

BEFORE THE HEARINGS PANEL

UNDER

the Resource Management Act
1991 (**RMA**)

IN THE MATTER OF

the Proposed Far North District
Plan (**PDP**)

**STATEMENT OF EVIDENCE OF DAVID BADHAM ON BEHALF OF FOODSTUFFS
NORTH ISLAND LTD**

PLANNING

18 November 2024

1. SUMMARY OF EVIDENCE

- 1.1 This evidence has been prepared on behalf of Foodstuffs North Limited (**Foodstuffs**) as it relates to its submission and further submission on the PDP - Hearing Stream 9. My evidence focuses on responses to the recommendations in Settlement Zone Section 42A Hearing Reports (**s42A**).
- 1.2 In summary, there are several areas where I disagree with the recommendations of the Far North District Council (**Council**) Reporting Officer, and as a result consider that further amendments or analysis is required. These specifically relate to the management of buildings and activities and the provision of “supermarkets” in the Settlement Zone (**RSZ**).

2. INTRODUCTION

- 2.1 My full name is David Eric Badham. I am a Partner and Northland Manager of Barker and Associates (**B&A**), a planning and urban design consultancy with offices across New Zealand. I am based in the Whangārei office, but undertake planning work throughout the country, although primarily in Te Tai Tokerau / Northland.

Qualifications and experience

- 2.2 My qualifications, experience and involvement with Foodstuffs on the PDP are set out in Attachment 1 to my evidence filed on 13 May 2024 which addressed planning matters in relation to Hearing Stream 1 – Strategic Direction for Foodstuffs. I also filed

a statement on behalf of Foodstuffs on 22 July 2024 on Hearing Stream 4 and on 7 October 2024 on Hearing Streams 6 and 7.

Purpose and scope of evidence

- 2.3 This evidence addresses the submission (#S363) and subsequent further submission (#FS542) by Foodstuffs on the PDP.
- 2.4 My evidence will address the following topics:
- (a) My involvement with the PDP on behalf of Foodstuffs (Section 3);
 - (b) Foodstuffs Submission Context (Section 4);
 - (c) Management of Buildings and Activities (RSZ-R1) (Section 5);
 - (d) Supermarkets in the Settlement Zone (RSZ-R8) (Section 6);
 - (e) Section 32AA Assessment (Section 7); and
 - (f) Conclusion (Section 8).

Code of conduct

- 2.5 Although this is not an Environment Court proceeding, I have read and am familiar with the Environment Court's Code of Conduct for Expert Witnesses, contained in the Environment Court Practice Note 2023, and agree to comply with it. My qualifications as an expert are set out in Attachment 1 to my Hearing Stream 1 evidence filed on 13 May 2024. Other than where I state that I am relying on the advice of another person, I confirm that the issues addressed in this statement of evidence are 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.

3. INVOLVEMENT WITH PDP ON BEHALF OF FOODSTUFFS

- 3.1 I have been engaged by Foodstuffs since September 2022 to provide independent planning evidence on the PDP, including:
- (a) assisting with preparing Foodstuffs' original submission on the PDP;
 - (b) assisting with preparing Foodstuffs further submission on the PDP; and

- (c) ongoing planning advice associated with those submissions and the hearings relating to those submissions.

4. FOODSTUFFS SUBMISSION CONTEXT

- 4.1 Foodstuffs is made up of several independent co-operatives, with all employees and retail members supportive of the organisation's commitment to provide New Zealanders with the best possible service and quality products. The Foodstuffs North Island co-operative employs more than 1700 people who support the 102 New World, 43 PAK'n'SAVE and 167 Four Square owner-operated retail supermarkets throughout the North Island. Of these, Foodstuffs currently has 16 established supermarkets in the Far North District.
- 4.2 As I understand it, in Foodstuffs' experience across New Zealand, regional and district planning frameworks often do not properly recognise the need for business growth to occur, including alongside residential growth. Given Foodstuffs' significant past and planned further investment in New Zealand, the contents of any future district plan provisions will be integral to the continuing operation and development of Foodstuffs in the Far North.
- 4.3 Of relevance to Hearing Stream 9, Foodstuffs has three established Four Square (**4SQ**) supermarkets located within the proposed Settlement Zone (**RSZ**):
 - (a) 4SQ Houhora Wharf - Far North Road, Pukenui, Houhora, RD 4, Kaitaia;
 - (b) 4SQ Moerewa - 64 State Highway 1, Moerewa; and
 - (c) 4SQ Waimamaku - 7233 State Highway 12, Waimamaku, South Hokianga.
- 4.4 Foodstuffs' original submission points can be summarised as follows:
 - (a) Separating the management of buildings and activities to provide for an increase to buildings to a scale appropriate with what should be reasonably anticipated and provided for in to the RSZ (S363.026);
 - (b) Clear provision for supermarkets within the RSZ as a permitted activity (S363.020, S363.027); and
 - (c) Provision for buildings of an increased scale and within appropriate gross floor area (GFA) limits (S363.026, S63.038).

4.5 The s42A Report makes recommendations to reject these submission points. I do not support the Reporting Officer's recommendations, and am concerned that the RSZ rules are unnecessarily restrictive towards supermarkets, and do not recognise the social and economic benefits that they provide to the wider community.

4.6 I provide my more fulsome response to the s42A Report below.

5. MANAGEMENT OF BUILDINGS AND ACTIVITIES (PER-1 OF RSZ-R1)

5.1 PER-1 of Rule RSZ-R1 provides for buildings as a permitted activity where the building will accommodate a permitted activity. Submission point S363.026 sought amendments to Rule RSZ-R1 to provide for an increase to building scale appropriate within the RSZ. The Reporting Officer has not recommended amendments to RSZ-R1 in response to the Foodstuffs submission point.

5.2 I agree with the submission point, that Rule RSZ-R1 confuses effects associated with building bulk and scale to the scale and intensity of activities. In my opinion, the requirements of PER-1 under RSZ-R1 will add unnecessary complexity and duplication, and I recommend its deletion to improve the efficiency of the PDP.

5.3 I consider that non-compliance with PER-1 under RSZ-R1, which triggers a discretionary activity resource consent, will create duplication with the consenting requirements and relevant considerations under Rules RSZ-R3 – RSZ-R10 and associated matters of discretion. Specifically, these rules seek to manage the potential effects associated with the activities themselves.

5.4 In my opinion, RSZ-R3 – RSZ-R10, in combination with PER-2 under RSZ-R1 and the RSZ Standards, will be more efficient and equally effective in managing potential effects of development and achieving the RSZ objectives.

5.5 I also note the drafting style of Rule RSZ-R1 is consistent across the PDP zones and consider that further consequential amendments may be necessary to improve the efficiency and effectiveness of the PDP in this regard.

5.6 For the above reasons, I recommend that PER-1 of RSZ-R1 is deleted as shown in **Attachment 1**.

6. SUPERMARKETS IN THE SETTLEMENT ZONE

Zoning framework

- 6.1 The Reporting Officer does not support the inclusion of a new rule to provide for “supermarkets” as a permitted activity in the RSZ. This is on the basis that a consistent permitted pathway is not considered appropriate given the variety of the size and function of rural and coastal settlements across the Far North District.
- 6.2 Foodstuffs made submissions, and I presented evidence at Hearing 1¹ on the lack of a centre’s hierarchy within the PDP, noting that the Mixed Use Zone is used throughout the District’s dispersed urban areas / centres, and likewise with regard to the RSZ as it relates to the District’s dispersed rural and coastal settlements. As I have expressed previously, I consider that this is a significant flaw in the architecture of the PDP, and has created issues for Foodstuffs and other submitters, where there is a lack of direction regarding the development of residential and business land as there is limited zoning options that are available in both urban and rural areas.
- 6.3 A defining feature of the RSZ as outlined in the proposed Overview Section, is that the areas are not serviced by a reticulated wastewater network. Within the RSZ, no specific zoning provision is made for small scale non-residential activities. I understand that the Council are contemplating additional commercial zoning in response to Foodstuffs and other parties’ submissions from Hearing 1², however as notified, all non-residential activities which support the role and function of the RSZ and the needs of the community, are anticipated to be located within the RSZ itself. As such, it is important in my opinion, that the RSZ provides for reasonably enabling provisions for non-residential activities, but more specifically “supermarkets”, which are an important service / activity for the economic and social wellbeing of people in the rural and coastal communities that the RSZ covers.
- 6.4 Rule RSZ-R8 provides for “commercial activities” as a permitted activity, and applies restrictions on GFA for retail and office activities. The PDP as notified adopts a

¹ See my Hearing 1 Evidence Statement for Foodstuffs, dated 13 May 2024.

² I address this in paragraph 6.1 – 6.3 of my Hearing 6 / 7 Evidence Statement for Foodstuffs, dated 7 October 2024.

definition for “commercial activities”³ in accordance with the National Planning Standards, however does not otherwise define “retail activities” or include nesting tables for specific activities. I also note Foodstuffs’ have made separate submission points on definitions, including the insertion of a new definition for “supermarket”⁴. The Interpretation / Definition Hearing is not scheduled until November 2025, where these definitions will be considered by the Panel. In my experience, a lack of clarity for definitions of key terms (in this instance, “retail activities” and “supermarket”) has the potential to create uncertainty at the time of future development from a plan interpretation perspective. In my opinion, the wording of these terms is relevant now in the consideration of these rules, and the issues created by a lack of certainty associated with this, is symptomatic of the nature of the Hearing Schedule for the PDP.

Rule framework

- 6.5 In my opinion, “supermarkets” provide social and economic benefits to communities that are distinguished from other commercial activities due to their diverse range of retail offering.⁵ For these reasons, I support the inclusion of specific rules within the RSZ to provide for supermarkets as a permitted activity. I consider this will provide greater clarity and certainty to plan users.
- 6.6 The inclusion of specific provision for supermarkets within the RSZ rule framework will be efficient and effective in achieving Objective RSZ-O1, which seeks for rural and coastal settlements to be used predominantly for residential activities and are sustained by a range of compatible activities and services.
- 6.7 I consider that the scale and intensity of supermarket activities, and their potential effects on rural and coastal character and amenity values, can be efficiently and effectively managed through a permitted activity rule framework to achieve Objectives RSZ-O2 and RSZ-O3. In my opinion, a consistent framework could be appropriately

³ Proposed to be defined as “*means any activity trading in goods, equipment or services. It includes any ancillary activity to the commercial activity (for example administrative or head offices).*”

⁴ Submission point S363.005 seeks to insert a definition for ‘supermarket’ as “*Supermarket means a self-service retail activity selling mainly food, beverages and small household goods.*”

⁵ This was evident during the Covid-19 pandemic, when supermarkets were deemed an “essential service” and allowed to operate during Level 4 Lockdowns.

applied to all RSZ, and I discuss the management of the scale and intensity of activities below.

Scale and intensity of supermarkets

- 6.8 Submission point S363.028 sought that an appropriate GFA limit on supermarkets is applied consistently across the RSZ, noting support for the 400m² GFA limit applied to “retail activities” within Moerewa.
- 6.9 The Reporting Officer does not support increased retail GFAs outside of Moerewa. Moerewa is identified as a larger settlement whereby a larger small-scale general store or mini supermarket would be appropriate as a permitted activity. Furthermore, the Reporting Officer considers that a full-scale supermarket that is larger than the GFA limits specified under Rule RSZ-R8 (300m² GFA outside of Moerewa) would be out of character for any of the Far North settlements. No real detail is provided in my opinion to justify this statement, and why 300m² is more suitable than 400m².
- 6.10 I agree that some limitation on the scale and intensity of “commercial activities” is necessary to manage the potential effects of these activities on character and amenity values within the RSZ, but more particularly the viability and function of other larger centres within the Far North.
- 6.11 However, I consider that the restrictions on retail GFA under Rule RSZ-R8 will create an unnecessary consenting barrier to the establishment of new “supermarkets” or the extension of existing “supermarkets”. In my opinion, the necessity for, and the costs and benefits associated with, a 300m² GFA restriction outside of Moerewa, have not been comprehensively assessed in the Section 32 Report, including in comparison to larger GFA allowances.
- 6.12 With specific regard to Foodstuffs’ submission, in my experience, added consenting barriers and costs can deter “supermarkets” from establishing or expanding in these more isolated rural and coastal settlements. Often, the population base that “supermarkets” service in such locations is small, and the feasibility of the establishment of a store in these locations is already strained without the unnecessary additional costs and delays associated with obtaining a fully discretionary resource consent. I consider that a maximum supermarket GFA of 400m² would be more efficient in enabling “supermarkets” to establish and operate in the RSZ. I understand that this increased GFA allowance will provide greater flexibility to accommodate the operational and functional requirements of “supermarkets” through a permitted activity

pathway. The operational requirements of “supermarkets”, such as internal layouts and the need to provide storage and refrigeration systems, often require a greater GFA than other “commercial activities”.

6.13 In my opinion, a 400m² GFA will create comparable effects to the permitted 300m² GFA proposed under the PDP for the following reasons:

- (a) Within the context of the RSZ, a GFA of 400m² is unlikely to create greater visual, character, or amenity effects in comparison to the proposed permitted 300m² GFA threshold. I note that typical site sizes within the RSZ will range, given the requirement to provide on-site wastewater servicing and to achieve minimum lot size under the PDP Subdivision Chapter. I therefore consider a GFA of 400m² will still maintain an appropriate scale and intensity of non-residential activity that complements the character and amenity of the RSZ and existing residential activities.
- (b) Building bulk and location will be managed separately under the RSZ Standards, which new buildings will be required to comply with. I note that within a typical RSZ site, a new “supermarket” building up to 400m² GFA will be able to comply with the relevant RSZ Standards (including for height, height in relation to boundary, and setbacks) and RSZ-R2 which manages impermeable surface coverage.
- (c) Landscaping and screening requirements under Standards RSZ-S6 and RSZ-S7 will still apply to manage visual effects.
- (d) Separate provisions of the PDP will apply to manage other potential environmental effects, including those district wide provisions associated with signs, transport, and noise.
- (e) By their nature, “supermarkets” will only be established where there is sufficient demand, and will only be as large as necessary to service the surrounding community. An unnecessarily restrictive GFA requirement will simply discourage development from occurring.

6.14 Furthermore, I consider that non-compliance with maximum 400m² GFA can be assessed as a restricted discretionary activity through the resource consent process, rather than as a discretionary activity. In my opinion, the potential effects of exceeding this GFA can be identified with certainty, and in combination with the existing standards

for building bulk and location, will be efficient and effective in achieving Objectives RSZ-O1 – RSZ-O3. I recommend the inclusion of the following matters of discretion:

- (a) the location and design of buildings, outdoor areas, parking and loading areas and access;
- (b) hours of operation;
- (c) screening and landscaping;
- (d) wastewater treatment and disposal;
- (e) water supply for drinking and firefighting; and
- (f) stormwater disposal.

6.15 Overall, I support an increase to the maximum allowable GFA for supermarkets within the RSZ to 400m² and for exceedances to be assessed as a restricted discretionary activity resource consent. In my opinion, this will be more efficient and effective in achieving RESZ-O1, RSZ-O2, and RSZ-O3 as it will:

- (a) Recognise the operational and functional requirements of supermarkets, and the social and economic benefits they provide to the wider community;
- (b) Efficiently enable supermarkets to establish within the RSZ through a permitted activity pathway by removing unnecessarily restrictive controls on GFA; and
- (c) Effectively manage potential effects on rural or coastal character and amenity, and the viability and functioning of other centres resulting from the scale and intensity of supermarkets.

6.16 My recommended amendments to the RSZ Chapter are included at **Attachment 1**.

7. SECTION 32AA ASSESSMENT

7.1 Section 32AA of the RMA provides that further evaluation is required when changes are made to a plan since the original evaluation was completed. I have recommended amendments to Rules RSZ-R1 and RSZ-R8 above and detailed in **Attachment 1**, and have completed a section 32AA evaluation in respect of those amendments below.

7.2 I consider that the amendments to the provision that I have proposed will be the most appropriate way to achieve the relevant objectives in accordance with section 32(1)(b) for the following reasons:

- (a) My recommended version of Rule RSZ-R1 is the most appropriate way to achieve the objectives of the PDP and RSZ as it will improve the efficiency of the PDP, and will be effective in managing the potential effects of both building bulk and scale and the scale and intensity of activities in the RSZ.
- (b) My recommended version of Rule RSZ-R8 is the most appropriate way to achieve Objectives RSZ-O1, RSZ-O2, and RSZ-O3. The provisions improve plan clarity, and will be more efficient in enabling the establishment of “supermarkets” to sustain rural and coastal settlements. The provisions are effective in managing permitted “supermarket” activities to ensure their scale and intensity is in keeping with the character and amenity of RSZ settlements, are appropriate for individual site attributes, and retain the viability and functioning of other centres.

7.3 Overall, I consider that the social and economic benefits of providing a more enabling framework for “supermarkets” in the RSZ, as I have recommended, outweigh the potential costs of imposing unnecessary restrictions.

8. CONCLUDING COMMENTS

8.1 In conclusion, I consider that there are still issues outstanding from Foodstuffs’ submission that need to be addressed by the Hearings Panel. Of relevance to Hearing 9, is the management of buildings and activities and the provision of supermarkets in the RSZ.

8.2 I have recommended amendments to the provisions as outlined in **Attachment 1**, and have undertaken a section 32AA Evaluation which I consider demonstrates that the amendments are more efficient and effective at achieving the relevant objectives for the RSZ.

David Badham

Date: 18 November 2024

Attachment 1 – Recommended Amendments to Rural Settlement Zone Provisions

S42A recommended wording = additions underlined text deletions ~~strikethrough text~~

David Badham recommended wording = additions underlined text deletions ~~strikethrough text~~

RSZ-R1	New buildings or structures, <u>relocated buildings</u> ⁶ or extensions or alterations to existing buildings or structures	
Settlement zone	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1 The new building or structure, <u>relocated building or extension or alteration to an existing building or structure, will accommodate a permitted, controlled or restricted discretionary</u> activity.⁷</p> <p>PER-2 The new building or structure, <u>relocated building or extension or alteration to an existing building or structure</u> complies with standards: RSZ S1 Maximum height; RSZ S2 Height in relation to boundary; RSZ S3 Setback (excluding from MHWS or wetland, lake and river margins); RSZ S4 Setback from MHWS; RSZ S5 Outdoor living space; RSZ S6 Outdoor Storage; and RSZ S7 Landscaping and screening; <u>RLZ-SX Sensitive activities setback from intensive indoor and outdoor primary production activities; and</u> <u>RLZ-SY Sensitive activities setback from buildings or structures used to house, milk or feed stock (excluding buildings or structures used for an intensive indoor or outdoor primary production activity).</u>⁸</p>	<p>Activity status where compliance not achieved with PER-2: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <p>a. the matters of discretion of any infringed standard</p> <hr/> <p>Activity status where compliance not achieved with PER-1: Discretionary</p>

...

RSZ-R8	Commercial activity	
Settlement zone	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1 Any retail activity does not exceed:</p> <ol style="list-style-type: none"> 1. GFA of 400m² if the site is located in the settlement of Moerewa; or 2. GFA of 300m² in all other settlements. <p>PER-1A <u>Any supermarket does not exceed GFA of 400m² in all settlements.</u></p> <p>PER-2 Any office activity does not exceed:</p> <ol style="list-style-type: none"> 1. GFA of 200m² if the site is located in the settlement of Moerewa; or 2. GFA of 100m² in all other settlements. <p>PER-4 The activity complies with standards: RSZ S5 Outdoor storage; RSZ S6 Landscaping and screening.</p>	<p>Activity status where compliance not achieved with PER-1A: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> a. the location and design of buildings, outdoor areas, parking and loading areas and access; b. hours of operation; c. screening and landscaping; d. wastewater treatment and disposal; e. water supply for drinking and firefighting; and f. stormwater disposal.
		<p>Activity status where compliance not achieved with PER-4: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> a. the matters of discretion of any infringed standard.
		<p>Activity status where compliance not achieved with PER-1 or PER-2: Discretionary</p>