

**BEFORE THE SELWYN DISTRICT COUNCIL**

**IN THE MATTER OF** The Resource Management Act 1991 (**Act**)

**AND**

**IN THE MATTER OF** Resource consent application RC216016 to establish and operate a PAK'nSAVE supermarket and associated carparking, signage and landscape, and to undertake soil disturbance under NES, at 157 Levi Road, Rolleston

**AND**

**IN THE MATTER OF** **FOODSTUFFS (SOUTH ISLAND) PROPERTIES LIMITED**

**Applicant**

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**MINUTE NO 1 OF HEARING COMMISSIONER DAVID CALDWELL  
ADDRESSING HEARING RELATED MATTERS AND LATE SUBMISSIONS**

**Dated 17 June 2022**

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1. I have been appointed by the Selwyn District Council (**Council**) as Independent Hearings Commissioner to hear and decide the application by Foodstuffs (South Island) Properties Limited for land use consent to establish and operate a PAK'nSAVE supermarket and associated access, loading, carparking, signage, earthworks and landscaping at 157 Levi Road, Rolleston and to undertake soil disturbance under the National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (**NES (Soil)**).
2. This Minute addresses hearing related matters and late submissions.

### **Hearing Related Matters**

3. A Hearing Notice has been issued with the hearing set down to commence at 9.00am on **Tuesday 2 August 2022**. That notice records that the Council will provide a copy of their planner's report and any expert evidence 15 working days before the hearing; the Applicant to provide a copy of their evidence to Council at least 10 working days before the hearing (the Council will distribute this to submitters); and that submitters will provide a copy of any expert evidence to the Applicant and Council at least 5 working days before the hearing.
4. For clarity, those dates are as follows:
  - Council to provide planner's report and any expert evidence: **by 5.00pm 11 July 2022**;
  - Applicant's evidence: **by 5.00pm 18 July 2022**; and
  - Submitter expert evidence: **by 5.00pm 25 July**.
5. Again for clarity, expert evidence is evidence prepared by qualified persons on technical subjects such as traffic engineering, landscape assessment, urban design and other relevant specialisations. Any expert evidence is to be prepared in accordance with the Environment Court's Practice Note 2014 for Expert Witnesses.
6. I intend to read all expert evidence in advance of the hearing and I will not require it to be read in full. I direct that all experts prepare a summary of their evidence which is to be read at the hearing. To be of benefit, the summary should focus on key assumptions, methodology, conclusions and reasons for those conclusions. It is particularly helpful if areas of disagreement with the reporting officers can be identified.
7. Evidence from submitters (other than expert evidence) may be presented orally or in writing at the hearing, and I do not require it to be prepared and distributed in advance.
8. Legal submissions on behalf of all parties are to be in writing, and need not be submitted in advance. They can be presented in full at the hearing.
9. The hearing will commence at 9.00am each day and will generally conclude at 5.00pm.

10. Breaks will be held for:
- Morning tea at approximately 10.30-10.45am;
  - Lunch at approximately 12.30-1.30pm; and
  - Afternoon tea at approximately 3.00-3.15pm.
11. I request that the Hearings Administrator contact submitters who have stated in their submission that they wish to be heard to confirm their attendance at the hearing and to determine an allocation of speaking time. Following that, a schedule of appearances will be developed. This may be subject to change as the hearing proceeds.
12. The general order of appearances will be:
- Introduction and any procedural/housekeeping matters;
  - Applicant;
  - Submitters;
  - s42A Report authors; and
  - Applicant's right of reply (either at the hearing or in writing thereafter).
13. At this stage it is unclear whether any submitters will be calling expert evidence. I request that following the exchange of expert evidence, participants calling such witnesses liaise amongst themselves to consider, and if appropriate facilitate, expert conferencing in relation to matters relevant to the specific areas of expertise and including in relation to any potential conditions.

#### **Late Submissions**

14. I have been provided with two late submissions, those being submission by Brendan Shefford (Submitter 48) and by Shane and Donna Webb (Submitter 49). I note the Shefford submission was received at 6.42am on Friday 3 June 2022, and the Webb submission on 5 June 2022.
15. The decision as to whether to waive compliance with the timeframes, and to hear the submissions, rests with me as Independent Commissioner.
16. Section 37A of the Resource Management Act 1991 provides, in summary, that a consent authority must not extend a time limit or waive compliance with a time limit unless it has taken into account – the interests of any person who, in its opinion, may be directly affected by the extension or waiver; the interests of the community in achieving adequate assessment of the effects of a proposal; and the duty under s21 to avoid unreasonable delay.
17. Given that these submissions were received within one or two working days of the close of submissions, to ensure the interests of the community in achieving adequate assessment of

the effects, and having considered the duty under s21 to avoid unreasonable delay, in my view I consider the non-compliance can be waived. I therefore determine the late submissions can and should be accepted for consideration.

18. If there are any issues arising from this Minute, they can be raised through [rc.hearings@selwyn.govt.nz](mailto:rc.hearings@selwyn.govt.nz).

A handwritten signature in blue ink, reading "D Caldwell", is positioned above a horizontal line.

**David Caldwell**  
Hearing Commissioner

Dated: 17 June 2022