

SUBMISSION ON VARIATION 1 TO THE WAIMAKARIRI DISTRICT PLAN

Form 5, Clause 6 of First Schedule to the Resource Management Act 1991

To: Waimakariri District Council
Private Bag 1005
Rangiora 7440
By email: developmentplanning@wmk.govt.nz
Submission by: Foodstuffs South Island Limited and Foodstuffs (South Island) Properties Limited
Address for service: Anderson Lloyd
PO Box 13831
Christchurch 8140
Email address: alex.booker@al.nz
Phone: 03 379 0037

Submission

- 1 This is a submission by Foodstuffs South Island Limited and Foodstuffs (South Island) Properties Limited (**Foodstuffs**) on Variation 1 (**V1**) to the proposed Waimakariri District Plan (**pWDP**), which the Waimakariri District Council (**WDC**) notified on 13 August 2022.
- 2 Foodstuffs are a retailer owned co-operative company and the wholesale supplier to PAK'nSAVE food warehouses, New World and Four Square supermarkets, On the Spot dairies, Henrys and many unaffiliated outlets. Foodstuffs (South Island) Properties Limited is a property holding company and wholly owned subsidiary of parent company Foodstuffs.
- 3 Foodstuffs could not gain a trade competition advantage through this submission.
- 4 The submission relates to V1 in its entirety, and particularly in relation to impacts from V1 on the following properties:
 - (a) 52, 58 and 62 Charles Street and 31 Sewell Street, Kaiapoi (**New World (NW) Kaiapoi**);¹
 - (b) 2 Southbrook Road, 21 Railway Road, 31B Railway Road and Lot 1 DP 68829 (**PAK'nSAVE (PNS) Rangiora**);² and

¹ Legally described as Lot 1 DP 440138 (RoT 567498)

² Legally described as Part Lot 2 DP 10116, Lot 1 DP 10116 and Lots 1 & 2 DP 68829 (RoT CB470/296, CB433/289, CB40A/1036 and CB40A/1037), respectively.

(c) 10 Good Street, Rangiora (**NW Rangiora**) (as lessee).³

- 5 These properties border and/or are affected by the proposed Medium Density Residential Zones (**MDRZ**) in V1.
- 6 Foodstuffs generally **supports** the housing intensification provisions, and recognises the need for housing intensification to be located around commercial centres. However, to ensure future compatibility between activities, Foodstuffs seeks appropriate recognition for commercial activities (such as supermarkets) and associated effects through the objectives and policies framework i.e. there needs to be recognition of amenity at the time of establishment. In particular, effects experienced by new medium density residential activity locating in close proximity to commercial centres and existing commercial operations should be deemed to be acceptable effects on residential amenity, and not be considered an adverse effect.
- 7 This is set out in more detail below.

NW Kaiapoi

Site description

- 8 The NW Kaiapoi land is shown on Image 1 below:

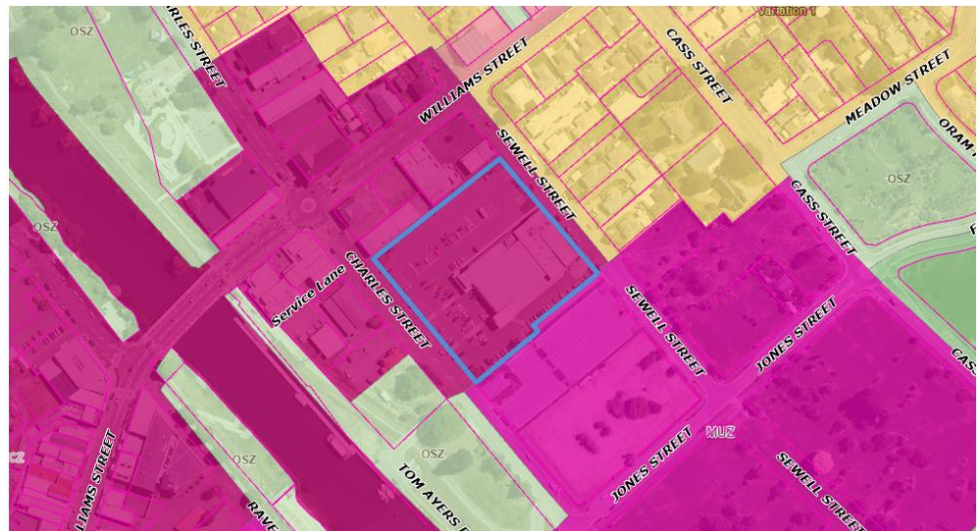


Image 1: NW Kaiapoi on Variation 1 planning map.

³ Legally described as Lot 5 DP 531230, Section 2 SO 530708, Lot 1 DP 416495 (all RoT 981418), Lot 1 DP 69690, Lot 6 DP 14337 (RoT CB40C/454), Lot 5 DP 14337 (RoT CB519/195), Part Lot 4 DP 14337 (RoT CB519.271), Part Lot 1 DP 14337 (RoT CB519/198), Lot 2 DP 14337 (RoT CB519/196), Lot 3 DP 14337 (RoT CB519/197), Lot 6 DP 531230 (RoT 866426), Lot 2 DP 44812 (RoT CB27K/904), Lot 1 DP 19735 (RoT CB795/89) and Lot 4 DP 531230 (RoT 866424).

- 9 NW Kaiapoi operates under a suite of consents extending and reconfiguring the activities on site from small-scale retail activities to the large-format supermarket today. These are RC990415, RC095282 and RC105232 (as subsequently varied by RC105299, RC115031 and RC115071).⁴
- 10 Under the pWDP, the NW Kaiapoi land is zoned Town Centre Zone (**TCZ**). To the north-west and west, the neighbouring land is also TCZ and contains mostly small-scale retail activities. To the south is part of the Kaiapoi East Regeneration Area which is zoned Mixed-Use Zone (**MUZ**). To the east is residential land proposed to be zoned Medium Density Residential Zone (**MDRZ**) under V1.

Residential intensification surrounding NW Kaiapoi

- 11 There are a number of MDRZ properties that border TCZ or MUZ land in the Kaiapoi township. Existing activities adjacent to the MDRZ include retail, health services, hospitality, ancillary car parking and emergency services. Each of these activities, including supermarket activities, operate at different hours and have peak visitor numbers at different times. This means noise, traffic, light and other adverse effects can occur at different times of the day.

PNS Rangiora

Site description

- 12 The PNS Rangiora land is shown on Image 2 below.

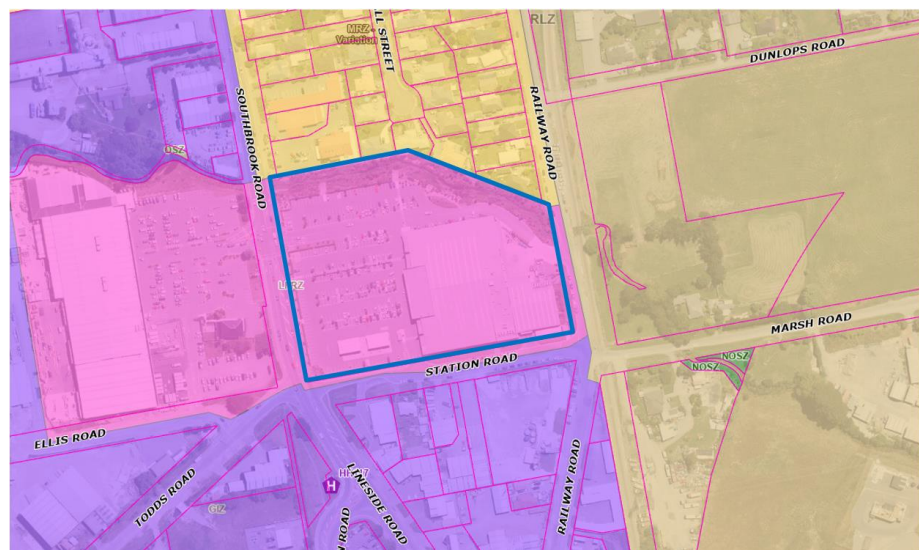


Image 2: PNS Rangiora on Variation 1 planning map.

⁴ Granted 22 September 1999, 16 September 2009, 13 January 2011, 4 April 2011 and 10 June 2011 respectively.

- 13 PNS Rangiora operates under a suite of consents that have allowed development of the site over time. These consents are RC025138 and RC095291 (as varied by RC145220 and RC215177).⁵
- 14 Under the pWDP, the PNS Rangiora site is zoned Large Format Retail Zone (**LFRZ**). To the west of the site is a large format retail store (also zoned LFRZ) and to the south is an industrial area (zoned General Industrial Zone). To the east are paddocks in the Rural Living Zone. To the north is a residential area zoned MDRZ under V1.

Residential intensification surrounding PNS Rangiora

- 15 There are a number of MDRZ properties that border commercial activities in the Rangiora township. Existing activities adjacent to the MDRZ include vehicle servicing, storage services, department stores, cafes and restaurants, service stations, clothing retail, healthcare, hospitality and cinemas and a supermarket. As noted above, this means noise, traffic, light and other effects can occur that may not be typical for residential activity.

NW Rangiora

Site description

- 16 The NW Rangiora property is shown on Image 3 below.

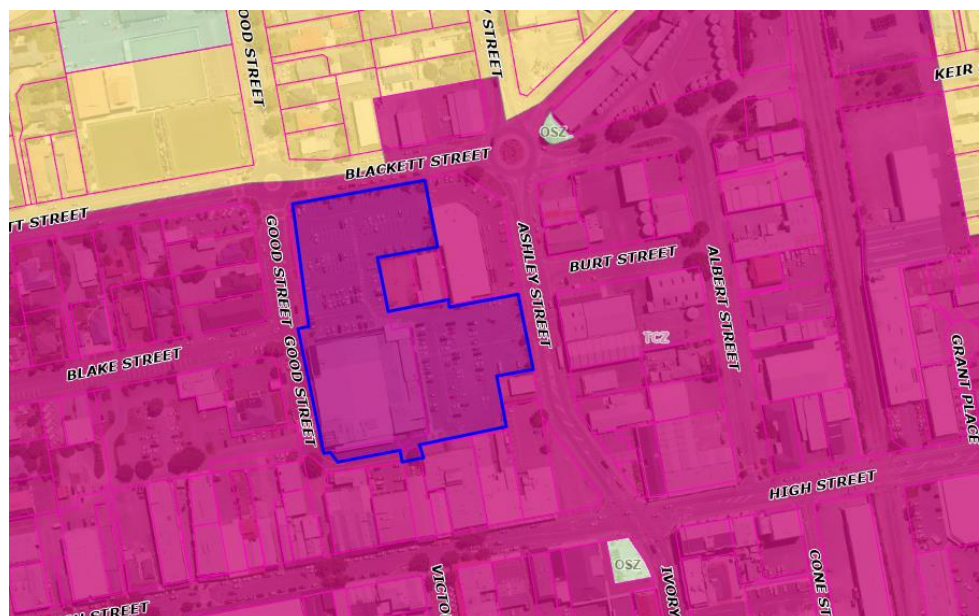


Image 3: NW Rangiora on pWDP planning map.

- 17 NW Rangiora operates under a suite of resource consents that have allowed the reconfiguration and extension of the NW Rangiora over time.

⁵ Granted 30 May 2002 and 31 July 2014.

These consents are R940182, RC085492, RC095348 (as varied by RC125012) and RC185337.⁶

- 18 Under the pWDP, the NW Rangiora land is zoned TCZ. The land immediately to the east, south and west is also zoned TCZ. The land to the north, across Blackett Street, is zoned MDRZ and is subject to V1.

Assessing the effects of intensification

- 19 As noted above, Foodstuffs supports the intensification provisions, and recognises the need for intensification to be located around commercial centres.
- 20 To ensure future compatibility between activities Foodstuffs seeks appropriate recognition for commercial activities (such as supermarkets) and the associated effects through the objectives and policies framework of V1.
- 21 The table below demonstrates two key changes resulting from V1's introduction of the MRDZ and the associated enabling Medium Density Residential Standards (**MDRS**). Firstly, the MRDZ and MDRS will enable an increase in the density of dwellings which will translate to an increase in the number of people exposed to the surrounding environment. Secondly, the MDRS will increase the exposure of residential dwellings to the effect of the surrounding environment through the reduced setbacks and removal of viewshaft minimums. The combination of this could cause existing and currently acceptable effects such as noise, light and traffic to be felt more significantly by newly exposed residents.

Activity standard	pWDP	V1
Multi-unit developments	"Multi-unit" defined as more than one unit per site.	Multi-unit defined as more than three units per site.
Density	One unit per 200m ²	Up to three units permitted, no minimum site size
External setback	Building: 2m Garage: 6m	Building: 1.5m Garage: 1.5m

⁶ Granted 24 February 1995, 18 December 2008, 21 December 2009, 23 February 2012 and 27 November 2018.

Activity standard	pWDP	V1
Direct viewshafts	For buildings within 9m, either a 0.5m offset, sill height of 1.5m or fixed obscure glazing below 1.5m above floor level.	No requirements
Height	8m above ground level	11m (+1m for pitched roof) above ground level
Recession plane	Measured 2.5m above ground level	Measured 4m above ground level.
Outdoor living space	Minimum 30m ² of continuous outdoor living space	Minimum 20m ² total.

- 22 The reduction in setbacks and increased density in adjacent residential areas was not anticipated when areas were zoned for commercial activities and/or where commercial activities were established in commercial areas. Yet activities that were previously operating safely within district plan rules, resource consent conditions and the Resource Management Act 1991 (**RMA**), may now find themselves in situations where breaches occur, without any change to their lawfully established activity.
- 23 The s32 Report evaluation of V1 (**s32 Report**) does not explicitly assess the effects of residential land intensification on adjacent non-residential land, but notes the following:
- (a) the Officer's assessment of commercial and mixed-use zones notes the importance of amenity effects, stating:⁷

The MDRS contain a specified height in relation to boundary standard for residential zones which manages residential to residential interfaces within the zone. For consistency it makes sense to also apply this standard to commercial zones when development is proposed adjacent to residential zones.

⁷ Variation 1 Housing Intensification s32 Report for the proposed Waimakariri District Plan, at [3.2].

- 24 Foodstuffs supports the management of zone interfaces. This should be managed from both directions to ensure that activities within differing zones are appropriate.

Reasons for submission

- 25 Appropriate recognition for existing commercial activities, such as supermarkets, and their interaction with the MDRZ has not been properly evaluated in the s32 Report or appropriately provided for in MDRZ provisions to ensure future compatibility:

- (a) MRZ-P1(4) states that the MDRZ should provide for "*a peaceful residential environment, in particular minimising the adverse effects of night time noise and outdoor lighting, and limited signs.*" This policy does not reflect the location of medium-density living close to commercial centres and adjacent to supermarkets and other commercial activities.
- (b) By way of comparison, the objectives and policies of the LFRZ chapter in the pWDP appropriately recognise the types of activities and effects that occur within that environment. In particular:
 - (i) LFRZ-O1(3) aims to ensure that "*amenity values are managed within the zone and at the interface with adjacent residential zones*";
 - (ii) LFRZ-P1 notes the purpose of the LFRZ is to accommodate commercial activities that are otherwise difficult to site in the smaller format retail centres; and
 - (iii) LFRZ-P1(2) requires that large scale development "*be of a design quality that is commensurate with the prominence and visual effects of the development.*"

Foodstuffs support these provisions (which are unchanged by V1) because they reflect the intensity and character of the retail development on the surrounding environment.

- 26 The MDRZ objectives and policies are not similarly responsive to the effects of medium-density housing on the adjacent zones. Supermarkets have specific operational and functional requirements which include delivery vehicles movements and associated noise (including during night-time hours); large store sizes; generators and other specialised equipment; car park, signage and store lighting to ensure the safety and security of staff and customers at night; and longer operational hours. Foodstuffs' operations have been established in accordance with underlying zone

provisions and/or resource consent decisions, and in response to the receiving environment at the time.

- 27 In addition, Foodstuffs through a combination of siting, site design, mitigation measures, consenting and plan submissions has successfully managed the impact of its operational requirements on neighbouring properties as they currently exist. However, Foodstuffs has concerns that this may not continue to be achievable when the proposed MDRZ borders its operations in future. Ensuring future compatibility of the residential-commercial interface now will manage expectations, and reduce monitoring and compliance costs in future.
- 28 The National Policy Statement for Urban Development 2020 (**NPS-UD**) is equally about enabling businesses. It seeks "well-functioning urban environments" which includes the need to have or enable a variety of sites suitable for different business sectors in terms of size and location. Policy 2 NPS-UD requires local authorities to provide at least sufficient development capacity to meet the expected demand for business land over the short, medium and long term. To be sufficient, land must be suitable to meet the demands of a variety of business sectors (Clause 3.3(2)(c) NPS-UD). For the reasons set out in this submission, V1 could have the unintended consequence of constraining the efficient use of business land.

Amendments sought

- 29 Foodstuffs considers there should be express recognition in V1 of the effects of residential intensification in close proximity to existing commercial activities. For example, it should be recognised in provisions that:

Where new residential activity in the MDRZ locates in close proximity to commercial centres and lawfully established commercial activities it is recognised that this may detract from amenity values appreciated by some people (due to hours of operation, noise, lighting, traffic from commercial activities) but this is not to be considered an adverse effect.

- 30 Foodstuffs is concerned that increased residential density and a greater number of residents residing in close proximity to existing lawfully established activities may result in concerns being raised about its activities and their effects in future. This may have a consequential impact on the ability of many operators, including Foodstuffs, to undertake their authorised and long-established activities on their sites.
- 31 It is important that the the effects of adjacent commercial activity such as supermarkets be explicitly recognised within the pWDP, and cannot be

restricted and opposed in future by new neighbouring MDRZ residents expecting an unrealistic residential amenity.

32 Foodstuffs seeks the following amendments to V1:

- (a) The inclusion of a provisions which explicitly recognise the existing amenity effects of adjacent commercial activities (such as supermarkets) to MDRZ; and
- (b) any other amendments which ensure operational and functional needs of existing lawfully established activities are not hindered or constrained in future by new residential development in the MDRZ.

Decision sought

33 Foodstuffs seeks the following decision from WDC:

- (a) That V1 be amended to reflect the matters raised in this submission; and/or
- (b) Such further or other consequential relief as may be required to give effect to this submission, including consequential amendments to the pWDP that address the matters raised by Foodstuffs.

34 Foodstuffs wishes to be heard in support of this submission.

35 Foodstuffs would be happy to meet and discuss any matters raised in this submission.

Dated this 9th day of September 2022



Alex Booker

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