

**SUBMISSION ON A PUBLICLY NOTIFIED PROPOSED PLAN UNDER
CLAUSE 6 OF THE FIRST SCHEDULE OF THE RESOURCE MANAGEMENT
ACT 1991**

To: Selwyn District Council ("**Council**")

Submission on: Plan Change 29 to the Selwyn District Plan ("**PC29**")

Name: Progressive Enterprises Limited ("**Progressive**")

Address: Progressive Enterprises Limited, C/- Planit Associates at
the address for service specified below

Introduction

1. Progressive develops and operates supermarkets throughout New Zealand including the Countdown, Foodtown and Woolworths supermarkets, and the Gull/Woolworths minimarts.
2. Progressive holds a resource consent to construct a supermarket in Rolleston. The site, located on the corners of Masfield Drive, Dryden Avenue and McCauley Street is located within the Business 1 Zone. Construction of the supermarket is expected to commence in May 2011.
3. Progressive has extensive experience in the design, consenting and construction of both supermarkets and small scale retail. Through this experience, Progressive has obtained a keen understanding of the need to balance urban design principles and a desire for a quality urban environment with operational requirements and economic flexibility.
4. In general terms, Progressive supports a centres-based approach to planning that recognises the importance of centres, and enables a level of growth and mix of activities in centres in a way, or at a rate, commensurate with growth in the community, as well as the needs and expectations of the community. Such an approach brings benefits to communities in the form of social and functional amenity and transportation efficiency, and other efficient urban form outcomes.
5. Progressive also seeks that controls in centres are realistic and have appropriate regard to the operational and commercial requirements of businesses, especially large format retail. It is important for the vitality and vibrancy of centres that large format retail can locate in centres and is not forced to locate in inappropriate, out of centre locations.

Scope of submission

6. As PC29 relates to the design of development in the Business 1 zones, this submission relates to PC29 in its entirety including any policies and rules that could directly affect Progressive's current or future operations, as well as those that might impact on, or unduly constrain, appropriate development and growth in the Business 1 zones generally.

General reasons for submission

7. Progressive generally supports the proposed policies and rules for the Business 1 Zone in so far as they are consistent with a centres-based approach to accommodating growth of the type supported by Progressive (outlined in paragraph 3 above), particularly in relation to commercial growth, and meets its concerns regarding appropriate controls in the zone (outlined in paragraph 4). Progressive further wishes, and requests changes as appropriate, to ensure the Selwyn District Plan:
 - (a) enables an appropriate amount of retail development as necessary and in appropriate locations to fulfil the needs of the community while avoiding, remedying or mitigating adverse effects;
 - (b) will meet the reasonable foreseeable needs of future generations;
 - (c) will promote objectives that represent the most appropriate way of achieving the purposes of the Resource Management Act 1991 ("**RMA**");
 - (d) will adopt objectives, policies, rules and other methods that are the most appropriate way of achieving the objectives or the purposes of the RMA;
 - (e) will enable the efficient use and development of resources within the Selwyn District, and will enable social, economic and cultural well being; and
 - (f) will overall promote sustainable management of resources, will achieve the purpose of the RMA, and is consistent with Part 2 and other provisions of the RMA and the District Plan.
8. In particular, but without limiting the generality of the above, Progressive seeks that the following matters also be addressed.

Policies

9. Progressive supports, either in their entirety or in part, the following proposed policies in PC29:
 - (a) to maintain and establish pleasant and attractive streets and public areas (Policy B3.4.22); and
 - (b) to ensure that the town centres are walkable and well integrated, and that development in town centres contributes to the economic and social vibrancy of the District's towns (Policy B3.4.23a).
10. However, Progressive opposes or has concerns with Policy B4.3.6 as it considers it fails to adequately acknowledge the operational requirements of many businesses (especially large format retail). Progressive's submission is that it imposes inappropriate restrictions on the layout and building design of business activities and an impracticable threshold to meet to rezone land for business development.

11. Progressive also opposes or has concerns with Policy B3.4.23a in part as it considers it to unnecessarily prioritise pedestrian requirements and fails to acknowledge other practical design and layout aspects of commercial development that should be given some, if not equal weight when assessing the appropriateness of development in town centres.

Relief Sought

12. Progressive seeks the following relief:
- (a) retain the proposed Policies, to the extent they are consistent with Progressive's concerns;
 - (b) amend or delete Policy B4.3.6 and Policy B3.4.23a, and any other related policies to meet Progressive's concerns; and
 - (c) any other consequential amendments.

Rule 16.9: Small Scale Commercial Developments (less than 450m²)

13. Progressive generally supports the proposed rules to the extent that they support the enablement of business activities.
14. Progressive opposes or has concerns with those rules that impose unnecessary restrictions on the layout and building design of commercial development and to that extent opposes the following rules:
- (a) location of car parks - Rule 16.9.1.1;
 - (b) building frontages - Rule 16.9.1.2;
 - (c) verandas - Rule 16.9.1.4; and
 - (d) discretionary activities - Rule 16.9.2.
15. Progressive supports high amenity values in town centres and considers it to be appropriate for this objective to be implemented by way of rules in relation to street frontages and other design controls. However, the proposed rules place unnecessary and costly restrictions on current and potential small business owners. Progressive considers these rules to be onerous and to place an unnecessary burden on potential landowners seeking to develop sites within the zone.
16. Furthermore, the rules are overly restrictive as any non-compliance with a rule results in the activity being a fully discretionary activity (Rule 16.9.2). Progressive considers that this is unnecessary and that a "middle ground" approach should be taken in relation to non-compliances with permitted activity standards.

Relief sought

17. Progressive seeks the following relief:
- (a) retain the proposed rules, to the extent they are consistent with Progressive's concerns;

(b) amend Rules 16.9.1.1, 16.9.1.2 and 16.9.1.4, and any other related rules to meet Progressive's concerns;

(c) Amend Rule 16.9.2 as follows:

Any building or structure which does not comply with rule 16.9.1 shall be a ~~discretionary activity~~ controlled activity as per the matters listed in 19.9.1.

and

(d) any other consequential amendments.

Rules 16.10, 16.11 and 16.12: Large Developments

18. Progressive generally supports the proposed rules to the extent that they support the enablement of business activities.

19. Progressive opposes or has concerns with rules that impose unnecessary restrictions on the layout and building design of large scale commercial development, in particular large format retail, and to that extent opposes the following assessment criteria and rules:

(a) consideration of adjacent buildings - assessment criteria 16.10.3.1(a) and (b) (these may conflict with earlier rules);

(b) pedestrian environment - assessment criteria 16.10.3.2-4;

(c) design - assessment criteria 16.10.3.5;

(d) greenfield sites car parking - assessment criteria 16.10.3.6;

(e) reference to matters in Rule 16.9.1 - assessment criteria 16.10.3.9;

(f) street frontages - Rule 16.11.1; and

(g) specific colour and material of buildings - Rules 16.12.1-3.

20. Supermarkets in particular are high generators of pedestrian activity (as well as vehicular traffic) and play a very important role in anchoring and contributing to the vitality, vibrancy and positive economy and amenity of a suburban centre. Progressive recognises the need for careful treatment of street frontages and to ensure appropriate levels of amenity are achieved. The use, landscaping and other mitigation measures are often appropriate to address the amenity effects on surrounding and adjacent non-business zones.

21. However, that needs to be balanced against the practical and functional requirements of activities such as supermarkets. The requirement for specific and onerous design features that PC29 seeks to impose such as verandas, footpaths, continuous building lines and active frontages are inappropriate and impractical for large format retail.

22. Progressive has concerns with assessment criteria 16.10.3.9 which includes a large development's degree of compliance with the permitted activity standards for small scale developments as a relevant consideration in addition to the matters of discretion listed in 16.10.2. It

is Progressive's submission that as the effects of small scale and large scale developments are different in scale and scope, it is inappropriate for permitted activity standards for small scale developments to be a relevant consideration when assessing the appropriateness of large scale developments and this should be reflected in the planning framework. The matters for discretion listed in 16.10.2 should be specifically focused to avoid, remedy and mitigate effects arising from large scale developments.

23. Specifically, the assessment criteria in relation to design requirements will make it difficult and costly for landowners/developers to integrate new development with the existing environment which may result in development ceasing unless the Council is proposing to offer other incentives.

Relief sought

24. Progressive seeks the following relief:
- (a) retain the proposed assessment criteria, to the extent they are consistent with Progressive's concerns;
 - (b) either delete assessment criteria 16.10.3.1(a) and (b) or amend the criteria to make them less onerous and to give the Council a more general discretion to consider adjacent buildings;
 - (c) delete or amend assessment criteria 16.10.3.2-4 to meet Progressive's concerns;
 - (d) delete assessment criteria 16.10.3.5 as the matters addressed in it are adequately and specifically provided for in other proposed rules in PC29;
 - (e) amend or delete assessment criteria 16.10.3.6 to meet Progressive's concerns;
 - (f) delete assessment criteria 16.10.3.9;
 - (g) amend the assessment criteria generally so as to not unnecessarily prioritise pedestrian amenity over other considerations, and to adequately provide for mitigation measures rather than adopting such a stringent approach;
 - (h) either delete Rules 16.12.1-32 or amend them so as to not specifically prescribe materials that must be used as Progressive considers the controls regulating the design and colour scheme are sufficient in achieving the desired amenity effect; and
 - (i) any other consequential amendments.

Rules 16.13: Dwellings

25. Progressive supports the requirement for dwellings in the Business 1 zones to achieve noise and acoustic privacy. It is Progressive's submission that the permitted activity standards for dwellings do not

adequately provide sufficient controls to ensure an acceptable standard of noise insulation.

Relief sought

26. Progressive seeks the following relief:
- (a) include as part of Rule 16.13.1 a noise insulation requirement in accordance with Rule 16.14.1.4; and
 - (b) any other consequential amendments.

Rules 17.6 and 17.7: car parking

27. Progressive generally supports the proposed rules to the extent that they support the enablement of business activities.
28. Progressive specifically supports Rule 17.6.1 and considers the controlled activity status for development or redevelopment of a parking area and the matters for discretion outlined in 17.6.1.1 to be entirely appropriate.
29. In relation to section 17.7, Progressive accepts that landscaping considerations in relation to car park areas are relevant and supports the recognition of such within the planning framework, however, Progressive has concerns around the detail of the rules proposed. Due to the limitations on their internal layout and their operational requirements, supermarkets require adequate loading facilities and car parking accessible to the front entrance. Progressive considers that the rules proposed in 17.7 impose obligations on landowners/developers in respect of car park area layout and design that are unnecessary and considers that the section should be amended to adequately reflect what is practicable.

Relief sought

30. Progressive seeks that the rules in section 17.7 be amended to provide for more realistic and workable landscape requirements in relation to parking areas and any other consequential relief.

Commercial Design Guide

31. Progressive considers that the Commercial Design Guide referred to in PC29 is extensive, far too prescriptive and places specific unnecessary onerous requirements on developers. The Commercial Design Guide forms part of the Selwyn District Plan by way of incorporation through PC29. The Commercial Design Guide is an extensive and all encompassing document comprising of 40 pages and Progressive's submission is that it should not be included as part of the Selwyn District Plan through the PC29 process and, if included at all, should be done so via a separate plan change process. Individual applications should be assessed on their merits and not be required to fit into the prescriptive requirements of these design guidelines.

Relief Sought

32. Progressive seeks that any reference to the Commercial Design Guide in PC29 be deleted and any other consequential relief.

General relief sought

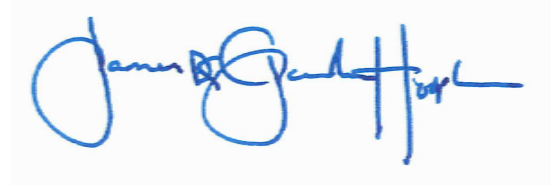
33. Progressive seeks that:

- (a) PC29 be adopted only insofar as it is consistent with the outcomes sought or to address the issues referred to in paragraphs 3 to 7, and otherwise be amended to ensure that it is so consistent or addresses those issues;
- (b) PC29 be amended to reflect the specific relief requested from paragraphs 12, 17, 24, 26, 30 and 32; and
- (c) any such further or consequential amendments necessary to give effect to this submission are made.

Progressive wishes to be heard in support of this submission.

Signature:

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by its solicitors and authorised agents
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