

# Revised Section 32 Evaluation

## Section 32 Evaluation

A key component of a Plan Change request is a Section 32 analysis. Clause 22 of the First Schedule to the Act requires in subsection (1) that:

*A request made under clause 21 shall be made to the appropriate local authority in writing and shall explain the purpose of, and reasons for, the proposed plan or change to a policy statement or plan and contain an evaluation under section 32 for any objectives, policies, rules, or other methods proposed.*

Section 32 requires:

*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) the Minister, for a national policy statement or [[a national environmental standard]]; or*

*(b) the Minister of Conservation, for the New Zealand coastal policy statement; or*

*(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 2 of Schedule 1); or*

*(d) the person who made the request, for Plan Changes that have been requested and the request accepted under clause 25(2)(b) of Part 2 of the Schedule 1.*

*(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 Schedule 1; and*

*(b) the relevant Minister before issuing a national policy statement or New Zealand coastal policy statement.*

*(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.*

*(3A) .....relates to national environmental standards and is not relevant]*

*(4) For the purposes of [[the examinations referred to in subsections (3) and*

*(3A)], 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 available for public inspection at the same time as the document to which the report relates is publicly notified or the regulation is made.*

In summary, a Section 32 evaluation is effectively a two tiered approach and must examine:

(a) The extent to which each objective is the most appropriate way to achieve the purpose of the Act (i.e. sustainable management); and

(b) Whether the policies, rules and other methods are the most appropriate for achieving the objective(s).

In doing so, the evaluation is required to “have regard to” efficiency and effectiveness and under Section 32(4) “must take into account” the benefits and costs of policies, rules or other methods and the risk of acting or not acting if there is uncertainty or insufficient information about the subject matter of the policies, rules or other methods. An example of how efficiency and effectiveness must be considered is outlined in *Eldamos Investments Ltd v Gisborne DC W047/05*.

### **Assessment 1 - Appropriateness of the Objectives**

As detailed above, Section 32 (3) (a) requires an evaluation as to the extent to which the objectives are the most appropriate way to achieve the purpose of the RMA, being sustainable management.

The objectives to be used as part of this Plan Change are as follows:

**OBJECTIVE 9:** Sustainable management of the use and development of the natural and physical resources of the settlements of the District; and An appropriate mix of infrastructure, facilities, and activities to enable the settlements to function as vibrant and attractive communities.

**OBJECTIVE 10:** Maintenance and enhancement of the individual character and amenities of the different parts of each of the settlements of the District

These Objectives were adopted from the established District Plan provisions within the Urban Environment section. They provide overall direction across all the Urban Environment zones (Residential; Industrial; Commercial/ Mixed Commercial; Rural Settlement). As these Objectives already apply over this land which is currently zoned industrial, the continued use is considered appropriate and necessary as it is the intention of the Council to regulate all activities within the Urban Environment through these policies.

Using these objectives in the Plan Change will ensure that the management of the site will provide for sustainable management of that area. This is because the objectives are consistent with the purpose and principles of the RMA, and the Proposed Plan Change will provide new provisions for the site area that more effectively address the following issues to contribute to the Bulls commercial area:

- The lack of commercial/ retail zoned land in Bulls central commercial area;
- The need to provide a suitable site for the location of a Supermarket with ancillary activities (including petrol) and retail in Bulls.






As outlined below, changes to the district plan map for this site provide a site for retail activity that can positively contribute to the already established commercial zone.

**Current:**

**Proposed:**



**Key:**

	Rural Zone
	Commercial Zone
	Commercial Mixed Zone
	Proposed Commercial Zone
	Industrial Zone

## Assessment 2 - Appropriateness of Policies

The Proposed Plan Change Application provides a mix of Mixed Commercial and Commercial Zone Policies and site-specific policies to ensure that they meet the purpose for this zone and ultimately the purpose and principles of the RMA.

The Policies outlined are already established within Section 3: Urban Environment, of the operative Rangitikei District Plan. Their continued use can therefore be understood as consistent and appropriate. The Industrial Zone policies were not considered to be appropriate, particularly when considering more compatible commercial/retail land uses for this area.

These policy matters are high level and set out the criteria for what needs to be covered. These centre on amenity (street landscape/ appearance, condition of buildings, pedestrian/ cyclist facilities, pedestrian shelter); truck delivery/ storage of goods; and a necessity to promote cohesive development of this site, which can contribute to the existing Bulls commercial/retail. This last policy matter is appropriate as the proposed zoning of the subject site will promote an almost continuous commercial zone carried along Bridge Street south (Policy 10.5C.11). This has been demonstrated through the above diagrams and photographs of the existing activities adjoining the site.

### **Assessment 3 - Appropriateness of Rules and other methods for achieving the Zone objective**

The following evaluation in table 3 focuses on evaluating the appropriateness of the proposed rule framework in terms of Section 32 (3) (b) and 32 (4).

The alternative methods that have been considered are, in this case:

(a) **The status quo District Plan provisions** – making no change to the current District Plan framework and pursuing an application for non-complying activity consent for the proposed development; or

(b) **Use of existing Commercial/ Commercial Mixed zone provisions** – using a Private Plan Change process to change the relevant Industrially Zoned land to a Commercially Zoned space. This would require enactment of the current Operative District Plan Commercial or Commercial Mixed provisions and a change of the Planning Maps that applies to Bulls 28 & 29.

(c) **The Spot Zone proposed** – a combination of existing commercial zone policies and unique policies tailored to this particular (unique) site. This will include specific conditions relating to contaminated land; retail space; landscaping; signs relating to supermarket/ retail and petrol (as will be required by Foodstuffs); slip lane/access and other vehicles provisions.

(d) **Use of existing Commercial zone and site specific rules - using a Private Plan Change process to change the relevant Industrially Zoned land to a Commercial Zone.**

This would require application of the existing District Plan Commercial provisions, inclusion of some site specific rules and a change to Planning Maps 28 and 29.

<b><u>Table 1</u></b> <b><u>Section 32</u></b> <b><u>Evaluation</u></b>	<b>Options A - Status quo provisions and non-complying activity resource consent applications</b>	<b>Options B - <u>Apply existing Commercial zone and introduce site specific rules</u></b>	<b>Options C - Introduce a Spot Zone (Special Commercial Zone) for the site</b>
<b>Efficiency of rezoning or not</b>	<p><u>Commercial zoning for this site is efficient as the land is close to existing commercial areas, and it establishes a natural progression of commercial activities along the state highway route in the central township area. This site is likely to be attractive to commercial activities as it is highly visible with high traffic volumes on the adjacent state highway.</u></p> <p><u>Conversely, the land is not particularly suited to industrial activities due to the highly visible nature of the site and its proximity to residential and commercial activities on surrounding sites. There is other more appropriately located, less visible industrial land within the Bulls township.</u></p> <p><u>Using multiple consent processes to achieve a commercial development within an area zoned industrial, but recognised as not well suited to industrial activities, is not an efficient or effective way to achieve the purpose of the Act.</u></p>		
<b>Efficiency of method of zoning</b>	<p>The size of the site and scale of the proposed settlement is such that the development and long term occupation of the site will require numerous resource consents and potential variations to enable all individual components to proceed and to allow for appropriate staging. Such an approach has significant risks and is not considered the most efficient way of managing the development and occupation of the site long term.</p>	<p><u>This option will efficiently capture all of the changes required to the District Plan to ensure that the use and development of this site area can be effectively and sustainably promoted. This option may also reduce consenting approval processes, reducing time and cost for Council and future applicants. The result will be a regulatory framework which achieves the vision and character sought for Bulls and provides comprehensively for the full range of activities proposed.</u></p> <p><u>The Plan will be relatively easier to use compared to Option C, with fewer pages, policies, rules and zones. Site specific rules are required to address differing land use and functionality requirements (for example in providing a supermarket).. Such provisions relate to large format retail, site amenity and transportation.</u></p>	<p><u>This option will be able to efficiently capture all of the changes required to the district plan to ensure that the use and development of this site area can be effectively and sustainably promoted. This option may also be able to reduce consenting approval processes, reducing time and cost for Council and future applicants. The result will be a regulatory framework which achieves the vision and character sought for Bulls and provides comprehensively for the full range of activities proposed.</u></p> <p><u>District Plan will be longer than necessary with a lot of repetition of policies and rules and little real distinction between the land covered by the three commercial zones.</u></p>
<b><u>Table 2</u></b>	<b>Options A - Status quo provisions and non-</b>	<b>Options B - <u>Apply existing Commercial zone and</u></b>	<b>Options C - Introduce a Spot Zone (Special</b>

<b><u>Section 32 Evaluation</u></b>	<b>complying activity resource consent applications</b>	<b><u>introduce site specific rules</u></b>	<b>Commercial Zone) for the site</b>
<b>Effectiveness of rezoning or not</b>	<p>The existing industrial zone provisions promote less incentive to achieve quality environmental outcomes.</p> <p>A change of the zoning to Commercial on this land would assist in the attainment of resource consent for any commercial activities.</p>		
<b>Effectiveness of method of zoning</b>	<p>While a successful resource consent application would achieve the objective for Foodstuffs, there are significant risks associated with this process given the scale of the proposal. Resource consents may prove ineffective in managing the long term development of the site.</p>	<p><u>This option could achieve the vision and environmental outcomes sought for Bulls and ensure the development of a high quality commercial environment. This option provides the <del>most</del> an effective method for achieving sustainable management of this site.</u></p> <p>Several conditions such as contaminated land and signage could however be altered, so to better fit this site. It is important to ensure specific provisions are made in the Plan Change to ensure it is managed effectively.</p> <p><u>This option is most effective in terms of assisting plan users to more easily interpret and implement the District Plan.</u></p>	<p>This option could achieve the vision and environmental outcomes sought for Bulls and ensure the development of a high quality commercial environment. <u>This option provides the <del>most</del> an effective method for achieving sustainable management of this site.</u></p> <p><u>This option is less effective than option B, in terms of assisting plan users to more easily interpret and implement the District Plan.</u></p>

<b><u>Table 3</u></b> <b><u>Section 32</u></b> <b><u>Evaluation</u></b>	<b>Options A - Status quo provisions and non-complying activity resource consent applications</b>	<b>Options B - <u>Apply existing Commercial zone and introduce site specific rules</u></b>	<b>Options C - Introduce a Spot Zone (Special Commercial Zone) for the site</b>
<b>Benefits of rezoning or not</b>	Nil.	<p><u>Zoning the land commercial provides a clear, consistent, and transparent indication of what the future uses of the site are likely to be and effects on the environment of those activities. It enables those affected to participate in the strategic decision to provide for commercial activities on this site. It also provides clarity about how adverse effects will be managed to achieve the purpose of the Act.</u></p> <p><u>Costs associated with resource consents are likely to be significantly reduced.</u></p>	
<b>Benefits of method of zoning</b>	The key benefit of this approach is simplicity in that the resource consent process is typically more streamlined and shorter than the Plan Change process, and once consent is granted, development can proceed. Note: This approach can be delayed through the appeal system.	<p><u>The benefit of adapting the Commercial zone provisions relate to the efficiency when compared to Option C. There would only be limited site specific rules required and amendment of the planning maps. The Plan change would be simplified and the Plan itself would also be simplified compared to Option C.</u></p> <p><u>The proposed framework provides a comprehensive regime for managing and enabling development of the site and sets the framework for achieving the vision for Foodstuffs and making optimal use of the land for commercial purposes that also facilitates environmental and social enhancements. Further benefits include catering for a significant proportion of the future commercial demand and spillover benefits in terms of economic growth.</u></p> <p><u>Establishing Comprehensive development area rules – opens the potential for other sites to be included as CDAs, without needing to create yet another spot zone is likely in Option C.</u></p>	The proposed framework provides a comprehensive regime for managing and enabling development of the site and sets the framework for achieving the vision for Foodstuffs and making optimal use of the land for commercial purposes that also facilitates environmental and social enhancements. Further benefits include catering for a significant proportion of the future commercial demand and spillover benefits in terms of economic growth.
<b><u>Table 4</u></b>	<b>Options A - Status quo provisions and non-</b>	<b>Options B - <u>Apply existing Commercial zone and</u></b>	<b>Options C - Introduce a Spot Zone (Special</b>

<b><u>Section 32 Evaluation</u></b>	<b>complying activity resource consent applications</b>	<b><u>introduce site specific rules</u></b>	<b>Commercial Zone) for the site</b>
<b>Costs of rezoning or not</b>	<u>Continued uncertainty about what the council or community considers to be suitable future activities on the site. Continues adhoc decision making about the future of the site and surrounding area. Lack of certainty for landowner.</u>	The costs associated with the Plan Change process and costs to Council of amending its Plan.	
<b>Costs of method of zoning</b>	<p>Costs associated with obtaining resource consents are primarily held by the applicant. Such costs are dependent on the scale and nature of third party involvement and whether any consents are subject to appeal.</p> <p>Once consent is granted, applicant has on-going costs related to monitoring.</p> <p>A fragmented resource consent process may result in lost opportunities for environmental enhancement.</p>	<p>The costs will be production and time taken to interpret the Plan which will be less than for Option C.</p> <p><u>Production, as well as procedural costs associated with the Plan Change process and obtaining subsequent consents would be lower than applying for resource consents for commercial activities in an industrial zone. Therefore, the benefits are higher for pursuing this option or option C for all parties.</u></p> <p>Once consent is granted, applicant has on-going costs related to monitoring. <u>These costs are likely to be less than for Option A.</u></p> <p><u>Notification options for affected parties are retained, where certainty over management of adverse effects is not achieved.</u></p>	<p>Production, as well as procedural costs associated with the Plan Change process and obtaining subsequent consents would be lower than applying for resource consents for commercial activities in an industrial zone. Therefore, the benefits are higher for <u>pursuing this option or option B</u> for all parties.</p> <p>Once consent is granted, applicant has on-going costs related to monitoring. <u>These costs are likely to be less than for Option A.</u></p> <p><u>This option retains discretion to determine traffic management solutions without providing for any affected party participation. This does not adequately achieve the purpose of the Act.</u></p>

<p><b><u>Table 5</u></b> <b><u>Section 32</u></b> <b><u>Evaluation</u></b></p>	<p><b>Options A - Status quo provisions and non-complying activity resource consent applications</b></p>	<p><b>Options B - <u>Apply existing Commercial zone and introduce site specific rules</u></b></p>	<p><b><u>Table 6</u></b> <b><u>Section 32 Evaluation</u></b></p>
<p><b>Risk of zoning or not</b></p>	<p>There is significant risk associated with obtaining resource consent under the existing provisions given the non-complying status of a consent application, and significant risk associated with meeting the section 104D requirements.</p>	<p>There are no significant risks with zoning this land commercial other than a possible negative impact on the availability of industrially zoned land. However as this land is not considered well suited to industrial activities, this risk is identified as very low.</p>	
<p><b>Risk</b></p>	<p>Furthermore a number of consents may be required and there is significant long term uncertainty given the size of the subject site and scale of the process and somewhat fluid nature of the District Plan provisions long-term. A further risk is the potentially fragmented <u>nature of the final</u> development given the number of consents required and time frame needed for the full development of the site.</p>	<p><u>Risk of increasing the complexity of the existing Commercial zone provisions and creating some uncertainty for Plan users. This risk is assessed as low as the new site specific rules would only applying to sites identified on the planning maps as 'CDA' or a comprehensive development area.</u></p> <p><u>There are procedural and financial risks associated with the Plan Change process. Such risks will in part be dependent on third party involvement.</u></p>	<p>There are procedural and financial risks associated with the Plan Change process. Such risks will in part be dependent on third party involvement.</p>

<p><b><u>Table 7</u></b> <b><u>Section 32</u></b> <b><u>Evaluation</u></b></p>	<p><b>Options A - Status quo provisions and non-complying activity resource consent applications</b></p>	<p><b>Options B - <u>Apply existing Commercial zone and introduce site specific rules</u></b></p>	<p><b><u>Table 8</u></b> <b><u>Section 32 Evaluation</u></b></p>
<p><b>Appropriateness</b></p>	<p>Least appropriate.</p>	<p>The change of the proposed site to Commercial land is considered appropriate. This can be related to the <i>resource management issue</i>: lack of commercial space and lack of any suitable space/ site for the development of a supermarket entity.</p> <p><u>The efficiencies gained by using existing zone provisions and establishing site specific rules, and the retention of the opportunities for affected party participation, make this the most appropriate option.</u></p>	<p>Given the comprehensive development sought and scale of the proposal, the proposed plan provisions are <u>generally considered appropriate</u>. Commercial expansion on suitable land, of a sustainable nature is consistent with Council's growth strategy management and the purpose and principles of the RMA.</p>

## Conclusion

This Private Plan Change was considered necessary in achieving the purpose of the Act and to be consistent with the matters stated in Section 7 of the Act quoted above that are relevant to the respective Plan Change.

The resource management issue that this ~~Spot~~ Plan Change is looking to address is the lack of commercially zoned land in Bulls, suited to a large retail development. This Private Plan Change proposes to resolve this issue by setting out appropriate objectives, policies and rules for the provision of additional space for commercial purposes on the proposed site. This guards the site from future ~~uninhibited~~ industrial development occurring which reduces to likelihood of improving amenity values along this highly visible stretch of state highway for the community and the Council.

Additionally, the recommended objectives, policies and rules for this Plan Change are consistent with the Operative Rangitikei District Council District Plan as the proposed redevelopment of the site can be accommodated generally within ~~many of the provisions~~ have been adopted from the existing Commercial/Commercial-Mixed-zone provisions.