

Sections 95, 95A-E

Resource Management Act 1991



Decision/Report

Report pursuant to section 95A-E of the Resource Management Act 1991 recommending whether or not an application for resource consent should be:

- Publicly notified, limited notified or non-notified

APPLICATION NUMBER:	RC245088
APPLICANT:	Woolworths New Zealand Limited
BRIEF DESCRIPTION OF APPLICATION:	Land use consent RC245088 is sought to establish and operate a supermarket and small-scale ancillary retail tenancies, including associated earthworks, access, carparking, signage and landscaping.
SITE DESCRIPTION:	Address: 597 East Maddisons Road, Rolleston Legal Description: Lot 4011 DP 596412 Title Reference: 1152889 Area: 1.3545 ha
ZONING / OVERLAYS	Operative Selwyn District Plan (2016), Rural Volume Inner Plains Zone Partially Operative Selwyn District Plan (Appeals Version – released 27 November 2023) General Rural Zone Plains Flood Management Overlay, Liquefaction Damage Unlikely Overlay, Urban Growth Overlay, Rural Density (SCA-RD1)
OVERALL ACTIVITY STATUS:	Non-complying

The Application

- This application was formally received by the Selwyn District Council on 4 March 2024. Further information was received on 22 April 2024, and this information now forms part of the application.
- A detailed description of the application has been provided by the applicant.¹ Rather than repeating the applicant's description I will highlight the application's key aspects:
 - A full-service Woolworths supermarket with a building GFA of 3,528m² (including 200m² staff amenities), plus an online 'Click n Collect' facility (324m²);
 - Ancillary Retail / Commercial activity tenancies (between 2 – 4) with a total floorspace of 374m²;
 - 226.37m² of signage (both freestanding and attached to buildings;

¹ Section 3 of the AEE.

- Boundary fencing (including an acoustic fence of 2.3m along the western boundaries);
 - Landscaping; and
 - Canopies and verandahs associated with pedestrian areas, the external 'click n collect' area and loading area.
3. Vehicle access will be provided via 5 new vehicle crossings, with 184 parking spaces located on-site. Of these spaces, 5 are mobility spaces, 4 are parent parking spaces, 8 are 'click n collect' spaces, and eight are electric vehicle spaces. There will be 7 staff parking spaces provided, as well as storage capacity for 36 bicycles.
 4. The supermarket will operate seven days a week, with opening hours being 7:00 am to 10:00 pm Monday to Sunday. Staff, especially those associated with bakery and deli operations, will arrive and leave before and after supermarket opening hours, as will those associated with shelf restocking. Deliveries (including supplier deliveries and truck deliveries from the Distribution centre) will be during the daytime period, with most occurring between 7:00am and 4:00pm.
 5. A comprehensive landscaping plan has also been provided. It includes:
 - Planting along the boundary and between carparks as a mixture of ground cover and shrubs;
 - Low hedging (1.0 high max) as a formal border to sections of the development and to partially screen views of carparking from the road reserves;
 - Specimen Trees in the carpark and along the perimeter, including Purple Ake Ake and Lemonwood / Tarata;
 - Two tone concrete materiality to delineate key areas and entry points;
 - Low feature walls with oxford grey basalt veneer to frame key entry points and improve legibility; and
 - Street furniture and local sourced boulders to break up large areas and integrate with the wider character contained within surrounding greenfield residential developments.
 6. On-site stormwater management will involve soakage pits. This soakage will accommodate flows up those projected for a 2% AEP 24 -hour duration rainfall event.
 7. Construction will require 14,000 m³ of earthworks to a maximum depth of 9 m.
 8. The main aspects of the activity are as follows:
 - Establishment of a supermarket and other commercial tenancies in a rural zone;
 - Visual impacts associated with new buildings, signage and landscaping;
 - Transport impacts of large-scale supermarket and retail activities;
 - Urban servicing; and
 - Construction phase impacts on surrounding sites and the local road network.

Background

9. The AEE provides details of the site's history, including its recent consenting under "Fast Track Consenting" legislation.² To summarise, development of the site has been previously authorised under RC235205 (subdivision consent) and RC235206 (land use consent) for 684 lots under fast track consenting legislation. The application site forms part of the approved residential development and will occupy an area of land previously identified for nine low density (>550m²) allotments, four medium density (>400m²) and two terrace lots.
10. Prior to the recent residential consent process, the site has been used for rural activities.

The Existing Environment

11. The applicant has provided a detailed description of the existing environment, including its topography, land uses, transport network and biophysical properties.³ I concur with the applicant's description and provide the following additional comments.

² Pg 4 – 5, AEE.

³ Pg 5 – 11, AEE.

12. The application site and surrounding sites form part of a large greenfield development are on the southwestern periphery of Rolleston. During my site visit on 3 February 2024, land development was underway across large tracts of land. This included stockpiles of cleared topsoil and vegetation.
13. The application site does not feature any listed heritage features, identified natural inland wetlands or streams. Previously, a water race was present along the site's frontage with Goulds Road. This water race has been removed, as confirmed by the applicant's s92 response.
14. The area is served by an established public road network. This includes Goulds Road and East Maddison Road, both which provide connectivity to the established urban area of Rolleston (to the north) and to rural Selwyn (to the south).
15. I visited the site on 3 February 2024.

Activity Status

Operative Selwyn District Plan (2016), Rural Volume ("the Operative Plan")

16. The application site is zoned Inner Plains. The site is not subject to any overlays and controls.
17. The Council released the Appeals Version of the Partially Operative Selwyn District Plan on 27 November 2023. Many provisions are beyond challenge and are operative/treated as operative (pursuant to cl 103 of Schedule 1 and s 86F of the Act), and the corresponding provisions in the Operative Plan are treated as inoperative.
18. The rules that still apply following appeals and that this proposal does not meet are as follows.

Land Use

19. The proposed land use activity does not meet the following rules:

RULE	TOPIC	COMPLIANCE	STATUS
1.7.1.2	Earthworks and Setbacks, Volume and Site Rehabilitation	Earthworks must not exceed 5,000m ³ per project. 14,000m ³ of earthworks are proposed.	Discretionary
3.11.1	Buildings and Site Coverage	The maximum area of any allotment covered by buildings shall be 5% for all sites greater than 1 ha. A building coverage of 40.5% is proposed	Discretionary (Rule 3.12.1)
3.13.1	Buildings and Building Position	Any building complies with the relevant setbacks from property boundaries and road boundaries as shown in Table C3.2: All structures, excluding public amenity structures, shall comply with the minimum setbacks listed in GRUZ-TABLE1 - Structure Setbacks. The Proposal involves the following setbacks: <ul style="list-style-type: none"> • 2.8m (Supermarket) and 1.8m ancillary retail) to the western boundary; • 4.0m (canopy) to Goulds Road; • 6.0m (ancillary northern retail) to Shillingford Boulevard; and • Two pylon sign structures immediately beside the site's road boundaries. 	Discretionary (Rule 3.13.6)
E10.2.2.1	Distances of Vehicle Crossings from Road Intersections	No part of any vehicle crossing shall be located closer to the intersection of any roads than the minimum distances specified in Table E13.5 except that where the boundaries of a site do not allow the provision of any vehicle crossing whatsoever in conformity with Table E13.5, a single vehicle crossing may be constructed in the position which most nearly complies.	Discretionary (Rule 4.5.4)

4 of the 5 accesses do not satisfy requirements with existing 60km/h speed limit.

20. Therefore, the land use proposal is a Discretionary activity under the Operative Plan.

Partially Operative Selwyn District Plan (Appeals Version – released 27 November 2023) ("the Partially Operative Plan")

21. The application site is zoned General Rural. The site is also subject to Plains Flood Management Overlay, Liquefaction Damage Unlikely Overlay, Urban Growth Overlay and Rural Density (SCA-RD1).
22. The Council released the Appeals Version of the Partially Operative Plan on 27 November 2023. Many provisions are beyond challenge and are operative/treated as operative (pursuant to cl 103 of Schedule 1 and s 86F of the Act). Those subject to appeal continue to have legal effect pursuant to s 86B.
23. The rules of the Partially Operative Plan that this proposal does not meet are as follows.

Land Use

24. The proposed land use activity does not meet the following rules:

Operative/treated as operative:

RULE	TOPIC	COMPLIANCE	STATUS
GRZ – R2/REQ1.1	Coverage	The maximum area of any allotment covered by buildings shall be 5% for all sites greater than 1 ha. A building coverage of 40.5% is proposed	Restricted Discretionary (Rule REQ1.2)
GRZ – R2/REQ3.1	Height in Relation to Boundary	All buildings shall comply with the relevant height in relation to boundary requirements in Appendix 3. The western recession planes are breached by some 1.742m as associated with the Supermarket, and 0.9m by the northern ancillary retail.	Restricted Discretionary (Rule REQ3.2)
GRUZ-R9	Rural Selling Place/Commercial Activity	The establishment of a new, or expansion of an existing rural selling place or commercial activity Where: <ul style="list-style-type: none"> The area of land associated with the rural selling place is less than 100m²; or The area of land associated with the commercial activity is less than 100m². And this activity complies with the following rule requirements: <ul style="list-style-type: none"> GRUZ-REQ6 Hours of Operation GRUZ-REQ7 Full Time Equivalent Staff The Proposal involves commercial activities that occupy 1.35ha.	Non-complying (Rule GRUZ-R9.3)
GRUZ-R9/GRUZ-REQ6	Hours of Operation	The unloading or loading of vehicles or the receiving of customers or deliveries only occurs between 0700 and 1900 on any day, The activity will have opening hours of 7:00am to 10:00pm Monday to Sunday	Discretionary (Rule REQ6.3)
GRUZ-R9/GRUZ-REQ7	Full Time Equivalent Staff	No more than two full time equivalent staff who are not permanent residents of the site are working on the site at any one time. Approximately 50 FTEs are proposed.	Discretionary (Rule REQ7.2)
NH2-R2.3	New Buildings and Structures in Natural Hazard Overlays	The establishment of any new residential unit or other principal building. Where:	Non-complying (Rule NH2-R2.4)

		<ul style="list-style-type: none"> The building is not located in a high hazard area; and The building is not located between any surface water body and any stop bank designed to contain floodwater from that surface water body; and The building finished floor level is equal to or higher than the minimum floor level stated in a Flood Assessment Certificate issued in accordance with NH-SCHED1 Flood Assessment Certificates. <p>The applicant is unable to confirm that the FFL for the principal building will be compliant with an approved Flood Assessment Certificate</p>	
EW-R2/EW-REQ1	Volume of Earthworks	<p>The volume of earthworks is not to exceed the threshold outlined in EW-TABLE1.</p> <p>14,000m³ of earthworks are proposed.</p>	<p>Restricted Discretionary</p> <p>(Rule EW-REQ1.2)</p>
SIGN-R1/SIGN-REQ1.8	Free Standing Signs	<p>There shall be a maximum of one free standing sign per site for sites 4ha or less in area.</p> <p>There are three free standing signs and the site is less than 4 ha in area.</p>	<p>Restricted Discretionary (Rule SIGN-REQ1.12)</p>
SIGN-R1/SIGN-REQ1.10	Free Standing Signs	<p>The maximum area of a sign shall be 3m².</p> <p>Two signs have areas greater than 3m².</p>	<p>Restricted Discretionary (Rule SIGN-REQ1.12)</p>
SIGN-R1/SIGN-REQ1.11	Free Standing Signs	<p>The maximum height above ground level at the top of the sign shall be 6m.</p> <p>The proposal includes sign structures that are up to 9m high.</p>	<p>Restricted Discretionary (Rule SIGN-REQ1.12)</p>
SIGN-R1/SIGN-REQ2.3	Built form – Signs Attached to Buildings	<p>3m² per building and 9m² per site, whichever is lower.</p> <p>The proposal involves signs attached to the principal building that cover more than 100m² of the building's surfaces.</p>	<p>Restricted Discretionary</p> <p>(Rule SIGN-REQ1.12)</p>
TRAN-R4.1	Vehicle crossings	<p>The vehicle crossing is located no closer to an intersection with a State Highway or arterial road than:</p> <ul style="list-style-type: none"> 60m to the departure side of any intersection; and 30m to the approach side of any intersection; and The vehicle crossing does not service any: <ul style="list-style-type: none"> Service station; or Truck stop; or Activity that generates more than 40vm/d or, in PREC11 - Rural Services Precinct, 250vm/d. <p>The Proposal involves vehicle crossing onto local road that generate more than 40 vm/d</p>	<p>Restricted Discretionary</p> <p>(Rule TRAN-R4.2)</p>
TRAN-R4/TRAN-REQ3.7	Number of vehicle crossings	<p>There is no more than one vehicle crossing per site, except where:</p> <ul style="list-style-type: none"> The site has frontage to a collector road or local road, there may be a maximum of two vehicle crossings per site if each vehicle crossing is a single exit or entry (one-way flow); or 	<p>Restricted Discretionary</p> <p>(TRAN-REQ3.2)</p>

		<ul style="list-style-type: none"> The site has a road frontage of more than 100m in length, there may be a maximum of three vehicle crossings per site; or Access can be obtained to either road where the site accesses a collector road or local road, but not both; and The road is maintained by a road controlling authority. <p>The Proposal involves Three vehicle crossings proposed to Goulds Road, one vehicle crossing to Shillingford Boulevard and one vehicle crossing to a new local road.</p>	
TRAN-R4/TRAN-REQ4.1	Siting of vehicle crossings	<p>Vehicle crossing(s) shall:</p> <ul style="list-style-type: none"> comply with TRAN-TABLE4 - Vehicle crossing distances from intersections as illustrated in TRAN-DIAGRAM1 - Accessway separation from intersections; and be located a minimum distance of 10m from the end of any splitter or approach island to a roundabout; and comply with TRAN-TABLE5 - Vehicle crossing sight distances as illustrated in TRAN-DIAGRAM2 - Sight distance measurements and values; and not be formed within a State Highway. <p>The Proposal involves a vehicle crossing that is within 30m of Edgar Way intersection. A vehicle crossing is proposed on the new local road that does not provide the required minimum 140m sightline.</p>	Restricted Discretionary (Rule REQ4.2)
TRAN-R4/TRAN-REQ5.5		<p>Vehicle crossing(s) (excluding those on a State Highway) shall comply with the following standards:</p> <p>TRAN-DIAGRAM5 - Vehicle crossing design standards - Local roads where the vehicle crossing provides access to a residential unit on a local road; or</p> <p>TRAN-DIAGRAM6 - Vehicle crossing design standards - Arterial and Collector roads where the vehicle crossing provides access to either:</p> <ul style="list-style-type: none"> a residential unit not on a local road; or any other activity on a local road, arterial road, or collector road. <p>The Proposal does not comply with TRAN-DIAGRAM 6.</p>	Restricted Discretionary (Rule REQ6.6)

Has legal effect – subject to appeal:

RULE	TOPIC	COMPLIANCE	STATUS
GRZ-R2/REQ4.1	Building Setback	<p>All structures, excluding public amenity structures, shall comply with the minimum setbacks listed in GRUZ-TABLE1 - Structure Setbacks.</p> <p>The Proposal involves the following setbacks:</p> <ul style="list-style-type: none"> 9.20m (canopy) to the southern boundary; 2.8m (Supermarket) and 1.8m ancillary retail) to the western boundary; 4.0m (canopy) to Goulds Road; 6.0m (ancillary northern retail) to Shillingford Boulevard; and 	Restricted Discretionary (Rule REQ4.2)

		<ul style="list-style-type: none"> Two pylon sign structures immediately beside the site's road boundaries. 	
EW-R2/EW-REQ3	Earthworks - Excavation and Filling	<p>Earthworks, excluding those earthworks associated with offal pits, shall not exceed a maximum depth below or height above natural ground level of:</p> <ul style="list-style-type: none"> 2m, when 1.5m or more from the boundary of a site in separate ownership; or 0.5m, when within 1.5m of the boundary of a site in separate ownership. <p>Earthworks may exceed a depth of 0.5m within 1.5m of an adjoining boundary but will not exceed 1.0m.</p>	Restricted Discretionary (Rule EW-REQ3.3)

25. The applicant's s92 response of 22 April states:

"A flood assessment certificate has been obtained, however the finished floor level cannot accurately be determined for the building until Davie Lovell Smith (DLS) have completed flood modelling for the underlying subdivision. This will be done when the subdivision is at the s.224 stage and DLS have confirmed the completed modelling is still some time away. The finished floor level will therefore need to be reviewed at building consent stage. It is acknowledged that any increase in the overall building height resulting from a change in finished floor level may require a change of conditions to the resource consent to be granted under s.127 of the RMA."

26. Given that the applicant cannot confirm compliance with the FFL (at this time), I consider that Rule NH-R2.4 is triggered and resource consent is required for a non-complying activity.

27. Therefore, the land use proposal is a Non-Complying activity under the Partially Operative Plan.

Appeals

28. Horticulture NZ (ENV-2023-CHC-102) has appealed against the structure setback requirement of the General Rural Zone where it may apply to artificial crop protection structures. In my view, this appeal does not affect the status of the PODP setback requirement given the specific remedy sought by the appellant, which does not include structures associated with commercial activities/retail sales.

29. CSI Property and iPort Rolleston Holdings (ENV-2023-CHC-112) have appealed the zoning of land adjacent to the Rolleston iZone industrial park. Given that the current application is not located on that land, I do not consider that the appeal affects the weighting that should be given to the Partially Operative Plan in this instance.

30. Dairy Holdings (ENV-2023-CHC-118) relates to making irrigation infrastructure a permitted activity. Again, this appeal does not relate to the activities sought by the current application.

National Environmental Standards

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS)

31. The proposal involves a change of use of the land and therefore the NES-CS does apply.

32. The NES-CS manages activities which involve the disturbance of land which may be contaminated. This is determined by whether activities listed in the Hazardous Activities and Industries List (HAIL) have or are likely to have occurred on the site.

33. The applicant has noted the following:

"The broader site (including Lot 4011 DP596412) is identified on the Environment Canterbury LLUR HAIL Register as a contaminated site (G5 – Waste Disposal to Land). DSI's have been completed and accompany the Fast Track residential application. The site remediation plan identifies that Lot 4011 DP596412 is not an area of Identified Source of Contamination. The site remediation plan identifies that (to meet the residential threshold) 'due to the concentrations of contaminants observed and the land disturbance and removal volumes, the site (being the entirety of the Farrington Oval project) is considered to be a permitted activity under NES."

34. I concur with the applicant's assessment and consider that resource consent is not required under the NES-CS.

35. The proposal is not a change of use of the land and therefore the NES-CS does not apply.

Overall Activity Status

36. At the time of lodgement, the application was assessed/treated as being for a **Non-complying** activity.
37. As per the Activity Status section above, at the time of writing this report the proposal is still for a **Non-complying** activity (i.e. the most restrictive status applicable).
38. Therefore, the proposal is being considered as a **Non-complying** activity overall.

Written Approvals (Sections 95D(e), 95E(3)(a) and 104(3)(a)(ii))

39. The provision of written approvals is relevant to the notification and substantive assessments of the effects of a proposal under sections 95D, 95E(3)(a) and 104(3)(a)(ii). Where written approval has been provided, the consent authority must not have regard to any effect on that person. In addition, that person is not to be considered an affected person for the purposes of limited notification.
40. The applicant has obtained the written approval of the following party:
a) Hughes Development Limited - Lot 1 DP 596412 - Record of Title 1152888.
41. This party is the owner of the greenfield development site that adjoins the southern and western boundaries of the application site.
42. I further note that the applicant has requested public notification.

Notification Assessment

Public Notification (Section 95A)

43. Section 95A states that a consent authority must follow the steps in the order given to determine whether to publicly notify an application for resource consent.

Step 1: mandatory public notification in certain circumstances (sections 95A(2) and 95A(3))	Y	N
Has the applicant requested that the application be publicly notified?	✓	<input type="checkbox"/>
Is public notification required under section 95C (no response or refusal to provide information or agree to the commissioning of a report under section 92)?	<input type="checkbox"/>	✓
Has the application has been made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977?	<input type="checkbox"/>	✓

44. In conclusion, in accordance with the provisions of section 95A, the application must be publicly notified. As concluded above in the Assessment of Adverse Environmental Effects, the following are affected persons; therefore, they must be served notice.
- The owners and occupiers of the adjacent and surrounding properties identified in Appendix 1 to this report;
 - Mahaanui Kurataiao Limited; and
 - Selwyn Business Group.

Notification Recommendation

45. I recommend that the application (RC245088) is processed on a **publicly notified** basis in accordance with sections 95A-E of the Resource Management Act 1991.

Report by:	
Tim Hegarty, Consultant	Date: 7 May 2024

Notification Decision

46. For the reasons set out in the report above, the Notification Recommendation is adopted under delegated authority.

 Commissioner O'Connell	Date: 9 May 2024
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