

# **Proposed District Plan Change 1**

## **BUSINESS AND COMMERCIAL ACTIVITY AREAS**

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# Proposed District Plan Change 1 – Business and Commercial Activity Areas

## Section 32 Report

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### INTRODUCTION

1. In May 2002 a report was submitted to the Strategy and Policy Committee of Council recommending that when the Proposed District Plan was made operative that a Plan Change would be promulgated to allow a wider range of retail and commercial activities in the General Business Activity Area. In addition it was proposed that a commercial floating activity area, that will allow developers or property owners to apply to Council for a Plan Change, would also be promulgated.
2. Council accepted those recommendations and this report outlines the proposed changes to be made to the District Plan and evaluates them. The effectiveness of other alternatives and methods are also analysed and evaluated.

### THE RELEVANT STATUTORY REGIME AND LEGAL FRAMEWORK

3. Section 32 contains direction that apply to the Council regarding considerations of alternatives, benefits and costs. The Resource Management Amendment Act (No.2) repealed the existing Section 32 and substituted a new Section 32. The new Section 32 states *inter alia*:

“32. *Consideration of alternatives, benefits, and costs*

(1) *In achieving the purpose of this Act, before a proposed plan, proposed policy statement, change, or variation is publicly notified, a national policy statement or New Zealand coastal policy statement is notified under section 48, or a regulation is made, an evaluation must be carried out by-*

(a) *.....*

(b) *.....*

(c) *the local authority, for a policy statement or a plan (except for plan changes that have been requested and the request accepted under clause 25(2)(b) of Part II of the First Schedule); or*

(d) *.....*

(2) *A further evaluation must also be made by-*

- (a) *a local authority before making a decision under clause 10 or clause 29(4) of the First Schedule; and*
  - (b) *.....*
- (3) *An evaluation must examine-*
- (a) *the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and*
  - (b) *whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*
- (4) *For the purpose of this examination, an evaluation must take into account-*
- (a) *the benefits and costs of policies, rules, or other methods; and*
  - (b) *the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.*
- (5) *The person required to carry out an evaluation under subsection (1) must prepare a report summarising the evaluation and giving reasons for that evaluation.*
- (6) *The report must be made available for public inspection at the same time as the document to which the report relates is publicly notified or the regulation is made."*

4. As pointed out above while the Resource Management Amendment Act 2003 has substituted a new Section 32, it is considered that the following passage from the Planning Tribunal's decision in *Nugent v Auckland City Council* (1996, NZRMA 481) is generally still applicable and summarises the requirements as follows:

*"...a rule in a proposed district plan has to be necessary in achieving the purpose of the Act, being the sustainable management of natural and physical resources (as those terms are defined); it has to assist the territorial authority to carry out its functions of control of actual or potential effects of the use, development or protection of land in order to achieve the purpose of the Act; it has to be the most appropriate means of exercising that function; and it has to have a purpose of achieving the objectives and policies of the plan."*

5. Part II of the Act is also relevant to any consideration. With regard to Part II, Section 5 is of course fundamental to any assessment. The approach in Section 5 is to weigh the matters in Section 5(2) in order to reach a broad judgement as to whether a policy or rule would promote the sustainable management of natural and physical resources. The values in Section 5 have been variously referred to as "indicators", "guidelines", "directions" or "touchstones" for promoting the goal of sustainable management. It is considered that the "enabling" and "management" functions of Section 5(2) are of equal importance. The circumstances of each case determine the level of management that is required to promote sustainable management of natural and physical resources.

- 6.** It is therefore considered that applying Section 5 involves a broad overall judgement as to whether a proposal or provision in the Plan would promote the single purpose of the Act. This allows for balancing of conflicting considerations in terms of their respective significance or proportion in the final outcome (*Kiwi Property Management Ltd v Hamilton City Council*, A045/2003).
- 7.** Environment is also defined to include social, economic, aesthetic and cultural considerations. Economic matters are also relevant to a consideration of the efficient use and development of natural and physical resources in Section 7.
- 8.** Section 7 matters of relevance are:
- (i) the efficient use and development of natural and physical resources – Section 7(b); and
  - (ii) the maintenance and enhancement of the quality of the environment – section 7(f).
- 9.** The matter of regulating retailing and commercial activities within a resource management framework has been considered by the Environment Court on a number of occasions. An analysis of the relevant cases is carried out below so that broad principles can be established to guide and help evaluate options that are available to Council.
- 10.** Economic wellbeing is a matter provided for in sustainable management, however, it has been stated that it is the broad aspects of economics which are relevant rather than the economic viability of a project. In *NZ Rail v Marlborough Council* (1994) NZRMA 70 Greig J stated as follows:
- “That economic considerations are involved is clear enough. They arise directly out of the purpose of promotion of sustainable management. Economic wellbeing is a factor in the definition of sustainable management in s 5(2). Economic considerations are also involved in the consideration of the efficient use and development of natural resources in s7(b). They would also be likely considerations in regard to actual and potential effects of allowing an activity under s104(1). But in any of these considerations it is the broad aspects of economics rather than the narrower consideration of financial viability which involves the consideration of the profitability or otherwise of a venture and the means by which it is to be accomplished. Those are matters for the applicant developer and as the Tribunal appropriately said for the boardroom.”*
- 11.** However, it needs to be pointed out that the definition of sustainable management does not contemplate economic wellbeing having precedence over other factors provided for in the definition. In particular, economic wellbeing should not be enjoyed at the expense of adverse effects unless these can be

avoided, remedied, or mitigated (*L A Campbell and Ors v Southland Regional Council* W114/94).

- 12.** Economic effects that can be considered under Sections 5 of the Resource Management Act 1991 have been considered in a number of Environment Court cases. While Section 74(3) states that consent authorities must not have regard to trade competition, there is plenty authority from Environment Court cases that the consequential effects arising out of trade competition are “effects” within the meaning of that term as defined in the Act and are not within the scope of trade competition. The possible adverse implications of retail closures for infrastructures and communities has been acknowledged by the Environment Court and before the Planning Tribunal, both under the Town and Country Planning Act 1977 and the Resource Management Act 1991 (see *Baker Boys Limited v Christchurch City Council* [1998] NZRMA 423; *Blenheim Centre Limited v Marlborough District Council* [1997] 3 NZLR 204; *Countdown Properties Northland Limited v Ashburton District Council* [1996] NZRMA 337; *Foodstuffs (Otago Southland) Properties Limited v Dunedin City Council* W53/93(PT); *Foodstuff Properties Wellington Limited v Upper Hutt Council* (1990) 14 NZTPA 232; *Gus Properties Limited v Marlborough District Council* W74/94; *Imri Family Trust v Whangarei District Council* [1994] NZRMA 453 (PT); *McIntyle Development v Auckland City Council* 6 NZTPA 317; *Nathan v Paeroa Borough*, A94/87; *National Trading v Manukau City Council*, A94/86; *Progressive Enterprises v Auckland City Council* 6 NZTPA 317; *Queenstown Property Holdings Limited v Queenstown Lakes District Council* [1998] NZRMA 145; *Smale v North Shore City Council* A 112/92 (PT); *St Lukes Group Limited & Ors v North Shore City Council* A41/2001; *Sylvia Park Business Centre v Auckland City Council*, A 132/2001; *The National Trading Company New Zealand v North Shore City Council*, A 182/2002; *Whakatapu Environmental Society Incorporated v Queenstown Lakes District Council* [2000] NZRMA 59; *Westfield (New Zealand) Limited & Ors v Upper Hutt City Council* W44/2001; *Woolworths Limited v Christchurch City Council* [1994] NZRMA 310, *Kiwi Property Management Ltd v National Trading Company of New Zealand Ltd*, A045/2003).
- 13.** The general tenor of the judicial comments in the above cases indicates that the RMA is not concerned with the fate of individual investors but with the resource management outcomes. It was held that it is essentially the economic effects on the wider community that should be considered.
- 14.** In *Westfield (NZ) Limited & Ors v Upper Hutt City Council and Wellington Regional Council & Ors* (W44/2001), the Environment Court addressed the matter of trade competition:

*The RMA (s74 (3)) is explicit that a council when preparing plans must not have regard to trade competition. However references in the Act relating to trade competition are subservient to the overall thrust of the Act as set out in Part II and particularly in s.5 where community values are addressed. Thus if trade competition should reach a stage*

*where a community asset represented by the CBD is weakened to an unacceptable degree, then a Council can intervene. Intervention in such a case is a proper intervention in that it would be necessary to achieve the purpose of the Act in terms of s32(c)(i). Put another way, unbridled retail development at a scale and in a location driven by the whim of developers could destroy the sustainable management concept of the Act as it relates to the promotion and preservation of a community."*

- 15.** In *Kiwi Property Management Ltd v National Trading Company of New Zealand Ltd* (A045/2003) the Environment Court further clarified the matter of effects that could be taken into account. The Environment Court stated *inter alia* as follows:

*"..What the epithets do emphasise, is the need not to confuse real consequential effects with economic effects which amount to trade competition. A real possibility of a downturn in retail activity with a possible flow-on effect of having to reduce rentals by property owners is not sufficient to justify intervention. The possible flow-on effects must be such that communities and their wellbeing may be affected adversely."*

- 16.** The above cases show broad agreement that evidence of potentially high adverse effects on people and communities or evidence of unacceptable externalities justify affirmative intervention by territorial authorities. It should however, be pointed out that the above cases do not mean that out-of-centre-retail development cannot occur. This was made clear in the Environment Court case *St Lukes Group & Westfield v The Auckland City Council* (A132/2001):

*"If by the expansion of existing centres in preference to out-of-centre retail development, counsel for Westfield intended as a general proposition that new retail centres cannot be developed if they would compete with existing centres, we do not accept the proposition. That would not be consistent with the statutory purpose. Nor do we accept that the decisions cited by counsel established a general principle to the effect which we are obliged to apply in this case."*

*"We do not accept that the decisions cited by counsel for Westfield support a general proposition that potentially high adverse effects on people and communities, or evidence of unacceptable externalities, should be taken into account in settling the provisions of district plans about new retailing activities. SPBCL accepted that the effects of distributional impacts of retail development have to be taken into account. Its case was simply that the effects of its proposal would not be high or unacceptable. That calls for a judgement of degree on the evidence."*

*"The extent of adverse effects from retailing activity may be greater if it is carried on where trade competitors may suffer considerable loss of trade. However that does not justify a general prohibition on establishing a new retailing centre rather than expanding an existing one. "*

*"Applying those concepts to the issues in this case, it is our understanding that the Court has to make a judgement on the evidence whether adverse effects of implementing Plan*

*Change 4 on traffic safety and transport efficiency, and on the ability of people and communities to provide for their social and economic well-being, are so extensive that the statutory purpose would be better served by cancelling or modifying the plan change rather than approving it."*

- 17.** Taking into account the decisions of the Environment Court the following conclusions can be drawn:
- (a) Economic and social factors can be taken into account but it is the wider effects on people and the community that are relevant rather than the economic viability of projects.
  - (b) The definition of sustainable management does not contemplate economic wellbeing having precedence over other factors provided in the definition. In particular economic wellbeing should not be enjoyed at the expense of adverse effects unless these can be avoided, remedied, or mitigated.
  - (c) The Act should not be understood to be a product of either a purely market or interventionists approach.
  - (d) In considering retail provisions in District Plans it is appropriate that potentially high adverse effects on people and communities or evidence of unacceptable externalities are taken into account and assessed. Essentially it will have to be shown that the sustainability of existing centres will be destroyed and their viability be jeopardised to such an extent that people will be disenabled in access to retail, commercial and other business activities.

## **CURRENT RETAIL PROVISIONS IN THE DISTRICT PLAN RELATING TO COMMERCIAL AND GENERAL BUSINESS ACTIVITY AREAS**

- 18.** Currently in the District Plan retailing activities are mainly confined to commercial activity areas. Four commercial activity areas are identified in the District Plan. These are as follows:
- (a) Central Commercial;
  - (b) Petone Commercial (Area 1 and Area 2);
  - (c) Suburban Commercial; and
  - (d) Special Commercial.
- 19.** Some types of retailing are permitted in the General Business Activity Area. These include the following:
- (a) Goods manufactured on site.

- (b) Sale of carports, kitset garages and sheds, trailers, caravans, boats, swimming pools, spa pools, new and used cars, heavy commercial and agricultural vehicles, machinery and accessory parts.
- (c) Goods of natural materials which are sold in bulk such as gravel, sand, shingle, rock, concrete, coal, fire wood and timber for construction purposes.
- (d) Goods sold at an auction or garden centre.
- (e) Where retail activity provides a food service, provided the gross floor area does not exceed 200m<sup>2</sup>.
- (f) Where the retail sale of goods is from a service station.

**20.** It should also be pointed out that trading warehouses are listed as Discretionary Activities in the General Business Activity Area. Trading warehouse is defined as *“a building used for the storage of bulky goods or materials, and/or for the storage of goods in bulk for sale from the premises and which is appropriately situated in a location peripheral to a main shopping area. Such uses include trade supplies and furniture or carpet warehouses, but excludes uses such as supermarkets and department stores or other retail premises engaged in retailing and /or wholesaling directly to the public rather than to resellers.”*

**21.** Therefore the District Plan currently does allow a range of retail goods, especially those of a bulky nature, to occur in the General Business Activity Area. It should also be noted that there are no controls on the type of retailing that can occur at auction centres or at service stations which currently provide a wide range of goods and generally act as “mini-supermarkets”.

## **PROPOSED PLAN CHANGE**

**22.** Proposed Plan Change 1 has the following main features:

- (a) Trading warehouses are to be Restricted Discretionary Activities in the General Business Activity Area. Council will seek to restrict its discretion to effects on the external appearance, design and location of buildings and landscaping, effects on the transport network and reverse sensitivity effects.
- (b) Large retail activities with a minimum gross floor area of 2,000m<sup>2</sup> and a maximum of 5,000m<sup>2</sup> are Restricted Discretionary Activities in the General Business Activity Area. In addition such retail activities must be undertaken as an individual retail activity. Council will seek to restrict its discretion to effects on the external appearance, design and location of buildings and landscaping, effects on the transport network and reverse sensitivity effects.



- (c) Retail activities not listed as Permitted, Controlled or Restricted Discretionary Activities are Discretionary Activities.
- (d) In addition a new activity area, Development Commercial Activity Area, is proposed. This Activity Area can be applied where needed for suitable sites and will cater for large-scale and comprehensively designed retail, commercial and business activities. The proposed Plan Change adopts a “floating zone” technique which provides for the integrated establishment and continued orderly development of a proposal, while allowing flexibility in the choice of location and site development controls. This activity area will be applied by way of a change to the District Plan only after a development proposal has been tested against defined criteria, which pay particular attention to the impact of the proposal on the environment.
- (e) As a result of the above changes, some minor consequential changes are made to various provisions of the District Plan.

## **EVALUATION OF THE PROPOSED PLAN CHANGE**

### **Introduction**

- 23.** In this section an evaluation of the proposed Plan Change as outlined above is carried out. In carrying out such an evaluation the current general trends in retailing as well as the situation in Lower Hutt will be analysed and discussed. Following that the likely effects the proposed Plan Change will have on the environment including costs and benefits will be analysed and discussed. As part of that evaluation other methods and options will also be considered.

### **Retail Trends**

- 24.** Most of the issues identified here have been discussed in other reports. However, for the sake of convenience and completeness they are summarised in this report.
- 25.** As pointed out by many commentators, retailing is a dynamic industry and changes have occurred as a result of various demographic, social and economic factors. Some of the main factors are as follows:
- (a) Retail trading hours have been deregulated and now Saturday and Sunday trading occurs in most retail sectors.
  - (b) Surveys carried out in New Zealand and overseas indicate that many households now consider shopping to be an important leisure activity.

- (c) Consumers have become more sophisticated and have demanded a wider range of goods and higher standard of facilities.
- (d) Changing lifestyles have increased the frequency and timing of many shopping trips.
- (e) Rising car ownership have made people more mobile. The number of two or more car households has increased in recent years. This has enabled people to travel further and now they are not restricted to their local shopping centre.
- (f) Most import controls have been removed and this has led to more foreign goods being made available. This has benefited consumers as there is better price competition leading to lower prices.
- (g) There is greater competition among retail organisations and this has led to changes in organisation structure and retail formats. An important trend here is that to some extent retail services are becoming aspatial. Alternative means of obtaining retail goods such as internet shopping, TV shopping and catalogues have grown in importance and to be successful traditional retail outlets have had to compete by developing alternative formats. This has involved providing goods at discounted prices and in large utilitarian designed buildings with large car parking areas often outside existing commercial centres. Many have been established in industrial areas where large flat sites are available at more affordable prices.

**26.** The above changes have resulted in significant changes to the retail industry. Some of the important changes from a resource management point of view are as follows:

- (a) In order to compete effectively, supermarkets have had to increase in size and provide a wider range of products. The evolution in supermarket development has seen the range of supermarket size alter from 900m<sup>2</sup> to 2,000m<sup>2</sup> in the 1970's to 2,000m<sup>2</sup> to 5,000m<sup>2</sup> in the late 1980's and early 1990's. The move towards meeting consumer expectations also has meant supermarkets have had to provide a wider range of goods and services. For example, an emphasis on fresh foods has developed and supermarkets have accommodated this by having their own bakeries, delicatessens, salad bars, butchers and seafood counters. In addition a wider range of non-food items such as manchester, apparel, kitchenware, garden items and alcohol are also now sold. Recently some supermarkets are considering incorporating chemist shops within the supermarket and also in order to increase customer loyalty have service stations immediately adjoining the supermarket.
- (b) Trading warehouses have grown in importance and the size of such establishments have increased substantially in recent years. They sell a wide

range of bulky non-food items such as carpets, furniture, curtains and other similar items, a full range building and timber supplies and related DIY materials such as paint, hardware, lighting and other such items for both home and trade customers, and household electrical goods. Due to the bulky nature of the goods many trading warehouses have been established outside existing commercial centres often in industrial areas.

- (c) Department and discount department stores have undergone major changes with increases in size of stores and the range of products they stock. Stores of between 5,000m<sup>2</sup> and 10,000m<sup>2</sup> are now not uncommon. Furthermore the entry of new operators has increased competition within the market. Department and discount department stores now provide virtually all non-food items under one roof and the emphasis is on moving large volumes of merchandise, keeping costs down and using specials to entice new customers.
- (d) Factory outlet centres specialising in selling seconds and end-of-line clothing or apparel at discounted prices have also been established in recent years. They are generally outlets from which manufacturers, rather than retailers, can sell directly to the public. Such factory outlets have often been established outside existing commercial centres.
- (e) Another significant change that has occurred is the growth of integrated and enclosed shopping malls. These centres are usually climate controlled, with the ability to create one-stop shopping and also provide other leisure facilities.
- (f) MegaCentre type of development represents a new type of shopping product which has recently been introduced to New Zealand. In North America and Australia it is commonly known as a "power centre". These are complexes of large, separate retail stores surrounded by large car parking areas. They are located on large sites, sometimes in industrial areas, some distance from district shopping centres. Such complexes often have stores selling similar or complementary products grouped together allowing customers to shop around in a linked warehouse type of environment. Unlike planned or integrated shopping centres such complexes do not offer food courts or other type of leisure activities in a climate controlled environment.

## **Existing Retail/Commercial Environment in Lower Hutt**

- 27. Information on the current retail pattern in Lower Hutt City was obtained mainly from the household telephone survey carried out by the National Research Bureau on behalf of Council in June 2001. It should also be pointed out a similar survey was carried out in late 1988. Taking both surveys carried out into account, analysing statistical information from public sources (mainly from Statistics New Zealand) and from qualitative assessments of commercial centres and industrial

areas, a good understanding of the retail, commercial and industrial environment in the City was obtained.

**(a) Lower Hutt Central Area**

- 28.** As expected the surveys showed that the Lower Hutt Central Business District was the most important for most types of convenience and comparison goods in terms of patronage (see Table 1 and Appendix 1). When one compares the 2001 survey results with that of 1988 it can be seen for many types of retail goods, especially comparison goods (non-food items), the Lower Hutt Central Area has increased its market share in terms of patronage.

**Table 1: Lower Hutt Central Area Market Share in terms of Patronage**

Category	1988	2001
Food	29%	31%
Supermarket	43%	41%
Smaller food	15%	21%
Apparel	42.5%	51.5%
Adults clothes & shoes	59%	68%
Children clothes & shoes	26%	35%
Household goods	45%	54%
Furniture & Appliances	58%	61%
Hardware	43.6%	49%
Garden	33.6%	31.7%
Personal & general goods	24.9%	33%
Sporting goods	33.6%	36%
Personal Services	22.2%	26%
Toys	23.1%	37%
Stationery, books, magazines	38%	47%
Alcohol	16.1%	32%
Lotto & TAB	17.4%	19%
Banking	39.3%	55%
Trade Services	20.3%	18.5%
Licensed Premises (restaurants & bars)	31.1%	21.2%
Transport	7.1%	11.8%

Source: NRB Surveys, 1988, 2001 (June)

- 29.** Since the 2001 survey a number of retail and commercial development proposals have been completed or been granted consent by Council. These include the following:
- (a) A retail development on Rutherford Street with a total gross floor area of approximately 11,862m<sup>2</sup> has been granted resource consent. This retail complex will include a Harvey Norman store with a gross floor area of 5,985m<sup>2</sup>.
  - (b) A Pak N Save supermarket of approximately 6,000m<sup>2</sup> at the intersection of High Street/ Brunswick/Melling Road is scheduled to be completed within two years.

- (c) A retail complex consisting of two large retail outlets fronting Queens Drive/Laings Road with a total gross floor area of approximately 3800m<sup>2</sup> occupied by Rebel Sport and Briscoes has opened in late September 2003. This development also includes three new shops with a gross floor area of about 68m<sup>2</sup> fronting High Street.
  - (d) A retail development on Rutherford Street, consisting of a number of retail shops such as pet food, furniture, household electrical appliances and shoes, was completed in 2002.
  - (e) A call centre with a gross floor area of approximately 4,000m<sup>2</sup> at the Centre City Plaza was completed in 2003.
  - (f) Resource and building consents were granted in 2003 for a three-shop development at the southern end of High Street. Work has commenced and this is due to be completed in March 2004.
  - (g) Other firm proposals include a retail complex at the corner of Melling Road and High Street (former Levens site) and a gymnasium at the southern end of High Street. In addition it is likely that the Queensgate shopping centre will be enlarged in the near future.
- 30.** Given the above development it is considered that the Lower Hutt Central Area will continue to be the most important commercial centre in the City. It is also important to note the developments that have occurred or are proposed are located not only at the northern end of the City in the area recently rezoned to allow retail development but also at the southern end of High Street and Queens Drive. Hence it can be said that development has occurred throughout the Lower Hutt Central Area and not only in one location. It is therefore considered that the overall vitality and viability of the Lower Hutt Central Area will be maintained and enhanced.

**(b) Petone Commercial Activity Area**

- 31.** The Petone Shopping centre is the second largest in the City. It is located mainly on Jackson Street between Cuba Street to the east and Te Puni Street to the west. The shopping area based on Jackson Street between Cuba Street and Victoria Street is a traditional "high street" and generally lacks depth and adjoins residential areas. To the west the former "Gear Meat" site (the area bounded by Victoria and Te Puni Streets) has been developed as an area for large sized retail and commercial activities and a number of these activities such as a Pak N Save supermarket, The Warehouse and The Warehouse Stationery, Briscoes discount department store, McDonald's Family restaurant, and a few other retail outlets (e.g. Katmandu, Spotlight) have been established here.

- 32.** A comparison of the 1988 and 2001 survey results shows that with the rezoning of the western end of Jackson Street (mainly the former Gear Meat site) and the implementation of a “Mainstreet” programme Petone has increased its market share in virtually all range of goods surveyed (see Table 2 and Appendix 1).
- 33.** It can be seen that in particular with the establishment of the Pak N Save supermarket at the western end, Petone’s market share of supermarket shopping has increased from 5.7% in 1988 to 31% in 2001. While it is likely that with the establishment of a Pak N Save supermarket in the Lower Hutt Central Area there will be some loss of market share in terms of patronage, Petone will still be of significant importance in terms of supermarket shopping. Other areas of significant change are in toys from 2.5% in 1988 to 16% in 2001, licensed premises (restaurants & bars) from 4.5% in 1988 to 18% in 2001. Other comparison good categories such as clothing, shoes, stationery, furniture & appliances, hardware and trade services have all experienced growth.

**Table 2: Petone Shopping Market Share in terms of Patronage**

Category	1988	2001
Food	7.7%	22%
Supermarket	5.7%	31%
Smaller food	9.2%	12%
Apparel	2.1%	6%
Adults clothes and shoes	2.4%	6%
Children clothes and shoes	1.5%	6%
Household goods	3.4%	7%
Furniture and Appliances	2.7%	5%
Hardware	5%	8%
Garden	2%	9%
Personal & General Goods	5.7%	12%
Sporting goods	4.6%	4%
Toys	2.5%	16%
Stationery, books & magazines	5.5%	18%
Personal Services	7%	10%
Alcohol	7%	14%
Lotto, TAB	6.2%	9%
Banking	10.8%	13%
Trade services	5.5%	11%
Licensed premises (restaurants & bars)	4.5%	18%
Transport	4.4%	6%

Source: NRB Survey 1988, 2001 (June)

- 34.** The results of the surveys and assessment of the Petone centre shows that despite the establishment of retail activities at the western end of Jackson Street the elongated strip shopping area has not experienced any decline but overall has grown in importance.

### (c) Suburban Centres

- 35.** As can be seen from tables in Appendix 1, for virtually all categories of goods surveyed the suburban centres such as Wainuiomata, Eastbourne, Taita, Naenae, Stokes Valley etc have declined. This is especially the case in the category of

comparison/non-food goods such as clothing, shoes/footwear, household appliances, sporting goods, banking etc. It is considered that the suburban centres have declined due to economic, social and demographic factors outside the control of Council (see Section dealing with “Retail Trends”).

- 36.** The suburban centres were however still important in terms of small convenience goods such as smaller food shopping, trade services, Lotto and TAB. Therefore it is the small convenience shops that are important in the suburban centres.
- 37.** It should be noted that except for the Wainuiomata shopping centre there are virtually no sites available in suburban centres to cater for the demand of large format retail activities. The only large sites available for large format retail activities are in General Business Activity Area, some of which are adjacent or in close proximity to suburban centres. In this respect it should be pointed out that Council granted a resource consent in July 2003 to allow the establishment of a 5,262m<sup>2</sup> Bunnings Warehouse at Cambridge Terrace, Naenae a site zoned General Business Activity Area adjacent to the existing shopping centre. In addition resource consent to establish a Mitre 10 Mega Store at Bouverie Street on land zoned General Business Activity Area has been recently received.

#### **(d) Centres Outside the City**

- 38.** From Table 3 it can be seen that in terms of patronage the largest amount of leakage, approximately 26%, occurred in the category of licensed premises (restaurants, lounge bars/public bars). Other categories of goods where significant leakage occurred are in furniture and appliances (15%), banking (15%), adult clothes and shoes (14%), trade services (13%), sporting goods (12%), personal services (10%) and stationery (9%). Therefore it is mainly in the entertainment and comparison goods categories that residents use centres outside the City. The Wellington Central area was the main shopping centre that residents used for such activities.

**Table 3: Centres Outside Lower Hutt City – Market Share in terms of Patronage**

Category	1988	2001
Food	7%	4%
Supermarket	7%	6%
Smaller food	7%	2%
Apparel	12%	9.5%
Adult clothes and shoes	17%	14%
Children clothes and shoes	6%	5%
Household goods	11%	8%
Furniture and Appliances	15%	15%
Hardware	9%	4%
Garden	9%	5%
Personal & General Goods	10%	7%
Sports	12%	12%
Toys	4%	4%
Stationery	11%	9%
Personal Services	15%	10%

Alcohol	8%	4%
Lotto, TAB	7%	3%
Banking	17%	15%
Trade services	7%	3%
Licensed premises (restaurants & bars)	21%	26%
Transport	4%	3%

Source: NRB 2001, 1988

## Assessment of Effects on Existing Commercial Centres

- 39.** In this section an assessment of the effects of Proposed Plan Change 1 will have on existing commercial centres in the City will be analysed and discussed.
- (a) Effects on Suburban Centres**
- 40.** As discussed above the surveys carried out showed that the suburban centres (such as Wainuiomata, Eastbourne, Maungaraki, Naenae, Stokes Valley, Waterloo, Taita, Alicetown etc) are now mainly convenience centres catering for smaller food shopping and other smaller goods. For non-food/comparison goods shopping and supermarket shopping the majority of households in the City already shop at the Lower Hutt Central Area, Petone or centres outside the City.
- 41.** It is considered that factors outside the control of Council were mainly responsible for households in the City not using suburban centres (see comments in section dealing with “Retail Trends”). For example with the deregulation of trading hours consumers have more time and are able to shop at a time which is convenient to them and shopping for comparison goods, such a footwear and clothing, is now more of a leisure activity for many consumers. Hence, with the substantial extension of trading hours the propensity of consumers to travel beyond their local centres increased substantially. Consumers are willing and able to travel longer distances to purchase comparison goods at larger centres where there is a wider range of goods and better price competition. In economic and social terms the welfare of residents (consumers) have been substantially improved by such changes that have occurred.
- 42.** As the existing suburban centres are already mainly convenience centres, it is considered that changes proposed in Plan Change 1 are not likely to have any significant adverse effects. In addition as discussed above there is generally no suitable land to cater for large format stores in existing suburban centres and little room for expansion of commercial centres as most of the centres adjoin residential activity areas. Also, if there was any land available for large format retail activities to establish in the suburban centres, it is considered that the traffic effects arising from such large format retail activities would have significant adverse effects on adjoining residential areas.



- 43.** Given the problems associated with establishing large format retail stores in existing suburban centres it is considered that the proposed change of allowing large format retail stores to establish in the General Business Activity Area in fact could have some beneficial effects on many suburban centres. As some sites in the General Business Activity Area are in close proximity to suburban centres there could be some positive spin-offs. For example it is considered that the establishment of Bunnings in the General Business Activity Area adjoining the Naenae shopping centre will have positive effects. Likewise the existing supermarket at Naenae also in the General Business Activity Area has been beneficial to other retail and commercial activities in the adjoining commercial centre.
- 44.** Taking the above matters into account and given that only one retail activity per site would be allowed and that comprehensive retail development would require a plan change or a resource consent so that effects can be assessed, it is considered that adverse effects on the wider community are likely to be no more than minor.

### **Effects on the Petone Centre**

- 45.** The Petone Centre has a mixture of large scale and smaller scale retail/commercial activities. The large scale retail/commercial activities are at the western end and include a Pak N Save supermarket, The Warehouse, The Warehouse Stationery, Briscoes, McDonald's Family restaurant, Spotlight, Katmandu etc. On Jackson Street between Victoria and Cuba Streets are small-scale retail/commercial activities in buildings generally built between 1926 and 1940 which have a distinct built form, style and character.
- 46.** The surveys carried out showed that the centre has grown in terms of importance for virtually all types of retail and commercial activities (see Table 2).
- 47.** The proposed Plan Change to allow trading warehouses and larger retail outlets as Restricted Discretionary Activities in the General Business Activity Area may have some effects on retail sales as some hardware, furniture, apparel and appliances stores may be adversely affected. However, it is considered that large format stores at the western end such as The Warehouse and Briscoes are able to compete effectively with any new establishments in the General Business Activity Area. In addition it should be pointed out that most of the commercial zoned land at the western end has already been developed and there are no significant suitable large sites currently available. It should be pointed out that many of the large sites in the General Business Activity Area are in close proximity to the Petone centre and redevelopment of these sites for large-scale retail outlets will overall have a beneficial effect on the existing centre.

- 48.** With regard to the retail/commercial area based on Jackson Street between Victoria and Cuba Streets it is considered that overall strength of this area is generally based on the entertainment sector (such as bars, restaurants and takeaways) and smaller convenience and specialists goods. Therefore the proposed Plan Change will have only minor effects on those businesses.
- 49.** Taking all the above matters into account, it is considered that the Petone commercial centre with its mix of large format stores and smaller shops in buildings with a distinct built form, style and character together with its strategic location should ensure that the centre can compete effectively with new retail formats in the General Business Activity Area. It is therefore considered that the overall vitality and viability of the Petone centre will not be adversely affected.

### **Effects on the Lower Hutt Central Area**

- 50.** The Lower Hutt Central Area is one of the largest in the Wellington region. As discussed earlier the surveys carried out showed that for virtually all types of retail goods and services that the Lower Hutt Central Area has increased in importance. Recent developments or proposed developments should ensure the continued vitality and viability of the centre.
- 51.** The proposed Plan Change to allow trading warehouses and large format retail outlets in the General Business Activity Area will have only a very minor impact.

### **Overall Effects**

- 52.** The overall effects of the proposed Plan Change are positive, as it will:
- Allow market forces to operate more effectively;
  - Provide a wider range of retail/commercial outlets for consumers;
  - Ensure that there will be greater price competition;
  - Reduce leakage of expenditure from the City;
  - Provide suitable larger sites for retailers/commercial operators; and
  - Attract new customers from outside the boundaries of the City.
- 53.** This is not to say that some businesses will not be adversely affected but overall it is considered that the Proposed Plan Change creates a competitive arena within which some competitors may suffer as the results of activities of others, that being an ever present factor in the normal cut and thrust of commercial competition. However, at the same time adverse effects on the community and existing centres will be no more than minor.

## CONSIDERATION OF ALTERNATIVES

- 54.** In this section an assessment is made of alternatives. It must be pointed out that it is not possible to assess all possible alternatives or combination of alternatives. Three alternatives are assessed and these are as follows:
- (a) Option 1 – Allowing all types of retail activities as permitted activities in the General Business Activity Area.
  - (b) Option 2 – Allowing all types of retail activities as Discretionary Activities in the General Business Activity Area.
  - (c) Option 3 – Plan Change 1. Allowing trading warehouses and large format retail activities with a minimum gross floor area exceeding 2,000m<sup>2</sup> and a maximum of 5,000m<sup>2</sup> as Restricted Discretionary Activities in the General Business Activity Area. All other retail activities not listed as permitted, controlled or restricted discretionary shall be discretionary activities. To cater for more comprehensive retail/commercial developments a floating activity area is proposed.

### **Option 1 – Allowing Retail Activities As Permitted Activities In The General Business Activity Area**

- 55.** In this option all retail activities would be listed as Permitted Activities in the General Business Activity Area.
- 56.** The main advantage or benefit of this option is that there will be few delays and low cost to developers. In addition market forces will decide the amount of retail/commercial development that takes place rather than being constrained by controls specified in the District Plan.
- 57.** The main disadvantage or cost is that some very large comprehensive retail/commercial developments (such as another Queensgate retail complex) may have unacceptable adverse social, economic and environmental effects on existing centres. In addition traffic effects may be unacceptable in some locations. It is also considered that development may be uncoordinated and there could be an unacceptable mix of retail/commercial and industrial activities. Reverse sensitivity issues may arise and these may need to be taken into account.
- 58.** Taking the advantages/benefits and disadvantages/costs into account it is considered that this option is currently not generally acceptable and does not achieve the purpose of the Act. It is also considered that it is also not efficient or effective in managing scarce resources in the City.

## **Option 2 – Allowing All Types Of Retail Activities In The General Business Activity Area As Discretionary Activities**

- 59.** The main advantage/benefit of this option is that Council and the community can consider all effects (social, economic, environmental and traffic) and determine whether they are acceptable.
- 60.** However, it is considered that this option has number of disadvantages/costs. These include the following:
- (a) The time and cost taken to process resource consents and to resolve appeals to the Environment Court can be prohibitive. In addition trade objectors often get involved to slow down the process.
  - (b) Secondly, this option does not have the necessary flexibility to cater for the dynamic and changing needs of the retail/commercial sectors. This approach can often stifle development and business opportunities.
  - (c) Thirdly, from the analysis carried out above it is considered that individual large format retail activities and trading warehouses will have no wider adverse effects on the community at large. Therefore there is no need to adopt such a restrictive approach.
- 61.** After evaluating the advantages/benefits and disadvantages/costs it is considered this option is not the most effective and efficient way of achieving the purpose of the Act.

## **Option 3 – Plan Change 1**

- 62.** The analysis carried out above shows that this option would have adverse effects which are no more than minor on the environment. It is considered that single large format retail activities with a minimum gross floor area of 2,000m<sup>2</sup> and a maximum of 5,000m<sup>2</sup> and trading warehouses will have no significant economic or social effects on existing centres and the community at large. Traffic effects that arise from any such developments can be taken into account and mitigated and depending on special circumstances the public can be involved as considered to be appropriate. The design, appearance and location of buildings and landscaping are matters that can be taken into account to ensure that visual amenity values will be protected. Reverse sensitivity matters can also be taken into account.
- 63.** For large comprehensive developments the floating activity area concept (Development Commercial Activity Area) can be used. This activity area will be applied only after a development proposal has been tested against defined

criteria, which pays particular attention to the impact of the proposal on the environment, including the effects on existing commercial centres in the City. Therefore in such circumstances the community can have an input into the Plan Change process.

- 64.** Taking the above matters into account it is considered that Plan Change 1 has the following advantages/benefits:
- (a) There is increased flexibility and opportunity for new development to occur but at the same time adverse effects on the environment are managed and controlled.
  - (b) There is opportunity for the community to be involved in appropriate circumstances.
  - (c) Objections from trade objectors will be reduced and therefore fewer delays in processing development proposals will be experienced.
- 65.** It is considered that there are no disadvantages/costs to this option except that there will be some delays due to the Plan Change procedures being used for the Development Commercial Activity Area.
- 66.** Taking all matters into account it is considered that the purpose of the Act is achieved in an efficient and effective manner.

## **CONCLUSION**

- 67.** Overall after evaluating options it is considered that Plan Change 1 currently offers the most appropriate way of achieving the purpose and principles of the Resource Management Act 1991 and any adverse effects on the environment are remedied, avoided or mitigated.