

Before the Independent Hearing Panel  
Appointed by the Waimakariri District Council

Under the Resource Management Act 1991

In the matter of Submissions and further submissions on the Proposed  
Waimakariri District Plan

And Hearing Stream 9: Commercial and Mixed Use Zones

Foodstuffs South Island Limited and Foodstuffs (South  
Island) Properties Limited

Submitter 267

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**Statement of Evidence of Mark David Allan**

15 January 2023

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**Submitter's solicitors:**

Alex Booker  
Anderson Lloyd  
Level 3, 70 Gloucester Street, Christchurch 8013  
p + 64 3 379 0037 | f + 64 3 379 0039  
alex.booker@al.nz

**anderson  
lloyd.**

## Introduction

- 1 My name is Mark David Allan.
- 2 I hold the qualification of Bachelor of Resource and Environmental Planning (Hons) from Massey University.
- 3 I have been employed by Aurecon since 2004 where I currently hold the position of Director – Environment and Planning.
- 4 My previous work experience includes some 25 years in the field of resource management, both in the public and private sector. The majority of this has been in land development (residential, commercial and industrial), infrastructure and telecommunications, involving the preparation and oversight of resource management applications and plan change requests, and providing expert planning evidence in respect of the same. For the last 15 years I have been involved with district plan formulation processes, the rezoning of land and resource consenting for Foodstuffs (South Island) Properties Limited's (**Foodstuffs**) developments throughout the South Island, including all of Foodstuffs' existing operations within Greater Christchurch.
- 5 This evidence is provided in support of Foodstuffs' submission on the Proposed Waimakariri District Plan (**PWDP**). My role has been to provide planning advice on the appropriate zoning and rule framework considering the existing and consented environment of Foodstuffs' sites and operations.
- 6 In preparing this statement of evidence I have considered the following documents:
  - (a) Foodstuffs' submission on the PWDP;
  - (b) planning provisions relevant to my area of expertise;
  - (c) Planning Officer's Report of Andrew Willis "Proposed Waimakariri District Plan: Whaitua Arumoni - Commercial and Mixed Use Zones", 6 December 2023 (**s42A Report**)

- 7 Relevant to these proceedings is that I have overseen the preparation of Foodstuffs' resource consent and variation applications associated with PAK'nSAVE Rangiora, New World Rangiora, New World Kaiapoi and New World Ravenswood, so am familiar with the location and context of Foodstuffs' operations in the District and the application of the operative and proposed planning frameworks.

### **Code of Conduct for Expert Witnesses**

- 8 I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023. I have complied with it in preparing this evidence and I agree to comply with it in presenting evidence at this hearing. The evidence that I give is within my area of expertise except where I state that my evidence is given in reliance on another person's evidence. I have considered all material facts that are known to me that might alter or detract from the opinions that I express in this evidence.

### **Scope of Evidence**

- 9 I have prepared evidence in relation to:
- (a) the relief sought by Foodstuffs in relation to the Sites; and
  - (b) the appropriateness of the proposed Activity Rules and Built Form Standards in providing for the establishment, operation and expansion of supermarkets in the Commercial and Mixed Use Zones; and
  - (c) the s42A Report's recommended amendments in response to the relief sought by Foodstuffs.

### **Relief Sought**

- 10 The relief sought by Foodstuffs can be best summarised as ensuring the PWDP acknowledges the specific operational and functional requirements that are unique to supermarkets and the practical realities of site-specific constraints that influence the siting and design of new supermarkets and the expansion of existing supermarkets.

- 11 In this regard, Foodstuffs support the identification of New World Rangiora and New World Kaiapoi within the Town Centre Zone (**TCZ**) and the permitted activity status afforded supermarkets in the same.
- 12 Also supported is the identification of PAK'nSAVE Rangiora within the Large Format Retail Zone (**LFRZ**) and the recognition that commercial activities (including supermarkets) be provided for in the LFRZ where, due to their scale of functional requirements, they are difficult to accommodate within commercial centres.<sup>1</sup>
- 13 Foodstuffs' submission opposed those Activity Rules and Built Form Standards in the TCZ and LFRZ that fail to recognise the operational and functional requirements of supermarkets, and thus unduly subject new or expanded supermarket activity to the cost, delay and uncertainty of the resource consent process. As an alternative to changing or removing the rules as requested, the submission seeks exemptions for supermarkets in recognition of their operational and functional requirements and the essential service they provide.
- 14 The s42A Report by and large accepts or accepts in part the alternative relief sought by Foodstuffs in respect of its individual submission points, namely by recommending the inclusion of matters of discretion that provide for consideration of operational requirements and site constraints. For completeness, I confirm that Foodstuffs acknowledge and agree with the s42A Report's recommendations that accept Foodstuffs' submission points and the recommended wording changes in respect of clarifying the minimum waste management area, removing screening of parking areas, and correcting cross-referencing.<sup>2</sup>
- 15 I generally agree with the assessment in the s42A Report, however suggest some minor changes to the recommended amendments for those submission points accepted in part, which I address in the remainder of this statement.

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<sup>1</sup> Policy LFRZ-P1, PWDP

<sup>2</sup> Submission Points 267.10 (TCZ-BFS11), 267.17 (LFRZ-BFS8), 267.9 (TCZ-BFS9), 267.14 (LFRZ-R2)

*Submission Point 267.5 – TCZ-R1 Construction or alteration of or addition to any building or other structure*

- 16 The s42A Report<sup>3</sup> accepts the need to consider operational requirements and site constraints when assessing a proposal to construct or expand a supermarket, and recommends the following changes (underlined and ~~strikethrough~~) to CMUZ-MD3<sup>4</sup>. My suggested amendments are shown in *red*.

d. *provides a human scale and minimises building bulk ~~while having regard to the functional requirements of the activity;~~*

i. *has operational or functional requirements, or site constraints, which ~~would justify not fully meeting departure from~~ the standard, including:*

i. *the ~~significance importance~~ of the requirements for the proposed activity and the extent to which these would be compromised by ~~compliance with the standard being maintained;~~*

ii. *the extent to which alternative design approaches could ~~feasibly~~ meet the operational or functional requirements and achieve similar Plan outcomes ~~without compromising the proposed activity;~~*

iii. *for site constraints, whether the site is a corner site or has multiple frontages that would make ~~compliance with fully meeting~~ the standard unreasonable or impractical;*

iv. *the scale of the proposal in the context of the ~~existing site, existing development and the centre.~~*

- 17 My suggested amendments do not change the fundamentals of the s42A Report's recommended changes, rather they are intended to provide greater clarity and context to the matters of discretion. I also

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<sup>3</sup> Para 198, s42A Report

<sup>4</sup> Para 209, s42A Report

acknowledge the s42A Report's recommendation<sup>5</sup> an advice note be added to clarify that the GFA in TCZ-R1 is a threshold for when an urban design assessment is required, as opposed to a limit on building size per se. I agree that this will provide greater clarification as to the intent and application of the rule.

*Submission Point 267.7 – TCZ-BFS6 Road boundary landscaping*

- 18 The s42A Report<sup>6</sup> accepts the need to consider operational requirements and site constraints when assessing a proposal to dispense with landscaping standards, and recommends the following changes (underlined) to CMUZ-MD8<sup>7</sup>. My suggested amendments are shown in *red* and are consistent with those for CMUZ-MD3 above.

4. the extent to which the activity has operational or functional requirements, or site constraints, which *would justify not fully meeting departure from the standard, including:*

i. the *significance importance* of the requirements for the proposed activity and the extent to which these would be compromised by *compliance with the standard being maintained;*

ii. the extent to which alternative design approaches could *feasibly meet the operational or functional requirements and achieve similar Plan outcomes without compromising the proposed activity;*

iii. for site constraints, whether the site is a corner site or has multiple frontages that would make *compliance with fully meeting the standard unreasonable or impractical;*

iv. the scale of the proposal in the context of the *existing site, existing development and the centre.*

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<sup>5</sup> Para 97, s42A Report

<sup>6</sup> Para 272, s42A Report

<sup>7</sup> Para 278, s42A Report

- 19 As per CMUZ-MD3, my suggested amendments are for the purpose of clarity and context, and do not change the fundamentals of the s42A Report's recommended changes. For the same reasons, I also agree with the s42A Report's recommendation in respect of submission point 267.16 regarding LFRZ-BFS5.<sup>8</sup>

*Submission Point 267.8 – TCZ-BFS7 Road boundary setback, glazing and verandahs*

- 20 The s42A Report<sup>9</sup> accepts the need to consider operational requirements and site constraints when assessing a proposal to dispense with active frontage standards, and recommends the following changes (underlined) to CMUZ-MD7<sup>10</sup>. My suggested amendments are shown in *red* and are consistent with those for CMUZ-MD3 and -MD8 above.

*i. has operational or functional requirements, or site constraints, which would justify not fully meeting departure from the standard, including:*

*i. the significance importance of the requirements for the proposed activity and the extent to which these would be compromised by compliance with the standard being maintained;*

*ii. the extent to which alternative design approaches could feasibly meet the operational or functional requirements and achieve similar Plan outcomes without compromising the proposed activity;*

*iii. for site constraints, whether the site is a corner site or has multiple frontages that would make compliance with fully meeting the standard unreasonable or impractical;*

*iv. the scale of the proposal in the context of the existing site, existing development and the centre.*

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<sup>8</sup> Paras 651 and 209, s42A Report

<sup>9</sup> Para 284, s42A Report

<sup>10</sup> Para 294, s42A Report

*Submission Point 267.13 LFRZ-R1 Construction or alteration of or addition to any building or other structure*

- 21 The s42A Report<sup>11</sup> acknowledges that a 450m<sup>2</sup> GFA threshold is too onerous in the LFRZ, and has deferred to Council's specialist urban design advice that it be amended to 800m<sup>2</sup>, despite considering that this still remains conservative for the LFRZ.<sup>12</sup>
- 22 It is not uncommon for alterations/additions to existing supermarkets to be more than 450m<sup>2</sup> GFA. To contribute to and fulfil the role of the LFRZ, existing supermarkets need to be able to expand to provide for sufficient space for storage, customers, market demand and the overall function. Limiting alterations and additions to 450m<sup>2</sup>, and even 800m<sup>2</sup>, unnecessarily restricts expansion, and is contrary to the definition of 'large format retail' which I note references a minimum floor area of 450m<sup>2</sup>.<sup>13</sup> By comparison, the Selwyn District Plan does not impose any GFA threshold for new buildings or building expansions in the LFRZ.
- 23 If an 800m<sup>2</sup> GFA threshold is to remain, I consider the recommended amendments to CMUZ-MD3 above will ensure the provision for the expansion of existing supermarkets whilst mitigating potential visual and amenity effects of larger building additions. I also acknowledge, and agree with, the s42A Report's recommend advice note clarifying the GFA in LFRZ-R1 is a threshold for when an urban design assessment is required (and not a limit on building size).

*Submission Point 267.15 – LFRZ-R14 Expansion of an existing supermarket or department store*

- 24 Foodstuffs' submission sought permitted activity status for the expansion of existing supermarkets in the LFRZ or, in the alternative, the inclusion of matters of discretion allowing consideration of the scale and characteristics of the existing development and the functional and

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<sup>11</sup> Para 602, s42A Report

<sup>12</sup> Para 603, s42A Report

<sup>13</sup> "Large Format Retail", Definitions, Introduction and general provisions, PWDP



operational requirements of the activity. This has been resolved by the changes discussed above.

- 25 However, the s42A Report recommends amending LFRZ-R14 such that it relates to supermarkets generally, be it the expansion of an existing supermarket or the establishment of a new supermarket. This has the consequential effect of duplicating and conflicting with LFRZ-R15 and LFRZ-R18 which provide for, respectively, department stores and new supermarkets as a discretionary activity in the LFRZ.
- 26 It is appropriate that a new supermarket in the LFRZ be provided as a discretionary activity (as per LFRZ-R18) to allow a full assessment of effects, including potential commercial activity distribution. However, subjecting the expansion of an existing supermarket, no matter how small or inconsequential the increase, to an assessment of commercial activity distribution effects (CMUZ-MD12) is unnecessarily onerous. To avoid potential uncertainty and issues with interpretation, I consider the expansion of an existing supermarket should in all cases be left to consideration against LFRZ-R1 (Construction or alteration of or addition to any building or other structure).

### **Conclusion**

- 27 Overall, I consider the s42A Report's recommended amendments, subject to my suggested changes, will deliver a more efficient and effective planning framework that adequately acknowledges supermarkets' specific operational and functional requirements and the site-specific constraints that influence the siting and design of new supermarkets and the expansion of existing supermarkets. The amendments provide certainty for Foodstuffs and the community that supermarket activity is appropriate and anticipated at Foodstuffs' sites in the TCZ and LFRZ.

**Mark David Allan**

15 January 2024