

**Before the Hearings Commissioner appointed by
the Selwyn District Council**

In the Matter of

the Resource Management Act 1991
(Act)

And

In the Matter of

an application under section 88 of the
Act (RC245088) for resource consent
to establish and operate a
supermarket and small-scale ancillary
retail tenancies, including associated
earthworks, access, carparking,
signage and landscaping

**Memorandum of Counsel on behalf of
Woolworths New Zealand Limited**

Dated: 2 September 2024

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Introduction

1. This memorandum is filed on behalf of Woolworths New Zealand Limited (**Woolworths**) and accompanies the evidence in chief on behalf of Woolworths. Woolworths has filed an application (RC245088) (**Application**) with the Selwyn District Council (**Council**) for land use consent to establish and operate a supermarket and small-scale ancillary retail tenancies, including associated earthworks, access, carparking, signage and landscaping at 597 East Maddisons Road, Rolleston.
2. Section 100 of the Resource Management Act 1991 (**Act**) provides that a hearing does not need to be held in relation to the Application unless:
 - (a) the Council considers that a hearing is necessary; or
 - (b) either Woolworths or a person who made a submission in respect of the Application has requested to be heard and has not subsequently advised that he or she does not wish to be heard.
3. As both separate grounds under section 100 are made out in relation to the Application, Woolworths submits that a hearing is not required and the Application should be decided on the papers.

Section 100(a)

4. The Council's Section 42A Report was issued on 26 August 2024. The Section 42A Report recommends that consent be granted subject to conditions. The only potential outstanding issues between the Council and Woolworths identified in the Section 42A Report are:
 - (a) the pylon sign height for Signs 12 and 13;
 - (b) the height of the staff carpark fence (1.2m vs 1.8m as the design is agreed); and
 - (c) the safety audit condition in respect of the operation of the "direct to boot" area.
5. These are very minor and discrete matters and can be decided on based on the evidence presented without the need for a hearing.
6. All other matters are agreed. Specifically, the Section 42A Report notes (amongst other matters) that:

- (a) construction will be undertaken in accordance with NZS6803:1999 as well as the more restrictive noise limits of the Partially Operative Selwyn District Plan (**Partially Operative Plan**);¹
 - (b) the operational noise effects will be less than minor;²
 - (c) the proposal will have no more than minor visual amenity, character and landscape effects;³
 - (d) the proposal will have minimal operational transport effects;⁴
 - (e) the proposal will not have a material effect on the role, function, viability, vibrancy and performance of any existing centre, including Rolleston Town Centre;⁵ and
 - (f) the proposal can be connected to local infrastructure networks without any significant effects on those networks.⁶
7. Given the very limited outstanding matters, the Council and the Applicant have been in ongoing dialogue about whether a hearing is not required.

Section 100(b)

8. The Application was publicly notified on 22 May 2024. Submissions on the Application were received from:
- (a) Ministry of Education (**Ministry**);
 - (b) Canterbury Regional Council (**CRC**); and
 - (c) Ryman Healthcare Limited (**Ryman**) (submission accepted under section 37(1)(b)).
9. Both CRC and Ryman stated in their submissions that they do not wish to be heard.⁷
10. In its submission, the Ministry stated that it wished to be heard.⁸ However, the Ministry has since advised that it no longer wishes to be heard in relation to its submission.⁹

¹ Selwyn District Council, Section 42A Report prepared by Tim Hegarty, 26 August 2024 at [76].

² At [99].

³ At [132].

⁴ At [148].

⁵ At [156].

⁶ At [91].

⁷ Submission of Canterbury Regional Council on RC245088, 20 June 2024 and Submission of Ryman Healthcare Limited on RC245088, 20 June 2024.

⁸ Submission of the Ministry of Education on RC245088, 20 June 2024.

⁹ Ministry of Education, Letter on RC245088 to the Hearings Commissioners, 19 August 2024.

11. Given that neither Woolworths nor any of the submitters on the Application wish to be heard, a hearing of the Application is not necessary for the substantive determination of the Application in accordance with section 100(b).

Evidence

12. To ensure the Commissioner has a complete and comprehensive suite of evidence to make their determination we have filed thorough briefs today.
13. However, to ensure efficiency of review we have instructed the relevant expert witnesses to confirm their positions in relation to the conclusions reached in the Section 42A Report, provided assessments on the discrete outstanding matters described in paragraph 4 above, and provide comment/amendments to the proposed conditions of consent.

Orders Sought

14. As a hearing is not required under section 100, Woolworths respectfully requests that the Application be determined on the papers.

Dated this 2nd day of September 2024



**Joshua Leckie / Sarah
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Counsel for Woolworths New
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