect to existing buildings, any external additions or alterations involving an additional total gross floor area of up to 500m² are permitted.

Explanation

The Plan has taken a targeted approach and applied design principles to larger developments. Once a building exceeds 500m², the scale of a building rapidly increases. In this regard, a 500m² maximum floor area has been set so that urban design matters can be taken into account when assessing resource consents for larger buildings.

(b) Maximum Building Height

- i. Any buildings or structures must comply, in terms of maximum height, with R20.4.11.1.
- ii. The maximum permitted height of a building is 12 metres, except that roof-top services and plant rooms may extend to a maximum height of 15 metres.
- iii. Except at any boundary adjoining a site in a residential zone, the maximum height of any

contributes to the quality and attractiveness of the wider street environment.

11.10.2 RULES: PERMITTED ACTIVITIES

R11.10.2.1 Permitted Activities

Any activity is a Permitted Activity except for:

- Those specified as Controlled Activities, Restricted Discretionary Activities or Discretionary Activities
- Offensive Activities, Industrial Activities, Crematoria and Residential Accommodation at Ground Floor Level which are Non-Complying Activities

Provided that the following Performance Standards are complied with:

Performance Standards

(a) Lighting

- i. Compliance with R11.6.1.1(a)(i)(ii),(iv),(v) and (vi)
- ii. Car park lighting may be turned off no earlier than 30 minutes after the last activity served by the car park ceases.

(b) Screening

- i. A solid close-boarded fence or wall of not less than 1.8 m in height shall be erected on any boundary that adjoins a residential or recreational zone site;
- ii. Any area used for the outdoor storage of products, goods, materials or waste shall be screened along any boundary fronting or adjoining a residential or recreation zone property or the road by a close-boarded fence or wall of not less than 1.8 m in height; this shall also be applied to gating across a vehicle access point.

(c) Signs

Compliance with R6.1.5.1.

(d) Hazardous Facilities

Compliance with the provisions of Section 14 Hazardous Substances.

(e) Size of Function

No single business activity within an existing building shall exceed 300m² gross floor area.

(f) Residential Accommodation (excluding additions and alterations to existing dwellings).

- i. No residential accommodation shall be located at the ground floor level.
- ii. Residential accommodation shall not be the dominant activity on the site.
- iii. Non-habitable accessory buildings that are ancillary to residential accommodation are permitted at the rear of the building and shall not exceed 10m².

Explanation

A specific performance standard for residential accommodation has been included to allow for the mixed use of land zoned Local Business within the City. The intention of the performance condition is to recognise the need to provide for on-site accommodation at a scale which will not compromise the primary intent of the Local Business Zone to provide a convenient service to, or employment for, the surrounding community. Residential accommodation above the ground floor level also contributes a sense of visual presence and scale to a centre, natural surveillance and visual interest after dark whilst remaining in keeping with the surrounding residential areas.

(g) Hours of Operation for Activities Involved in the Sale of Alcohol

Any activity involving the sale of alcohol for consumption on or off the premises shall comply with the following maximum hours of operation:

Sunday – Thursday — 7:00 am to 11:30 pm

Friday and Saturday — 7:00 am to 1:30 am the following morning

(g) Parking, Loading and Access

Compliance with Rules:

- 20.3.7.1 Parking Spaces for People with Disabilities;
- 20.3.7.3 Parking Provision for the Outer Business Zone
- 20.3.7.5 Car Park Landscape Design;
- 20.3.7.6 Formation of Parking Spaces;
- 20.3.8.1 Loading Space Standards;
- 20.3.9.1 Access Standards.

(h) Servicing and Loading Hours

Compliance with R11.9.1.1 (g).

(i) Noise

Compliance with R11.10.7.1.

Explanation

The intention of the Local Business Zone is to create a situation where a wide variety of activities can establish and provide a convenient service to, or employment for, the surrounding community. There will however be some effects which arise as the result of these activities which could have significant negative impacts on adjoining residential areas.

The rules detailed above are intended to control those adverse effects, e.g. the objectionable overspill of light, while leaving sufficient flexibility to encourage a wide range of activities. The limited area of most Local Business Zones and the necessity for them to still provide convenient local retailing means that it is important that one area is not taken up by a single activity. This has resulted in Council introducing a control over the amount of the area a single activity may take up in the Local Business Zone.

NOTE TO PLAN USER

Also refer to:

R23.7.1(i) – Radiofrequency Field Exposure.

R20.4.10.2 – Restricted Discretionary Activities – Drive Through Facilities

R11.10.2.2 The Construction, Alteration of, or Addition to Buildings

The construction, alteration of, or addition to buildings and structures is a Permitted Activity except for:

- Those specified as Restricted Discretionary Activities, Discretionary Activities or Non Complying.

Provided that the following Performance Standards are complied with:

Performance Standards**(a) Maximum Floor Area**

- i. The construction of all buildings with a maximum total gross floor area of 50m² are permitted.
- ii. In respect of existing buildings, the permitted size of any external alteration or addition is no more than 50m² or 20% of the existing gross floor area, whichever is smaller.

Explanation

It is not inherently problematic for buildings to be constructed over this size and they are not to be discouraged. The intention of this rule is to act as a trigger to apply discretionary provisions to a development that exceeds this size. It is anticipated that as the size of a building increases, the potential effects increase, therefore this trigger gives Council the opportunity to apply a higher level of scrutiny and assessment criteria on these developments to ensure good outcomes are achieved that suit the environment they locate within. It also helps to ensure that a diverse range of activities is achieved in the Local Business Zone while avoiding a large activity crowding out a locally focused mix of activities.

(b) Building Height

- i. Any building or structure or part of a building or structure, built on any part of a site which adjoins a residential zone site, must comply with the residential height recession plane contained in R10.6.1.1(a).
- ii. All other structures must not exceed 9 m in height.
- iii. Subject to (ii) above, all structures shall comply with the requirements of R20.4.11.1.

(c) Ground Floor Height

The permitted ground floor height of any building is to be not less than 1.3 times the floor to floor height of upper floors, and is to extend the full width of the frontage and back a distance of not less than 12 metres, or the depth of the building, whichever is the lesser.

(d) Separation Distances

- i. Any building on a site which adjoins any part of a residential or recreational zone site will be located at least 3 metres from the common boundary.
- ii. Any building built to the frontage of a Local Business Zone site is also permitted to be built up to the side boundary adjoining a residential zone site for a distance of up to 15 metres back from the frontage.

(e) Building Frontages

- i. Maximum Width:
 - The permitted maximum width of any ground floor level tenancy shall not exceed 7 metres.
- ii. Positioning:
 - a. Within areas identified as Large Neighbourhood Centres, all buildings are to be built to the front boundary of a site along no less than 50% of the street boundary.
 - b. Within those areas identified as Small Neighbourhood Centres and Local Stores all buildings shall be built entirely to the front boundary.
 - c. Within those areas identified as Variant Business Centres, there is no requirement to build to the front boundary.
 - d. All buildings required to be built to the front boundary shall provide at least one pedestrian entrance at the street.

(f) Verandas

- i. Within Large Neighbourhood Centres, Small Neighbourhood Centres and Local Stores, verandas will be constructed along the full length of any building frontage facing a street whether the building is built to the street edge or setback from it and will be connected to any adjoining verandas.
- ii. Verandas will be setback 600mm from the face of the kerb of any road carriageway or car parking area.
- iii. Within Variant Business Centres, a veranda is not required along the length of the building frontage, a cover over all main pedestrian entrances will be provided that covers the width of the entrance

opening for a depth not less than 2 metres.

(g) Shop fronts and Glazing

- i. Large Neighbourhood Centres, Small Neighbourhood Centres and Local Stores
 - All buildings shall have clear glazing for 75% of the height of the ground floor frontage and for no less than 75% of the ground floor frontage width.
 - Maximum length of a blank wall along a frontage shall be no greater than 3 metres.
 - No roller shutters are permitted along a retail frontage at any time.
- ii. Variant Business Centres
 - Maximum allowed width of a shop front is 15 metres.
 - All tenancies shall have clear glazing for 75% of the height of the ground floor frontage and for no less than 50% of the ground floor frontage width.
 - Maximum length of a blank wall along a frontage shall be no greater than 6 metres.

NOTE TO PLAN USERS

The rules contained within R11.10.2.2(e) (ii), (f) and (g) that relate to Variant Business Centres are subject to the limitations identified within the definition for Variant Business Centre in Section 4, Definitions.

(h) Parking, Loading and Access

Compliance with R11.10.2.1(hg).

(i) Ground Level Parking

Compliance with R11.9.1.2(h).

Explanation

Buildings in the Local Business Zone are usually quite different in size and style to those in the surrounding, mainly residential area. It is important therefore, that at the residential interface the size and general bulk of buildings is constrained to make them compatible with the adjoining dwellings. This also ensures there are minimal effects on overall amenity values. Where dwellings are built within the Zone it is important that they enjoy a good amenity standard to ensure they still represent a reasonable living environment.

(j) Landscape Amenity

Compliance with R11.9.1.2(i) with the following exceptions:

- a. Street Frontage
 - Any building that is not built to the street frontage must provide at least one specimen tree for every 7 metres of site frontage, and a 2 metre deep planting strip for any length of un-built frontage greater than 5 metres.
- b. Perimeter Planting
 - An amenity strip of not less than 1.5 metres shall be provided along the boundary of any site which shares a common boundary with a residentially zoned site except where a building is allowed up to an adjoining boundary under R11.10.2.2 (d).

Explanation

For the purposes of interpreting R11.10.2.2(j), with regard to the bullet point under (a) above is to replace the first two bullet points under R11.9.1.2(i)(i) Street Frontage. With regard to the bullet point under (b) above, this is to replace the first bullet point under R11.9.1.2(i)(v) Perimeter Planting. All other provisions under R11.9.1.2(i) are to be applied as written with no exceptions.

Landscaping is an important contributor to the provision and maintenance of adequate amenity at the interface between the Local Business Zone and neighbouring residential, recreational, or conservation and amenity areas. In addition to its amenity contribution, landscaping also provides a useful technique for mitigating adverse effects through, for example,

softening the appearance of development (e.g. monotonous building form, parking areas); separating activities; and providing form, scale and texture that complement development.

NOTE TO PLAN USERS

In relation to frontage planting the performance conditions can be met by: the planting of trees at a frequency of one per seven metres along the site frontage; or alternatively group planting the required number of trees at some point(s) along the frontage.

11.10.3 RULES: RESTRICTED DISCRETIONARY ACTIVITIES

R11.10.3.1 Activities which do not comply with the Permitted Activity Performance Standards

Activities which do not comply with the Permitted Performance Standards (in R11.10.2.1) in relation to:

- (a) Lighting
- (b) Screening
- (c) Size of Function
- (d) Residential Accommodation
- (e) Vehicle Parking
- (f) Loading and Access
- (g) Car Park Landscape Design
- (h) Servicing and Loading Hours.

are Restricted Discretionary Activities with regard to:

- Effects on residential amenity
- Effects on viability and choice of Local Business activities
- Public Safety
- Visual amenity
- Internal amenity
- Street edge amenity
- The safe and efficient operation of the roading network
- The provision of car parking
- Efficient, convenient and safe access.

Determination Clause

In determining whether to grant consent and what conditions to impose, if any, Council will, in addition to the City View objectives in Section 2, and the overarching Business Zone and Local Business Zone objectives and policies, assess any application in terms of the assessment criteria below. Also, where a proposal fails to comply with R11.10.2.1(e), Size of function, then as well as assessing the non-compliance against R11.10.3.1(c), the Council will also assess any application under the remaining relevant assessment criteria in R11.10.3.1(a),(b) and (e) to (h). Where a proposal fails to comply with one of R11.10.2.1(a) to (d) and (f) to (j), only the assessment criteria triggered by the specific non-compliance will be assessed.

Assessment Criteria

(a) Lighting

The assessment criteria contained in R11.6.2.1(a)

(b) Screening

The assessment criteria contained in R11.6.2.1(b) and

- i. The extent to which outdoor storage areas are sited and designed so that the visual amenity and the quality of streetscape is maintained.
- ii. The extent to which outdoor storage areas are sited and designed to allow for the unfettered operation of access, parking, loading and manoeuvring areas for vehicles.

Explanation

The Local Business Zone shares an extensive interface with the Residential Zone. Because the range of activities and the form of development within the Local Business Zone is so diverse, variations to the way outdoor storage areas are provided may be considered. However, it is critical that the visual amenity and the quality of streetscape in nearby residential areas is maintained.

(c) Size of Function

- i. The extent to which a range of convenient services are provided to the surrounding local catchment.
- ii. The extent to which a large scale anchor tenant and a mix of smaller scale activities provide a diverse range of goods and services to the local catchment.
- iii. The extent to which crowding out of small scale activities by a dominant large scale activity is avoided.

Explanation

Ensuring that a range of activities have the opportunity to locate within a Local Business centre reinforces the overall intention of the Local Business Zone which is to provide a variety of activities in convenient locations that meet the day-to-day needs of local suburban catchments.

(d) Residential Accommodation

- i. The extent to which the presence of residential accommodation contributes to the scale and visual presence of a centre.
- ii. The extent to which the development provides for a mix of activity that supports the purpose of the Local Business Zone and provides services to the local residential catchments.
- iii. The extent to which residential activity does not lead to the inefficient use and development of physical resources of the Local Business Zone.
- iv. The extent to which residential occupation maintains appropriate continuity of publicly relevant activity at the street edge at ground level.

Explanation

A mix of activities in the Local Business Zone includes supermarkets where the opportunity exists, residential accommodation and local service shops and offices. Residential Accommodation at an above ground level is seen as a positive addition to a Local Business centre as it contributes to residential choice and provides a sense of visual presence and scale to that centre and also natural surveillance and visual interest after dark. By requiring residential accommodation to be ancillary to the core Local Business activity this ensures that the overall intention of the zone is protected and the displacement of Local Business services does not occur.

(e) Vehicle Parking

The assessment criteria contained in R11.9.3.1(d), excluding assessment criterion 11.9.3.1(d)(xv).

(f) Loading and Access

The assessment criteria contained in R11.9.3.1(c), excluding assessment criterion 11.9.3.1(c)(iv).

sections of the District Plan. These rules provide an effective and efficient means of ensuring that the individual actions of those undertaking developments or establishing activities, achieve the environmental outcomes encapsulated in the objectives and policies. Discretion over the form of development is retained through rules, which cover design, appearance, traffic management and site layout in this zone. The brownfields nature and particular location of the zoned areas, justifies care in initial layout and development.

Annual Plan programmes providing for example, street tree planting, footpath paving and roading improvements will also help achieve some of the objectives and policies by providing funding for these works. At the time the Fringe Business Zone was initiated, a major City Centre revitalisation programme, known as City Heart was underway, beginning with a substantial remodelling of The Square as well as improvements, including planting and additional parking, on the four main roads into the CBD.

11.11.4 ENVIRONMENTAL RESULTS ANTICIPATED

It is anticipated that the objectives, policies, rules and other methods of this section will achieve the following results:

- Provision of sufficient land for the establishment of large format retailing activity.
- That the design and appearance of buildings and paved areas within the Fringe Business Zone are of a visually acceptable level.
- That the safe and efficient operation of the roading network is maintained.
- To ensure that the efficient use and continued viability of the CBD is maintained.

11.11.5 RULES: PERMITTED ACTIVITIES

R11.11.5.1 Permitted Activities

Unless otherwise specified, as a Discretionary Activity or Non Complying Activity, the following are Permitted Activities provided that the associated performance conditions are complied with:

- (a) Retail Activities
- (b) Trade Suppliers
- (c) Prepared Food & Beverage Outlets
- (d) Office Activities
- (e) Service Stations
- (f) Yard-based Suppliers
- (g) Automotive & Marine Suppliers
- (h) Building Suppliers
- (i) Farming & Agricultural Supplier
- (j) Garden & Patio Suppliers
- (k) Office Product Suppliers.

NOTE TO PLAN USERS

1. Please note the definition of Retail Activity in Section 4.
2. The construction, alteration of, and addition to buildings and structures associated with the above activities, is a Restricted Discretionary Activity.

Performance Conditions

(a) Merchandising Area Retail Activity

- i. In respect of any activity in the Ngata Street Block Fringe Business Zone area as identified in

Figure 11.2 the total Merchandising Area of retail activities in the area collectively (either existing or together with the Merchandising Area proposed in the application) must not exceed a total of 10,000m². In addition, any retail activity whether or not in the Ngata Street Block Fringe Business Zone must meet the relevant performance condition in (ii) or (iii) below.

- ii. Any retail activity, which is not part of a Multiple Retail Development, must have a minimum Merchandising Area of 1000m².
- iii. The average Merchandising Area per retail activity within a Multiple Retail Development must be no less than 1,500m² unless all of the individual retail activities within the Multiple Retail Development individually exceed 750m² in which case the minimum average Merchandising Area must be no less than 1,250m².

Prepared Food & Beverage Outlet

A maximum of one prepared food & beverage outlet is permitted per site and it must not occupy more than 10% of the Merchandising Area of the Retail Activity.

(b) Vehicle Parking, Loading and Site Access

Compliance with Rules:

- 20.3.7.1 Parking Spaces for People with Disabilities;
- 20.3.7.2 Parking Provision for All Zones except the Inner and Outer Business Zones;
- 20.3.7.6 Formation of Parking Spaces;
- 20.3.8.1 Loading Space Standards;
- 20.3.9.1 Access Standards.

(c) Office Activities

Offices must be ancillary to the principal activity on site and must not occupy more than 10% of the Gross Floor Area of the Building.

(d) Lighting

Any artificial lighting system shall ensure that its use does not result in an added illuminance over and above the measured ambient level, in excess of 8 lux measured in the vertical plane at the windows of any residential building in any residentially zoned site.

Explanation

Light spill associated with some activities can have an adverse impact on residential amenity. The imposition of a standard to control the level of illumination which occurs at the residential interface endeavours to mitigate the effect on residential amenity of excessive lightspill.

(e) Signs

Compliance with R6.1.5.1.

(f) Outdoor Storage

Any outdoor storage area visible from any site in a residential zone or public area shall be screened from view by either a fence, wall of not less than 1.8 m in height or dense planting of vegetation capable of growing to 1.8 m in height.

~~(g) Hours of Operation Involving the Sale of Alcohol~~

~~Compliance with R11.6.1.1 (g).~~

(g) Hazardous Substances

Compliance with the provisions of Section 14 Hazardous Substances.

(h) Servicing and Loading Hours

Any Permitted Activity situated on any site which adjoins any part of a residential zoned site or directly faces any part of a residentially zoned site, across a road, right-of-way, access strip, service lane or drain shall only undertake the delivery of goods, product or material and/or the distribution of goods, products or materials between 6:00 am and 10:00 pm.

Except that this rule shall not apply where:

- i. On-site road access and manoeuvring area for vehicles involved in the delivery and/or distribution of goods, products or materials are located at least 80 metres from the nearest residentially zoned property boundary; and
- ii. Loading and unloading area for vehicles involved in the delivery and/or distribution of goods, products or materials are located at least 80 metres from the nearest residentially zoned property boundary.

Nothing in this rule shall exempt any activity from the requirements of R11.9.4 (j) below.

Explanation

Where residentially zoned properties come into close contact with business areas these properties can be adversely affected by night-time delivery, distribution, and loading activities, for example, from idling vehicles or the opening and closing of doors, etc. By controlling operating hours at the direct residential interface, it should be possible to reduce disturbance to closest residential neighbours.

(i) Noise

Compliance with R11.11.9.1.

NOTE TO PLAN USERS

1. The construction of buildings is a Restricted Discretionary Activity.
2. Also refer to R23.7.1(i) – Radiofrequency Field Exposure.

11.11.6 RESTRICTED DISCRETIONARY ACTIVITIES**R11.11.6.1 Construction, Alteration of, and Addition to Buildings and Structures**

The construction, alteration of, and addition to buildings and structures is a Restricted Discretionary Activity providing the following Performance Conditions are met:

Performance Conditions**(a) Comprehensive Development Plan**

A Comprehensive Development Plan shall be submitted to the Council identifying the location and orientation of buildings, access, parking and landscaping.

NOTE TO PLAN USERS

1. This rule only applies to those sites located within the areas bound by 1. Ngata Street, Featherston Street and the Ngata Street Service Lane and 2. Tremaine Avenue, North Street and Rangitikei Street as identified in Figure 11.2.
2. Where the site of a proposal involves only part of the Comprehensive Development Plan area identified in Note 1, and land bounding the site of the application is not owned, or otherwise beneficially controlled by the site owner, an/or prospective occupier, the Comprehensive Development Plan shall show all relevant matters in relation to the application site. This must include showing the location of buildings, vehicle crossings, parking and servicing areas of adjacent properties (other than those with a common rear boundary) for a distance of no less than 20m, or the extent of the adjacent property, whichever is the greater. In this way, a Comprehensive Development Plan will be established over time for the area concerned.

Explanation

In the case of the Fringe Business Zone areas bounded in one instance by Ngata Street, Featherston Street, Grey Street and Rangitikei Street, and the other bounded by North Street, Tremaine Avenue and Rangitikei Street, it is important to ensure the coordination of activities and buildings to achieve an integrated result producing appropriate environmental outcomes particularly in relation to visual compatibility and traffic management. Therefore as part of an application for resource consent, a Comprehensive Development Plan shall be provided for the above-specified areas or additional resource consent applications shall be in general accordance with an already-approved Comprehensive Development Plan.

Appropriate environmental outcomes include, where possible, the sharing of road access points, visual recognition of surrounding land uses (including likely potential future large format retail developments) and consistent visual appearance between activities. The orientation and positioning of buildings, landscaping and parking areas can influence the feasibility of establishing common shared resources as well as the resultant overall appearance. For this reason when considering site design, it is important that future adjacent development also be taken into account to minimise adverse traffic effects on the roading network and achieving an integrated visual result.

(b) Height of any building on a site which fronts to or adjoins a site in a residential zone:

i. Street Interface

- Primary Building Envelope

A stepped profile defines a series of setbacks from the street. Eleven metres or more from the street boundary, a building may reach a maximum height of 6.5 metres. Seventeen metres or more from the street boundary, a building may reach a maximum height of nine metres. Thirty metres or more from the street boundary, building height is no longer restricted, except in the case of a corner site where twenty metres or more from the street boundaries, building height is no longer restricted.

- Secondary Building Envelope

Additional building volumes will be permitted in front of the Primary Envelope but their dimensions will be subject to vertical and horizontal constraints. Between eight metres and eleven metres from the street boundary, secondary building volumes may reach a maximum height of 6.5 metres. However, the cumulative length of such volumes shall not exceed the greater of twelve metres or three quarters the total length of the building. In both cases, length shall be measured parallel to the street boundary.

- Tertiary Building Envelope

Further additional building volumes will be permitted above the Primary Envelope but their dimensions will be subject to vertical and horizontal constraints. Between eleven metres and seventeen metres from the street boundary, tertiary building volumes may reach a maximum height of nine metres. However, the cumulative length of such volumes shall not exceed half the total length of the building. In both cases, length shall be measured parallel to the street frontage.

Refer to Figure 11.5

ii. Rear Boundary Interface

- Primary Building Envelope

A stepped profile defines a series of setbacks from the residential boundary. Three metres or more from the rear boundary of an adjoining residential property, a building may reach a maximum height of four metres. Nine metres or more from this boundary, a building may reach a height of 6.5 metres. Twelve metres or more from this boundary, a building may reach a maximum height of nine metres. Twenty metres or more from the boundary, building height is no longer restricted.

- Secondary Building Envelope

Additional building volumes will be permitted above the Primary Envelope but their

dimensions will be subject to vertical and horizontal constraints. Between three metres and nine metres from the rear boundary of an adjoining residential property, secondary volumes may reach a maximum height of 6.5 metres. However, the cumulative length of these volumes shall not exceed the greater of twelve metres or two thirds the total length of the building. In both cases, length shall be measured parallel to the adjacent residential boundary.

- Tertiary Building Envelope

Further additional building volumes will be permitted above the Primary Envelope but their dimensions will be subject to vertical and horizontal constraints. Between six metres and twelve metres from the rear boundary of an adjoining residential property, tertiary volumes may reach a maximum height of nine metres. However, the cumulative length of these volumes shall not exceed half the total length of the building. In both cases, length shall be measured parallel to the adjacent residential boundary.

Refer to Figure 11.6

iii. Side Boundary Interface

- Primary Building Envelope

A stepped profile defines a series of setbacks from the residential boundary. Three metres or more from the side boundary of an adjoining residential property, a building may reach a maximum height of four metres. Nine metres or more from this boundary, a building may reach a maximum height of 6.5 metres. Fifteen metres or more from this boundary, a building may reach a maximum height of nine metres. Twenty metres or more from the boundary, building height is no longer restricted.

- Secondary Building Envelope

Additional building volumes will be permitted above the Primary Envelope but their dimensions will be subject to vertical and horizontal constraints. Between six metres and nine metres from the side boundary of an adjoining residential property, secondary building volumes may reach a maximum height of 6.5 metres. However, the cumulative length of these volumes shall not exceed the greater of twelve metres or two thirds the total length of the building. In both cases, length shall be measured parallel to the adjacent residential boundary.

- Tertiary Building Envelope

Further additional building volumes will be permitted above the Primary Envelope but their dimensions will be subject to vertical and horizontal constraints. Between nine metres and fifteen metres from the side boundary of an adjoining residential property, tertiary building volumes may reach a maximum height of nine metres. However, the cumulative length of these volumes shall not exceed half the total length of the building. In both cases, length shall be measured parallel to the adjacent residential boundary.

Refer to Figure 11.7

Explanation

Council recognises that the interface between residential and non-residential zones is an area of sensitivity, particularly given the potential impact of non-residential development on adjoining residential areas.

In order to mitigate the effects associated with such development, a series of specific controls have been developed which focus on three key residential/non-residential interfaces - street boundaries, side boundaries and rear boundaries.

These controls seek to ensure that new commercial or industrial buildings constructed along these interfaces contribute to the physical character of the area through generally mirroring the characteristic scale and rhythm of neighbouring residential dwellings.

The setback provisions apply only to the affected boundary, not to all boundaries on the site. For example a building

facing a residential site will be subject to the road frontage setback only and a building adjoining a residential zoned site would need to meet either the rear or side boundary requirements

- iv. Compliance with (i), (ii) and (iii) above is not required in the following circumstances:
- a. The building is to be utilised for a form of residential activity and the site it is located upon fronts Ngata Street;
 - b. In the situation that residential activities are established on sites fronting Ngata Street as provided for in (ii) below, the maximum height of buildings for other uses is 9 metres to within 11 metres of Ngata Street. This is conditional upon 75% of the length of the side of the building fronting Ngata Street being screened by the aforementioned residential activity.
 - c. For buildings on Lot 1 DP 50865 (125540(new CT ref)), Lot 1 DP 330530 (125540 (new CT ref)) the limitation of secondary and tertiary building envelopes shall not apply.

NOTE TO PLAN USERS

The landscape treatment requirements under R11.9.1.2(i)(ii) apply to the area within the three - metre setback required under this Rule.

- ii. Buildings for Residential Use fronting Ngata Street

For a total of 45% of the length of the Ngata Street frontage (zoned Fringe Business) a maximum height of 6.5 metres is permitted. The ridge of a gable, or hip roof, leading edge of a monopitch roof or deck handrails may exceed the maximum height by up to one metre.

For a total of 55% of the length of the Ngata Street frontage (zoned Fringe Business) a maximum building height of 9 metres is permitted.

(c) Separation Distances

- i. Any residential dwelling on a front site shall be located at least 3 metres from the boundary with any road, with the exception that upper level balconies and ground level terraces attached to dwellings may be located not less than 1.8 metres from the boundary. Each of these balconies or terraces should be not more than 6 metres in length. While they might be distributed along any part of the residential building frontage, the parts of the façade in which they are located should not exceed one third of the total frontage width.
- ii. Buildings for Residential Use which are more than 14 metres wide shall contain setbacks not more than 2 metres deep and not less than 3 metres wide at not more than 14 metre intervals along their front façade.

Explanation

Residential dwellings have been provided for in the Fringe Business Zone to assist in the mitigation of potential adverse visual effects on Ngata Street, by screening and providing active frontages to the street. Prior to the rezoning to Fringe Business Zone, the character of Ngata Street was predominantly that of a residential nature. As the eastern side of Ngata Street remains zoned Residential, it is appropriate, in enabling the extent of the Fringe Business Zone to extend to the Ngata Street frontage, that mitigation measures are undertaken to avoid otherwise adverse visual commercial residential interface conflicts. Additional importance has been placed on this particular frontage as opposed to other interfaces throughout the City between a Business zoned site and Residential zoned areas due to the fact that the likely type of buildings established in the Fringe Business Zone is of a relatively large scale which requires additional mitigation measures.

The required variation in the height and frontage setbacks of a residential veneer to Ngata Street are intended to give visual interest as well as a scale relation to residential development across the street. This is by encouraging building volumes with dimensions similar to those of typical residential buildings. Encouraging terraces and balconies within the front yard breaks up large building forms, introduces human scale elements and further emphasises residential character.

(d) Vehicle Parking, Loading and Site Access

Compliance with Rules:

- 20.3.7.1 Parking Spaces for People with Disabilities;
- 20.3.7.2 Parking Provision for All Zones except the Inner and Outer Business Zones;

- 20.3.7.6 Formation of Parking Spaces;
- 20.3.8.1 Loading Space Standards;
- 20.3.9.1 Access Standards.

In regard to any development involving access across the southern edge of Featherston Street, the number of access points will be restricted to either a single two-way crossing or a pair of entry and egress driveways, with such driveway(s) being located in a position well separated from the Ngata Street intersection and the existing pedestrian crossing, and generally in a position within 30m of the adjoining Outer Business Zone.

(e) Lighting

Any artificial lighting system shall ensure that its use does not result in an added illuminance over and above the measured ambient level, in excess of 8 lux measured in the vertical plane at the windows of any residential building in any residentially zoned site.

(f) Signs

Compliance with R6.1.5.1.

(g) Outdoor Storage

Any outdoor storage area visible from any site in a residential zone or public area shall be screened from view by either a fence, wall of not less than 1.8 m in height or dense planting of vegetation capable of growing to 1.8 m in height.

Matters of Discretion

In determining whether to grant consent and what conditions to impose, if any, Council reserves its discretion to an assessment of the extent to which the application meets the objectives and policies of the Fringe Business Zone and the following assessment criteria:

- i. The extent to which the development provides active frontages including entrances and openings facing the edge of all Major Arterial Roads.
- ii. The extent to which the composition and formal articulation of building facades creates visual interest and achieves aesthetic coherence when viewed from the street.
- iii. The extent to which on-site landscaping establishes an attractive appearance and complements public landscaping at or near the street edge and establishes conditions of visual interest and amenity within the development.
- iv. The extent to which growing conditions are provided for, that will ensure the successful establishment, growth and ongoing viability of planting.
- v. The extent to which plant and services (e.g. air conditioning and rubbish storage) and its enclosure is integrated into the building design and otherwise treated to enhance the appearance of the building.
- vi. The extent to which, where a development adjoins or faces a residential zone, or creates an entrance to a residential street, then large blank walls are avoided or appropriately screened or architecturally treated.
- vii. The extent to which landscaping of on-site car-parking establishes conditions of visual interest and amenity within the development and its margins.
- viii. The extent to which the development maintains or enhances the quality of environment for pedestrians at the street edge.
- ix. Avoiding, remedying or mitigating the effects of additional traffic generated by activities on the site on the safety and efficiency of the roading network.
- x. The extent to which the development of those areas identified as requiring a Comprehensive

Development Plan proceeds in a co-ordinated and integrated manner.

- xi. The extent to which the proposed development ensures the continued water carrying and flood control function of that part of the Kawau Stream that passes through Lot 1 DP 50865 and Lot 1 DP 330530, being 418 to 426 Rangitikei Street, Palmerston North.

Explanation

All Fringe Business Zoned areas are either located on a prominent city entranceway (Rangitikei Street) or adjoin and/or are adjacent to residential zoned areas. Large format retail activities can potentially be bulky, out of scale, detrimental to context and lack visual amenity if developed with rudimentary design input. The aim of the assessment criteria, in terms of the street interface matters, is to achieve a quality streetscape. The purpose of the assessment matters, in terms of the residential interface matters, is to ensure buildings do not visually dominate small-scale residential buildings by articulating their form to achieve a scale transition. Alternatively, where the portion of the building is relatively short, screening with landscape elements to create visual interest and complement adjacent residential buildings and streetscape can be utilised to achieve desirable visual outcomes.

The maintenance of landscaping, especially in the first twelve months, is critical to its actual success. Factors such as irrigation, wind protection and the growing medium are all critical to the successful establishment of landscaping.

The Council needs to ensure that the water carrying capacity and flood control function of that section of the Kawau Stream that flows through Lot 1 DP 50865 and Lot 1 DP 330530, being 418 to 426 Rangitikei Street, is maintained to ensure that any adverse effects on the surrounding land are mitigated.

R11.11.6.2 Residential Centres, Multi-unit Residential Developments, Dwellings and Dwelling Units

The construction, alteration of, addition to and use of buildings and structures is a Restricted Discretionary Activity providing the relevant Performance Conditions in R11.11.6.1 are met.

Matters of Discretion

In determining whether to grant consent and what conditions to impose, if any, Council will, in addition to the City View objectives in Section 2 and the Fringe Business Zone objectives and policies, assess any application in terms of the following further policies:

- i. The extent to which the activity is necessary to mitigate the environmental effects of activities situated in the Fringe Business Zone.
- ii. The extent to which the development of residential activity does not adversely affect the availability of land for large format retail purposes.
- iii. That sufficient parking and on-site manoeuvring is provided to service the needs of residents and visitors.
- iv. The extent to which buildings for residential use are insulated from noise generated by other activities to ensure that an acceptable level of residential amenity will be achieved.

R11.11.6.3 Non Notification

- i. Such applications (R11.11.6.1 & R11.11.6.2) need not be publicly notified.
- ii. Notice of applications for Restricted Discretionary Activities (R11.11.6.1 & R11.11.6.2) need not be served on any persons who, in the Council's opinion may be adversely affected by the activity.

R11.11.6.4 Retail Activities which do not comply with the Merchandising Area Performance Condition

Retail Activity which does not comply with the Permitted Performance Condition relating to Merchandising Area but does comply with the following performance conditions is a Restricted Discretionary Activity:

Performance Conditions

- i. Any retail activity, which is not part of a Multiple Retail Development, must have a minimum Merchandising Area of 800m².
- ii. The average Merchandising Area per retail activity within a Multiple Retail Development must be no less than 1,200m² unless all of the individual retail activities within the Multiple Retail Development individually exceed 600m² in which case the minimum average Merchandising Area must be no less than 1,000m².
- iii. Compliance with the Performance Conditions specified in R11.11.5.1 except for R11.11.5.1(a).

Matters of Discretion

In determining whether to grant consent and what conditions to impose, if any, Council will, in addition to the City View objectives in Section 2 and the Fringe Business Zone objectives and policies, assess any application in terms of the following further policies:

- i. The extent to which adverse distributional effects (including cumulative) of such activities on the vibrancy and viability of the CBD are avoided.
- ii. The extent to which the avoidance, remediation or mitigation of the effects of additional traffic on the site on the safety and efficiency of the network are achieved; and
- iii. The extent to which adequate provision is made for parking, access and manoeuvring areas.

R11.11.6.5 Activities and Buildings which do not comply with the Permitted Performance Conditions

Activities and Buildings which do not comply with the Permitted Performance Conditions (in R11.11.5.1) in relation to:

- (i) Lighting
- (ii) Loading and access
- (iii) Vehicle Parking
- (iv) Servicing and Loading Hours
- (v) Building Height.

are Restricted Discretionary Activities with regard to:

- Design and appearance
- The safe and efficient operation of the roading network
- Effects on adjoining residential areas
- The provision of car parking
- The extent to which the additional height will adversely affect the amenity values of adjoining sites
- Those matters of discretion identified in R11.11.6.1 and/or R11.11.6.4.

In determining whether to grant consent and what conditions to impose, if any, Council will, in addition to the City View objectives in Section 2 and the Fringe Business Zone objectives and policies, assess any application in terms of the following further policies and against the matters of discretion identified in R11.11.6.1 or R11.11.6.4:

(i) Lighting

- a. To avoid, remedy or mitigate the effects of the overspill of light onto adjacent residentially zoned properties.
- b. To avoid, remedy or mitigate the effects of the overspill of lighting through the use of planting, screening or orientation of light sources.

- c. To take into account the influence of topography and other site features in mitigating the effects of light overspill.

(ii) Loading and Access

- a. To avoid, remedy or mitigate the effects of the deficiency in loading and access facilities on the safe and efficient operation of the roading network.
- b. To ensure that other safe and efficient facilities are available to meet the predicted loading or access requirement.
- c. To avoid, remedy or mitigate the effects in loading or access facilities on the ambience and amenity values, in particular residential areas.

(iii) Vehicle Parking

- a. To avoid, remedy or mitigate the effects of the deficiency in parking spaces on the safe and efficient operation of the roading network.
- b. To ensure that other safe and efficient facilities are available to meet the predicted parking requirement.
- c. To avoid, remedy or mitigate the effects of the deficiency in parking spaces on the ambience and amenity values, in particular residential areas.

Explanation

The provision of adequate parking, loading and access provisions are essential in the Fringe Business Zone to ensure that activities can operate within the zone with the minimum of disturbance from overspill parking or vehicles manoeuvring on the road. In particular it is important to ensure that where adequate provision cannot be made on site that overspill parking does not intrude into residential areas.

(iv) Activities which do not comply with the Servicing and Loading Provisions of R11.11.5.1(h)

- a. To avoid, remedy or mitigate the adverse effects of noise and general disturbance created by the activity, on any adjoining or adjacent residentially zoned land.
- b. To avoid, remedy or mitigate the disturbance to residentially zoned properties from the movement of vehicles to and from the site and within the site itself.
- c. To limit operating hours to ensure that any disturbance to residentially zoned properties is avoided, remedied or mitigated.

Explanation

Movements on industrial sites which occur outside the specified hours have the potential to cause considerable disturbance to adjoining residential areas. Where the operational requirements of an activity require late night or early morning services, a careful assessment must be made to ensure any adverse effects can be mitigated.

NOTE TO PLAN USERS

Where a proposal falls under R11.11.6.1 and/or R11.11.6.4, but does not comply with the particular Performance Conditions identified above, then as well as assessing the non-compliance with the Performance Condition, the Council will also assess any application against the matters of discretion identified in the aforementioned rules.

SECTION 12:

INDUSTRIAL ZONE

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Structure Plan 12.1 Napier Road Industrial Precinct

PLEASE NOTE: ONLY THOSE PARTS OF THE SECTION AFFECTED BY THE PROPOSED PLAN CHANGE HAVE BEEN SUPPLIED

OBJECTIVE 5

To enable development of dairy related industrial activities within the Braeburn Industrial Area to occur in a coordinated and integrated manner, ensuring planning for services is considered at the earliest stage of development, while ensuring that adverse effects on other activities in the vicinity are avoided, remedied or mitigated.

POLICY

- 5.1 To enable the establishment of dairy related industrial activities, including manufacturing, processing, storage and distribution activities, within the Braeburn Industrial Area.
- 5.2 To avoid the establishment of industrial activity that is not a dairy related industrial activity or is not ancillary to a dairy related industrial activity in the Braeburn Industrial Area.
- 5.3 To require as a matter of priority at the time of the first development that planning for water, wastewater and stormwater services is considered for the entire development of the Braeburn Industrial Area.
- 5.4 The Braeburn Industrial Area provides for the development and operation of dairy related industrial activities while mitigating impacts on the safe and efficient operation of the road network, particularly on State Highway 56.
- 5.5 A Comprehensive Development Plan shall be used to enable comprehensive, integrated and coordinated site planning and development of the whole Braeburn Industrial Area.
- 5.6 To manage the environmental effects of activities and development within the Braeburn Industrial Area on surrounding rural and residential areas.

Explanation

The Braeburn Industrial Area (BIA) provides additional land for the future expansion of Fonterra Co-Operative Group's (Fonterra) site at Longburn. Dairy related industrial activities include dairy processing, manufacturing, warehousing, cold storage, transport and logistics. It is important that:

- *Development of the BIA occurs in a coordinated manner;*
- *The potential for integrating infrastructure provision with the existing Longburn site is considered; and*
- *That potential environmental effects on nearby rural and residential areas are appropriately managed.*

Any staged development needs to consider how service provision will facilitate future development and capacity requirements for the BIA over time.

12.4 Rules: Permitted Activities

R12.4.1 PERMITTED ACTIVITIES

Any Activity Except For:

- Those specified as Restricted Discretionary Activities, Discretionary Activities or Non-Complying Activities

Is a Permitted Activity, provided that the following performance standards are complied with:

NOTE TO PLAN USERS

Permitted Activities shall also comply with the requirements of R12.9.1 Noise. Any industrial activity that is not a dairy related industrial activity or is not ancillary to a dairy related industrial activity in the Braeburn Industrial Area is a non-complying activity under R12.8.1(v).

Performance Standards

(a) Lighting

Compliance with R11.6.1.1(a) (vi).

Explanation

The illumination of industrial sites, particularly at the residential interface, can affect residential amenity where excessive light spill occurs. The Plan seeks to manage the negative effects of exterior lighting on residential activities at the interface with the Industrial Zone by avoiding light spill, glare and other potentially obtrusive effects of exterior lighting.

(b) Parking, Loading and Access

- i. Compliance with Rules:
 - 20.3.7.1 Parking Spaces for People with Disabilities;
 - 20.3.7.6 Formation of Parking Spaces;
 - 20.3.8.1 Loading Space Standards;
 - 20.3.9.1 Access Standards.
- ii. Compliance with the Parking Standards in Rule 20.3.7.3 notwithstanding R20.3.7.2, which shall not apply to the Industrial Zone.
- iii. R20.3.7.3 shall not apply to the Longburn Dairy Manufacturing Site or the Braeburn Industrial Area.
- iv. All parking areas and loading facilities associated with activities at the Longburn Dairy Manufacturing Site or the Braeburn Industrial Area must be provided for within site boundaries, but may be met on each site separately, or combined
- v. Compliance with R20.3.7.5 Car Park Landscape Design, provided that for sites that do not front an arterial road or adjoin a site in the Residential, Institutional, Recreation or Conservation and Amenity Zones, the minimum width of the planting area may be reduced to 1 metre and the total area per tree may be reduced to 1m².

(c) Outdoor Storage

- i. Any outdoor storage area, excluding motor vehicle sales yards, situated on a site which:
 - adjoins or directly faces across a road, right-of-way, access strip or service lane a site in the Residential, Institutional, Recreation or Conservation and Amenity Zones; or
 - fronts an arterial roadshall comply with landscape amenity street frontage requirements in R11.9.1.2(i).
- ii. The outdoor storage of free-standing products, goods or materials, excluding motor vehicles within motor vehicle sales yards, shall comply with R12.4.3(a) and (b).
- iii. Nothing in (i) shall limit the provision of a gate or entry point to a site.

Explanation

The outdoor storage of products, goods or materials on industrial sites adjoining or facing residential areas can have an adverse visual effect on the amenity of residential areas. Controls on the outdoor storage of products, goods and materials will help maintain the visual amenity of residential areas by ensuring that adequate screening landscaping is provided and that the product, good or material is not visually dominant.

(d) Fencing

- i. Any fence facing the road frontage must be located behind the landscaping strip.
- ii. Any front fence on a site fronting an arterial road, or adjacent to or fronting a site in the Residential, Institutional, Recreation or Conservation and Amenity Zones must not contain barbed wire, razor wire or fabric netting.
- iii. All fences must be maintained at all times.

(e) Signs

- Compliance with R6.1.5.1.

(f) Hazardous Facilities

Compliance with the provisions of Section 14 Hazardous Substances.

(g) Ancillary Retail and Office Activity

NOTE TO PLAN USERS

For non-ancillary retail and office activities refer to Non-Complying R12.8.1.

i. Ancillary Retail Activity

- No more than 200 m² or 15%, whichever is the smaller, of the gross floor area of the premises used by any activity shall be used as merchandising area for ancillary retailing purposes.

ii. Ancillary Office Activity

- No more than 20% of the gross floor area of the premises used by any activity shall be used for an ancillary office activity.

Except where -

- The activity predominantly utilises open yard space rather than enclosed premises, in which case sole use of a building is for ancillary office purposes, the gross floor area of ancillary office activity shall not exceed 5% site coverage.

Noise Insulation and Ventilation

- Compliance with R12.9.1(b) and (c).
- This Rule does not apply to:
 - Site offices such as separate prefabricated portable buildings;
 - Offices that are ancillary to the main industrial activity provided they occupy less than 10% of the gross floor area of the building; and
 - Site offices associated with temporary construction works.

iii. Interpretation

For the purpose of sub-rules (i) - (ii):

- “Ancillary retailing” means the retailing only of goods substantially manufactured, assembled, repaired, renovated or restored on the site or premises.
- “Ancillary office activity” means office activity directly related to the operation of the predominant activity in the premises and includes the gross floor area of office work space, office equipment and office storage space.
- “The premises” means the enclosed gross floor area (excluding yard and parking space) occupied by the predominant activity, including any space devoted to ancillary office or ancillary retailing activities, whether in one building, part of a building, or in more than one building.

iv. The following activities are provided for as Permitted Activities, subject to compliance with relevant Performance Standards, except that Performance Standards (i) - (ii) do not apply to:

- Hire Centres;
- Prepared Food and Beverage Outlets, including licensed bars and restaurants, and dairies of less than 100 m² total gross floor area;
- Licensed taverns of less than 200 m² total gross floor area;
- Automotive & Marine Suppliers;
- Service Stations;

- Floor Covering Showrooms;
- Building Suppliers;
- Auction Rooms;
- Farming & Agricultural Supplier;
- Garden & Patio Suppliers; or
- Office Product Suppliers.

Explanation

The above provisions recognise the role of retail and office activities as integral ancillary activities in the operation of some industries (such as factory shops) and those retail activities which have a legitimate place, either by community expectation or function (for example Building Improvement Centres), within the Industrial Zone. It also remains consistent with the Plan's objectives of: efficiently utilising existing industrial resources for industrial purposes; containing retail and office activity within identified business areas; and efficiently using and developing existing business resources, by restricting the size of retail and office activity which can establish within the Industrial Zone as ancillary activities.

Acoustic insulation is required for noise sensitive activities in buildings within the Industrial Zone to mitigate the potential adverse effects on such uses and to avoid potential for constraint that such uses can place on typical industrial activities. The ventilation requirement for offices is to ensure noise attenuation is not compromised if compliance with the requirements of the Building Code (G4) for natural ventilation is achieved by installing openable windows. The required airflow level is based on the minimum standard for habitable spaces set out in NZS 4303.

(h) Servicing and Loading Hours

Compliance with R11.9.1.1(g).

This rule does not apply to the Toyota New Zealand National Customer Service Centre located at Roberts Line, being Lot 1 DP 42126 or the Longburn Dairy Manufacturing Site on SH56, being Lot 1 DP 85957, Lot 2 DP 426930 and Lot 1 DP 426930.

Nothing in this rule shall exempt any activity from the requirements of Performance Standard 12.4.1(b) and Noise R12.9.1.

Explanation

Where residentially zoned properties come into close contact with industrial areas these properties can be adversely affected by night-time delivery, distribution and loading activities, for example, from idling vehicles or the opening and closing of doors.

By controlling operating hours at the direct residential interface, it should be possible to reduce the disturbance to close residential neighbours.

~~(i) Hours of Operation for Activities Involving the Sale of Alcohol~~

~~Compliance with R11.6.1.1(g).~~

(i) Midhurst Street Industrial Area

The following additional performance standards apply in the Midhurst Street Industrial Area and replace other performance standards where they directly conflict.

i. Maximum Lot Area

The maximum site area of each lot shall be 7500m² except for access, utilities, reserves, or a balance lot.

ii. Access

All access other than for temporary construction activities shall be from Kelvin Grove Road.

iii. Lighting

Any artificial lighting shall be shielded from the approach and take off paths to and from Palmerston North Airport.

- i. Effects on the cultural and social wellbeing of the proximate community
- ii. Effects of noise, hours of operation and other environmental disturbance on amenity for the surrounding community
- iii. Design and appearance of any buildings or structures in relation to the amenity for the surrounding community
- iv. The effects of traffic on the safe and efficient operation of the roading network and the provision of efficient and effective parking and access.

Explanation

Crematoria have the potential to adversely affect the amenity values of both adjoining and adjacent properties. Council recognises that there are appropriate locations for the siting of crematoria but these need to be in such a location that does not adversely affect the amenity values of the surrounding community.

R12.6.4 RAILWAY ROAD INDUSTRIAL ENCLAVE – ACTIVITIES WITH ACCESS FROM RAILWAY ROAD AND OR NON-COMPLIANCE WITH FRONTAGE PLANTING R12.4.1(k) (iii)

Any activity requiring access from Railway Road and or not complying with R12.4.1(k)(iii) is a Restricted Discretionary activity.

In determining whether to grant consent and what conditions to impose, if any, Council will, in addition to City View objectives in Section 2 and Industrial Zone objectives and policies, assess any application in terms of the following assessment criteria:

Assessment Criteria

- i. The extent to which the proposed access provides for the safe and efficient operation of the road network.
- ii. The extent to which alternative provision of on-site amenity and landscaping maintains and enhances the amenity of the wider streetscape, being an important city entrance road.
- iii. The extent to which growing conditions are provided that will ensure the successful establishment, growth and on-going viability of landscaping.

R12.6.5 BRAEBURN INDUSTRIAL AREA – CONSTRUCTION, EXTERNAL ALTERATION OR ADDITION TO BUILDINGS AND STRUCTURES

The construction, external alteration or addition to buildings and structures is a Restricted Discretionary Activity in regard to:

- Layout, design and scale
- Visual amenity
- Effects on surrounding residential and rural areas
- Safe and efficient operation of the road network
- Availability of Infrastructure services
- Natural hazards
- Earthworks
- Stormwater Management

Performance Standards:

- (a) Development under R12.6.5 must provide (as part of the resource consent application) a whole of site Comprehensive Development Plan that indicates the design, layout and servicing of the Braeburn Industrial Area. The Comprehensive Development Plan must consider and address the following:

for the Industrial Zone.

In relation to ancillary offices:

- v. The extent to which the nature of the predominant industrial activity requires a greater level of administrative support.

In relation to both ancillary retailing and offices:

- vi. The extent to which the consent, if granted, would contradict or undermine the potential achievement of the Objectives and Policies for the Industrial Zone, having regard to cumulative and precedent effects.
- vii. The extent to which the proposed activity does not undermine the overarching Objective and Policies of the Business Zones.

12.8 Rules: Non-Complying Activities

R12.8.1 NON-COMPLYING ACTIVITIES

The following are non-complying activities:

- i. Any activity not provided for as a Permitted Activity, Controlled Activity, Restricted Discretionary Activity or Discretionary Activity within the Industrial Zone shall be a Non-Complying Activity.
- ii. The planting or growing of any vegetation in excess of 5 metres high in the Midhurst Street Industrial Area.
- iii. In the Midhurst Street Industrial Area any activity, building or structure, whether permanent or temporary, other than the construction of a fence within the 65Ldn noise contour.
- iv. Non-ancillary retail and office activities in the Industrial Zone.
- v. Industrial activity that is not a dairy related industrial activity or is not ancillary to a dairy related industrial activity in the Braeburn Industrial Area.

In relation to (ii) and (iii) above:

In determining whether to grant consent and what conditions, if any, to impose, the Council will, in addition to City View Objectives in section 2 and the objective and policies for the Midhurst Street Industrial Area in section 7, assess any application in terms of the following further policy:

- To demonstrate that any activity is able to adequately avoid, remedy or mitigate any adverse effects on the safety of people, aircraft, property and the operational capability of the Palmerston North Airport.

Non-Notification

- i. No such application shall be notified.
- ii. Written consent will only be required from the Palmerston North Airport Limited.

R12.8.2 ANY ACTIVITY IN THE MIDHURST STREET INDUSTRIAL AREA THAT DOES NOT COMPLY WITH R12.4.1(ji)(i) TO (iv) AND R12.4.3(h)(i) TO (vi) IS A NON-COMPLYING ACTIVITY

In determining whether to grant consent and what conditions, if any, to impose, the Council will, in addition to City View objectives in Section 2 and the objective and policies for the Midhurst Street Industrial Area in section 7, assess any application in terms of the following assessment criteria:

Assessment Criteria

- i. The extent to which the development conforms with the Midhurst Street Industrial Area Structure Plan.
- ii. The extent to which the development provides services within public service corridors or can be

conveniently accessed by the Palmerston North City Council.

- iii. Whether the development provides for a coherent and integrated internal roading network and roading services sufficient to ensure the entire Midhurst Street Industrial Area is appropriately serviced, including provision for connectivity to other land.
- iv. The extent to which the development provides for appropriate means of collection and disposal of stormwater likely to be generated following development of the entire Midhurst Street Industrial Area.
- v. The extent to which the potential adverse effects on the operation of the Palmerston North Airport can be effectively mitigated.
- vi. The extent to which the development provides for the retention of the ephemeral stream as an open swale and is designed and planted to improve biological processes and local amenity.
- vii. The extent to which the development adequately maintains and enhances local amenity, provides for pedestrian access, street tree planting, amenity planting at the entrance from Kelvin Grove Road and provides amenity planting adjacent to the Linklater Block as shown in the Midhurst Street Industrial Area Structure Plan.
- viii. The extent to which the development provides for works and services to provide an intersection at the access point with Kelvin Grove Road as well as improvements to Kelvin Grove Road necessary to ensure traffic safety and efficiency is not adversely affected as a result of development of the entire Midhurst Street Industrial Area. Access arrangements must take into account the requirements of R20.3.9.1 and R12.4.3(h)(iii).

Explanation

The District Plan provisions for the Midhurst Street Industrial Area rely on a combination of both land-use and subdivision provisions. Land use in the absence of subdivision has the potential to compromise the potential for the Midhurst Street Industrial Area to develop in an integrated manner that specifically provides for small to medium sized industrial activities. The above rule is intended to capture the construction of buildings where subdivision has not occurred in advance of development within the Midhurst Street Industrial Area.

R12.8.3 THE FOLLOWING ACTIVITIES ARE NON-COMPLYING ACTIVITIES WITHIN THE NAPIER ROAD INDUSTRIAL PRECINCT:

(a) Any activities that do not comply with R12.5.1 (b) - Planted Buffer Areas

With respect to R12.8.3 (a), in determining whether to grant consent and what conditions to impose, if any, the Council will, in addition to the City View Objectives in Section 2 and the Industrial Zone objectives and policies, assess any application in terms of the following assessment criteria:

Assessment Criteria

- i. The extent to which the Planted Buffer Areas provide effective visual screening to the occupiers of Lots 4 and 5 DP 74205 and visual enhancement of the landscape character and amenity values of Napier Road and any residentially zoned land.

(b) Any activities that encroach into the Planted Buffer Areas and Setbacks prescribed in R12.5.1(b).

Explanation

Development within the Napier Road Industrial Precinct is managed by reference to Structure Plan 12.1 which includes an identified local roading network and the planted buffer areas required under R12.5.1 (b).

The planted buffer areas and associated setbacks have been prescribed in the District Plan for the purposes of providing a visual amenity buffer between the Napier Road Industrial Precinct and existing dwellings located in close proximity to the Napier Road Industrial Precinct. The planted buffer area will also ensure that development within the Napier Road Industrial Precinct contributes towards the visual enhancement of the landscape character of Napier Road as a key entrance into the City.

Activities that are proposed to encroach into the planted buffer areas and / or do not provide the required planting will be required to demonstrate that the adverse effects on the Napier Road entrance to the City and existing dwellings located in close proximity to the Napier Road Industrial Precinct.



Report on Development of the Palmerston North Local Alcohol Policy

April 2018

Executive Summary

This report collates information about the development of the Local Alcohol Policy for Palmerston North. The report discusses the issues requiring the suspension of the policy development process and necessitating the need for a District Plan change, and covers the period of active development of the policy from 2014 until its suspension in December 2017.

Introduction

My name is Peter Ridge, and I am a Policy Analyst for the Palmerston North City Council. My qualifications include a Master of Arts (History), and I have 14 years' experience working for local government. My principal area of expertise is in regulatory policy, particularly the development and review of bylaws. I also have responsibility for reviewing and developing regulatory policy relating to alcohol and gambling.

In 2010 I joined the Alcohol Reference Group formed by the Alcohol Advisory Council (ALAC, now part of the Health Promotion Agency) and Local Government New Zealand (LGNZ). This group was founded to coordinate sector advice about alcohol reform issues, and later provided advice to the Ministry of Justice in relation to the development of the Alcohol Reform Bill that emerged from the Law Commission's review of liquor legislation, and which became the Sale and Supply of Alcohol Act 2012. I have been leading the development of the Council's draft local alcohol policy since the Act came into effect, and empowered the Council to develop such a policy. Please note that access to documents referred to in the footnotes of this report are available from the Council on request.

The issue

The Sale and Supply of Alcohol Act 2012 (the Act) enables the Council to develop a Local Alcohol Policy to prescribe certain elements relating to licensing alcohol sales.¹ These include the ability to set different maximum trading hours than that provided in the Act. The current District Plan also sets maximum trading hours for activities involving the sale of alcohol. To address the potential for conflict between the Local Alcohol Policy and the District Plan, section 93 of the Act states that:

- (1) *A local alcohol policy may contain a policy more restrictive than the relevant district plan.*
- (2) *A local alcohol policy does not authorise anything forbidden by the relevant district plan.*²

Therefore, a local alcohol policy can set hours more restrictive than hours prescribed in the District Plan, but it is not able to set more permissive hours than the District Plan.

Council's draft Local Alcohol Policy was developed having regard for section 93 of the Act, and used the same framework (based around planning zones) as the District Plan for setting hours. This enabled the Local Alcohol Policy to set more restrictive hours whilst avoiding inadvertently authorising anything forbidden by the District Plan.

During consultation on the draft Local Alcohol Policy, some businesses raised concerns about how the policy would affect their hours of trade. It emerged that several businesses held licences which permitted them to trade for longer hours than would otherwise be permitted by the District Plan, and these businesses would be restricted, in some cases significantly restricted, in the hours they could

¹ Section 77, Sale and Supply of Alcohol Act 2012

² Section 93, Sale and Supply of Alcohol Act 2012

trade under the draft Local Alcohol Policy. While the draft Local Alcohol Policy intended to restrict trading hours, the intention was to bring the maximum trading hours back by one hour, with the expectation that no business would be reduced by more than one hour's trade. However, it became clear that some businesses would lose up to 4.5 hours trade under the draft Local Alcohol Policy.

To address the fairness of the draft Local Alcohol Policy, the Council would need to stipulate more permissive trading hours in the Local Alcohol Policy than currently exist in the District Plan. For instance, the draft Local Alcohol Policy would need to allow for a business trading in the Local Business Zone to trade until 2am to maintain equity between their current licensed hours and those of equivalent businesses trading in the inner or outer business zones. However, section 93 would prevent the Council from adopting a Local Alcohol Policy that contained those trading hours, as the District Plan currently restricts activities involving the sale of alcohol from trading beyond 11.30pm on Sunday-Thursdays in the Local Business Zone.³

The Council decided to remove from the District Plan the rules relating to maximum hours of trade for activities involving the sale of alcohol.⁴ This would remove the need to have regard to section 93 of the Act, and give Council greater flexibility to set trading hours without having to operate within the District Plan's existing framework. Most importantly, though, it would locate the rules around maximum trading hours in the most appropriate document – the local alcohol policy – rather than the District Plan.

Summary of legislative background

The Sale and Supply of Alcohol Act was passed by Parliament in December 2012, the culmination of a process that started with the Law Commission's review of liquor legislation.⁵ One of the key recommendations made by the Law Commission was a substantial overhaul of the principal statute governing alcohol, the Sale of Liquor Act 1989.⁶ A significant change was the introduction of District Licensing Committees (DLC), replacing District Licensing Authorities (DLA). While similar in some ways – both were administered by the relevant local authority – the DLC formalised the process of issuing licences by a committee comprising three people drawn from knowledgeable community members or local elected members. This was a departure from previous practice, where the actions of the DLA were often delegated to an individual officer and decisions were largely made "on the papers" without a formal hearing. The new DLC structure still allows uncontested decisions to be made on the papers, but the change in process has introduced a greater level of scrutiny to local proceedings.

The most significant change for local authorities, however, was the ability to develop a local alcohol policy. Previously, some local authorities had chosen to develop licensing policies that addressed some aspects of licensing which were not provided for in the Sale of Liquor Act 1989. However, the legal status of these policies was unclear; some case law established that these policies could be considered, yet it remained an uncertain area of regulatory policy, and licensing authorities were not obliged to take such policies into account when making decisions about granting or renewing licences.

³ "Local Business Zone Rules", Palmerston North District Plan, Rule 11.10.2.1(g).

⁴ Community Development Committee, 11 December 2017, resolutions 3-17.1 and 3-17.2. .

⁵ <http://www.lawcom.govt.nz/our-projects/regulatory-framework-sale-and-supply-liquor> accessed 3 May 2018.

⁶ "Alcohol In Our Lives: Curbing the Harm NZLC R114", New Zealand Law Commission, 2010, p. 124.

The Sale and Supply of Alcohol Act 2012 introduced the explicit ability for local authorities to make a local alcohol policy (LAP), with a tightly defined scope and a closely prescribed process for developing that policy. While the scope and process limited the extent of the local alcohol policy, the Act required that where a LAP existed, it must be taken into consideration when the DLC made decisions whether to grant or refuse a new or renewed licence. Coupled with a prescribed consultation and engagement process, this provided the community with the greatest level of involvement in licensing decisions since 1989.⁷

Consequently, local authorities have been keen to develop and adopt LAPs to empower their communities on licensing matters. While a member of the public is still unable to directly oppose an individual licence unless he or she has an interest greater than the public generally, by incorporating their views in the development of the policy the local authority can give effect to community aspirations regarding the availability of licensed premises in their district.

Alcohol Healthwatch has produced two reports (December 2016 and December 2017) which documented the progress of local authorities towards developing local alcohol policies. The most recent report notes that as of August 2017 forty draft local alcohol policies had been developed, covering 76% of local authorities. Thirty three of these had progressed to the provisional stage, while of those only 21 have been fully adopted. The remaining are subject to appeals or ongoing revision of those appeals.⁸ The reports document in some detail the specific policy proposals put forward by different local authorities, and how those proposals have changed (more or less restrictive, or unchanged) throughout the different stages of the policy development process. [Relationship between the District Plan/Resource Management Act 1991 and Regulation of Alcohol](#)

Through the deregulation of the economy in the mid 1980's and 1990s central government opened up the range of activities able to sell alcohol. At the time of drafting the provisions for the 1995 District Plan the City was experiencing social problems associated with the widened availability of alcohol for purchase. Because of the social problems associated with the sale of alcohol at the time a rule was introduced to the 1995 District Plan regulating the hours of operation for activities involving the sale of alcohol.

The explanation associated with the rule stated the following:

"Where alcohol is sold or consumed there is the potential for disturbance to arise from excessive noise particularly late at night. While the Sale of Alcohol Act 1989 controls some of the effects of this through restrictions on the hours of operation, decisions emerging from the use of that Act mean that it is appropriate to back it up with restrictions in the District Plan. It is of particular importance where sites involved in the sale or consumption of alcohol are close to residential areas."

There was discussion at the time whether this type of regulatory instrument designed to address social issues belonged in the District Plan. The section 32 assessment for the 1995 District Plan contained no analysis of this resource management issue and the issue is not reflected in the objectives and policies of the District Plan. Council's acoustic expert for the District Plan review at the time has confirmed the rule did not come out of any of their technical recommendations at the time. The purpose of the rule

⁷ "A Review of Territorial Authority Progress Towards Local Alcohol Policy Development", Alcohol Healthwatch, December 2017, pp. 9-10.

⁸ Ibid, p. 13.

seems to be based on social disturbance and noise concerns. However, the noise standards that every activity in a zone must comply with covers the issue of noise associated with activities selling alcohol.

In the review of the Business Zones in 2011 the planner's section 42A to the report responded to a submission requesting changes to the closing times for activities involving the sale of alcohol for the Business, Industrial, Residential, and Rural Zones. The planner's report noted (paragraph 4.241) the purpose of District Plan rules restricting the hours of operation for activities involved in the sale of alcohol relates to managing the potential disturbance that may arise from excessive noise, particularly at night. However, the submitter noted that noise is not the only adverse effect associated with premises selling alcohol late at night. Social effects such as general disorder, violence, disturbance to passers-by and property damage also occur. The report noted District Plan rules relating to opening hours are not the primary regulatory mechanism to control the effects of alcohol consumption, but are a back up to the controls set out in the Sale of Liquor Act 1989.

The report noted that any decision on this matter will be finely balanced between promoting social and economic enablement while protecting the health and safety of the community. In concluding comments the report stated:

"It has not been possible, or appropriate, to engage expert evidence upon which to base a recommendation in respect of this submission. The request has wider social, economic and cultural implications for the community. Taking account of the significant implications associated with the request; the supporting function of the rule in the wider management of the sale of alcohol; and the lack of stakeholder engagement with the issue through the Plan Change process, on balance it is recommended that the status quo is retained."

The purpose of the RMA is to promote the sustainable management of natural and physical resources. Sustainable management means managing the use and development of natural and physical resources in a way which enables people and communities to provide for their social, economic, and cultural well-being while managing any adverse effects of activities on the environment. The primary purpose of the Act does not seek to manage social issues resulting from the use of natural and physical resources but is rather focused on managing the adverse effects of activities on the environment.

One of the functions of a territorial authority under section 74 of the RMA is to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district. To achieve this outcome District Plans seek to control the potential effects of the use and development of land. District Plans primarily control effects at a site-specific level. As a regulatory instrument District Plans are generally not well suited to managing off-site effects relating to general disorder and disturbance, violence and property damage. The District Plan contains zonal noise rules that apply to all activities in a zone including activities involved in the sale of alcohol. These rules manage noise effects on neighbours at a site level but are unable to address off-site effects associated with anti-social behaviour. For these reasons it is considered the District Plan is not an appropriate regulatory instrument in managing off-site social issues associated with activities involved in the sale of alcohol.

It is noted the Palmerston North City District Plan is one of the very few plans in the country that contains controls on hours of operation for activities involving the sale of alcohol.

Developing the draft Local Alcohol Policy

The Council began active development of the draft Local Alcohol Policy in 2014, following the commencement in December 2013 of the Sale and Supply of Alcohol Act 2012. Council's focus during 2013 was on implementing the changes required to establish the Council's new District Licensing Committee which replaced the previous District Licensing Agency system.

Officers prepared a workshop for Councillors outlining the process for developing a local alcohol policy, which was delivered to Councillors in February 2014, and sought feedback from Councillors on the most pressing alcohol issues facing the City, what objectives the policy should have, and what part of the development process we should spend most time on. The feedback from Councillors at this workshop helped officers in shaping the engagement process, and contributed to the early drafting of the policy. Most of 2014 was spent in working on identifying and collecting the data that would inform the development of the policy.

During the first months of 2015, officers organised a city-wide public forum on alcohol. Held in May 2015, this was the first major public engagement on the development of the policy. Over 150 identified stakeholder groups and individuals were invited to register for the forum, with approximately 75-80 attending on the day. The forum comprised four sessions. The first was an information session providing background information for attendees. The policy and consultation requirements were set out, and a guest speaker from Auckland Council presented on the challenges faced in developing a local alcohol policy. The second session was titled "A night in the life of..." and comprised a panel of five speakers who each spoke about a typical Saturday night from their perspective: Police, Emergency Department Nurse, a bar worker, the head of the Safe City Trust (who run the Safe City Patrols on Thursday-Saturday nights), and the Safe City "Angel", a then new initiative supported by the Safety Advisory Board to assist young women to get home safely on Friday and Saturday nights. This session concluded with a facilitated question and answer session with the audience. The outcomes from this Q&A session was used to inform the third session, a group exercise after lunch, brainstorming the identified issues and potential solutions. The final session of the day was titled "Policy Station" and gave the audience an opportunity to write on Post-It notes their suggestions for the Council on what it should do in each of the five areas of the Local Alcohol Policy. The output from these sessions contributed to the policy development process.

Following this public forum, officers held consultation meetings with the Medical Officer of Health and his team, and the Alcohol Harm Reduction Officer for NZ Police, to further discuss the issues that emerged from the Alcohol Forum, and to brainstorm the data and evidence needed to support the development of the draft Local Alcohol Policy. Similar meetings were also held with the Liquor Licensing Group, comprising representatives from the liquor industry in Palmerston North, the Hospitality Association, the DHB, Police, and the Fire Service.

Throughout 2015 and 2016, work continued on collating and analysing the data and evidence relating to the development of the Local Alcohol Policy. A significant challenge was obtaining data and evidence that was relevant to Palmerston North; that illustrated the alcohol-related harm present in the City; and that demonstrated a relationship to one of the policy levers available to the Council through the Local Alcohol Policy. Data that met all three of these requirements was often hard to find. For instance, the MidCentral District Health Board was able to provide some data that had been collected over a limited period from their emergency department. While this was showed that a

significant portion of presentations to the ED on Friday and Saturday nights involved intoxication to a greater or lesser extent, and contributed to the overall alcohol-related harm experienced in the City, it did not provide a sufficiently strong argument for any of the specific policy tools within the Local Alcohol Policy. As noted earlier, the Local Alcohol Policy is limited to policy on the following matters – whether further licences should be issued, whether to restrict licences by location, proximity to facilities of a certain type, or by proximity to other licences, what the maximum trading hours should be, whether one-way door policies should apply, and whether to include any discretionary conditions. Demonstrating that intoxicated persons are presenting in higher numbers on specific nights of the week doesn't provide a justification for any of those policy matters, other than by indirectly reflecting that alcohol-related harm is being experienced. The challenge faced by officers during this part of the policy development process was in understanding the evidence being collected, and identifying the information that would be most useful in shaping the draft Local Alcohol Policy.

An indicative draft of the policy was prepared in late 2016 and early 2017, based on the evidence collected at that stage. Analysis of the data collected to that point showed that there was insufficient evidence to justify a wholesale restriction on the issue of any further licences. While there was evidence of alcohol-related harm, there was no evidence to suggest that the problems were disproportionately greater than the rest of the country. There was some evidence to support location-based restrictions for certain types of off-licences. Spatial analysis of licences by type and deprivation showed a disproportionately higher association between bottle stores and high deprivation census area units. However, the association depended on assumptions that were not necessarily supported. For instance, the assumption that high deprivation areas are more susceptible to alcohol-related harm than low deprivation areas lacked any evidence in the Palmerston North context. Furthermore, it assumed that alcohol-related harm in low deprivation areas was somehow “acceptable” in a way that it was not acceptable in high deprivation areas, when logically alcohol-related harm in any area was to be avoided. Additionally, the case for location restrictions is undermined by the compact geography of the City. Officers developed maps showing the drive and walk times to existing licensed premises, which revealed that the overwhelming majority of the City had ready access to both on- and off-licensed premises, and consequently a policy that prevented new licences by reference to location restrictions was unlikely to have any discernible impact on alcohol-related harm.⁹

A case could be made for restricting the maximum trading hours for on-, off- and club licensed premises. Data from Police on the day and time of offending where alcohol was consumed showed a spike in the number of offences recorded between 10pm and 2am on Friday and Saturday nights.¹⁰ This supported reports from Police that they experienced significant burdens on their resources during these times. This data also correlated with research carried out by UMR Research on behalf of ACC regarding pre-loading. That research paper showed that the majority of people consumed alcohol at home until about midnight, and then went into town to continue drinking and socialising in licensed premises until about 4am.¹¹ The proposal to restrict maximum trading hours by one was predicated on the belief that if the time available to purchase alcohol was reduced, then people would have less time to drink in an uncontrolled environment (“pre-loading” at home), and with a consequent

⁹ “Draft Palmerston North Local Alcohol Policy 2017”, p. 14

¹⁰ Ibid, pp. 12-13, 16-17, 20-21.

¹¹ “Pre-loading of Alcohol and Associated Harm in Palmerston North: A Quantitative and Qualitative Study of the General Public”, UMR Research, May 2013, pp. 49, 72.

reduction in trading hours for on-licensed premises people would move to town earlier, where if they continued to drink they would be doing so in a controlled, licensed environment where their consumption would be regulated.

Ultimately, the draft Local Alcohol Policy only proposed restrictions to the maximum trading hours, though the policy did provide notes in each case to explain why no restrictions were being proposed in the other areas of the policy. Based on the evidence and data collated to that point, officers were unable to create a sufficiently strong justification for further restrictions in Palmerston North.

Consultation

Council officers engaged with stakeholders throughout the development of the policy, but particular effort was given during the period immediately preceding the formal consultation, where officers took time to present the indicative draft to the Police, the Medical Officer of Health, and liquor licensees. The purpose of this engagement was to raise awareness of the details of the proposal, and to seek informal feedback that could be incorporated into a final draft for presentation to Councillors. On 26 June 2017 the Council confirmed the draft Local Alcohol Policy for public consultation, which ran from 8 July to 18 August 2017.

Officers used a range of different communication and engagement methods to provide stakeholders and the community generally with different opportunities to have their say on their draft Local Alcohol Policy. The Act required that the Council use the Special Consultative Procedure as a minimum. This involved producing a Statement of Proposal consultation document which was made widely available through the Council's Customer Service Centre, at the Central and Branch libraries, and on the Council's website. The consultation document was also provided directly to identified stakeholders and groups with an interest in alcohol issues. Over 350 individuals and groups were contacted by email or by letter, and given a copy of the Statement of Proposal and invited to make a submission. The consultation was notified by public notice on 8 July, and was also promoted with a media release, a story in the Council's Square Circular newsletter, and through social media.

In addition to these minimum requirements, stakeholders were given the opportunity to have Council officers attend a meeting of their organisation, to be available for discussion of the proposal and to assist with any outstanding questions about how the draft Local Alcohol Policy would work. One organisation – the Safety Advisory Board – took up this offer, and used the discussion with officers to inform their submission on the draft Local Alcohol Policy.

Council officers also held "drop-in" sessions for members of the public, to provide another avenue for them to learn about the draft Local Alcohol Policy, to ask questions of officers, and to access assistance in making a submission if they wished to do so. These two-hour sessions were held at different times of the day and evening at the Central and Branch libraries during the week of 7-10 August. Over the course of these sessions, approximately 35-40 people expressed interest in the proposal and asked questions or took away information for reading later.

The Council received 45 written submissions on the draft Local Alcohol Policy, of which 18 people indicated a desire to speak to the Council. At hearings held on 16 October 2017, fifteen of those people presented oral submissions. Initial analysis indicated that slightly more than half of the submitters were broadly in favour of the Council's draft Local Alcohol Policy, though simplistic conclusions are

hard to draw as many submitters were in favour of parts of the draft Local Alcohol Policy, but were opposed to others or had alternative suggestions.¹²

During analysis of the submissions, it became apparent that some licensed premises would be disproportionately affected by the proposed change to maximum trading hours. Officers identified that the key obstacle to resolving this issue is section 93 of the Act (discussed in detail earlier in this report), and that the best course of action was to amend the District Plan to remove those provisions which restricted trading hours for activities involving the sale of alcohol. Without those provisions in the District Plan, section 93 of the Act would no longer apply, and this would enable the Council to set more equitable maximum trading hours in its draft Local Alcohol Policy.

Council agreed in December 2017 to suspend development of the Local Alcohol Policy until the District Plan change process had been completed.

¹² "Submissions on the draft Local Alcohol Policy", officer report to the Community Development Committee meeting, 16 October 2017.