

**BEFORE THE ENVIRONMENT COURT  
AT CHRISTCHURCH**

ENV-2008-CHC-163

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of appeals under Clause 14 of the First Schedule to the  
Resource Management Act 1991

BETWEEN **OUTER LIMITS LIMITED**

- *Appellants* -

AND **MARLBOROUGH DISTRICT COUNCIL**

- *Respondent* -

BEFORE THE ENVIRONMENT COURT

Environment Judge Newhook sitting alone under Section 279 of the Act

In Chambers at ~~Christchurch~~ *Auckland*.



**CONSENT ORDERS**

- [1] The Court has read and considered:
- (a) The Appeal;
  - (b) Council's Reply;
  - (c) The Memorandum of Parties dated 12 April 2010.
- [2] The Court is making this Order under Section 279(1)(b) of the Act, such Order being by consent, rather than representing a decision or determination on the merits pursuant to Section 297.
- [3] This Order is being made on the basis of the Court's understanding that:
- (a) All parties to the proceedings have through their respective Counsel executed the Memorandum requesting this Order;
  - (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Resource Management Act 1991 including in particular Part 2.

**ORDER**

- [4] Therefore the Court orders by consent that:

Volumes 1 and 2 of the Wairau Awatere Resource Management Plan be amended in terms of Schedule 1 hereto.

- [5] There is no Order as to costs.

Dated this *8<sup>th</sup>* day of *July* 2010



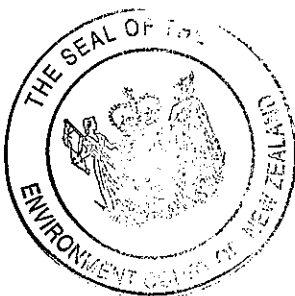
  
\_\_\_\_\_  
LJ Newhook  
Environment Judge



**WAIRAU/AWATERE  
RESOURCE MANAGEMENT PLAN**

**Proposed Plan Variation No. 42  
Review of the Central Business Zone  
Amended Schedule of Changes  
Following Decisions on Submissions**

**Notified 22 May 2008**



## PROPOSED VARIATION - SCHEDULE OF CHANGES

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Where text is proposed to be added to the Wairau/Awatere Resource Management Plan (the Plan) through this Variation, it has been shown as underlined (blue), amendments arising from the decision are shown as underlined (red). Text highlighted in **YELLOW** is the text the parties to the appeal against Variation 42 have agreed to seek to have the Environment Court approve in the final version of Variation 42. All other text is existing text from the Plan and has been included for context to assist the reader in determining where the changes occur, and does not form part of the plan variation.

The Wairau/Awatere Resource Management Plan is amended in accordance with the following schedule:

## PROPOSED VARIATION – AMENDED SCHEDULE OF CHANGES

### VOLUME ONE – Objectives, Policies, Methods

#### Chapter 11. Urban Environments

1. **Amend** the introductory paragraph under 11.3 Business Areas as follows:

#### 11.3 Business Areas

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The principal business and retail area within the Wairau/Awatere area and Marlborough at large is the Ceentral bBusiness Zone of Blenheim, and more specifically within the Primary Shopping Area of the Central Business Zone. Within Blenheim... Seddon townships.

1. It is important for the identity of Blenheim that the Central Business Zone, and the Primary Shopping Area, remain the regional focal point for retail, commercial, cultural and social activity, and the town centre continues to thrive as the principal shopping location. It is acknowledged that the increasing demand for and choice of goods will result in pressure for retail developments to occur in other locations, but these should always remain in a secondary position to the primary function of the Blenheim town centre.

2. **Amend** the explanatory text after Objective 2 under 11.3.1.2 as follows:

*These policies seek to promote a convenient and ~~fairly~~ compact central focus for Blenheim which enables the Central Business Zone to retain and continue its function as the retail, commercial, and cultural and social focus of the town and the wider surrounding region. Comparison shopping... elsewhere in the*



zone.

3. **Amend** Policy 3.4 and the explanatory text under Objective 3 under 11.3.1.2 as follows:

...

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Policy 3.4 Integrate the use of street furniture, signage and hard and soft landscaping.

*The establishment of public amenities such as street furniture, children's play equipment, landscaping or ~~even~~ community buildings, along with attractive architecture and integrated colour schemes contributes to the attraction of the Central Business Zone as a destination in its own right. The vibrancy of the town centre relies on a balance of amenity and attractions, not simply a reliance on retailing.*

4. **Add** a new issue before the Methods of Implementation as follows:

**11.3.1.3 Issue**

**Managing the vulnerability of the Central Business Zone from commercial activities outside the Central Business Zone.**

- Ensuring that the Primary Shopping Area and Central Business Zone remain the regional focus of commercial activity.
- The need for redevelopment of the Primary Shopping Area, to improve its attractiveness and to ensure that sites meet modern retailer requirements.
- The continued need to provide for larger-format retail development identify suitable sites in the Central Business Zone where such activities are compatible within the CBZ for larger-scale retail development, while ensuring adequate parking and access to service both these sites and the Primary Shopping Area.
- The pressure for larger format retail activity on sites outside the Primary Shopping Area/Central Business Zone, balanced with the need to protect the surrounding amenity and to safeguard the local service function of the Neighbourhood Business Zones.
- The need to limit commercial activity outside of the Central Business Zone to ensure the vitality and vibrancy of the Blenheim town centre and Neighbourhood Business Zones are not impacted on, yet allowing commercial activity where appropriate and ancillary to rural activities.
- The need to allow commercial activities outside commercial zones which are ancillary to rural activities
- The need to make provision for other commercial activities where the adverse effects of such activities are not significant or where such activities are not physically or practically appropriate to locate within the existing business zones.

• **11.3.1.4 Objectives and Policies**



Objective 1      Establishment of a retail hierarchy to ensure that commercial development is concentrated in appropriate locations and zones.

Policy 1.1      Require a sequential approach to managing the location of commercial activity within Blenheim, using a retail hierarchy.

Policy 1.2      Require justification of, the need for and the impact on the Central Business Zone from commercial development located outside the Primary Shopping Area and Central Business Zone.

Policy 1.3      Provide for appropriate commercial activity in rural areas where directly related to rural industries or where such activities are not compatible within the existing business zones.

**Retail Hierarchy**

In recognition of the evolving needs and patterns of commercial activity within the Marlborough District, and the fundamental tenet of ensuring that the Blenheim Town Centre remains the regional retail centre, a hierarchy of location preferences has been created for commercial and retail activities. The hierarchy has four tiers.

<u>Tier</u>	<u>Zone</u>	<u>Preference</u>
<u>Tier 1</u>	<u>Primary Shopping Area</u>	
<u>Tier 2</u>	<u>Central Business Zone</u>	
<u>Tier 3</u>	<u>Neighbourhood Business Zone</u>	
<u>Tier 4</u>	<u>Other Zones</u>	

The first tier, the Primary Shopping Area, is already well established in terms of retail and commercial activity. The Primary Shopping Area is an attractive, pedestrian orientated environment. It is generally characterised by local independent retailers and national multiples providing a range of speciality shops and services, and comparison retailing, from units generally less than 500m<sup>2</sup> in



size. It is likely to attract people combining a shopping trip with leisure and entertainment.

It is important that speciality shops and services and comparison retailing continue to locate in the Primary Shopping Area, but are balanced with other leisure and entertainment activities, to encourage linked trip visits and to ensure that the town centre remains vibrant throughout the day. Car parking areas for the Primary Shopping Area are provided for by the Council.

The wider Central Business Zone is the second tier in the retail hierarchy. It currently accommodates commercial activities generally requiring larger retail spaces, ranging from 500m<sup>2</sup> to 1,500m<sup>2</sup>. The area is typically characterised by lower-height buildings and car parking is on site. The Central Business Zone is more car-orientated, with main roads allowing traffic to flow through and around the town centre while avoiding the Primary Shopping Area as far as possible. The wider Central Business Zone area should continue to meet the requirements of larger retail operators (500m<sup>2</sup> to 1,500m<sup>2</sup>) and be easily accessible by all modes of transport. Infill and redevelopment of the Central Business Zone should allow suitable sites to be aggregated assembled to meet the variable needs of new operators.

The third tier, the Neighbourhood Business Zones provide a localised shopping and service function typically meeting the day to day needs of the surrounding residential areas.

The local scale of Neighbourhood Business Zone centres should be retained where possible and consideration given to any sensitive adjacent activities, for example, residential zones.

Any increase in the scale of the Neighbourhood Business Zones must not compromise the vitality and viability of the Blenheim town centre.

Other Zones in the Plan have been included as the fourth tier. Commercial activity is provided for within other zones of the Plan, notably where the effects of those activities on the CBZ are not significant and where consideration is given to the scale and type of retailing depending on the zone generally with limitations on the scale and type of retailing depending on the zone. Other Zones have been included to provide for operators who seek to locate in other zones because of the lack of availability of suitable alternative sites in a higher tier or where a



proposed activity is not compatible in these zones. The location of commercial activities in the Rural 3 Zone will be assessed with regard to a range of matters which assist in considering the impact on the vitality and viability of the Primary Shopping Area and the Central Business Zone.

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Objective 2      Infill and redevelopment of sites and existing buildings in the Central Business Zone.

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Policy 2.1      Encourage the infill and redevelopment of sites and existing buildings to create new retail and commercial sites within the Primary Shopping Area and Central Business Zones.

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Policy 2.2      Ensure that any infill and redevelopment is compatible with the form and function of the Central Business Zone.

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Some redevelopment has taken place in recent years but, while there are few vacant premises, the core area would benefit from continued investment in redevelopment initiatives. Redevelopment will also provide opportunities to alter unit sizes to suit the variable needs of retail operators. Upper storeys can be used for other activities, such as office, service or residential, to create a vertical land use mix. Use of existing sites, through a policy of infill, will facilitate new development which should be encouraged so long as it is compatible with the CBZ form and function.

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Objective 3      A vibrant town centre.

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Policy 3.1      ~~Protect the~~ Ensure that the Blenheim town centre ~~from potential adverse effects of~~ is not adversely affected by commercial activity occurring outside of the Central Business Zone.

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Policy 3.2      ~~Direct~~ Encourage a mix of retail, commercial, cultural and social activities to the town centre.

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5. **Amend** 11.3.1.3 Methods of Implementation as follows:

**11.3.1.35**

**Methods of Implementation**





## Schedule of Changes for Proposed Variation 42:

Zoning	<p>The <a href="#">Primary Shopping Area and</a> Central Business Zone <a href="#">is are</a> identified on the planning maps, incorporating all central areas where a resource has been established to support retailing and other commercial and community facility activity. <a href="#">Neighbourhood Shopping Zones</a> are also identified on the planning maps.</p>
Rules	<p>Plan rules enable the continuity and establishment of commercial activity, visitor accommodation, entertainment facilities and community facilities subject to performance standards.</p> <p>Other activities graded by effects implications will be considered as Discretionary, Non-complying or Prohibited Activities.</p> <p>Plan rules control advertising signs with conditions to manage any potentially adverse landscape, amenity or traffic distraction effects.</p>
Performance conditions	<p>Performance conditions address matters such as building height, vehicle access and loading, car parking, noise, hazardous facilities and the provision of verandahs for pedestrian shelter.</p>
Financial Contributions	<p>For new developments setting up within the Central Business Zone not able to meet the car parking requirements, the Council may require a financial contribution in terms of Section 108 of the Resource Management Act for the purpose of establishing public car parks.</p>
Transport	<p>Implementation of Marlborough's Regional <a href="#">Councils</a>—Land Transport Strategy, in conjunction with the land transport requirements of this Plan (Chapter 19), will address the compatibility of the commercial area with the transport network.</p>
Council Activities	<p><a href="#">The</a> Council will implement traffic and parking management controls, in terms of the Local Government Act, that are appropriate to the season and traffic volumes in order to minimise conflicts between users and ensure efficient movement of vehicles.</p> <p><a href="#">The</a> Council will obtain and develop land in appropriate locations for car parking.</p> <p><a href="#">The</a> Council will initiate the development of an urban design plan for the Central Business Zone and encourage town centre</p>



promotion by stake-holders in the zone.

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The Council will facilitate, where possible, the redevelopment of sites within the Central Business Zone to accommodate improved commercial facilities and to enable the most efficient use of land and buildings.

The Council as a landowner of significant underdeveloped sites within the town centre, (purchased to provide car parking for the Primary Shopping Area), will consider enabling infill development on those sites, where sufficient parking can continue to be provided on the site or provided on an appropriate alternative site.

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## Chapter 12 Rural Environments

6. **Add** to the end of 12.2.1.3 Residential, commercial and industrial development:

...

- the types and scales of buildings and open space areas needed for these activities can be better accommodated within the character of the built environment.

The Business Areas section, under the Urban Environments chapter, sets up a hierarchy framework to enable the Council to consider the location of commercial activities outside the Central Business Zone. ~~The hierarchy requires consideration of whether the first two tiers of the retail hierarchy are unsuitable for the development intentions of the retailers requiring larger sites and may look to develop their commercial activity on Rural 3 zoned land.~~ Consideration of large format retail commercial activity in the rural zone will be rigorously tested against this hierarchy, including requiring an assessment of whether those activities will significantly undermine the functionality of the CBZ ~~the suitability of alternative sites and an assessment of the proposal on the vitality and viability of the Central Business Zone.~~



7. **Add** a new rule after Rule 4.2.1.12

...

- The effect any activity may have on the 24 hour, 7 day operation capability of the airport.

4.2.1.13 In respect of commercial activities:

- The extent to which the commercial activity may have Any potential adverse effects on the vibrancy and vitality of the Central Business Zone.
- The size and characteristics scale of commercial activity.
- The nature and type of commercial activity.
- Effects on the road network.
- Effects on local and wider amenities amenity values.

8. **Amend** Rule 4.3.1.1 Assessment Criteria for Commercial Activities:

• ...

- The extent to which commercial activity on the site is an integral and necessary part of, or closely associated with, other activities being undertaken on the site.
- The extent to which the commercial activity is compatible with the existing business zones.
- The extent to which the commercial activity cannot be physically or practically undertaken within an urban area the Existing Central Business Zones, including an assessment of the suitability of alternative locations.
- The proximity of the commercial activity to an urban area.
- The extent to which the activity will impact upon the vibrancy and vitality of the Central Business Zone.
- The extent to which the cumulative impact of the commercial activity outside the Central Business Zone will impact upon the vibrancy and vitality of the Central Business Zone.
- Beyond trade competition, the the extent to which the activity will significantly adversely affect either on its own or cumulatively , the vibrancy and vitality of the Central Business Zone taking into account the following:
  - The purpose of the CBZ and the likely effect upon the mix of land use activities within the CBZ.
  - The likely effect upon the existing urban design qualities inherent in the CBZ, including in particular streetscape, amenity values and connections.
  - Existing CBZ pedestrian counts and anticipated changes to pedestrian counts directly related to the proposed activity.
  - Retail and traffic distribution effects.
  - CBZ vacancy rates.



Schedule of Changes for Proposed Variation 42:

- The frequency and characteristics of customer and service vehicle visits.

- The effect of the commercial activity on the long term availability of soils for primary productive use.

