

Before the Commissioner appointed by
the Selwyn District Council

Under the Resource Management Act 1991

In the matter of Resource consent application for Foodstuffs (South Island)
Properties Limited to establish and operate a PAK'nSAVE
supermarket and associated access, loading, car parking,
signage, earthworks and landscaping at 157 Levi Road,
Rolleston (RC216016)

Statement of evidence of Guy Anthony Knoyle

18 July 2022

Applicant's solicitors:

Alex Booker
Anderson Lloyd
Level 3, 70 Gloucester Street, Christchurch 8013
PO Box 13831, Christchurch 8140
DX Box WX10009 Christchurch
p + 64 3 335 1231 | f + 64 27 656 2647
e alex.booker@al.nz

**anderson
lloyd.**

Qualifications and experience

- 1 My full name is Guy Anthony Knoyle.
- 2 I have an MSc (1994) and BSc (Joint Hons; 1990) both from the University of Wales, College of Cardiff and have been working at Pattle Delamore Partners Limited (**PDP**) since 1996 in the field of environmental, contaminated land and groundwater site investigations.
- 3 I am currently employed as a Technical Director – Contaminated Land and have held that position since 2013.
- 4 My current work experience includes project management of a diverse range of contaminated site assessments including pesticide storage depots, landfills, the petroleum industry, commercial/industrial and large-scale residential developments, former market gardens, horticultural and timber treatment sites, former gas works sites and illicit methamphetamine laboratories, with experience attained over several hundred sites.
- 5 My knowledge has also allowed me to present technical evidence on behalf of various clients, as part of a multi-disciplinary team, at High and District Courts, Environment Court mediation and at numerous joint territorial and regional authority hearings.
- 6 My role in relation to Foodstuffs (South Island) Properties Limited's (**Foodstuffs**) application to establish and operate a PAK'nSAVE supermarket and associated access, loading, car parking, signage, earthworks and landscaping at 157 Levi Road, Rolleston (**Application and Application Site**) has been to provide advice on the potential for encountering contaminated land during the earthworks phase of the supermarket development.
- 7 I project managed and oversaw the preparation of the report entitled *Preliminary Site Investigation – 157 Levi Road, Rolleston, Selwyn District*, dated 25 November 2021 (**PSI**) to the Assessment of Environment Effects (**AEE**) accompanying the Application, which appears at Appendix D of the AEE.
- 8 My assessment is based upon the proposal description attached to the evidence of Mr Mark Allan as **Appendix 1**.
- 9 In preparing this statement of evidence I have considered the following documents:
 - (a) the AEE accompanying the Application;
 - (b) submissions relevant to my area of expertise;

- (c) planning provisions relevant to my area of expertise and in particular the *Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011* (referred to hereafter as the NESCS); and
- (d) section 42A report.

Code of Conduct for Expert Witnesses

- 10 While this is not a hearing before the Environment Court, I confirm that I have read the Code of Conduct for expert witnesses contained in the Environment Court of New Zealand Practice Note 2014 and that I have complied with it when preparing my evidence. Other than when I state I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of evidence

- 11 I have prepared evidence in relation to:
- (a) the existing environment of the Application Site and in particular with regard to the possibility of contaminated land encountered during the site development earthworks;
 - (b) the key findings of my assessment of effects;
 - (c) matters raised in the Selwyn District Council's (**SDC**) report (report issued under s42A of the RMA); and
 - (d) proposed conditions of consent.

The existing environment

- 12 As I noted in paragraph 7 of my evidence, PDP has completed a PSI for the Application Site. At the time of the investigation, it was not possible to gain access in order to carry out a visual inspection of the property. However, we were able to carry out a review of a series of historical aerial photographs for the Application Site spanning between 1942 and 2019, which provides a useful account of the historical and existing environment.
- 13 The 1942, 1961, 1974 and 1982 aerial photographs show the Application Site and much of the surrounding land being undeveloped, possibly used as pasture/cropping/stock grazing. One dwelling was present north-east of the Application Site and Levi Road and Lincoln Rolleston Road were shown in their current footprints.

- 14 Aerial imagery from 1994 and 1995 show the establishment of a dwelling and numerous sheds at the Application Site. A shelter belt had been planted in the middle of the property extending north to south. A building, confirmed to be a residential scale glasshouse, was now present approximately 10 m south of the dwelling and an additional building (rural-residential lifestyle block) had been erected north of the Application Site on Levi Road.
- 15 The 2000 aerial imagery shows the establishment of a large shed in the north-west paddock of the Application Site. Multiple residential buildings have been constructed, primarily west of the Application Site. A swimming pool approximately 5-10 m south of the dwelling, had been established in the 2004 aerial photography.
- 16 The 2011 and 2019 aerial imagery show extensive residential development north and south of the Application Site. Separate soil stockpiles are located within different locations in the paddock to the south of the dwelling in these two aerial photographs.

Assessment of effects

- 17 The PSI included a review of historical aerial photographs (refer to paragraphs 12 to 16), the Environment Canterbury Listed Land Use Register, SDC property files and Certificates of Title.
- 18 Through the process of this review, and based on the available information, there was no information to suggest that any Hazardous Activities and Industries List (Ministry for the Environment (**MfE**; 2011) (**HAIL**)) activity has occurred at the Application Site.
- 19 However, it was concluded that a physical site inspection be carried out prior to the commencement of earthworks to confirm the findings of the desk-based assessment, since an inspection was not able to be undertaken at the time of reporting.
- 20 Furthermore, it was reported, as a prudent approach, to undertake a soil sampling investigation to confirm the applicable/most cost-effective offsite disposal facilities for surplus soils both from the broad-acre areas of the Application Site and around buildings (e.g. presence of lead-based paints). In addition, it was recommended for an asbestos pre-demolition survey to be carried out on the existing site buildings prior to their removal, given the time that they were constructed.
- 21 With regards to the applicability of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 (**NESCS**), the report stated that this could be confirmed following the recommended site inspection. However, the report noted that based on the proposed 'less-conservative' use of the land (i.e. from current rural-residential to

commercial), then there was no reason why the development would not be able to proceed. It was considered highly unlikely that there would be a risk to human health as a result of the proposed change in land use and development earthworks for the new supermarket.

- 22 In the absence of a Detailed Site Investigation (**DSI**) for the Application Site, the Application conservatively seeks resource consent in accordance with the NESCS as a **Discretionary Activity** (as per regulation 11).
- 23 I consider that based on my review of the available information, as presented in the PSI, coupled with my experience of undertaking numerous similar investigations, I have a sufficient foundation on which to form my conclusions for this assessment.

Matters raised by submitters

- 24 I understand that there have not been any submissions in relation to contaminated land.

Matters raised by SDC staff report

- 25 The Contaminated Land Officer at Environment Canterbury, on behalf of SDC, has reviewed the resource consent application and the PSI that we prepared. As presented earlier in my evidence, the Officer notes that a site inspection has not been included in the investigation. The Officer noted that our PSI report states that *"it would be prudent to undertake a physical site inspection to confirm the findings of the desk based assessment"* provided with the Application. Furthermore, the Officer highlights that our PSI report states that the applicability of the NESCS can be *"confirmed following the recommended site inspection"*.
- 26 The Officer asked whether the Applicant was planning on completing a full DSI, or whether they would supplement the PSI with soil sampling and a site walkover.
- 27 In response to this I have provided below (paragraphs 32(a) to 32(d)) proposed resource consent conditions that address the matter raised by the Environment Canterbury Officer following the review of our PSI report.
- 28 I consider that completing a DSI (as per paragraph 32(a)) in accordance with the NESCS regulations and MfE investigation and reporting requirements will negate any concerns with regard to possible site contamination and prior to the commencement of development earthworks.
- 29 In the event of the DSI identifying areas of the Application Site with unacceptable levels of soil contamination I have provided consent conditions (i.e. requirement for the preparation of a Site Management Plan (**SMP**) and/or Remedial Action Plan (**RAP**) to ensure that those areas of the Application Site are appropriately

remediated to ensure the safe use of the Application Site in the context of commercial land use.

- 30 I note that both the Environment Canterbury Contaminated Land Officer and SDC Planning Officer have confirmed acceptance of the proposed resource consent conditions presented in the Officer's Report. These proposed conditions are similar to original conditions volunteered by the applicant. Furthermore, the SDC Planning Officer has commented that they "*consider that subject to the proposed conditions, any adverse effects resulting from soil contamination will be no more than minor*".
- 31 I note that there are minor differences with the proposed resource consent conditions presented in the Officer's Report (paragraphs 17-20, page 46 of the Officer's Report) compared with the set I have provided below in paragraphs 32(a) to 32(d). These minor differences primarily relate to consistency, readability, correct cross-referencing to MfE documents and the NESCS, and timing for completion of specific tasks. I clarify these minor differences in paragraphs 33 to 36 below.

Proposed consent conditions

- 32 I propose the following resource consent conditions to address matters relating to the investigation of contaminated land as part of the Application Site development works:
- (a) A soil sampling investigation/Detailed Site Investigation (**DSI**) shall be undertaken at the Application Site in accordance with the Ministry for the Environment's (MfE) *Contaminated land management guidelines No. 5: Site investigation and analysis of soils (Revised 2021)* and reported on in accordance with the MfE's *Contaminated land management guidelines No. 1: Reporting on contaminated sites in New Zealand (Revised 2021)*.
 - (b) In the event that the soil sampling investigation/DSI recommends for a Site Management Plan (**SMP**) and/or Remedial Action Plan (**RAP**) be prepared to appropriately manage any identified contaminated soils, then at least 20 working days prior to bulk earthworks commencing onsite the SMP and/or RAP shall be provided to the Team Leader Compliance for confirmation that it complies with the conditions of this consent, and that post-development remaining soils will meet the applicable Soil Contaminant Standard in the context of commercial/industrial land use, as referenced in the NESCS. The SMP and/or RAP shall include, at a minimum:
 - (i) Details of validation sampling to be undertaken, including the sampling rationale, and analyses to be undertaken.

- (ii) Details of how remediation will be undertaken if soils do not comply with the Standard in the context of commercial/industrial land use.
 - (iii) Details of where soil will be disposed of if disposal off-site is required.
 - (c) Within three months of the completion of validation sampling at the Application Site, a site validation report shall be provided to the Team Leader Compliance, to demonstrate that the Application Site complies with the applicable Soil Contaminant Standard in the context of commercial/industrial land use, as referenced in the NESCS. The site validation report shall be prepared in accordance with the MfE's *Contaminated land management guidelines No. 1: Reporting on contaminated sites in New Zealand (Revised 2021)*.
 - (d) In the event that visual or olfactory evidence of contamination is identified, which was not anticipated by the previous soil contamination investigations undertaken on the Application Site, the works shall immediately cease within 10 metres of the contamination. Works shall not recommence in this area until a suitably qualified and experienced contaminated land practitioner has assessed the contamination, and their recommendations have been followed.
- 33 Condition 17 presented in the Officer's Report has different wording to my proposed condition (refer to paragraph 32(a)), however they essentially have a similar intent. I am therefore happy to accept the Officer's suggested consent condition 17.
- 34 As per paragraph 32(b), should there be the requirement for an SMP and/or RAP to be prepared then... *"it complies with the conditions of this consent, and that post-development remaining soils will meet the applicable Soil Contaminant Standard in the context of commercial/industrial land use, as referenced in the NESCS"*. The Officer's proposed conditions (condition reference 18 in the Officer's Report) on the same matter erroneously refers to MfE's "Contaminated Land Management Guidelines Number 5 (2021)".
- 35 The Officer's Report (condition 18, 2nd bullet) states that... *"if soils do not comply with the standard described in condition 17 and 18"*. However, conditions 17 and 18 presented in the Officer's Report do not provide any referenced standard. My corresponding proposed consent condition is provided in paragraph 32(b)(ii).
- 36 The timeframe for completion of the validation report in my proposed conditions is three months (refer to paragraph 32(c)), whereas the SDC Officer has proposed 20 working days (condition reference 19 in the Officer's Report). From experience, a detailed report such as a soil validation report would be more achievably completed within three months, and I consider that the increased timeframe does

not have any significant impact on the development or risk to the receiving environment.

Conclusion

- 37 I have overseen the preparation of a PSI at 157 Levi Road, Rolleston prior to the proposed development of the Application Site as a PAK'nSAVE supermarket with associated facilities. In summary, our findings did not identify any obvious HAIL activity having occurred at the Application Site, which would lead to the contamination of site soils. However, as we were unable to undertake a physical site inspection at the time of reporting we recommended that an inspection be carried out to confirm our initial assessment prior to the commencement of development earthworks.
- 38 In addition, as a prudent approach, we also recommended for a DSI to be completed to confirm the applicable/most cost-effective offsite disposal facilities for surplus soils both from the broad-acre areas of the Application Site and around buildings (e.g., presence of lead-based paints). It was also recommended that an asbestos pre-demolition survey be carried out on the existing site buildings prior to their removal.
- 39 I have provided proposed consent conditions to cover off the requirement to undertake a DSI prior to the commencement of any site development earthworks. Furthermore, I have provided consent conditions, should the need arise, to prepare a SMP/RAP if the DSI identifies areas of the Application Site that contain soil contaminants above soil acceptance criteria in the context of commercial/industrial land use.
- 40 Both the Environment Canterbury Contaminated Land Officer and SDC Planning Officer have confirmed acceptance of the suite of resource consent conditions to appropriately address the investigation and any subsequent management of contaminated land should this be encountered as part of the Application Site development. I have reviewed these proposed consent conditions and provided some minor edits to ensure consistency, readability, correct cross-referencing and timing for completion of specific tasks.
- 41 In summary, based on the proposed 'less-conservative' use of the land (i.e. from current rural-residential to commercial), I consider there is no reason why the development would not be able to proceed, and it is considered highly unlikely that there will be a risk to human health as a result of the proposed change in land use and development earthworks. Furthermore, the SDC Planning Officer has

commented that they “*consider that subject to the proposed conditions, any adverse effects resulting from soil contamination will be no more than minor*”.

Guy Anthony Knoyle

Dated this 18th day of July 2022