

SUBMISSION

Proposed Plan Change 19 to the Central Otago District Plan

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

To: The Chief Executive
Central Otago District Council
PO Box 122
Alexandra 9340

By Email: districtplan@codc.govt.nz

Submission by: Foodstuffs South Island Limited and Foodstuffs (South Island) Properties Limited

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Submission 2: New World Alexandra

- 1 This is a submission by Foodstuffs South Island Limited and Foodstuffs (South Island) Properties Limited (**Foodstuffs**) on Plan Change 19 (**PC19**) to the Central Otago District Plan (**CODP**) which the Central Otago District Council notified for public consultation on 9 July 2022.
- 2 Foodstuffs could not gain a trade competition advantage through this submission.
- 3 Foodstuffs' submission relates to PC19 in its entirety and in particular those provisions which directly apply to and/or affect the following properties owned by Foodstuffs at 89, 93 and 95 Centennial Avenue, 1 and 3 Moa Street and 32, 34, 36 and 36A Kenmare Street. These properties are collectively referred to as New World Alexandra (**NW Alexandra**) and are shown on the map below.¹

¹ Part Lot 3 DP 5440, Lots 1, 2, 9 and 10 DP 5158, Lots 1 and 2 DP 23152 and Lots 1 and 2 DP 11799 respectively.



Image 1: Property Location of NW Alexandra

Background

- 4 Foodstuffs are a retailer owned co-operative company and the wholesale supplier to PAK'nSAVE food warehouses, New World and Four Square supermarkets, Raeward Fresh, On the Spot dairies, Henrys and many unaffiliated outlets. Foodstuffs also own a variety of properties throughout the South Island from which many of its retail members undertake their businesses. Foodstuffs (South Island) Properties Limited is a property holding company and wholly owned subsidiary of parent company Foodstuffs.
- 5 Within the Central Otago District, Foodstuffs owns or operates a number of stores. This submission relates to specifically to NW Alexandra. Foodstuffs has owned and operated NW Alexandra since 1983. Since its establishment, NW Alexandra has undergone a number of extensions and building upgrades in response to population growth, and the changing supermarket and grocery industry.
- 6 Authorisation for this activity has been provided through a suite of plan changes and resource consents since the establishment of the supermarket in 1983. Resource consents RC001041 (subsequently varied by RC1001123 for significant logistical

changes), RC120061 and RC130176 permitted extensions and the necessary reconfigurations to the supermarket, its carpark, signage and its ancillary activities.²

Re-zoning of 32 and 34 Kenmare Street

- 7 32 and 34 Kenmare Street (legally described as Lot 2 DP 11799 and Lot 1 DP 11799 respectively) are currently zoned Residential Resource Area (**RRA**) under the CODP but are utilised as part of NW Alexandra under Foodstuffs' existing authorisations. PC19 proposes to re-zone these two properties (the **Foodstuffs Residential Lots**) as Low Density Residential Zone (**LDRZ**).
- 8 NW Alexandra is located in central Alexandra, within a strip of commercial activities zoned Business Resource Area (**BRA**) along Centennial Avenue (State Highway 8). This strip is surrounded by the proposed Medium Density Residential Zone (**MDRZ**) and the wider proposed LDRZ area further out.
- 9 This is demonstrated on the map below:



Image 2: PC19 map NW Alexandra.

² Granted June 2000, August 2010, October 2012 and September 2013 respectively.

10 Foodstuffs seeks to **amend** the proposed zoning of 32 and 34 Kenmare Street and submits that these land parcels should be re-zoned to Business Resource Area, in accordance with the rest of the NW Alexandra shown with the blue hatching above.

Scope

11 Foodstuff's submission to rezone the Foodstuffs Residential Lots is within scope as it meets the criteria applied in *Palmerston North City Council v Motor Machinists Limited*.³ There, the High Court held:⁴

Incidental or consequent extensions of zoning changes proposed in a plan change are permissible, provided that no substantial further section 32 analysis is required to inform affected person of the comparative merits of that change.

12 The Foodstuffs Residential Lots are already proposed to be re-zoned under PC19. This means any affected persons, such as neighbours, have been given notice that the land is subject to PC19 and that a re-zoning may occur.

13 Further, supermarket activities are occurring on Foodstuffs Residential Lots and there has been no indication by Foodstuffs that these activities will cease or change in the near future. Residents are well aware of the activity on the site. This means Foodstuff's submission to re-zone the Foodstuffs Residential Lots is far from coming out of "left field".⁵ Any potentially affected persons would have reasonably expected the Foodstuffs Residential Lots to have a commercial zoning to reflect the commercial character.

14 Finally, Foodstuff's submission does not seek any changes to the objectives and policies of the BRA Zoning in the CODP⁶ or the broader planning management regime.⁷

Reasons for submission

15 The reason for this submission is:

- (a) the zoning of the Foodstuffs Residential Lots should reflect the existing and well-established land use, which is a commercial use;

³ *Palmerston North City Council v Motor Machinists Limited* [2013] NZHC 1290, [2014] NZRMA 519.

⁴ At [81].

⁵ *Calcutta Farms Limited v Matamata-Piako District Council* [2018] NZEnvC 187, at [58].

⁶ *Bluehaven Management Ltd v Western Bay of Plenty District Council* [2016] NZEnvC 191 at [37].

⁷ *Mackenzie v Tasman District Council* [2018] NZHC 2304 at [103].

- (b) a commercial supermarket activity is operating on the Site, including the Foodstuffs Residential Lots;
- (c) It is highly unlikely the proposed low-density residential zoning will be implemented on the Foodstuffs Residential Lots; and
- (d) The Foodstuffs Residential Lots sit within a larger commercial area, all of which has a BRA zoning.

Residential Intensification

- 16 Foodstuffs **supports** the intensification provisions, and recognises the need for intensification to be located around commercial centres. Foodstuffs has made an additional submission (Submission 1: New World Cromwell). This submission should be referred to for Foodstuffs submission points regarding residential intensification.
- 17 There is a large commercial-residential interface within the Alexandra township, especially along Centennial Avenue (SH8) and Tarbert Street. The BRA along these roads includes retailers, wholesalers, service stations, cafes and restaurants, short-term accommodation, vehicle suppliers, emergency services, community facilities and sports facilities. Within this wide variety of activities, there are a range of operating requirements. Some will operate 24 hours a day and others will have particularly busy peak periods. The effects from such activities are likely to include noise, light, traffic and other amenity effects. Appropriately, these activities occur within the BRA.
- 18 To ensure future compatibility between activities, Foodstuffs seeks appropriate recognition for existing commercial activities (such as supermarkets) and associated effects through the objectives and policies framework. In particular, effects experienced by new residential activity locating in close proximity to its existing operations should be deemed to be acceptable effects on residential amenity, and not be considered an adverse effect.

Relief sought

- 19 Foodstuffs seek the following decision from the Council:
- (a) That PC19 be amended to address 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 (or any other submission made on PC19 by Foodstuffs),

including consequential amendments to PC19 that address the matters raised by Foodstuffs.

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

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

Date: 1 September 2022

A handwritten signature in black ink that reads "A Booker". The signature is written in a cursive style with a large initial 'A'.

Alex Booker

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