

# **WAIMAKARIRI DISTRICT COUNCIL**

## **COUNCIL PLAN CHANGE 33**

### **MANDEVILLE NORTH BUSINESS 4 ZONE AND RESIDENTIAL 4A ZONE**

## **DECISION**

OCTOBER 2015

	Name:
83	Anthony JB Banks 207 Butchers Road RD 2 KAIAPOI 7692
84	Gavin Bennett & Yvonne Thompson 460 Mandeville Road RD 2 KAIAPOI 7692
85	WS & CE Cockram 179 McHughs Road RD 2 KAIAPOI 7692
86	Maureen Currie 50 Modena Place RD 2 KAIAPOI 7692
87	Canterbury Regional Council PO Box 345 CHRISTCHURCH 8140
88	Robin Driver Sherwood Stud 256 Jeff Drian Road RD 2 KAIAPOI 7692
89	Peter Harris C/- Eliot Sinclair & Partners Ltd PO Box 9339 Tower Junction CHRISTCHURCH 8149
90	Ingrid Hill 83 Winter Road RD 5 RANGIORA 7475
91	John Howard 84 Millbrook Lane RD 2 KAIAPOI 7692
92	Robert & Lynne King 7 Redfern Lane RD 6 RANGIORA 7476
93	Helen & Tony McGregor 26 Leyland Crescent RD 2 KAIAPOI 7692
94	JM Murray 1 Pinewood Close RD 2 KAIAPOI 7692

95	Claire and Greg McKeever 69 Velino Place RD 2 KAIAPOI 7692
96	NZ Fire Service Commission (NZFS Commission) C/- Beca Ltd PO Box 3942 WELLINGTON 6140  Attention: Alex Strawbridge
97	Suzanne Nilsson PO Box 27 031 CHRISTCHURCH 8640
98	Ratua Holdings Ltd C/- Adderley Head PO Box 16 CHRISTCHURCH 8140  Attention: Paul Rogers
99	Rebecca Searle 164 Vicenza Drive RD 2 KAIAPOI 7692
100	Jeremy Simpson 800 Tram Road Ohoka Downs RD 2 KAIAPOI 7692
101	John Stapley 107 Vicenza Drive RD 2 KAIAPOI 7692
102	Trevor Walmsley 37 Winter Road RD 5 RANGIORA 7475
103	WJ Winter & Sons 223 Butchers Road RD 2 KAIAPOI 7692
104	Robyn Young 177 McHughs Road RD 2 KAIAPOI 7692
105	Steven Hammond 450 Mandeville Road RD 2 KAIAPOI 7472

## **Plan Change 33 Decision**

**Decision of Commissioner Darryl Millar appointed by the Waimakariri  
District Council pursuant to the  
Resource Management Act 1991**

<b>PROPOSAL:</b>	Plan Change 33
<b>LOCATION:</b>	McHughs Road, Mandeville Road and Tram Road, Mandeville North
<b>PROPOSAL:</b>	To rezone land Business 4 and Residential 4A
<b>HEARINGS PANEL:</b>	Commissioner Darryl Millar
<b>HEARING DATE:</b>	26 <sup>th</sup> May 2015

## **INTRODUCTION**

### **Introduction and Context**

1. Plan Change 33 (PC33) affects land located at Mandeville Road, McHughs Road and Tram Road, at Mandeville North. There are two key rezoning components to the proposal:
  - Approximately 6200m<sup>2</sup> to be rezoned from Rural to Business 4
  - Approximately 5.4ha, including the existing plantation reserve, to be rezoned from Rural/Residential 4B to Residential 4A
2. The details of the PC33 are contained in the plan change documentation itself, the Council's section 32 report and Mr Bacon's S42A report. Within that context, and by way of summary, PC33 proposes:
  - A business zone providing local convenience functions
  - A residential 4A zone enabling an average dwelling density across the zone of 5000m<sup>2</sup>, with a minimum lot size of 2500m<sup>2</sup>
  - New Objective 16.1.2 and related policy 16.1.2.1
  - Amendments to policy explanations and reasons for adopting objectives, policies and rules
  - New and amended rules
  - Outline Development Plan for the land affected by PC33
  - Amendments to the planning maps
3. PC33 was publicly notified on 16<sup>th</sup> January 2015 and submissions closed on 16<sup>th</sup> February. A summary of submissions was notified on 6<sup>th</sup> March, with the submission period closing on the 20<sup>th</sup> March. 22 original and three further submissions were received. I note for completeness that a replacement Outline Development Plan was re-notified to submitters, as outlined in paragraphs 4.2 and 4.3 of Mr Bacon's report.

### **The Hearing, Adjournment and Minute 1**

4. The hearing commenced on 26<sup>th</sup> May and was adjourned at the completion of the day's proceedings. I issued Minute 1 to outline the reasons for the adjournment and to provide directions concerning actions that were required and the process from the point onwards. Minute 1 outlined the need for additional assessments and advice dealing with:
  - additional District Plan Assessment Matters dealing with access through the site, vehicle manoeuvring into and out of the site
  - clarity around the meaning of the phrase "comprehensive business development" used in rule 31.2.3
  - rule options for providing on site car parking

5. Mr Bacon responded to these matters in a Memorandum dated 2 June, which was subsequently circulated to parties for comment. Further comment was received from Ratua Holdings, Gavin Bennett and Yvonne Thompson, and Bill and Cynthia Cockram, which I received on the 15<sup>th</sup> June. Consequently, I closed the hearing on the 18<sup>th</sup> June 2015.

### Hearing Attendees

6. During the course of the hearing I heard from:

#### Submitters

- Cynthia and Bill Cockram
- Yvonne Thompson and Gavin Bennett
- Ian Duncan (NZ Fire Service)
- Ratua Holdings:
  - Paul Rogers – Counsel – Adderley Head
  - Bevan Hames – Ratua Holdings
  - John Polkinghorne – Economist – RCG Limited
  - Nicholas Saunders – Fire Engineer
  - Peter Rough – Landscape Architect – Rough and Milne Landscape Architects Ltd
  - Ruth Evans Senior Planner – Harrison Grierson
- Robyn Young was unable to attend the hearing and thus requested that her Statement be tabled.

#### Council

- Matthew Bacon – Planner
- Aimee Dunne – Senior Transportation Engineer – Abley Transportation Consultants
- Derek Foy – Economist – Market Economics Ltd
- Andrew Craig – Landscape Architect – Andrew Craig Landscape Architects Ltd

## **THE CANTERBURY REGIONAL POLICY STATEMENT – POLICY 6.3.1**

### Introduction

7. At the commencement of the hearing I raised a concern about policy 6.3.1 (Chapter 6) of the Canterbury Regional Policy Statement (CRPS) in terms of the business zone component of the proposal.
8. I have chosen to discuss this particular issue here, as the conclusion I finally draw on the matter will influence the balance of my overall consideration of the plan change. I do this

also, as I see this as potentially the most significant regional policy matter for consideration. For clarity, this is not an assessment of the proposal against the CRPS as a whole.

9. I drew the parties attention to clause (4) of the policy which reads in part:

*"In relation to recovery and rebuilding for Greater Christchurch:*

*(4) ensure new urban activities only occur within existing urban areas or identified greenfield priority areas as shown on Map A, unless they are otherwise expressly provided for in the CRPS;"*

10. The land proposed to be rezoned Business 4 is not located in an existing urban area or an identified greenfield priority area, and the activities proposed are not *expressly provided for in the CRPS*.

11. "Urban activities" are defined in the CRPS to mean:

*"... activities of a size, function, intensity or character typical of those in urban areas and includes:*

- residential units (except rural residential activities) at a density of more than one household unit per 4 ha of site area;*
- Business activities, except those that fall within the definition of rural activities;*
- Sports fields and recreation facilities that service the urban population (but excluding activities that require a rural location);*
- Any other land use that is to be located within the existing urban area or new Greenfield Priority Area."*

12. Given the nature of the Business zone proposal, the supporting Plan rules and the uses anticipated in the zone, this would, in my preliminary view, facilitate the establishment of urban activities.

13. In my assessment of this Plan Change I am required, amongst other things, to consider whether it will give effect to the CRPS. "Give effect" means to implement within the framework of the planning instrument. In this case policy 6.3.1 (4) is very directive and, when considered in isolation, it may be possible to draw the conclusion that the proposed business zone does not give effect to the CRPS. At the commencement of the hearing I had no evidence or opinions in front of me on the issue and, within this context, I suggested to the parties present that I required expert advice where applicable.

14. As a consequence, Mr Rogers provided verbal legal submissions, Ms Evans provided written planning evidence and Mr Bacon provided a verbal planning opinion on the matter. At this point I will summarise their respective views.

15. I note for completeness that, in principle the Residential 4A component, as notified, does not give rise to any CRPS concerns in my view. I say this because of:

- the definitions of “urban activities” and “rural residential” contained in the CRPS; and
- policy 6.3.9 which enables rural residential development to occur outside of greenfield priority areas and existing urban areas, provided it is in accordance with an adopted rural residential development strategy. That is the case here, as noted in paragraph 20 below.

#### Mr Rogers

16. Mr Rogers noted that Environment Canterbury (Submitter 87) supported the Plan Change, albeit with an amendment to proposed rule 31.2.3(i) which deals with retail floorspace. The submission of Environment Canterbury noted, amongst other things, that:
- *Mandeville is well established and the Plan Change is unlikely to cause any significant effects in relation to new rural residential housing development or encourage the diversion of retail and business activity away from the surrounding towns to Mandeville*
  - *Small scale commercial activity is warranted in order to sustainably service the Mandeville community and new housing opportunities consistent with the existing rural residential setting*
  - *[It will] achieve the purpose of the RMA....*
17. The submission was silent on matters relating directly to the CRPS. Mr Rogers went on to argue that I needed to consider policy 6.3.1 alongside the wider policy framework of Chapter 6 and within the context of its overarching purpose; being in “*relation to recovery and rebuilding for Greater Christchurch.*” In his view the evidence presented would demonstrate that there would be no adverse effects on Key Activity Centres (KAC) and that, in a general sense, it would not detract from recovery. He referenced objective 6.2.5 in a supporting argument, noting that it referred to the “*development and distribution of commercial activity*” avoiding “*significant adverse effects on the function and viability*” of KAC’s. Similarly, with respect to policy 6.3.6 (business land) he submitted that the outcome from PC33 would not impact on the recovery and rebuild of the KAC’s and Christchurch’s central city.

#### Ms Evans

18. Ms Evans considered this matter in Section 8 of her evidence. In her view there was some “*conflict*” with policy 6.3.1(4) and that the “*introduction of the B4 zone...may not strictly adhere to the CRPS*” but, as with Mr Rogers, considered that a broader assessment was required. Overall, her view was that such “*conflicts*” should not be seen as a reason for the Change not to proceed.



## Mr Bacon

19. Mr Bacon referred me to objective 14.5.1 and policy 14.5.1.1 of the District Plan, and the relevant discussions contained in the Section 32 report<sup>1</sup>. The objective and policy were inserted into the District Plan under Action Point 3 of the Land Use Recovery Plan (LURP) immediately after its gazettal. The objective and policy are contained in Chapter 14 of the District Plan which deals with the rural zones of the District, and they read as follows:
- *Objective 14.5.1: To facilitate the rebuild and recovery of Greater Christchurch by directing future developments to existing urban areas, priority areas, identified rural residential development areas and MR873 for urban and rural residential activities and development.*
  - *Policy 14.5.1.1: To avoid new residential and rural residential activities and development outside of existing urban areas and priority areas as set out in the Land Use Recovery Plan and Chapter 6 of the Canterbury Regional Policy Statement, rural residential development areas identified in the Rural Residential Development Plan and MR873*

## My Considerations and Findings

20. Both the objective and policy (above) refer to development occurring within identified “rural residential developments areas” and, in the case of policy 14.5.1.1, such areas identified in a “Rural Residential Development Plan” (RRDP). The Council adopted a RRDP in July 2010 and this identified the PC33 site as a growth location area<sup>2</sup>. This is further codified in District Plan planning map 167 which identifies the Mandeville North Growth Boundary. Within this context I agree with Mr Bacon that both the objective and policy are directly relevant to PC33.
21. Objective 14.5.1 seeks to facilitate rebuild and recovery by “directing future developments” (my emphasis) to these areas. Similarly, the policy refers to “... new residential and rural residential and development...”. The issue I have considered is whether this particular element of the District Plan policy framework anticipates commercial development; in this case manifested as a proposed Business 4 zone. The objective comes at the issue broadly by reference to development, and the policy elaborates by differentiating between residential, rural residential and development. The word “development” is not defined in the District Plan or in the RMA. The concise Oxford English Dictionary defines it, amongst other things, to mean:  
*“The process of converting land to a new purpose by constructing buildings or making use of its resources”*
22. If I have understood Mr Bacon correctly, and given the potentially broad meaning of the word “development”, I accept that there is an argument that objective 14.5.1 and policy 14.5.1.1 could anticipate a commercial aspect to development within the Mandeville North Growth Area. I have to state very clearly, however, that on face value it can be viewed as somewhat of a tortious interpretation.

<sup>1</sup> Paragraphs 14.2.8 – 14.2.13

<sup>2</sup> Section 5.4 and Appendix III, Section 32 Report

23. That said, I return to the principle issue; being whether this proposal gives effect to policy 6.3.1(4) of the CRPS. Considered in isolation, I do hold the view that the business zone component of the proposal may not do so. I have to acknowledge, however, the fact that the District Plan objective and policy and Chapter 6 of the CRPS were inserted into the respective planning instruments under directive action points of the LURP at the same time. If my interpretation of objective 14.5.1 and related policy is correct, then it has to be accepted that the various amendments to planning instruments directed by the LURP had been considered as a comprehensive and cohesive suite of provisions, and thus anticipated the outcome now currently being proposed by PC33. Further to this, the economic evidence I have heard demonstrates that there will be negligible impacts on nearby KAC's. Given this, and the outcomes sought in clause (6) of policy 6.3.1 of the CRPS, then I accept that a convenience retail activity at Mandeville will not detract from recovery or rebuilding activities elsewhere in Greater Christchurch. Within this context, I find that while the business zone element of PC33 may not be fully aligned with policy 6.3.1 of the CRPS, it is not contrary, and thus the proposal will give effect to the this particular element of the CRPS. Had the economic evidence pointed to the likelihood of adverse impacts on the Christchurch Central City or other identified Key Activity Centres, or the location of this proposal been outside of an identified growth area, I would have drawn a different conclusion.
24. Having settled this issue, it enables me to consider the plan change as a whole.

### **AMENDMENTS PROPOSED TO THE BUSINESS ZONE AT THE HEARING**

25. Legal Counsel for Ratua Holdings advised during opening submissions that it was proposed that the:
- size of the proposed Business Zone be increased from 6200m<sup>2</sup> to 6670m<sup>2</sup> (an increase of 470m<sup>2</sup>); and
  - the permitted gross retail floor area within the zone be increased from 1300m<sup>2</sup> to 1700m<sup>2</sup>.
26. This is not a discussion on the merits of the proposals. Rather, I have raised this issue here for the purpose of considering whether they are within the scope of PC33 as notified.
27. Mr Rogers noted that the area of land to be zoned for business purposes was not restricted by a plan rule. Rather, it is defined by the ODP which does not specify a lot area. He further argued that as the Ratua Holdings submission sought an increase in retail area, that it was "implicit" in the submission that it may require an increase in the area of the business zone.
28. While there may be some strength to the argument, it was not explicitly stated in the submission. That aside I accept Mr Rogers' proposition and note also that the change in

area (zone and floorspace) is minimal within the context of the overall proposal. Accordingly I accept that the amendments sought can be considered within scope. I note for completeness that Mr Bacon agreed with this.

## **STATUTORY FRAMEWORK**

29. The statutory framework was outlined in detail in Section 5 of the report of Mr Bacon and in legal submissions from Mr Rogers. I do not propose to repeat that discussion in detail in this decision, as they are a matter of record and I did not hear an alternate view from other parties present at the hearing regarding the matters to which I must turn my mind. Having said that, the key aspects of the evidence and submissions, and my preliminary findings, are as follows:

- PC33, as notified, proposes a purpose designed Objective and Policy for the Mandeville North business zone, amendments to the existing reasons and explanations for the policy platform, new and amended rules and planning map amendments. A Section 32 assessment was prepared by the Council and accompanied the Plan Change proposal. Mr Bacon adopted the earlier Section 32 assessment, considered that no further analysis was required and concluded that the proposal achieved the purpose of the Act.
- Mr Rogers generally agreed, noting however that further refinements to the proposal would better achieve the purpose of the Act. This included provisions dealing with the zone size, floorspace controls, access issues, landscape provisions, fire controls, activity status and provisions dealing with subdivision within the business and residential zones<sup>3</sup>
- In principle I accept that the Section 32 assessment remains valid and that, overall, amendments to the District Plan that provide for further rural residential development and new business opportunities at Mandeville North will better achieve the purpose of the Act compared to the status quo. Within this context the policy amendments recommended in Mr Bacon's report are appropriate. I agree, however, with Mr Rogers and other submitters that further analysis of the proposed provisions is required, and I address this in more detail below on a topic basis.
- Section 74 requires that I have regard to any Proposed Regional Policy Statement, Regional Plan, Management Plan or strategy. Section 75 requires that a Plan must give effect to, amongst other things, any Regional Policy Statement and must not be inconsistent with a Regional Plan (as it relates to Section 30(1)). I am satisfied as to the relationship between this Change and the Regional Council's Natural Resources Regional Plan, and the proposed Land and Water Regional Plan. I will deal with the Canterbury Regional Policy Statement below.

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<sup>3</sup> Rogers legal submissions paragraph 4.14

## **SUBMISSIONS**

30. A discussion on the submissions received and a commentary on the issues raised was included in Section 6 of Mr Bacon's report. In Appendix II of his report Mr Bacon also provided recommendations on the relief sought in each submission. I have reviewed the submissions and Mr Bacon's summary, and I am satisfied that the issues have been appropriately identified. Within this context I do not propose to repeat the summary or discuss each submission point in detail. Rather, I will discuss the relevant issues in the balance of this decision.
31. For completeness I do note that in paragraph 6.1 of his report Mr Bacon noted that "*... the majority of the submissions and submission points [were] seeking amendments to the proposed plan amendments, rather than the overall question of appropriateness in terms of the Section 32 assessment.*" I understand the point Mr Bacon was attempting to make, and technically he may be correct. But it would be remiss of me not to comment that at least three submitters (Cockram, Hill and Young<sup>4</sup>) indicated total opposition to the plan change, and thus this brings into question the Section 32 assessment and overall judgement under Part 2 of the Act.

## **THE ISSUES**

### **Introduction**

32. Many of the parties at the hearing presented extensive submissions and evidence. The combined presentation of Gavin Bennett and Yvonne Thompson provided useful background information and explained clearly their views on the way in which, and the manner in which, this plan change process has progressed. While useful, it was not always germane to the subject at hand. I want to make it clear that this is not a criticism; rather it provides a context to the way in which I have addressed evidence and submissions in this decision. In short, I have chosen to not summarise the material I have received as this would add unnecessary length to decision. More importantly the written submissions and evidence are a matter of record. Given this, my deliberations and the balance of this decision address the issues on a topic basis.

### **The Proposed Business Zone Economic Evidence**

33. I heard economic evidence from Mr Polkinghorne and Mr Foy. While the experts used marginally different methods to collect and assess data that informed their advice, the evidence was largely aligned. The key conclusions were that the proposal:
- would fulfil a local convenience shopping need, acknowledging also that it would likely capture passing trade; and
  - would not have a detrimental economic impact on the function and viability of other Key Activity Centres (KAC).

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<sup>4</sup> Incorrect submission form used, but the intention of the submission is clear

34. In a general sense I am satisfied with this advice, as it goes directly to the heart of the CRPS issues that I have discussed previously.
35. As noted, Ratua Holdings proposed an increase in the size of the business zone and an increase in the amount of permitted retail floor area (from 1300m<sup>2</sup> to 1700m<sup>2</sup>).
36. I do not consider that the increase in the size of the business zone itself gives rise to any issues that require any further discussion.
37. In terms of the floorspace increase, Mr Foy considered in his report<sup>5</sup> that 1600m<sup>2</sup> was appropriate to accommodate growth to 2013 without impacting on the surrounding market. Mr Polkinghorne provided a detailed assessment of household/population growth matched to retail spending data and concluded that a cap of 1700m<sup>2</sup> of retail space was appropriate to meet demand. Mr Polkinghorne rightly pointed out that, given the definition of 'retail' contained within the District Plan, the cap would apply to both the sale of "goods" and "services", and to other business service activities. Within this context, it can be seen as a conservative approach. Mr Foy, in his reply commented that a 1700m<sup>2</sup> cap was acceptable.
38. In Mr Bacon's recommended Plan amendments (Appendix 1 to his report) he proposed the following provisions:
- Rule 31.2.3 Within the Mandeville North Business 4 Zone.....shall occur as a comprehensive business development, including:*
- a. any single grocery tenancy shall have a maximum gross floor area of 750m<sup>2</sup>*
  - b. any single bar/restaurant or yard based tenancy shall have a maximum gross floor area of 450m<sup>2</sup>*
  - c. any other tenancy shall have maximum gross size of 200m<sup>2</sup>*
  - d. the total number of tenancies shall be limited to a maximum of seven*
39. Mr Rogers, and related witnesses, proposed the following amendments:
- a. any single grocery tenancy shall have a maximum gross floor area of 1000m<sup>2</sup> ~~750m<sup>2</sup>~~*
  - b. ~~any single bar/restaurant or yard based~~ other tenancy shall have a maximum gross floor area of 450m<sup>2</sup>*
  - c. there shall be a minimum of 3 tenancies*
  - d. ~~any other tenancy shall have maximum gross size of 200m<sup>2</sup>~~*
  - e. ~~the total number of tenancies shall be limited to a maximum of seven~~*
40. The economic advice I received agreed that an anchor tenant, such as a grocery store, would be key to the success of the business zone. Mr Polkinghorne argued that such a

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<sup>5</sup> Foy – Section 2.4

tenant would “generate customer visits which would assist the success of the other shops”<sup>6</sup>. Mr Hames indicated that in his discussions with a prospective anchor tenant, which he described as “well advanced”<sup>7</sup>, they stressed a need for 1000m<sup>2</sup>. Mr Polkinghorne similarly argued that 1000m<sup>2</sup> was appropriate, noting again, that this would not have impacts on other KAC’s. Relevant to this discussion was the point made by Mr Polkinghorne that a store of such size is distinguishable from a “full-line” supermarket carrying a wider range of goods.

41. Mr Foy held an alternate view, and considered that 750m<sup>2</sup> was an appropriate upper limit. In response to a question from me, however, he agreed that at 1000m<sup>2</sup> there would be no impact on nearby KAC’s.
42. In my view, if the development is to proceed, flexibility is required around the floorspace issue in order to maximise the prospect of securing an anchor tenant and providing the greatest opportunity for it to be sustainable. The evidence suggests also an intimate link between an anchor tenant and the success of the balance of the centre. As a consequence, I accept the proposal of Mr Polkinghorne.
43. There was general agreement amongst the experts that it was desirable for the centre to have a range of tenancies that would not only provide variety, but also secure a “village” type characteristic for the centre. In Mr Craig’s view, a range of smaller tenancies would assist with this from an urban design perspective.
44. Mr Foy, in his report recommended a maximum tenancy size of 450m<sup>2</sup> for non-grocery tenancies<sup>8</sup> for the reason that:

*“This maximum tenancy size would ensure that a range of stores develop in the centre, and that a single store does not occupy all of the centre space, with adverse effects on the for the community’s ability to access retail goods and services.”*

45. Mr Foy went on to discuss this issue in more detail in section 5 of his report. In short he considered that a condition requiring the maximum average 200m<sup>2</sup> GFA for non-grocery tenancies would be assist in providing tenancy options and variety. Mr Bacon’s recommended clause c. did not translate the averaging component into the provision, as it simply set a maximum restriction. That aside, Mr Polkinghorne did not support a restriction on floorspace. As a result there was some discussion from Mr Polkinghorne regarding a minimum number of tenancies as an alternate approach (Mr Rogers’ new clause c.), but I agree with him that it is unnecessary. I state at this point also, that I do not agree with Mr Bacon’s proposed clause d. which specifies a maximum number of tenancies.

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<sup>6</sup> Polkinghorne – paragraph 148

<sup>7</sup> Hames – paragraph 41

<sup>8</sup> Foy – section 3.3.2

46. Given all the above, I support an approach which will encourage variety in tenancy size and will assist, to a degree, the outcomes sought by Mr Craig<sup>9</sup>. As a consequence I propose to retain the floorspace limits proposed by Mr Bacon, but with modification. The tenancy number provisions will not be retained.

### **Subdivision**

47. Subdivision within the Business 4 zone is proposed to be a non-complying activity. Ms Evans outlined examples of where such an activity status would be unnecessarily onerous and argued that an alternate controlled activity approach would achieve the outcomes sought for the zone and, with the appropriate provisions, would avoid fragmentation of the zone. I agree.
48. Within this context the following rule was proposed:

*32.4.10 Any subdivision within the Mandeville North Business 4 Zone:  
(a) to create unit titles; or  
(b) that achieves a minimum lot size of 2500m<sup>2</sup>  
is a controlled activity.*

*32.4.11 Any subdivision of land that does not comply with Rule 32.4.10 within the Mandeville North Business 4 Zone is a non-complying activity.*

### **Amenity**

49. Mr Bennett raised concerns regarding potential amenity impacts arising from building location within the business zone relative to his land to the east. Notwithstanding that there will be a separation distance of some 40-50m from the Bennett property boundary to the eastern extent of the Business 4 zone, I accept Mr Bennett's point (paragraph 65) that the spatial extent of the zone has not been surveyed. Having said that, proposed planning map 182 indicates the extent of separation proposed (as noted before) and this is supported by the proposed subdivision plan appended to Mr Rogers' legal submissions. Notwithstanding that, I have formed the view that the proposed Plan provisions dealing with building setbacks, floorspace and landscaping will provide more than sufficient mitigation from any such amenity effects on Mr Bennett's property.
50. I received Mr Craig's report, Mr Rough's evidence and the additional comments from Mr Craig in response to issues raised by Mr Rough. Both experts held the view that there was no landscape impediment to the rezoning proposals, although there was discussion related to the appropriateness of Plan provisions. This included:
- Rule 30.6.1.35 requires a 4m setback from the Tram Road boundary for parking and manoeuvring areas. Mr Rough supported a reduction to 3m, noting that the

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<sup>9</sup> Bacon (and Craig) paragraph 6.6.7

alignment of internal site boundaries was such that it would significantly influence the layout of buildings, parking and manoeuvring areas to the extent that there would be variation in the width of the setback that, in places, would exceed the requirement. Mr Craig agreed.

- Rule 31.2.3g(i) requires landscaping for a depth of 4m along the Tram Road boundary, except at vehicle entrance locations. Mr Rough supported an amendment to the rule which provided greater flexibility by requiring a minimum average depth of 4m and a minimum depth of 2m. Aside from the flexibility issue, Mr Rough noted, as above, that the site boundary orientation was such that the 4m width would be exceeded. Mr Craig agreed.
- Rule 31.2.3.g.ii deals with the landscaping of the access linking the site to Mandeville Road. Mr Rough proposed amendments that clarified the application of the rule and which, in his view, would provide an improved amenity outcome. One of the key features of the amended proposal was a desire to separate the pedestrian accessway from the traffic lane by way of a 1.7m wide landscaping strip. Mr Craig agreed.
- Rule 31.2.3.i proposes light reflectance values for buildings within the zone. Mr Rough presented examples of where similar rules applied in other locations in the South Island. Overall his view was that the rule as currently drafted was “somewhat excessive”, noting that the light reflectance value (lvr) adopted in the rule was more applicable for areas of high visual value. Within this context, he proposed that the lvr be amended to 45%. Mr Craig agreed.

## **Traffic, Car Parking and Access**

### **Business Zone “Rat Run Issues”**

51. During the course of the hearing Mr Cockram raised the issue that the Business Zone could be used as a short cut by motorists between Tram Road and Mandeville Road and, as a result of this, adverse safety impacts may arise. In her response to this, Ms Dunne recognised the issue, but noted that there would need to be demonstrable travel time savings to use the business zone rather than the nearby road intersection. She was of the view that this would be unlikely, particularly if there were calming measures installed in the business zone car park in order to dissuade such behaviour. Accordingly, I addressed this matter in Minute 1 by requesting Mr Bacon to consider whether an additional matter of control was required in rule 31.2.3. In response Mr Bacon proposed to amend the rule as follows:

*“xi effects on the safe and efficient functioning of Tram Road and onsite vehicle circulation to discourage through traffic within the Business 4 zone, including traffic calming measures”*

52. Given the advice received from Ms Dunne and the amendments proposed to clause xi, I am satisfied that the concerns raised by Mr Cockram can be addressed through subsequent resource consent application processes.



### Business Zone Car Parking Provision

53. Proposed rule 31.2.3 (e) refers to a “maximum” number of spaces and control provision vii refers to the “location of buildings, outdoor storage and loading areas and car parking and its design in relation to adjoining reserves and roads”<sup>10</sup>. As noted in Minute 1 and during the course of the hearing, the Plan Change, as notified, did not require a minimum requirement for the provision of car parking. In my view the current approach is inappropriate, would not adequately address transportation effects, particularly if the business zone was developed in a staged manner, and does not achieve the outcomes sought in:
- Proposed policy 16.12.1 (h) and
  - Existing policy 11.1.1.7
54. In response to Minute 1, Mr Bacon<sup>11</sup> proposed an additional matter for controlled activity rule 31.2.3 as follows:
- *“k. car parking shall be provided to achieve a ratio between 3.5 and 5 car parking spaces per 100<sup>2</sup> gross retail area within the zone”*
55. Given this, and noting my earlier commentary regarding the increase in retail floorspace to 1700m<sup>2</sup>, the upper limit of car parking under the proposed ratio would be 85 spaces. Ms Dunne’s assessment on car parking issues is contained in paragraphs 3.10 – 3.13. In that assessment<sup>12</sup> she compared the District Plan parking demand requirement with the demand anticipated by the Trips Database Bureau (TDB). The overall conclusion from that assessment was that given:
- “the rural location of Mandeville, it is anticipated that the site would generate a demand closer to the TDB value as it is less likely that customers would walk or cycle to the site due to the dispersed nature of the residential dwellings in the Business 4 catchment. Because of this the District Plan statutory requirement to provide 33 car parks is likely to be insufficient to accommodate the parking demand for the site.”*
- I accept the argument that the District Plan car parking requirements cannot be relied upon in this instance, and thus a site specific control is required for this Business 4 zone in this location.
56. Ms Dunne went on to consider a possible increase in floorspace (to 1600m<sup>2</sup>) in paragraphs 4.24 – 4.32 of her report. In that assessment she concluded parking provision should be within the range of 60-80 spaces.
57. Given all the above, and taking into account the slight increase in floorspace, the car parking that would be provided from a ratio based assessment (paragraph 34 above) is consistent with the range discussed in Ms Dunne’s evidence.

<sup>10</sup> Mr Bacon’s red line version as Appendix 1 to the planning report

<sup>11</sup> With assistance from Abley Transportation consultants

<sup>12</sup> Dunne report paragraph 3.12

58. In paragraph 16 of Mr Bacon's response to Minute 1, he expressed the view that the controlled activity rule 31.2.3(e)<sup>13</sup> should remain; albeit that the maximum number of car parks should be increased to 85. He argued that the provision should remain, as it was necessary to ensure that car parking did not dominate the site and thus result in adverse amenity effects. I agree with his conclusion on this matter.
59. The Bennett/Thompson response to Minute 1 proposed that rather than a car parking range, the provision be amended to require a stated rate of 3.5 spaces per 100m<sup>2</sup> of floorspace. In the submitters view, this would provide certainty and also reduce the amount of land required for business activities. I understand the argument, but I do not agree with it for the reason that a range, as proposed by Mr Bacon, allows for consideration of the actual amount of car parking through a resource consent process once design and layout is confirmed, and land uses (tenants) are better understood.

#### **Access and Safety – Residential and Business Zones**

60. Policies 11.1.1.5 and 11.1.1.6 deal with development and access. Of particular relevance is policy 11.1.1.6 which reads:
- Every site should have access that provides safe entry and exit for vehicles to and from the site to a road without compromising the safety or efficiency of the road or road network. Where a site has two or more road frontages access should be from the lowest road classification within the road hierarchy.*
61. There are two parts to the policy, albeit they are interlinked:
- Safety; and
  - A preference for access to be from the lowest classification within the road hierarchy.
62. Land directly affected by PC33 fronts Tram Road (Arterial Road), McHughs Road<sup>14</sup> and Mandeville Road (Local Road). Within a policy context, access would be preferred from Mandeville Road. Having said that, the policy is not a prohibition on alternate access solutions involving access from higher classified roads and, in this context, each proposal must be considered on its merits; particularly in circumstances where there may be existing access arrangements and/or where desired safety outcomes can be achieved.
63. I heard various statements and evidence<sup>15</sup> on this issue, and it was also an issue raised by submitters who did not, or were unable to, attend the hearing.
64. The plan change as notified did not provide for access to Tram Road from the proposed Business Zone (rule 30.6.1.15 and policy 16.1.2.1(e)). For the proposed Residential Zone,

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<sup>13</sup> Mr Bacon's red line version as Appendix 1 to the planning report

<sup>14</sup> Road classification not included given the land use of the site

<sup>15</sup> Bacon, Dunne, Cockram, Bennett and Thompson

rule 30.6.1.10 and related figure 30.2 limited the crossing and users on Tram Road to that which existed at the time of the notification.

Business Zone Access

65. Ratua Holdings sought an amendment to the relevant rule and policy to allow for one left turn exit onto Tram Road. Other submitters opposed any access/egress arrangements for Tram Road, citing safety concerns as the key reason.
66. Ms Dunne provided an assessment of the network operation and safety issues associated with the access proposals in paragraphs 3.14 – 4.10 and 4.21 – 4.23 of her report. Ms Dunne considered the issues associated with:
- One left turn ingress point for service vehicles only, and
  - One left turn ingress point for customer vehicles, and
  - One left turn egress point at the same location
67. The customer access would operate as a left in and left out, and no right turn manoeuvres (in or out) would be permitted. Similarly, there would be no right turn manoeuvres from the service entry. Ms Dunne discussed a number of design requirements to ensure such movements were discouraged. In addition she noted the need for a deceleration lane for westbound traffic approaching the crossing.
68. As part of her analysis Ms Dunne, noted that a *“left turn egress onto Tram Road would allow westbound motorists having to perform only one left turn manoeuvre from the site to return to Tram Road”*. She compared this situation to one where the egress did not exist and motorists would then be required to carry out a series of right turn manoeuvres to return to Tram Road. From this she concluded that it would *“increase their risk of conflict”*. After considering this, and following an assessment on the potential operational efficiency of the Tram/Bradleys/McHughs intersection, Ms Dunne concluded that:
- “... the option of providing a left turn egress onto Tram Road is marginally preferred to the option of no egress onto Tram Road from the Business 4 zone for the reasons of directness, legibility and safety. However, I consider that PC33 can be supported either with or without a left turn egress being provided.”*
69. I heard no further expert evidence on this particular issue. Mr Rogers supported Ms Dunne’s conclusions and noted that a Tram Road left in/out arrangement as critical to support the success and operation of the zone. Mr Cockram proffered contrary views, using sunstrike and poor driver behaviour as a reason to disagree with Ms Dunne’s recommendations. I note that in Ms Dunne’s response to the sun strike issue that she found no records of this as a cause of accidents to date in the NZTA Crash Analysis System.

70. Mr Bacon acknowledged Ms Dunne's conclusions in his report, noting that the proposed Tram Road arrangements represented a "marginal" preference over no access at all. In forming an overall judgement on the issue Mr Bacon referenced policy 11.1.1.6 (paragraph 60 above) and concluded that such a proposal would *"not fully give effect to this policy..."*. Mr Bacon is correct, the proposal is not aligned with the policy, but in the context of the expert advice I have received, and given the need to consider a broader view (including policy) I do not necessarily see this as a reason to dismiss the access proposal out of hand. If I am to accept Ms Dunne's advice, however, it would be essential to ensure that the Plan provisions provide the Council with methods through consenting processes to ensure that the detailed design of access arrangements is such that movements noted above would not occur. To this end, in response to Minute 1 Mr Bacon proposed an additional matter for control under proposed rule 31.2.3, as follows:

*"xv. methods to prevent adverse traffic impacts on the function and use of Tram Road from right turn exits from the Business 4 Zone and vehicles exiting the left turn service entrance."*

71. The proposal put forward by Mr Bacon does not go far enough in my view and would not give effect to proposed policy 16.1.2.1 (e). Control matter xv requires amendment and augmentation to explicitly address the right turn manoeuvres into and out of the main business zone access point, as well as the east entrance service lane.
72. With the above measures in place I am satisfied that any adverse effects on the safety and operation of the adjoining road network will be appropriately addressed.

#### Residential Zone Access

73. As noted above the Plan Change as notified contained restrictions on access to the Residential Zone from Tram Road; notably to a defined location with a restriction to 2 users. For certainty I have determined that the reference to "2 users" in the rule and in Figure 30.2 is a reference to 2 allotments. Mr Bennett provided information in his statement regarding other examples where such a restrictive approach had not been taken, and he provided a view on the interpretation and application of policy 6.3.9(4) of the CRPS. In conclusion his view was that if it was necessary to have a restriction on users at this location, then it should be limited to 5.
74. Policy 6.3.9 of the CRPS deals with rural residential development. Clause 4 states that:
- "Legal and physical access is provided to a sealed road, but not directly to a road defined in the relevant district plan as a Strategic or Arterial Road....."*
75. Mr Bacon rightly pointed out that the District Council is required to "give effect" to the policy and, given its very directive wording, considered that the limitation as proposed in the Plan Change as notified was appropriate.

76. I acknowledge the point made by Mr Bennett that the crossing is existing and that it predated policy 6.3.9 of the CRPS.
77. When considering the report of Ms Dunne on this access issue, I note that it is not conclusive. In her paragraphs 4.51 – 4.56 there is a general discussion around the traffic safety and operational issues associated with the spatial relationships between the crossings at 933 Tram Road and the entrances to the Business 4 zone. There is no direct assessment of the impacts associated with an increase number of users of the “933” crossing nor, I have to state, did I hear any other expert evidence on the matter. I note also that while Mr Bennett produced examples of other locations where access was provided, there was no evidence provided to determine the circumstances and assessments that underpinned the decisions that led to their establishment.
78. It is apparent that Policy 6.3.9 of the CRPS is drafted in such a manner as to set a directive, and high, threshold for access onto arterial routes such as Tram Road – this is simply a reflection of its function and the speed environment. I accept, however, that it should not be considered as prohibitive, but I do not accept Mr Bennett’s argument that access should be unfettered. In the absence of any contradictory evidence I am left in the position that the provisions as notified are appropriate. The structure of the rules will allow future consideration of additional users through consenting processes and will, thus, enable a departure from the Plan provisions to be considered on its merits.

## **The Proposed Residential 4A Zone**

### **Building Setbacks**

79. Mr Bennett sought an amendment to Table 31.1 to provide for a 6m setback, rather than a 15m setback as is currently proposed. Mr Bennett considered that the setback should align with the Residential 4B standard (6m) and the proposal for the Business 4 zone – also 6m. He cited another example (planning map 160 and 162), where the District Plan setback was reduced to 10m.
80. I accept Mr Bacon’s explanation that the 15m setback proposal achieves two key outcomes; first an open space/character objective and, second, some protection from noise effects from the operation of Tram Road. The Business 4 zone and the other 10m setback examples are not relevant comparisons as:
- The commercial activities within the Business 4 zone are unlikely to be sensitive activities; and
  - The 10m setback example relates to ‘local roads’, rather than Tram Road which is classified an arterial route in the District’s roading hierarchy
81. While the R4B zone setback exists within the Plan that in itself is not an argument to suggest that it should apply to the R4A zone. Given this and my acceptance of Mr Bacon’s assessment noted above, I do not consider a 6m setback to be appropriate.

### **The Approach to Subdivision**

82. The Plan Change as notified proposed subdivision as an average lot density of 5000m<sup>2</sup> (across the subdivision and zone), with a minimum lot size of 2500m<sup>2</sup>. Mr Bacon directed me to Objective 17.1.1 which reads:
- “Residential Zones that provide for residents’ health, safety and wellbeing and that provide a range of living environments with distinctive characteristics.”*
83. The objective makes reference to living environments with distinctive “characteristics”. The explanation to the policy framework includes Table 17.1 which includes a list of characteristics for each zone. In the case of density issues in the residential 4 zone it states *“average lot size of .025 – 1 hectare”*. I acknowledge that the Plan policy explanatory text and related characteristic table is nothing more than an aide to the interpretation of the policy framework, and that the Plan’s objectives and policies should be interpreted on face value. The explanatory notes do, however, provide some indication as to the Plan writer’s thinking. Within this context, I have considered whether the subdivision density provisions, as notified, give effect to the objective by reference to the explanatory notes. While at first blush the conclusion drawn may be that it does not, it is important to note that the characteristics table refers to both the Residential 4A and B zones. The latter of which is subject to lower density standard. As a starting point, therefore, for the consideration of this issue, PC33 as notified is, in my view, aligned with Objective 17.1.1.
84. Ratua Holdings (and Mr Bennett) proposed a different approach which involves development proceeding in accordance with a master plan specific to the area subject to this plan change. The submitter proposed a new rule linked to a plan (Figure 1 attached to Mr Rogers submissions) detailing the number of allotments that could be provided within sub areas. The rule, presented as an attachment to Mr Rogers’ legal submissions reads:
- “Rule 32.x.x*  
*Within the Mandeville North Residential 4A Zone as shown on Outline Development Plan 182 the maximum number of residential allotments for each sub-area shall be as shown in Figure xxx, and achieve an average of 4700m<sup>2</sup> across the Mandeville North Residential 4A Zone.”*
85. This approach would also require a consequential amendment to existing Plan rule 31.1.10.
86. Ms Evans considered this approach in her evidence and advised:
- A revised master plan has been supplied showing residential lots ranging in size from 3000m<sup>2</sup> to 9067m<sup>2</sup>. The master plan also shows a 6670m<sup>2</sup> business zone lot.

- An assessment that includes the reserve land results in the required minimum lot size (2500m<sup>2</sup>) being achieved and an average across the development of 5094m<sup>2</sup> – again meeting the Living 4A standards.
- Excluding the reserve land still achieves the minimum lot size, but the average across the development reduces to 4768m<sup>2</sup> – below the average required for the zone.

87. Ms Evans went on to assess both options against the policy framework and, in particular, against the characteristics for the zone outlined in table 17.1. This was provided in a table summary attached as Appendix 1 to Ms Evans' evidence. In paragraph 5.15 Ms Evans concluded that:

*"...both scenarios will achieve the zone characteristics, and that there is negligible difference in achieving the characteristics with a lower average lot size, as the characteristics sought for the zone by the District Plan only require an average lot size of 0.25 to 1 hectare, which both scenarios easily fit."*

88. There is a tension between the density outcomes sought for the Residential 4A in the policy framework and the current subdivision standards of the District Plan. Table 17.1 infers the possibility of an average lot size down to 0.25ha, but this is at odds with the Plan standard which currently seeks an average of 0.5ha – which I assume is aligned with the anticipated outcomes of the CRPS. I can find no explanation for this apparent discrepancy and suggest to the Council, as a matter sitting beyond the scope of this process, that they may wish to consider a separate Change process to resolve the issue. That aside, I have consider this particular issue as follows:

- Objective 17.1.1 seeks a range of living environments
- The accompanying explanation (Table 17.1) suggests this can be achieved by a range of average lot sizes
- The "reserve in" option meets the current plan density rules
- The "reserve out" option does not meet the density standard, but does fall well within the average lot size outlined in Table 17.1.
- While not stated in Ms Evans' evidence, the following average lot sizes are achieved within the 3 sub areas as shown on Figure 1 attached to Mr Rogers' submissions:
  - Area A – 4520m<sup>2</sup>
  - Area B – 4632m<sup>2</sup>
  - Area C – 5849m<sup>2</sup>

89. While I favour a planning regime that provides landowners and developers with certainty in their forward planning, particularly in circumstances where development of the PC33 area may occur in a staged or holistic manner, I have a fundamental issue with the Ratua proposal. My principle concern rests with whether the 4700m<sup>2</sup> average as proposed by the submitter aligns with the outcomes anticipated by the CRPS. In short I do not consider that it does. Policies 6.3.1 and 6.3.9 and the related definition of "rural residential" activity clearly establish a threshold for determining a rural residential

characteristic. To depart from that would, in my view, not result in the District Plan giving effect to the CRPS. Accordingly I agree with Mr Bacon that rules as proposed should remain.

### **Geotechnical, Contaminated Land and the Stormwater Basin**

90. The Section 32 report contained an Environmental Site Assessment and a Geotechnical Assessment. The Environmental Assessment indicated the possibility of HAIL activities occurring on parts of the plan change site. The report noted that further testing and analysis may be required at the time of subdivision in accordance with the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES). It further noted the presence of asbestos at 474 Mandeville Road and recommended removal. From the report, there appears to be no impediment to the rezoning proposals. Similarly, the geotechnical report concluded that the plan change area is suitable for rezoning.
91. A stormwater basin is shown on the ODP. I agree with submitters and Mr Kalley that, as design of such infrastructure is yet to be completed, a minor amendment to the ODP recognising this is appropriate.

### **Water Supply for Firefighting Purposes**

92. The New Zealand Fire Service (NZFS) submission sought amendments to the Plan provisions to ensure an appropriate supply of water for firefighting purposes within the Business 4 zone. In particular the NZFS sought:
- An amendment to proposed policy 16.1.2.1 dealing directly with the provision of water for firefighting purposes
  - Rule (31.2.3) and control measures requiring the provision of such a supply in accordance with SNZ PAS 4509:2008
93. The NZFS also sought new rule 32.1.1.51 (Subdivision) be inserted requiring any new allotment within the Residential 4A zone be provided with a firefighting water supply in accordance with SNZ PAS 4509:2008
94. The principle reason for the submission was that the existing Mandeville supply does not provide adequate water quantities and pressure. In such scenarios the NZFS would prefer sprinklers and or a static supply.
95. At the Hearing, Mr Duncan (NZFS) noted that while the Building Act deals with firefighting features within a building, it does not deal with the provision of an appropriate supply for firefighters.



96. A number of submitters opposed the NZFS proposal. Mr Saunders (on behalf of Ratua Holdings) presented evidence opposing the NZFS position. In short he was of the view that the Building Act requirements were sufficient to address fire risk to human health, and that matters relating to the protection of property risk were fundamentally an issue between a building owner and their insurance company. Fundamentally Mr Saunders could see no advantage in applying the standard given the location of the PC33 site relative to the nearest fire station, the limitations on access to water stored on site for firefighting purposes and the requirements of the Building Act. The reasons for this were detailed in paragraphs 23 to 29 of his evidence. I accept Mr Saunders advice on the matter.

## **THE DISTRICT PLAN**

97. Through the course of the preceding discussion I have touched on various policy elements of the District Plan that I consider relevant to my considerations. Given that, I do not propose to add anything further to the assessment other than to signal:
- the importance of objective 14.5.1 and policy 14.5.1.1 and how this proposal is aligned with them
  - appropriateness of proposed new objective 16.1.2 and policy 16.1.2.1 in achieving the purpose of the Act
98. Notwithstanding the above, I do wish to outline briefly my conclusions regarding this proposal and Chapter 18 of the District Plan. I do this as Chapter 18 of the Plan provides a useful framework, at a district level, to consider this proposal; especially within the context of some submitters who opposed the proposal in its entirety.
99. Chapter 18 of the Plan is particularly relevant in that it recognises land use change does occur, and that a framework must be provided to consider the effects of such and to ensure that the Purpose of the Act is achieved. To this end Objective 18.1.3 and Policy 18.1.3.1 is relevant.
100. Objective 18.1.3 is an enabling policy element of the Plan as it recognises and provides for change to occur within the limits of the defined settlement area described in policy 18.1.3.1. This proposal occurs within the area defined in planning map 167 and thus this particular Plan Change is entirely aligned with the objective.
101. Given this, I have formed the view that the proposal will achieve the outcomes sought by the District Plan.

## **THE REGIONAL POLICY STATEMENT**

102. As I have stated earlier, the outcome of this plan change process must give effect to the CRPS. In an earlier discussion I have assessed what I believe to be the critical components

of the CRPS; being policies 6.3.1 and 6.3.9, and have found that this proposal is aligned with them.

103. I was not provided with any additional evidence or statements that signalled any inconsistencies with other elements of the CRPS.

## **SECTION 32AA RMA**

104. As I have commented previously, the Council presented a detailed S32 report to accompany the Plan Change proposal. While I have recommended some changes to the proposal, I am of the view that on balance the S32 assessment remains valid and that the amendments proposed are supportable within the context of the evidence and submissions presented. Moreover, they will achieve the purpose of the Act.

## **OVERALL ASSESSMENT AND DECISION**

105. The Plan Change proposes to rezone land Business 4 and Residential 4A. The land subject to the Plan Change is located within a growth area that was identified in a Rural Residential Development Plan adopted by the Council in July 2010.
106. The proposed Residential 4A zoning will consolidate development opportunities within the Mandeville North area, whereas the proposed Business 4 zone will provide convenience shopping options for the immediate and nearby communities without impacting on nearby Key Activity Centres. The establishment of a local business centre provides opportunity for reduced reliance on the motor car as a mode of transport.
107. During my deliberations I gave considerable thought to wider Regional Policy Statement framework, and in particular policy 6.3.1. I have formed the view that despite the area subject to the Plan Change being beyond the urban limits, there is policy support for a rezoning proposal.
108. Overall I have formed the view that the proposal is aligned with the relevant statutory documents and Plans that I am required to have regard to, or give effect to. In particular I find that the Plan Change request represents the most appropriate means of achieving the objectives of the District Plan and the Purpose and Principles of the Act.
109. As a consequence the Plan Change, with amendments as detailed in this Decision, should be incorporated into the Plan.
110. Given the above, Appendix One details the amendments required to the District Plan. I note for completeness that some of the provisions have been renumbered since the Plan

Change was originally notified. This has occurred as a result of other changes to the Plan that have become operative since the notification and hearing of PC33.

**Dated at Christchurch this 1<sup>st</sup> Day of October 2015**



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**Darryl Millar  
Hearing Commissioner**

## **Appendix One: District Plan Amendments**

### Plan Change 33 – Mandeville North Business 4 and Residential 4A Zone

#### **DISTRICT PLAN AMENDMENTS**

Note: For the purposes of this plan change, any text proposed to be added by the plan change is shown as **bold underlined** and text to be deleted as **~~bold strikethrough~~**.

#### **CHAPTER 13**

**Amend** the explanation to Policy 13.1.1.1 as follows:

...Within the urban environment 13 zones provide a resource management framework for sustaining different densities, standards, and urban form and function based on different types of subdivision, development, and land use.

...

- **Business 4** provides for a small existing area of retail and business activity that is located at the southwestern corner of Williams and Carew Streets in Kaiapoi, and the Lilybrook shops on the corner of Percival Street and Johns Road in Rangiora. This also provides for a small area of local community business activity within the West Kaiapoi Outline Development Plan **and Mandeville Road – Tram Road Mandeville North Outline Development Plan.**

#### **CHAPTER 16**

**Amend** para 7 of “Reason” for Policy 16.1.1.1 to read as follows:

“The Business 4 Zone provides for activities existing at 20 June 1998, and limited future expansion of retail and business activities with similar effects on the southwestern corner of Williams and Carew Streets in Kaiapoi (District Plan Maps 104 and 105), and the Lilybrook Shops on the corner of Percival Street and Johns Road, Rangiora (District Plan Maps 113 and 117). This zoning recognises the commercial zoning that these sites enjoyed under the Transitional District Plan. The Business 4 Zone also provides for a local community business zone at West Kaiapoi (District Plan Map 104) **and within the Mandeville North settlement (District Plan Map 182).**”

**Add** new Objective 16.1.3 to read as follows:

**A business zone within the Mandeville North settlement that:**

- a. **fulfils a local community convenience function;**
- b. **ensures a scale and form of development that:**
  - **is appropriate to serve the Mandeville North settlement;**
  - **limits the total floor area of development and single retail tenancies; and**

- avoids more than minor effects on the function and viability of Key Activity Centres;
- c. mitigates adverse effects on adjoining properties through
  - high levels of amenity and urban design; and
  - comprehensive design of car parking, loading areas, and entranceway design and landscaping
- d. ensures the safe and effective function of Tram Road.

Add new Policy 16.1.3.1 to read as follows:

Provide for retail and business activities in the Mandeville North Business 4 Zone, in a way that:

- a. ensures that the characteristics of the Residential 4A and 4B Zones are maintained as set out in Policy 17.1.1.1;
- b. maintains the characteristics of the Mandeville settlement as set out in Objective 18.1.3;
- c. is limited to the provision of retail and commercial floorspace appropriate to the size of the Mandeville settlement as defined by its extent shown on District Plan Map 167;
- d. limits access onto and from Tram Road to three locations including a left hand turn exit onto Tram Road from the Business 4 Zone, and two left hand turn entrances from Tram Road that avoid right hand turns to and from Tram Road;
- e. prevents direct pedestrian access from Tram Road into the Business 4 Zone to maintain the safe use of Tram Road;
- f. prevents car parking on Tram Road so as to avoid pedestrian access to the Business 4 Zone to maintain the safe use of Tram Road;
- g. ensures the provision of onsite carparking avoids adverse effects on the amenity of the area;
- h. limits noise to a level that is consistent with the Residential 4A and 4B Zones;
- i. considers the location size, design and use of buildings to limit the effects of building dominance and amenity; and,
- j. considers the location of any accessway to Mandeville Road to ensure safe and efficient road access.

Amend paragraph 9 of Principal Reasons for Adopting Objectives, Policies and Methods 16.1.2 to read as follows:

“The Business 4 Zone enables site-specific areas of existing retail and business activity located outside of the Kaiapoi and Rangiora town centres. The effects of activities are known for those already developed, including those impacting on adjoining residential



**30.6.1.16**    **Within the Mandeville North Business 4 Zone one left turn exit onto Tram Road shall be provided. The exit location shall be located no closer than 125 metres from the intersection of McHugh's Road and Tram Road, measured from the centre of McHugh's Road) and shall be constructed to avoid the ability for vehicles to turn right from this exit**

Add new Rule 30.6.1.26 to read as follows:

**30.6.1.26**    **Within the Mandeville North Business 4 Zone any site access from Tram Road shall be constructed to include a deceleration lane with a minimum width of 2.5 metres, over a minimum length of 88 metres and allowing for a 1 in 10 taper to be provided.**

Add new Rule 30.6.1.35 to read as follows:

**30.6.1.35**    **Within the Mandeville North Business 4 Zone shown on District Plan Map 182 no parking space or manoeuvring space shall be located within 3 metres of the Tram Road boundary.**

Add new exemption 30.6.2.9 to read as follows:

**30.6.2.9**    **The site access and exit from Tram Road to the Mandeville North Business 4 Zone shown on District Plan Map 182 is exempt from complying with Rule 30.6.1.25 (construction of acceleration and deceleration tapers for retail activities).**

Add new Rule 30.9.3 to read as follows:

**30.9.3**    **Any activity that does not comply with Rule 30.6.1.16 (one exit to Tram Road from the Mandeville North Business 4 Zone) is a non-complying activity.**

## **CHAPTER 31**

Amend Rule 31.1.1.10 to read as follows:

- 31.1.1.10**    The structure coverage of the net area of any site shall not exceed:
- a. 50% in Residential 1 Zones;
  - b. 35% in Residential 2, 3, 5 and 6 Zones;
  - c. 20% in the Rural Zone, the Mapleham Rural 4B, Residential 4A and 4B Zones, except for the Residential 4A Zone, Bradleys Road, Ohoka identified on District Plan Map 169;
  - d. in the Residential 6A Zone (Pegasus):
    - i. 24% where any road frontage of the site is 15m or greater, or

- ii. 38% where any road frontage of the site is less than 15m;
- e. in the Residential 7 Zone:
  - i. Area A 60%;
  - ii. Area B 50%; and
  - iii. Area C 40%;
- f. 55% in the Business 1 Zone Pegasus “Town Centre – General Business Area” as identified on District Plan Map 142;
- g. 35% in the Business 4 – Williams/Carew Zone as identified on District Plan Maps 105 and 105; or
- h. 40% in Business 4 – Lilybrook Zone as shown on District Plan Maps 113 and 117;
- i. 55% in Business 4 West Kaiapoi Zone as shown on the District Plan Map 104;
- j. 40% in the Residential 6A Zone Ravenswood, as shown on District Plan Map 158; and
- k. 10% for lots over 3000m<sup>2</sup> in area and 15% for lots between 2500 – 2999m<sup>2</sup> in area, or 500m<sup>2</sup>, whichever is the lesser in the Residential 4A Zone, Bradleys Road, Ohoka, identified on District Plan Map 169.
- l. 40% in the Mandeville North Business 4 Zone as shown on District Plan Map 182.**

**Amend Rule 31.1.1.15 (Table 31.1) to read as follows:**

**Table 31.1: Minimum Structure Setback Requirements**

Location	A setback is required from	Setback depth (minimum)
Rural Zone	Any road boundary	20m for any dwellinghouse  10m for any structure other than a dwellinghouse
	Any internal site boundary	20m for any dwellinghouse  3m for any structure other than a dwellinghouse
	Any existing dwellinghouse on an adjoining site	10m for any structure (excluding a dwellinghouse)
All Residential Zones other than the Residential 4A Zone (Wards Road, Mandeville North and Mill Road, Ohoka), Residential 6A and 7 and the Residential 4A Zone (Bradleys Road,	Any road boundary (other than a boundary to a strategic road or arterial road) or any accessway	2m



<u>Ohoka) and the Mandeville Road – Tram Road Mandeville North Residential 4A Zone</u>  NOTE: See Rule 31.1.1.15		
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Location	A setback is required from	Setback depth (minimum)
Residential 4A Zone (Bradleys Road, Ohoka) shown on District Plan Map 169 <u>and the Mandeville Road – Tram Road Mandeville North Residential 4A Zone shown on District Plan Map 182.</u>	Any road boundary  Any internal site boundary	15m  5m
Residential 4A Zone (Wards Road, Mandeville North) shown on District Plan Map 162, Residential 4A Zone (Mill Road, Ohoka) shown on District Plan Map 160 and Woodend Beach Road shown on District Plan Map 171).	Any boundary from a local road.	10m
Residential 4A Zone (Mill Road, Ohoka) shown on District Plan Map 160	Mill Road boundary  Any internal site boundary	15m  5m
All Residential Zones, other than Residential 6, 6A and 7, where the site fronts onto a strategic or arterial road	The road boundary of any strategic or arterial road	6m or 4m for any garage where the vehicle entrance is generally at right angles to the road
Residential 5 Zone	Any site boundary adjoining an accessway for allotments 15, 16, 17, 27, 28 and 29 shown on District Plan Map 140	4m
Residential 6A Zone (other than areas identified on District Plan Map 142 as excluded from the setback requirement)	Any internal site boundary, other than boundaries with accessways	2m for any structure other than garages and structures above garages
Residential 6A	Boundaries with accessways	10m for any structure other than a garage and structures above garages  NOTE: Refer to Figure 31.1 and Rule 31.1.1.16

Location	A setback is required from	Setback depth (minimum)
Residential 7	Any road boundary (other than to a arterial road) or any accessway	2m for any dwellinghouse within Area A  3m for any dwellinghouse within Areas B and C  5.5m for any structure other than a dwellinghouse within Areas A, B and C
	The road boundary of any arterial road	6m
	Any internal site boundary	2m
	Any site boundary of 309 Island Road being Lot 1 DP 62400	20m
Business 2, 3 and 6 Zones, where the site fronts onto a strategic or arterial road	The road boundary of any strategic or arterial road	10m
All Business Zones, other than:  (a) the Business 1 Zone at Pegasus, (b) any Business 4 Zone, and (c) the Business 1 Zones at Rangiora and Kaiapoi,  where the site is adjacent to a Residential Zone or a Rural Zone boundary	The zone boundary, or where the zone boundary is a road, the road boundary	10m
Business 4: Williams/Carew Zone <b>and Business 4: Mandeville North</b>	Any road boundary  Any <u>internal</u> site boundary	6m  5m
All Zones	All overhead high voltage electrical lines as shown on District Plan Maps where the adjacent span length is less than 375 metres	32 metres to the side of the centreline of the conductors
	All overhead high voltage electrical lines as shown on District Plan Maps where the adjacent span length is between 375 and 600 metres	55 metres to the side of the centreline of the conductors

	All overhead high voltage electrical lines as shown on District Plan Maps where the adjacent span length is greater than 600 metres	100 metres to the side of the centreline of the conductors
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Add new Rule 31.1.1.32 to read as follows:

**31.1.1.32 Any structure in the Mandeville North Business 4 Zone not exceed a height of 8 metres.**

Add new Rule 31.1.1.39 to read as follows:

**31.1.1.39 Within the Mandeville Road – Tram Road, Mandeville North Residential 4A Outline Development Plan Area shown on District Plan Map 182, all site boundary fences shall:**

- a. **have a maximum height of 1.2 metres within the 15 metre road setback and elsewhere a maximum height of 1.8 metres;**
- b. **be farm-style post and wire or post and railing; and,**
- c. **achieve at least 80% permeability.**

Amend Rule 31.3.1 to read as follows:

31.3.1 Except as provided for by Rules 31.1.2, 31.2, 31.4 or 31.5 any land use which does not comply with one or more of Rules 31.1.1.7 and 31.1.1.10 to 31.1.1.56 is a discretionary activity.

Add new heading “31.2 Controlled Activities” and new Rule 31.2.1 to read as follows:

**31.2.1 Within the Mandeville North Business 4 Zone, shown on District Plan Map 182, development of the zone, including any buildings or structures shall occur as a comprehensive business development, including:**

- a. **any single grocery tenancy shall have a maximum gross floor area of 1000m<sup>2</sup>;**
- b. **any other tenancy shall have a maximum gross floor area of 450m<sup>2</sup>, with the maximum average gross floor area (excluding the grocery tenancy) not exceeding 200m<sup>2</sup>;**
- c. **the total number of carpark spaces shall be limited to a maximum of 85 parking spaces;**

- d. any outdoor storage area for the temporary or permanent storage of goods shall not be located within any structure setback set out in Table 31.1 of Rule 31.1.1.15;
- e. Landscaping, footpath, and Mandeville Road access design shall occur:
  - i. for a minimum depth of 2 metres, with a minimum average depth of 4 metres along the length of the Tram Road boundary except for the vehicle entrance locations, including:
    - trees to be capable of reaching a minimum height of 8 metres;
    - a minimum of one tree per 10 metres of road boundary frontage; and
    - a maximum tree spacing of 15 metres.
  - ii. by a landscaping strip between the vehicle accessway linking Mandeville Road and the south eastern boundary with a minimum depth of 950mm.
  - iii. by an accessway with a minimum width of 6 metres.
  - iv. by a landscaping strip with a minimum width of 1.7 m between the vehicle accessway linking Mandeville Road and the proposed footpath, which shall be planted with specimen trees, capable of reaching a height of 3 metres, planted at intervals of no more than 10 metres.
  - v. as a 3 metre wide footpath adjacent to the north western-boundary
- f. the site shall be fenced to prevent pedestrian access from and onto Tram Road;
- g. any building shall be finished to achieve a light reflectance value of less than 45%;
- h. within the car parking area, there shall be a minimum of one tree, planted for every 10 parking spaces provided;

- i. there shall be no dwellinghouses;
- j. the maximum gross retail area shall 1700m<sup>2</sup>;
- k. Car parking shall be provided to achieve a ratio between 3.5 and 5 carparking spaces per 100m<sup>2</sup> of gross retail area within the zone; and,
- l. any access from Tram Road shall be formed to prevent right hand turn vehicle movements from Tram Road.

is a controlled activity

In considering any application for resource consent under Rule 31.2.3 the Council shall, in granting consent and in deciding whether to impose conditions, exercise control over the following matters:

- i. the characteristics of the Mandeville settlement set out in Objective 18.1.3;
- ii. the objective and characteristics of the Mandeville North Business 4 Zone set out in Objective 16.1.2 and Policy 16.1.2.1;
- iii. the effects on the characteristics of the zone set out in Objective 12.1.1, Policies 12.1.1.1, 12.1.1.2, 12.1.1.4, 12.1.1.5, 12.1.1.6, 12.1.1.7, 12.1.1.8, Objective 16.1.1.1, 17.1.1, 18.1.1 and 18.1.3;
- iv. those matters over which control is exercised under Rule 32.1.3;
- v. the quality of building design, architectural features and details, use of colour and building materials;
- vi. the extent to which tree planting and landscaping achieves a highly quality outcome and mitigates adverse visual effects, amenity effects and scale of business activities;
- vii. the location of buildings, outdoor storage and loading areas and carparking and its design in relation to adjoining reserves and roads;
- viii. the extent to which any signage in buildings is integrated with buildings' architectural detail;

- ix. the extent to which the principles of crime prevention through environmental design are incorporated into any development;
- x. effects on the amenity of the surrounding Residential 4A, Residential 4B and Rural Zones;
- xi effects on the safe and efficient functioning of Tram Road and onsite vehicle circulation to discourage through traffic within the Business 4 Zone, including traffic calming measures ;
- xv. methods to prevent adverse traffic impacts on the function, safety and use of Tram Road from right turn manoeuvres into and out of the Business 4 Zone and the eastern service entrance;
- xvi methods to ensure that the eastern service access is only used as an entrance from Tram Road;
- xi. standard of construction of roads, service lanes and accessways; and
- xii. compliance with Outline Development Plan Map 182.

Add new Rule 31.4.8 to read as follows:

**31.4.8 Any land use that does not comply with Rule 31.2.1 (Development of the Mandeville North Business 4 Zone) is a non-complying activity.**

Add new Exemption 31.1.2.14 to read as follows:

**31.1.2.14 Any site within the Mandeville North Business 4 Zone shown on District Plan Map 182 is exempt from complying with Rules 31.1.1.35 and 31.1.1.36 (Business Zone screening and landscaping).**

## CHAPTER 32

Retain Rule 32.1.1.11(minimum and average allotment sizes in the Residential 4A Zone)

Add new heading “Business 4 Zone Mandeville North” and Rule 32.1.1.15

**32.1.1.15 Within the Mandeville North Business 4 Zone shown on District Plan Map 182 any subdivision shall be to create unit titles or shall achieve a minimum lot size of 2500m<sup>2</sup>.**

Add new Rule 32.4.12 to read as follows:

**32.4.12 Any subdivision of land that does not comply with Rule 32.1.1.15 within the Mandeville North Business 4 Zone is a non-complying activity.**

**Amend** Rule 32.1.1.25 to read as follows:

Outline Development Plans

- 32.1.1.25 Subdivision within the following areas shall generally comply with the Outline Development Plan for that area.
- a. The Residential 4B Zone of Mandeville identified on District Plan Maps 91 to 93 and the Mandeville Outline Development Plan on District Plan Map 141.
  - b. The Residential 2 and Residential 4B Zones of North Rangiora on District Plan Maps 110 and 111 and the North Rangiora Outline Development Plan on District Plan Map 146.
  - c. Southbrook Business 2 Zone identified on District Plan Maps 118 and 119.
  - d. East Rangiora identified on District Plan Maps 113, 114 and 117.
  - e. West Rangiora (North of Oxford Rangiora Road) identified on District Plan Maps 110 and 112.
  - f. West Rangiora (South of Oxford Rangiora Road) identified on District Plan Maps 112 and 116.
  - g. East Woodend identified on District Plan Maps 128 and 131 and the East Woodend Outline Development Plan on District Plan Map 153.
  - h. Residential 5 Lees Road identified on District Plan Map 140.
  - i. Pegasus identified on District Plan Map 142.
  - j. Mapleham Rural 4B Zone identified on District Plan Map 147.
  - k. North Kaiapoi identified on District Plan Map 156.
  - l. The Residential 2 and 4A Zones of North West Rangiora identified on District Plan Map 155.
  - m. The Residential 2 Zone Ashley Street – Enverton Drive, North Rangiora identified on District Plan Map 165.
  - n. The Residential 2 Zone Northbrook Road Rangiora identified on District Plan Map 157.
  - o. The Residential 4A Zone North Eyre Road, Mandeville North on District Plan Map 159.
  - p. The Residential 4A Zone Waikuku Beach identified on District Plan Map 161.



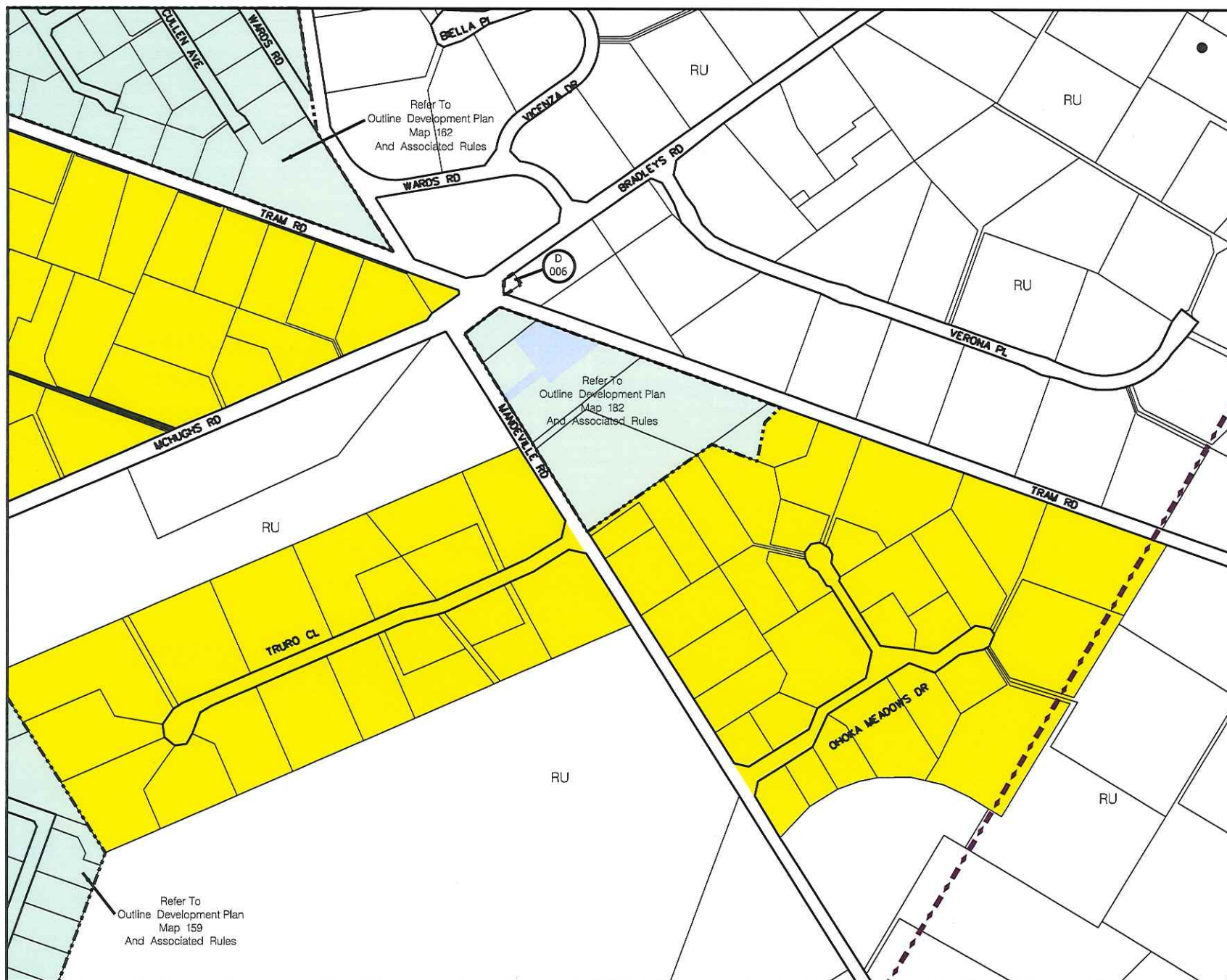
- q. The Residential 4A Zone Wards Road, Mandeville North identified on District Plan Map 162.
- r. The Residential 2 Zone Enverton Drive – Ballarat Road North Rangiora identified on District Plan Map 166.
- s. The Residential 7 Zone West Kaiapoi, identified on District Plan Map 164.
- t. North Woodend identified on District Plan Map 158.
- u. The Residential 2 Zone East Kaiapoi identified on District Plan Map 163.
- v. The Residential 2 Zone Oxford Road West Rangiora identified on District Plan Map 168.
- w. The Residential 4A Zone, Bradleys Road, Ohoka, identified on District Plan Map 169 and more particularly described in Appendix 32.2.
- x. The Residential 4A Zone, Woodend Beach Road, Woodend, as identified on District Plan Map 171.
- y. The Residential 2 Zone North East Woodend identified on District Plan Map 172.
- aa. South West Rangiora identified on District Plan Map 173.
- ab. The Residential 4A Zone Mill Road Ohoka identified on District Plan Map 160.
- ac. The Residential 4A Zone McHughes Road, Mandeville North identified on District Plan Map 174.
- ad. The Todds Road Business 2 Zone identified on District Plan Map 175.
- ae. The Business 6 Zone identified on District Plan Map 180.
- ag. The Mandeville Road – Tram Road, Mandeville North Residential 4A Zone identified on District Plan Map 182.**

CROSS REFERENCE: Rule 21.7

**Apply** any consequential renumbering or amendments throughout the District Plan as necessary.

**Add** new District Plan Map 182 Mandeville Road – Tram Road, Mandeville North.

**Amend** District Plan Map 93 to rezone 6670m<sup>2</sup> of Lot 1 DP 312522 to Business 4 with the remainder of Lot 1 DP 312522, RS 4924, Lot 3 DP 312522 and Lot 2 DP 312522 to Residential 4A.



NOTE:  
Disclaimer - refer to map legend sheet



Metres






0 60 120 180  
Scale 1:7,500 (A4)

91	91A	57
92	93	
66		67

Mandeville

93



-  Outline Development Plan Area
-  Business 4 Zone (area 6670 m<sup>2</sup>)
-  Local Reserve
-  Residential 4A Zone
-  Stormwater Management Area -  
indicative only - subject to  
detailed design

N



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Tram Road - Mandeville Road  
Mandeville North  
Outline Development Plan

182