

**SUBMISSION ON PUBLICLY NOTIFIED PROPOSAL FOR POLICY STATEMENT OR PLAN, CHANGE OR VARIATION**

Clause 6 of Schedule 1, Resource Management Act 1991

To Timaru District Council

Name of Submitter: Foodstuffs South Island Limited (**Foodstuffs**)

- 1 This is a submission on the Proposed Timaru District Plan (the **Proposed Plan**)
- 2 Foodstuffs could not gain an advantage in trade competition through this submission.
- 3 The specific provisions of the Proposed Plan that Foodstuffs' submission relates to and the reasons for Foodstuffs' submission are set out in **Appendix A** and **Appendix B** below.
- 4 Foodstuffs' submission relates to the whole Proposed Plan. The general and specific reasons for Foodstuffs' relief sought in **Appendix B** are set out in **Appendix A**.
- 5 Foodstuffs seeks the following decisions from the local authority:
  - 5.1 Grant relief as set out in **Appendix A and B**;
  - 5.2 Grant any other similar relief that would deal with Foodstuffs' concerns set out in this submission.
- 6 Foodstuffs wishes to be heard in support of the submission.
- 7 If others make a similar submission, Foodstuffs will consider presenting a joint case with them at a hearing.

Signed for and on behalf of Foodstuffs by its solicitors and authorised agents Saunders & Co.



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Partner

15 December 2022

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## APPENDIX A

### Overview

- 1 Foodstuffs South Island Limited (**Foodstuffs**) welcomes the opportunity to submit on the Proposed Timaru District Plan (the **Proposed Plan**).
- 2 Foodstuffs has various interests around Timaru, the interests of relevance to this submission include the existing Timaru New World and the associated Highfield Village Mall (also referred to as **Highfield**). They also own a block of land at 11 Chalmers Street next to Highfield (see **Figure 1, Appendix C**), which has resource consent approval to be converted into a carpark.
- 3 11 Chalmers Street is zoned Medium Density Residential Zone (**MDR Zone**) and has obtained resource consent for a car park extension for the Highfield New World. Foodstuffs request the land be rezoned Local Centre Zone to align zoning of this land under the Proposed Plan with the land use that is authorised under the resource consent.
- 4 Foodstuffs also has relevant interests in the PAK'NSAVE located at the Northtown Mall adjacent to land formerly occupied by the Timaru Tavern (see **Figure 2, Appendix C**). Foodstuffs has purchased a 10 m strip of the former Timaru Tavern land to widen the service land and provide more room for back-of-house operations of the supermarket. It therefore makes sense to zone this land to Local Centre Zone to enable use of this land for commercial activities.
- 5 The NOISE Chapter of the plan contains provisions which balance the needs of noise generating activities alongside the needs of noise sensitive activities. The policies and rules in the NOISE chapter do not fully implement Noise Objective 02.
- 6 Summary of the main points of relief sought by Foodstuffs in this submission:
  - 6.1 Rezone 11 Chalmers St from MDRZ to LCZ.
  - 6.2 Change zone of 10m strip of land at 18A Hobbs Street adjacent to LCZ, from MDRZ to LCZ.
  - 6.3 Amend different sections of the NOISE chapter to protect existing use rights of the supermarket at Northtown in the LCZ from new noise sensitive residential activities located on 18A Hobbs St in the MDR Zone.
- 7 Refer to **Appendix B** for specific relief sought by Foodstuffs in respect to the Proposed Plan.

### About Foodstuffs

- 8 Foodstuffs has invested significantly in the Timaru District. Foodstuffs operate the existing Timaru New World, and own the associated Highfield Village Mall, Henrys, Timaru PAK'nSAVE, Temuka New World, Pleasant Point Four Square Foodmarket, Grants Four Square Food Centre – Selwyn Street, Timaru, Morgans Road Four Square, Timaru, and many On The Spot Stores.

### Submission A: Rezone 11 Chalmers St, Highfield

- 9 History behind the submission

- 9.1 The Timaru New World was built approximately 49 years ago situated within the original Highfield Village Mall complex. The complex comprised a small/medium size suburban shopping complex, including the supermarket, six speciality retail shops, a Liquorland outlet, plus car parking. The complex was built in 1971 with extensions to the building completed in 1985/86 and a new entrance developed in 1993/94. By 2008, the retail complex presented as a series of disjointed aging buildings.
  - 9.2 The existing supermarket and shopping centre was well supported by the local community as a neighbourhood village centre, however there was not enough space available internally to keep up with normal customer grocery demands.
  - 9.3 In 2008 Foodstuffs applied for a plan change and resource consent to upgrade the Highfield Mall. The applications were granted which allowed the construction of an integrated shopping centre, supermarket and liquor outlet with associated car parking in one condensed location within the Highfield suburb. The primary purpose of the overall redevelopment of the Highfield Mall was to service the Highfield Community with a range of retail facilities to service their local needs, so that they were not required to shop outside of their community.
  - 9.4 Foodstuffs has also recently obtained a resource consent to use 11 Chalmers St as a car park, extending the north-western Highfield Village Mall car parking area and reconfiguring the existing access and loading arrangements of the Mall.
- 10 Timaru District 2045 Growth Management Strategy
- 10.1 In 2017, Foodstuffs was involved as a submitter on the draft Timaru District 2045 Growth Management Strategy (GMS). The GMS is a document used by the Timaru District Council set out a 30 year strategy to manage land use growth. The GMS is intended to inform the supply of zoned land provided through the District Plan Review and also how the new District Plan manages growth in existing zoned areas.
  - 10.2 A key direction in the GMS, is to reinforce and consolidate commercial activity in the existing Timaru town centre. A second key direction is to reinforce and consolidate commercial activity in Timaru's other key activity centres (such as Highfield Mall), where this did not detract from the Timaru town centre. In the draft GMS as notified, in order to achieve the GMS's key directions, no additional commercial land was recommended for Timaru.
  - 10.3 In summary, Foodstuffs' submission on the draft GMS was:
    - (a) In support of the reinforcement and consolidation of existing commercial centres in the Timaru District and the selection of Highfield Village Mall as a priority intensification area;
    - (b) In opposition to the restriction on additional commercial land within the Timaru District; and
    - (c) In particular opposition to the restriction on moderate and appropriate extension of existing commercial centres such as the Highfield Village Mall.
  - 10.4 Following a hearing, the appointed Panel made its decision on the GMS, and the Timaru District Council adopted that decision and a final revised version of the GMS on 22 May 2018.

- 10.5 The Panel's decision (later reflected in the adopted version of the GMS) was to accept Foodstuffs' request to allow for modest growth of the Highfield Mall Area (emphasis added):<sup>1</sup>

*While it is acknowledged that the consolidation approach is appropriate, it is considered that the GMS should differentiate between the town centre (where no additional commercial land is required) and suburban centres like Highfield Mall where some additional growth in commercial land will be required to encourage reinvestment and support proposed intensification of the surrounding residential neighbourhood.*

***Accordingly, amendment to the GMS is proposed to recognise these differences and provide for modest growth of Highfield Mall which will complement rather than compete with commercial activity in the CBD.***

- 10.6 Accordingly, the final version of the GMS included the following as part of an *Overview and Explanation*:<sup>2</sup>

*Modest growth of Highfield Mall, which provides for the needs of the surrounding intensifying residential community and remains compatible with commercial activity in the Timaru CBD is anticipated.*

## 11 Draft Timaru District Plan

- 11.1 In the Draft Timaru District Plan (DTDP), the Highfield is rezoned from Commercial 2 to Local Centre, with the residential properties to the north of the Highfield rezoned from Residential 1 to MDRZ.
- 11.2 Contrary to Foodstuffs' submission on the draft GMS, and the statements (quoted above) made in the final version of the GMS, the DTDP does not rezone any land adjacent to the Highfield from residential to commercial.

## 12 Submission

- 12.3 As set out in the Relief below, Foodstuffs request 11 Chalmers Street be zoned for commercial use.

## 13 Reasons for submission

- 13.1 The proposed rezoning will not detract from the Timaru town centre.
- 13.1.1 The nature of the retail offering at Highfield is quite different in character to that provided by the town centre and so it does not automatically follow that a small increase in commercial zoned land at Highfield will have a negative effect on the vibrancy of the Timaru town centre. The town centre and local commercial centres perform different functions and serve different needs.
- 13.1.2 Further, the amount of land (totalling 0.1 ha) that the submitter seeks to be rezoned is almost trivial in the context of the bulk of the commercial land in Timaru township, and will therefore amount to an insignificant extension of the total commercial land available outside of the town centre..

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<sup>1</sup> See Panel Decision on GMS, dated 10 April 2018, at page 35.

<sup>2</sup> See GMS at page 53.

- 13.2 The subject land is no longer available for residential purposes.
- 13.2.1 As noted above, Foodstuffs secured a resource consent from the Timaru District Council to develop 11 Chalmers Street for additional Highfield car parking. Therefore, the property is not available to be used for residential purposes, and it is not necessary to preserve the underlying residential zoning in the next generation of the Timaru District Plan.
- 13.2.2 The consent enables Foodstuffs to carry out a limited extension of the Highfield.
- 13.2.3 Rezoning 11 Chalmers Street would respond to the changed use of this land and enables future reinvestment in Highfield without the need for additional consents triggered by residential zone requirements.
- 13.3 The proposed rezoning encourages reinvestment and revitalisation.
- 13.3.1 As noted above, Highfield has become run-down and is in dire need of reinvestment and revitalisation. Reinvestment in Highfield will potentially include a mix of commercial building additions and at-grade car parking to ensure continued operational compliance of the supermarket.
- 13.3.2 However, any redevelopment of the Mall would be difficult if the area was constrained to that currently zoned for commercial use.
- 13.4 The proposed rezoning supports residential intensification in the area.
- 13.4.1 The Proposed Plan seeks to achieve further intensification of the residential area around the Highfield, by rezoning the area to MDRZ. The submitter considers that the modest extension of the Highfield Village Mall will support this goal for reasons discussed below.
- 13.4.2 Firstly, the proposed rezoning of 11 Chalmers Street will support further investment in the Mall, which will in turn make the surrounding residential area a more attractive place to live. Therefore, further intensification in this area will be encouraged by extension of Highfield, thus supporting the Proposed Plan objective.
- 13.5 The proposed rezoning is consistent with the GMS.
- 13.5.1 We acknowledge that the GMS notes that no additional commercial capacity is required within Timaru. This is reflected in the lack of additional commercially-zoned land in the Draft Timaru District Plan.
- 13.5.2 However, the GMS (as detailed in above) also explicitly provides for modest growth of the Highfield mall, on the basis of the arguments presented in Foodstuffs' submission on the draft GMS. The proposed rezoning would align the Proposed Plan with decisions made on the GMS.
- 13.5.4 In addition, rezoning this land to LCZ under the Proposed Plan would align with the land use that has been authorised under the resource consent.
- 14 Relief sought
- 14.1 Rezoning of 11 Chalmers Street from MDRZ to LCZ, to mirror the zoning given to Highfield (see **Figure 1, Appendix C**) and as shown in **Appendix B**.

## Submission B: Rezone 10m strip of 18A Hobbs St

### 15 Introduction

- 15.1 The Northtown Mall was built in the mid 70's, with many different refurbishments over the years. The supermarket was constructed in the 1990's to the north western corner of the Mall.
- 15.2 The supermarket is serviced by a service lane and running behind the supermarket between Hobbs Street and Ranui Avenue, which includes a loading bay. This service land is utilised by large truck and trailer units providing essential deliveries to service the supermarket. Deliveries are mixes of ambient, chilled and frozen heavy vehicles throughout the day, seven days a week (refer **Figure 3, Appendix C**).
- 15.3 Adjacent to the service lane is land at 18A Hobbs Street that formerly contained the Timaru Tavern (the **Tavern land**). The supermarket site and the adjacent Tavern Land are zoned Commercial 2 Zone in the Operative District Plan (the ODP), as shown on **Figure 4 of Appendix C**.
- 15.3 The Tavern land was subsequently sold to Timaru Developments Limited (**TDL**). The Tavern was demolished. TDL obtained resource consent to construct residential dwellings on 18A Hobbs St.
- 15.4 On the 4 November Foodstuffs purchased from TDL a 10m strip of 18A Hobbs St section to widen the service land and provide more room for back-of-house operations of the supermarket. The 10 m strip is shown in blue as Lot 1 of the subdivision scheme plan for 18A Hobbs Street and is immediately adjacent to the supermarket (see **Figure 5, Appendix C**).
- 15.5 The Proposed plan continues commercial zoning of Supermarket Site to LCZ. The TDL land at 18A Hobbs St is changed to MDRZ under the Proposed Plan (refer **Figure 6, Appendix C**).
- 15.6 The Proposed Plan does not currently recognise Foodstuffs' ownership of the 10m strip as discussed above or the intended commercial use of this land .

### 16 Submission

- 16.1 Foodstuffs supports the parts of the Proposed Plan which support the continued commercial zoning of the supermarket site. In addition, Foodstuffs opposed the parts of the Proposed Plan which rezone the 10m strip of land at 18A Hobbs St from commercial zone to MDRZ.

### 17 Reasons for submission

- 17.1 Foodstuffs purchased a 10m strip in order to widen the service area, the enable the delivery of larger quantities of goods and provide more room for back-of-house operations of the supermarket. This will also enable more goods to be delivered to the store. It therefore makes sense to zone this land to Local Centre Zone to enable use of this land for supermarket activities.

18 Relief sought

- 18.1 Change zone of 10m strip of land on 18A Hobbs Street adjacent to LCZ from MDRZ to LCZ and as shown in **Appendix B**.

**Submission C: Amend noise sensitivity standards in the Proposed Plan**

19 Relevant factual context.

19.1 If TDL land is rezoned MDRZ, it is likely that noise levels from existing supermarket activities on LCZ land adjacent to the TDL land will not comply with the Proposed Plan rules. This is because the residential zone boundary will move closer to the supermarket. This represents a significant change in the operating environment for the supermarket with the potential for reverse sensitivity effects likely to lead to the operator needing to undertake significant noise control, having to constrain activities, or both. From an operational perspective, Foodstuffs is very concerned about this.

19.2 There is potential for the Proposed Plan noise limits to be exceeded at the neighbouring TDL site if no additional mitigation is adopted, particularly if the activity operates during the night-time period.

19.3

19.4 Potential non-compliance with new noise limits under the Proposed Plan is still likely to occur, despite the above mitigating action. This is due to delivery trucks using the driveway (including trucks idling next to the boundary, or refrigeration units on trucks) and noise from the mechanical plant units.

20 PDP Noise standards

20.1 NOISE-P5: The policy does not fully implement Noise Objective 02 because it does not provide for the protection of existing noisy activities from noise sensitive activities that locate in a different zone immediately adjacent to the zone containing the existing higher noise environment. The amendment proposed by Foodstuffs would address this omission.

20.2 NOISE-R9: The rule does not fully implement Noise Objective 02 because it does not provide for the protection of existing noisy activities that locate in a different zone immediately adjacent to the zone containing the existing higher noise environment. In particular the rule does not apply to the location of residential dwellings adjacent to the existing Psupermarket at Northtown within the LCZ.

20.3 Table 24 -Noise performance standards -there needs to be a reference to noise generated in LCZ immediately adjacent to 18A Hobbs St, which are likely to breach the Proposed Plan standards

21 Submission

21.1 Noise Policy 5, Noise Rule 9 and Permitted Activity Table 24 do not fully implement Noise Objective 2 because they do not provide for the protection of existing noisy activities from noise sensitive activities that locate in a different zone immediately adjacent to the zone containing the existing higher noise environment.

22 Reasons for submission

- 22.1 The rule does not fully implement Noise Objective 02 with respect to the existing supermarket at Northtown in the Local Centre Zone because the noise limits in the rule apply at the zone boundary.
- 22.2 The Proposed Plan changes the zoning of 18A Hobbs Street (formerly the location of the Timaru Tavern) from Commercial Zone under the ODP to Medium Density Residential Zone.
- 22.3 Consequently the location of the Local Centre Zone / MDR Zone boundary has moved closer to the supermarket. For the reasons noted above, from an operational perspective Foodstuffs is very concerned about this.
- 22.4 Based on an acoustic assessment commissioned by the Timaru District Council the day-to-day operation of supermarket creates a high noise environment due to operation of fixed plant and delivery and service vehicles.
- 22.5 These operations cannot comply with the noise limits applicable at the Local Centre Zone / MDR Zone boundary because the boundary between these zones has moved closer to the supermarket.
- 22.6 The amendment proposed by Foodstuffs would ensure that existing operations of the supermarket can continue as a permitted activity under the Proposed Plan

24 Relief sought

- 24.1 Support NOISE-01, NOISE-02, NOISE-P1.
- 24.2 Amend NOISE-P5 to wording in **Appendix B**
- 24.3 Amend NOISE-R9 to wording in **Appendix B**
- 24.4 Amend Table 24 Noise performance standards to wording in **Appendix B**.

**General relief**

25 Below is the relief sought by Foodstuffs in relation to the Proposed Timaru District Plan:

- 25.1 That the Proposed Plan be rejected in its current form;
- 25.2 That the Proposed Plan be amended to reflect the issues raised in this submission;
- 25.3 That the relevant Proposed Plan objectives and policies be amended as required to support and implement the particular relief described above; and/or.
- 25.4 Such other relief as may be required to give effect to this submission, including alternative, consequential or necessary amendments to the Proposed Plan that address the matters raised by Foodstuffs.



## APPENDIX B

The drafting suggested in this annexure reflects the key changes Foodstuffs seeks. Consequential amendment may also be necessary to other parts of the proposed provisions.

Foodstuffs proposes the drafting in the below table and seeks that this drafting, or drafting with materially similar effect, be adopted by the Council.

Suggested amendments and alternative drafting is shown in track change – Foodstuffs' requested insertions are shown using red underline.

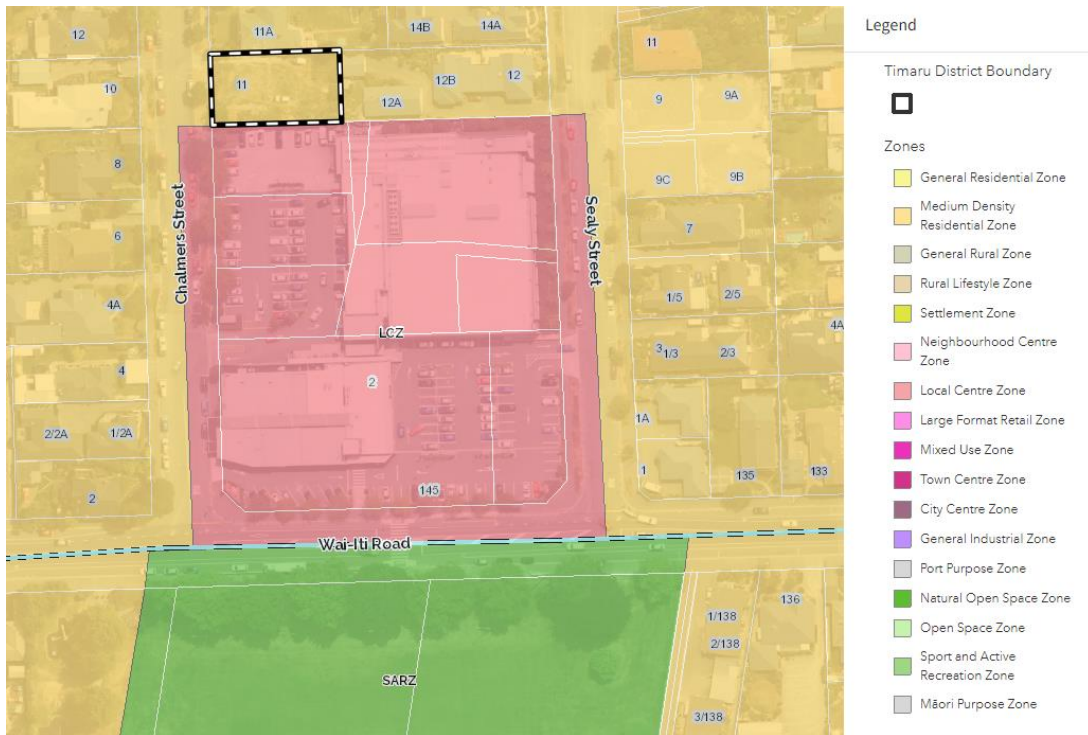
Sub #	Provision	Position	Relief requested	Explanation
Medium Density Residential Zone Planning Map				
1	Proposed District Plan Map  11 Chalmers Street, Highfield, Timaru.  ID: 3889  Legal Description: PT LOT 85 DP 3110	Oppose in part	Amend the zoning of 11 Chalmers street, Highfield, Timaru from Medium Density Residential Zone to Local Centre Zone	11 Chalmers Street is zoned General Residential and has obtained resource consent for a car park extension on this land for the Highfield New World supermarket. Foodstuffs request the land be rezoned Local Centre Zone to align zoning of this land under the Proposed Plan with the land use that is authorised under the resource consent..
2	Proposed District Plan Map  18A Hobbs Street, Waimataitai, Timaru  ID: 1878	Oppose in part	Amend the zoning of 10m strip of land at 18A Hobbs Street adjacent to Local Centre Zone containing the Pak 'n Save supermarket at Northtown from Medium Density Residential Zone to Local Centre Zone.	This land is zoned Commercial Zone in the ODP but is proposed to be rezoned Medium Density Residential Zone in the Proposed Plan. Foodstuffs purchased a 10m strip from Timaru Developments Limited to widen the service land and provide more room for back-of-house operations of the Pak 'n Save supermarket at Northtown. It therefore makes sense to rezone this land to Local Centre Zone to enable use of this land for supermarket activities.

General District-wide Matters Noise				
3	<b>NOISE-01</b> Activities that generate noise	Support	Retain the provision	Foodstuffs supports this Objective
4	<b>NOISE-02</b> Reverse sensitivity	Support	Retain the provision	Foodstuffs supports this Objective
5	<b>NOISE-P1</b> Maintenance of zone character and qualities	Support	Retain the provision	Foodstuffs supports this Policy
6	<b>NOISE-P5</b> Reverse sensitivity	Support in part, Oppose in part	<p>Amend as follows:</p> <p>Require noise sensitive activities located in <u>or adjacent to</u> higher noise environments to be located and designed so as to minimise adverse effects on the amenity values and health and safety of occupants and minimise sleep disturbance from noise, while taking into account:</p> <p>1. ....</p>	The policy does not fully implement Noise Objective 02 because it does not provide for the protection of existing noisy activities from noise sensitive activities that locate in a different zone immediately adjacent to the zone containing the existing higher noise environment. The amendment proposed by Foodstuffs would address this omission.
7	<b>NOISE-R9</b>	Support in part, Oppose in part	<p>Amend as follows:</p> <p>Any new building for use by a noise sensitive activity and alternations to existing buildings for use by a noise sensitive activity (not listed in NOISE-R12)</p>	The rule does not fully implement Noise Objective 02 because it does not provide for the protection of existing noisy activities from noise sensitive activities that locate in a different zone immediately adjacent to the zone containing the existing higher noise environment.

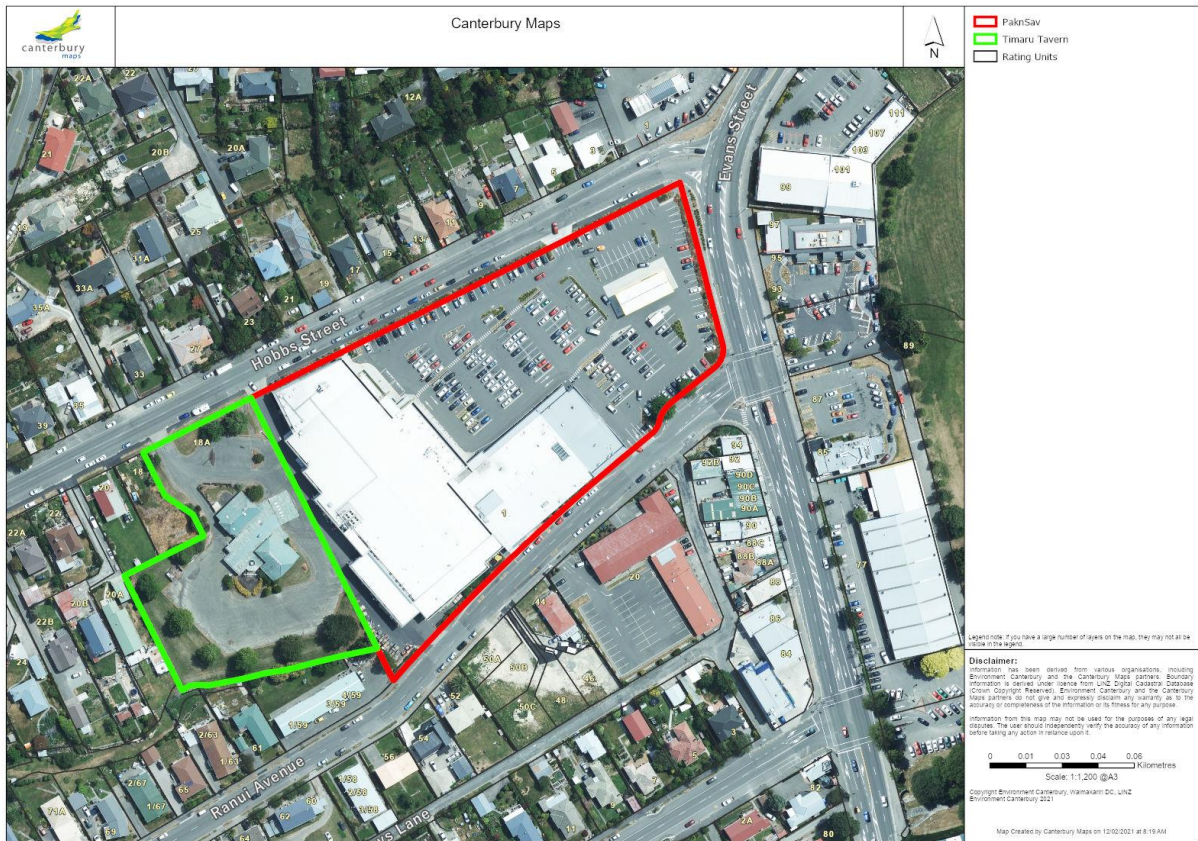
		<p>Any site within 40m of a State Highway with a posted speed limit of 50 km/hr or less</p> <p>Any site within 80m of a State Highway with a posted speed limit greater than 50 km/hr</p> <p>Any site within 40m of the railway line</p> <p>Neighbourhood Centre Zone</p> <p>Local Centre Zone</p> <p>Large Format Retail Zone</p> <p>Mixed Use Zone</p> <p>Town Centre Zone</p> <p>City Centre Zone</p> <p>General Residential zone within 20m of the boundary with an Industrial zone</p> <p>Medium Residential zone within 20m of the boundary with an Industrial zone</p> <p>Outer Control boundary of the Port Noise Control Overlay</p> <p><u>Any site within the Medium Density Residential Zone at 18A Hobbs Street within 40m of the boundary of the adjacent Local Centre Zone</u></p>	<p>In particular the rule does not apply to the location of residential dwellings adjacent to the existing Pak 'n Save supermarket at Northlands within the Local Centre Zone.</p> <p>Based on an acoustic assessment commissioned by the Timaru District Council the supermarket creates a high noise environment due to operation of fixed plant and delivery and service vehicles. The establishment of residential dwellings adjacent to the supermarket will likely cause reverse sensitivity effects on the supermarket if the dwellings are not adequately insulated.</p> <p>The amendment proposed by Foodstuffs would ensure that existing operations of the supermarket would be protected by the Proposed Plan</p>
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8	Table 24 – Noise performance standards, Row 4	Support in part, Oppose in part	<p>Amend as follows:</p> <p>Receiving zone and assessment location</p> <p>4. Within any part of a site in the following zones:</p> <ul style="list-style-type: none"><li>a. Neighbourhood Centre Zone</li><li>b. Local Centre Zone</li><li>c. Mixed Use Zone</li><li>d. <u>Medium Density Residential Zone at 18A Hobbs Street within 40m of the boundary of the adjacent Local Centre Zone.</u></li></ul>	<p>The rule does not fully implement Noise Objective 02 with respect to the existing Pak 'n Save supermarket at Northlands in the Local Centre Zone because the noise limits in the rule apply at the zone boundary.</p> <p>The Proposed Plan changes the zoning of 18A Hobbs Street (formerly the location of the Timaru Tavern) from Commercial Zone under the ODP to Medium Density Residential Zone (MDR Zone).</p> <p>Consequently the location of the Local Centre Zone / MDR Zone boundary has moved much closer to the supermarket. This represents a significant change in the operating environment for the supermarket with the potential for reverse sensitivity effects likely to lead to the operator needing to undertake significant noise control, having to constrain activities, or both. From an operational perspective, Foodstuffs is very concerned about this.</p> <p>Based on an acoustic assessment commissioned by the Timaru District Council the day-to-day operation of supermarket creates a high noise environment due to operation of fixed plant and delivery and service vehicles.</p> <p>These operations cannot comply with the noise limits applicable at the Local Centre Zone / MDR Zone boundary because the boundary between these zones has moved closer to the supermarket.</p> <p>The amendment proposed by Foodstuffs would ensure that existing operations of the supermarket can continue as a permitted activity under the Proposed Plan.</p>
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## APPENDIX C



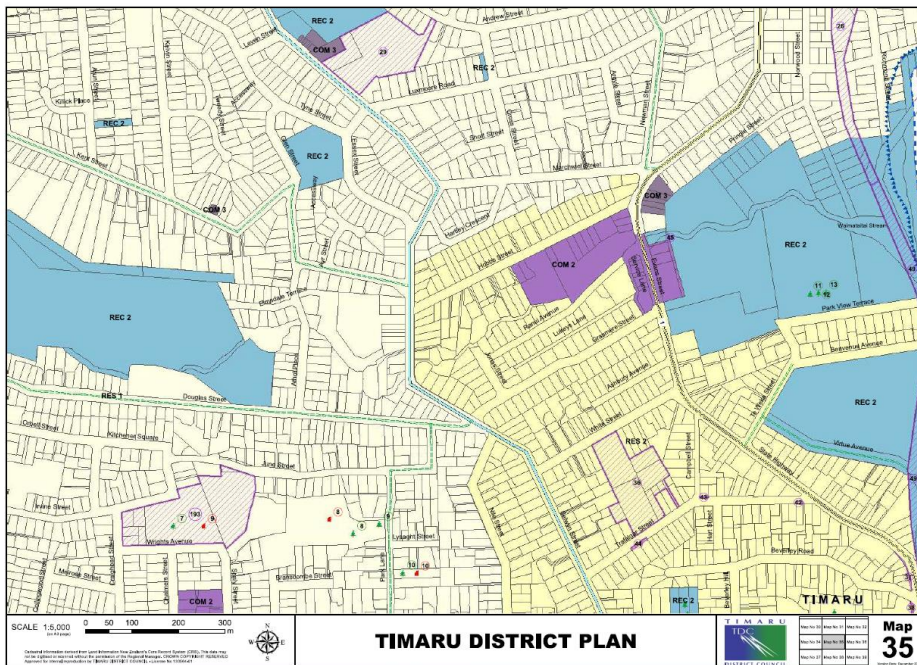
**Figure 1** - Snip from Proposed TDP showing MDR Zone over 11 Chalmers Street, Highfield. The Highfield New World supermarket is within the Local Centre Zone land adjacent to 11 Chalmers Street.



**Figure 2** - Aerial image of Pak'nSave and Tavern land



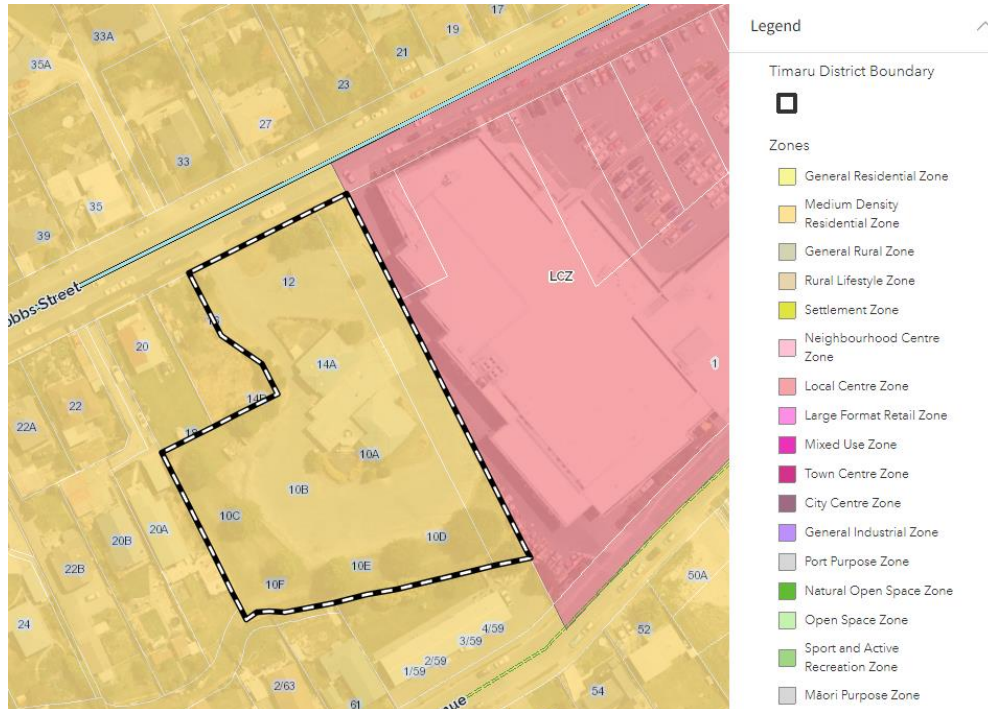
**Figure 3** - Map showing proximity of Pak'nSave to the land formerly occupied by the Timaru Tavern and now owned by Timaru Developments Ltd (TDL)



**Figure 4** - ODP Zoning Map showing Commercial Zone over the supermarket land and the land formerly occupied by the Timaru Tavern



**Figure 5** - Subdivision scheme plan for 18A Hobbs Street. Lot 1 (in blue) being a 10 m strip has been purchased by Foodstuffs from TDL.



**Figure 6** - Snip from Proposed Plan showing MDR Zone over former Timaru Tavern land at 18A Hobbs Street (which has been approved for subdivision as per scheme plan at Figure 4 above) and Local Commercial Zone over the adjacent land occupied by the supermarket. The 10m strip of land purchased by Foodstuffs from TDL is immediately adjacent to the supermarket and is within the land shown above as zoned MDR Zone.