

**Before the Hearings Panel appointed by
the Christchurch City Council**

Under

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

And

In the Matter of

an application under section 88 of
the Act for land use consent to
establish and operate a new
supermarket and associated small
scale retail including signage,
servicing, access, carparking and
landscaping

**Closing Legal Submissions
for Woolworths New Zealand Limited**

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INTRODUCTION

1. Our closing legal submissions are presented on behalf of Woolworths New Zealand Limited (**Applicant**).
2. The Applicant seeks resource consent to establish and operate a new supermarket and associated small scale retail including signage, servicing, access, carparking and landscaping (**Proposal**) at 476-494 Madras Street, St Albans (**Site**).¹
3. The application for the Proposal was heard by Independent Commissioners David Caldwell, Harriet Fraser and Nathan O'Connell (**Panel**) from 11 to 15 August 2025 in Christchurch (**Hearing**).
4. These closing legal submissions address the key matters that were the focus of the Hearing. Our submissions do not repeat points already canvassed and we rely on our opening legal submissions in regard to those aspects.
5. At the conclusion of the Hearing I orally addressed the key matters of contention following the hearing of evidence and submissions which we address further in these submissions. These matters are:
 - (a) the planning context including the Proposal's alignment with the centres hierarchy and brownfield regeneration policies, the role of strategic objectives, the role of the Outline Development Plan (**ODP**) in decision making on the Proposal and Plan Change 14 (**PC14**);
 - (b) works within Madras Street to accommodate right turn vehicles;
 - (c) positioning of the building relative to Madras Street, and associated urban design and Crime Prevention through Environmental Design (**CPTED**) considerations;
 - (d) the Applicant's boundary adjustment application; and
 - (e) stormwater and groundwater management.
6. Since the Hearing the planners have workshoped the updated conditions of consent which are now agreed by Mr Cleese and Mr Blair and are included as **Annexure A**. These closing submissions also include the updated plans addressed at the Hearing as annexures which we address in more detail throughout these closing submissions.

¹ Legally described as Lot 1-2 DP 606636 (Lots 1-2 of approved subdivision RMA/2024/1031), Lots 60-62 and 64-65 of DP 953, Pt Lots 33-34 DP 1212 and Lot 1 DP 77018.

PLANNING CONTEXT

Centres hierarchy

7. A key focus at the Hearing was the centres hierarchy. We submit that this is a central matter for the Panel's decision making.
8. As set out in our opening legal submissions, the Proposal is consistent with the centres hierarchy established by the Canterbury Regional Policy Statement (**CRPS**) and Christchurch District Plan (**District Plan**) for two key reasons:
 - (a) The size (and we would add associated catchment) of centres within the hierarchy is not rigid and current centres demonstrate that there is significant overlap and fluidity in the centres hierarchy as shown in Mr Clease's evidence.
 - (b) The Proposal is consistent with the express mechanism for outward expansion of centres in Policy 15.2.2.4.
9. Our interpretation of Mr Heath's position is he considers that the Proposal does not align with the planning framework as the proposed supermarket will elevate the centre beyond its position as a Neighbourhood Centre as intended within the centres hierarchy.²
10. Our case remains that the Proposal is consistent with a Neighbourhood Centre and will not elevate the centre to a Local Centre. The Proposal is doing precisely what Table 15.1 provides for which is providing for a supermarket that serves the surrounding residential catchment.
11. In any event, if the Panel agree with Mr Heath and determine that the introduction of a full service supermarket does elevate the centre to a Local Centre – in reliance on the agreed economic evidence heard at the Hearing, this will not undermine the policy intent of the centres hierarchy, in particular it will not undermine the function of other centres higher up the hierarchy.
12. We address these points in more detail as follows.

Application of the centres hierarchy

13. As discussed in opening legal submissions, the intent of the centres hierarchy is that centres are developed in a manner which ensures that there are no significant retail distribution effects on larger centres. Mr Clease provides that where new centres do

² Christchurch City Council, Section 42A Report, RMA/2024/3209, 26 June 2025, Appendix D at 28.

not give rise to retail distribution effects on centres further up the hierarchy and therefore do not materially reduce the role and function of other centres, then they do not undermine the purpose of the hierarchy.³ The District Plan recognises this through its provision (as reflected in Policy 15.2.2.4) for an effects based approach to implementing the centres hierarchy.

14. The centres hierarchy is necessarily flexible so that centres within the hierarchy can continue to exist within a spectrum and evolve over time to remain consistent with the commercial environment.⁴ Mr Clease identifies various examples of Neighbourhood Centres being larger in size than Local Centres, reinforcing fluidity within the hierarchy.⁵ We submit that it is intentional that the District Plan has not specified the size of each centre and that this emphasises that a broader assessment which takes into account function and effects is required including the number and range of services provided in a centre.
15. All experts agree that there are no significant adverse retail distribution effects arising from the Proposal. Rather, the Proposal will complement the existing Edgeware Village by providing a different function.⁶ The Proposal will not detract from that existing centre, and, while at the larger end of the scale for a Neighbourhood Centre, will not result in any effects which would render it inconsistent with the centres hierarchy approach.⁷
16. Ms Hampson provides that the total floorspace of the Proposal is slightly larger than anticipated by the Christchurch City Council (**Council**) or the District Plan.⁸ However, this does not mean that the Proposal cannot fulfil its role as a Neighbourhood Centre within the hierarchy.⁹ Fulfilling a functional role is the critical point. The Proposal provides a small number and range of services – a supermarket and a modest scale of ancillary retail tenancies aligning with the role of a Neighbourhood Centre. Supermarkets are expressly provided for within the Neighbourhood Centre Zone (**NCZ**) under Table 15.1(e) of the District Plan including supermarkets which are larger in size than the general size indicated for other commercial activities. Under the NCZ rules, supermarkets of 1000m² gross leasable floor area (**GLFA**) are a permitted activity with restricted discretionary status thereafter showing that new supermarkets are contemplated as an ongoing feature of the NCZ.¹⁰ Overall, the Proposal will fulfil a different function to Edgeware Village which has a larger GFLA and a greater range of tenancies and services.

³ Statement of Evidence of Jonathan Clease, 18 July 2025 at [59].

⁴ Christchurch City Council, Legal Submissions, Christchurch Replacement Plan, 8 May 2015 at [4.8].

⁵ Statement of Evidence of Jonathan Clease, dated 18 July 2025 at [66].

⁶ At [72].

⁷ At [72].

⁸ Statement of Evidence of Natalie Hampson, 18 July 2025 at [18].

⁹ At [80].

¹⁰ Christchurch District Plan, Rule 15.6.1.1(P2).

17. Although Council agrees that there are no significant adverse retail distribution effects, it considers that the Proposal is inappropriate within the centres hierarchy.
18. Mr Heath's view is that the Proposal is akin to a Local Centre rather than a Neighbourhood Centre and therefore undermines the centres hierarchy.¹¹ However, Mr Heath has not provided evidence how this is an economic effect. At the Hearing he stated that the Proposal would set a precedent for developments such as an Ikea to establish within the NCZ. This does not take into account that any such proposed development would still be subject to the relevant policy tests under the District Plan, need to show alignment with Table 15.1(e) and demonstrate a lack of significant adverse effects on the viability of other centres.
19. At the Hearing, Mr Heath explained that he had defined the catchment for his assessment as the catchment he considers an appropriate size for a NCZ. In our submission this theoretical (and, in our view, arbitrary) Neighbourhood Centre catchment is not material to the question of impacts on the centres hierarchy and the weight put on it by the Council experts is not supported by the policy framework.
20. We consider that Mr Heath's approach does not reflect a proper interpretation of Table 15.1 on the role of centres. The description of a Neighbourhood Centre in this table includes "*standalone supermarkets serving the surrounding residential community*". The wording in Table 15.1 signals that a supermarket is to be assessed in terms of whether it serves the surrounding residential catchment.
21. In a similar way, Mr Blair considers that the Proposal amounts to a Local Centre and that therefore it undermines the strategic role of Edgware Village as the one Local Centre for Edgware. You have heard from Ms Hampson that the Proposal will not elevate the centre to a Local Centre.¹² Despite this, the District Plan does not state that there can only be one Local Centre in each suburb, provided that both can economically co-exist. As we set out above this makes this position of whether the centre is elevated or not moot as the evidence demonstrates there will be no impact on the integrity of the centres hierarchy. We submit that Council's position is not justified as it is not based on evidence as to economic effects which is required to apply the centres hierarchy. The Council's position relies on Mr Heath's evidence which focuses on concerns as to precedent and plan integrity. We consider these go beyond Mr Heath's core speciality as an economist and relate to planning and legal matters and should be given limited weight.
22. In relation to precedent, the Panel heard evidence from Ms Hampson that there are unique factors attributable to the Site and the Proposal which mean that the

¹¹ Christchurch City Council, Section 42A Report, RMA/2024/3209, 26 June 2025, Appendix D.

¹² Statement of Evidence of Natalie Hampson, 18 July 2025 at [18].

Proposal would be difficult to replicate. Ms Hampson provides that vacant zoned centres in existing urban areas are rare and that vacant (brownfield) medium density residential land adjacent to vacant zoned centres in existing urban areas is even more rare.¹³ She has reviewed all Neighbourhood Centres in Christchurch and found that none are of a scale or dimensions that would, even with adjoining vacant land expansion opportunity, provide a site suitable for a full-sized supermarket.¹⁴ The risk of the Proposal creating a precedent effect is therefore negligible.¹⁵

23. Overall, we highlight that Mr Heath's evidence as to economic effects aligns with the evidence of Ms Hampson. In relation to planning matters, we submit that Mr Cleese's evidence should be preferred as this is supported by his analysis of the policy framework.

Westfield New Zealand Limited v Upper Hutt City Council

24. I orally discussed *Westfield New Zealand Limited v Upper Hutt City Council* in opening legal submissions including its reference to the terms "*guttled*" and "*destroyed*" in relation to retail distribution effects (as opposed to trade competition effects). Commissioner O'Connell sought further detail on the reference to *Westfield New Zealand Limited v Upper Hutt City Council* which we have included as **Annexure B** to these submissions.¹⁶
25. This case concerned a successful appeal against the grant of consent for a large shopping mall/recreation complex in Upper Hutt to Valley Plaza Limited. The Environment Court also considered references to the Upper Hutt City Council's Variation 1 to the Proposed District Plan which concerned the relevant land. The Environment Court found that the proposal was a "*huge complex by New Zealand standards*" and had the potential to "*destroy*" the Upper Hutt CBD.¹⁷ The Court relevantly held:¹⁸

"...In respect of the evidence we have heard, we can generally say that we are firmly of the opinion that the Upper Hutt Central Business District as a functional entity will be gutted by the advent of another major commercial centre some 6 or 7 kilometres away in a strategic regional and local position. The scene could be set for a CBD tumbleweed street scene."

26. This case emphasises that an extremely high threshold must be met for retail distribution effects to be able to be considered in decision making on a resource consent. Ms Hampson and Mr Heath agree that this threshold is not met in this case.

¹³ At [142].

¹⁴ At [143]-[145].

¹⁵ At [145].

¹⁶ ENC Christchurch W44/2001, 23 May 2001, [2001] ELHNZ 198.

¹⁷ At [8] and [309].

¹⁸ At [306].

Objective 3.3.11 and Policy 15.2.2.4

27. The Proposal includes land zoned NCZ together with land zoned Residential Medium Density Zone (**RMDZ**) in the District Plan. The need to enable expansion outside of the zoned area for commercial development in appropriate situations is provided for in Policy 15.2.2.4(b) which states that “[a]ny outward expansion of a commercial centre beyond commercial zone boundaries...” must meet specified criteria. This policy reflects Chapter 6 of the CPRS, particularly Policy 6.3.6(4) and Strategic Objective 3.3.11 of the District Plan. These provisions provide for outward expansion of centres where there are no significant adverse distributional or urban form effects.
28. Evidence for the Applicant has carefully applied Policy 15.2.2.4. In relation to Council’s argument that the Proposal should be pursued through a plan change, Policy 15.2.2.4 is not directive as to whether a plan change or resource consent process should be used. The Proposal meets all relevant criteria in Policy 15.2.2.4(b), as well as other key objectives, Objective 3.3.7, Objective 14.2.7 and Policy 14.2.7.1 as outlined in our opening submissions and can be granted through the resource consent process for the reasons that follow.

Policy 15.2.2.4(b)(i)

29. In accordance with Policy 15.2.2.4(b)(i) the Proposal will ensure the expanded centre remains commensurate with the centre’s role as addressed above. All experts agree that the Proposal will not have significant adverse effects on the function of other centres.
30. We note that Mr Heath has criticised the use of the gravity model by Ms Hampson, despite this tool reaching the same conclusion as his own work as to retail distribution effects. Gravity models are a recognised tool used by economists and are not a “*black box*” in Mr Heath’s words. The inputs for gravity models are the same datasets and analyses that all economists regularly use and rely on. In relation to understanding distributional effects, Mr Heath has not modelled distributional effects but inferred them based on the shortfall of supermarket floorspace supply in his primary catchment.¹⁹
31. We submit that Ms Hampson’s methodology is robust and appropriate and should be preferred over Mr Heath’s evidence. Regardless, the difference in methodology is academic as both economists have reached the same conclusion as to retail distribution effects. This, in our submission, gives the Panel even more confidence in the conclusions reached regarding the lack of risk of retail distribution effects.

¹⁹ Christchurch City Council, Section 42A Report, RMA/2024/3209, 26 June 2025, Appendix D.

Policy 15.2.2.4(b)(ii)

32. Under Policy 15.2.2.4(b)(ii), the Proposal will be integrated with the provision of infrastructure, including the transport network. Mr Rossiter and Mr McGonigal agree that the Proposal will not result in adverse effects on the transport network.²⁰

Policy 15.2.2.4(b)(iii)

33. Under Policy 15.2.2.4(b)(iii), the Proposal will be undertaken in such a manner that manages adverse effects at the interface with the adjoining zone. Appropriate height to boundary controls are achieved,²¹ and landscape strips of varying depths are provided along all Site edges.²²

Policy 15.2.2.4(b)(iv)

34. In accordance with Policy 15.2.2.4(b)(iv), the Proposal is responsive to the increase in population in the surrounding catchment, including the projections that resident household growth in the primary catchment could increase by another 2,010 dwellings or 43% from 2023 to 2043.²³

Policy 15.2.2.4(b)(v)

35. The Proposal represents coherent form in accordance with Policy 15.2.2.4(b)(v). This direction relates to shape and direction of the centre as outlined by Mr Cleese in oral evidence. The Proposal will logically read as a centre and as provided in Mr Church's evidence represents a compact urban form.²⁴

Brownfield land regeneration policy direction

36. The Panel raised questions about the policy direction as to brownfield land regeneration. To confirm matters discussed at the Hearing our submissions are that:
- (a) In accordance with Mr Cleese's oral evidence, brownfield land remains such despite its zoning until it is regenerated.
 - (b) The whole block meets the definition of brownfield land. As ownership of the block has become fragmented, the solution to address this brownfield aspect has also become fragmented. The northern part of the block has been developed to be wholly residential. With the implementation of the Proposal, an overall mixed use development will be established on the block

²⁰ Christchurch City Council, David McGonigal, Asset Planning Memo, 15 August 2025 at [10].

²¹ Statement of Evidence of Tim Church, 18 July 2025 at [56].

²² At [45].

²³ Statement of Evidence of Natalie Hampson, 18 July 2025 at [31].

²⁴ Statement of Evidence of Tim Church, 18 July 2025 at [110].

as intended by the District Plan, in particular Policy 14.2.7, and also by Plan Change 31. The objectives and policies do not require mixed use regeneration of brownfield land in relation to individual sites. In Mr Cleese's words, it is not "*an either or*" situation.

37. In our submission, objectives and policies in relation to brownfield regeneration are relevant to the merits of this application, but not determinative or solely relied on. They merely highlight a further justification that the Proposal is appropriate under the policy framework. There is a consenting pathway in relation to the expansion of centres, addressed above, regardless of this framework.

Role of strategic objectives

38. At the Hearing, Commissioner Caldwell raised the role of strategic objectives in Chapter 3 – Strategic Directions of the District Plan in the consenting process.
39. The strategic objectives were addressed first in the Christchurch Replacement Plan process therefore they were relied on heavily to test the rest of the planning provisions. Chapter 3 has primacy over the objectives and policies in the other chapters of the District Plan, which must be consistent with the strategic objectives.²⁵ The relevant objectives and policies contained in Chapter 15 therefore give effect to the strategic objectives as to the role of centres. There is also alignment with the CRPS in this regard, particularly Policy 6.3.6(4) which provides that in circumstances where new commercial activities are locating out of centre, they will not give rise to significant adverse distributional or urban form effects.²⁶

Role of the Outline Development Plan to a single resource consent application and weight to be given to that

40. At the Hearing, the Panel questioned the weight to be given to the ODP. Since the introduction of the ODP, there is now a better understanding of geotechnical constraints and there has been residential infill in the surrounding area combined with ownership fragmentation. In addition, as the overall application is fully discretionary, the Panel is not bound by ODP matters in its decision making. Ms Perpich submitted that the ODP is an important tool. However, as it does not contain specific objectives and policies and simply implements generic zone policies, we submit that its importance as a tool is limited within the context of the District Plan.
41. While the ODP is not determinative, the Applicant has thoughtfully incorporated its relevant, modern-day elements, demonstrating a commitment to the overall vision while adapting to current realities.

²⁵ Christchurch District Plan, Chapter 3 – Strategic Directions, 3.1(a)(ii).

²⁶ Chapter 6.

42. In terms of the through-block connections identified on the ODP, having heard the range of views expressed at the Hearing, the Applicant has elected to amend the Proposal to provide the opportunity for a pedestrian and cycle link to the southern boundary shown on the revised site plan included in the updated plan package as **Annexure C**. This allows for a connection to Purchas Street if or when the adjacent land is developed. Condition 2 provides that the Applicant will permit public access to the Site from Purchas Street in the event that a public access route is formed by the neighbouring landowners. As addressed at the Hearing, it is not uncommon for a single landowner to implement the part of the ODP that relates to the land they own. The Proposal is consistent with this approach.
43. The Applicant does not propose to amend the Proposal to accommodate a future connection to Packe Street. The site layout has been carefully considered to deliver the functional requirements of a modern supermarket.²⁷ Amending the site layout to provide for an additional access to Packe Street would jeopardise this for minimal benefit and conflict with Objective 15.2.4 and Policy 15.2.4.2(b) which acknowledge that the scale, form and design of development must recognise the functional and operational requirements of activities. In this case, it is not possible to accommodate a direct connection between Madras and Packe Streets without compromising the width of the supermarket building and the required truck turning circle.
44. Mr Church states that adding the Packe Street access point is “*of marginal benefit*” for walkability and that this access would raise public safety issues.²⁸ Submitters at the Hearing also raised concerns about traffic on Packe Street in particular Packe Street Park and Community Garden (Submitter 88).
45. Overall, the Proposal will provide for improved accessibility when considered against the existing environment (where the existing residents do not have convenient access to a supermarket and Neighbourhood Centre at all). In addition, the Resource Management Act 1991 (**RMA**) is focused on effects and the Panel need to assess the effects of the Proposal before them. At most, the absence of a Packe Street connection means that the positive effects of the Proposal are not maximised for those residents who might otherwise be able to take a “*short cut*” to the Site. It does not give rise to any adverse effects on the environment or any person.

Plan Change 14

46. To confirm discussions on PC14 at the Hearing, changes which related to the Commercial Chapter of the District Plan were included in the Council’s decisions

²⁷ Statement of Evidence of Daniel Shao, 18 July 2025 at [25].

²⁸ At [20(e)] and [95].

notified on 12 December 2024. The NCZ policy and rule framework under PC14 is therefore operative.

47. However, the Council is yet to make a decision on the Independent Hearings Panel's recommendation that the RMDZ portion of the Site be rezoned to High Density Residential. The Resource Management (Consenting and Other System Changes) Amendment Act 2025 effectively removes this requirement. As such, our submission remains that little weight can be afforded to the Independent Hearings Panel's recommendation in this regard.

TRANSPORT

48. While the original proposal to provide a 2.0m flush median along the Site's frontage was considered by Mr Rossiter to be an appropriate and safe solution for right turning vehicles into the Site, having considered the views of Mr McGonigal and Mr Collins, the Applicant has elected to increase this to 2.5m. We understand no matters are therefore in dispute between the traffic engineers.
49. The concept drawings prepared by Mr Rossiter included in the plan package at Annexure C show how this could be established by moving the kerb of the eastern side of Madras Street by 0.5m. This option, as opposed to widening the western kerb, is preferred by Mr McGonigal.²⁹ We note that Mr Collins did not express a preference as his emphasis was on achieving a 2.5m wide flush median as opposed to a 2.0m median supported by Mr Rossiter.³⁰
50. As submitted in my oral closing, the road widening works, which will require eventual community board approval, are appropriate for a condition precedent. This situation is common and is no different to any other resource consent that includes works within a road reserve. The amended condition set incorporates a condition precedent at condition 47 consistent with wording approved by the Environment Court in *Shundi v Queenstown Lakes District Council* where a key focus of the Court was the third-party delegation aspect of an audit.³¹ This condition includes a subsequent approval process but as a minimum the design will include that:
- (a) the median must be flush and a minimum of 2.5m in width; and
 - (b) safe cycle lane dimensions in both north-bound and south-bound directions must be maintained.

²⁹ Christchurch City Council, Summary Statement of David McGonigal, 15 August 2025 at [6].

³⁰ Statement of Evidence of Mathew Collins on behalf of Juanita O'Connell and Daniel Stedmond, 1 August 2025 at [42].

³¹ [2024] NZEnvC 89.

51. This approach is also consistent with the High Court decision in *Westfield (New Zealand) Limited v Hamilton City Council* which confirmed that there is nothing objectionable to granting planning permission subject to a condition that the development is not to proceed until specific roading works are completed.³²
52. In relation to other transport matters, the vehicle tracking path plans tabled at the Hearing by Mr Rossiter for the loading area are included within Annexure C.

URBAN DESIGN

53. Mr Hattam considers that the Proposal should include built form to the Madras Street frontage. Despite this, he agrees that the front façade is well designed, is of a moderate scale and is well broken up into a series of individual tenancies with human scale.³³ He considers that therefore it would complement the scale of the street if the built form was moved to the front of the Site.³⁴ He also considers that the pocket park should be located closer to the Site frontage.³⁵
54. Mr Church provides that it would be more detrimental to urban form outcomes if the supermarket was built to the edge of the street and was dominating in that way.³⁶ His evidence is that:
- (a) The Proposal's layout has been designed to be intentionally recessive and discrete.³⁷
 - (b) The Site has not had a defined edge for decades and the inclusion of a landscape strip with tree planting will create a more defined edge along Madras Street that the community will be familiar with and that will complement the neighbourhood.³⁸
 - (c) The Proposal will generate sufficient vitality through car park activity and active frontages, without imposing a visually dominant presence on the streetscape.³⁹
 - (d) The Proposal has been designed to meet functional requirements.⁴⁰

³² *Westfield (New Zealand) Ltd v Hamilton City Council* HC Hamilton CIV-2003-485000953, 17 March 2004, (2004) 10 ELRNZ 254 at [56].

³³ Christchurch City Council, David Hattam, 4 August 2025 at [5].

³⁴ At [5].

³⁵ Christchurch City Council, Section 42A Report, RMA/2024/3209, 26 June 2025, Appendix F at [2.2.3].

³⁶ Statement of Evidence of Tim Church, 18 July 2025 at [20(c)].

³⁷ At [20(c)].

³⁸ At [100(a)].

³⁹ At [20(c)].

⁴⁰ At [19], [42], [55], [99] and [111].

55. In response to Mr Hattam's opinion as to the location of the pocket park, we submit that as he agrees that the purpose of this is an urban courtyard space as opposed to a town square or playground park, it is fitting that it is bounded by small format retail.⁴¹ The pocket park would not fulfil its purpose if it was moved closer to Madras Street and disconnected from the retail space.
56. At the Hearing, Mr Hattam referred to New World St Martins as a good example of a site layout. This site layout was a product of the site's history and ignores the poor frontage that the shops on the corner of the site present to Beckford Road. These shops orient into the carpark where customers arrive from and have their back to Beckford Road. The wider site has three road frontages, which results in a clear trade-off being a poor frontage to Wades Avenue due to the positioning of the adjacent loading bay.
57. In relation to CPTED matters, Mr Hattam raised that the space behind the supermarket could create opportunities for crime.⁴² We submit that the inclusion of an access gate at the entrance effectively secures this area. There is no reason for the public to want to access this area, so in the absence of a "*victim*" no CPTED issues would arise. In terms of concerns that people with bad intentions may wish to enter this area and in turn climb over the fence into neighbouring properties, we note this would require considerable effort and much more difficult to achieve than the status quo.
58. Overall, Mr Church provides that the Proposal, within its suburban context, mid-block location and on a mid-hierarchy collector road that is not as prominent as other urban centres in Christchurch, such as Edgeware Village, provides an appropriate urban design outcome.⁴³
59. We submit that the evidence of Mr Church should be preferred, noting that Mr Hattam agrees that the built form is well designed.

BOUNDARY ADJUSTMENT APPLICATION

60. At the Hearing, the Panel questioned whether the boundary adjustment application by the Applicant which was before the Council is relevant to decision making for the Proposal.
61. Subdivision consent for this boundary adjustment was granted by Council on 19 August 2025 (RMA/2025/1356).⁴⁴

⁴¹ Statement of Evidence of Tim Church, 18 July 2025 at [40].

⁴² Christchurch City Council, Summary Statement of Evidence of David Hattam, 4 August 2025 at [6].

⁴³ At [20(c)].

⁴⁴ Christchurch City Council, Decision on RMA/2025/1356, 19 August 2025.

62. The boundary adjustment creates “*Lot E*” to the northwest of the Site. The purpose of the boundary adjustment is to rationalise the existing allotment boundaries and better delineate the land required for the supermarket development from the surplus residential zoned land which could be developed for residential purposes similar to the consented townhouse development to the north.
63. In our submission, the boundary adjustment forms part of the environment for the purposes of the Proposal but is not a material consideration for decision making as it does not generate an effect. It can be implemented irrespective of the outcome of the Proposal and vice-versa.

ENGINEERING AND SERVICING

64. In relation to the stormwater management system proposed for the Site, the Council agrees that the use of a pumping system is appropriate.⁴⁵ A pumping system has also been approved for the consented 84 unit residential development to the immediate north of the Site at 504-514 Madras Street and 112 and 124 Canon Street under RMA/2021/3901.⁴⁶ The Applicant has also proposed an additional management plan for the operation and maintenance of the stormwater system which is addressed at condition 40 of the proposed conditions.
65. At the Hearing, Commissioner Caldwell questioned how groundwater will be addressed, noting the higher groundwater table on the Site. If necessary, construction phase and operational phase resource consents from Canterbury Regional Council relating to groundwater management will be sought separately to the Proposal.⁴⁷
66. In relation to other servicing matters, we append the Preliminary Site Overlay plan tabled at the Hearing which shows aerial imagery, power poles and property information as **Annexure D**.

LANDSCAPE

67. Concept diagrams showing the relationship between building foundations, stormwater tanks and the space available for tree establishment between the supermarket building and the southern boundary are provided as **Annexure E**. This was carefully considered as part of the landscape design by Mr Brown (with input from the engineers on the relevant footprint layout) and we can confirm that the space available is sufficient for the nominated species to establish and thrive.

⁴⁵ Christchurch City Council, Summary Statement of Evidence of Scott Blair, 15 August 2025 at [6].

⁴⁶ Christchurch City Council Decision on RMA/2021/3901, 15 July 2022. Legally described as Lots 56 - 58 DP 953, Sec 1 and 2 SO 15825, Lot 2 DP 565530, Lot 1 and 2 DP 22529, Lot 1 DP 82853, Pt Lots 42 DP 1212 and Lot 1 DP 35217.

⁴⁷ Planz Consultants, Assessment of Environmental Effects, November 2024 at i and [7.9].

RESPONSE TO SUBMISSIONS

68. The Applicant has appreciated the genuine and carefully considered feedback from submitters. Feedback in submissions represents a wide range of viewpoints and the Applicant has considered amendments to conditions where appropriate to address points raised as outlined below at paragraphs 74-75.
69. Ms Allsop who appeared at the Hearing (Submission 52) stated that Edgeware Village is a strong and established community hub which will not be negatively impacted by the Proposal. From her discussions with local residents, she states that many people do their full weekly shop at large supermarkets for example Pak'n'Save at Moorhouse or Papanui but still use Edgeware Village for speciality items. She considers that the Proposal will not affect this kind of shopping behaviour and that the Proposal will not stop people from relying on the speciality shops that Edgeware Village provides. Her view is consistent with evidence for the Applicant and the Council and represents the view of the silent majority in the community. This is supported by the economic evidence that Edgeware Village will benefit from continued residential growth and will continue to be a thriving centre in future.
70. Our overall response to submissions in opposition is that the Panel is tasked with providing for the future. The Environment Court has held that the *"RMA jurisdiction is forward-looking and future predictive"*⁴⁸ therefore it does not focus on the current environment that people are used to. It is important to take into account the needs of the future community which will be larger than today.⁴⁹
71. Our responses to specific concerns raised by submitters in opposition are as follows.
- (a) Ms Hampson provides that the Proposal will complement the Edgeware Village as it will perform a different function and role.⁵⁰ A development as envisaged by the ODP could perform a similar function and role and significantly impact Edgeware Village.
 - (b) Submissions which state that the area is already well serviced in terms of grocery needs are not based on economic evidence and are not representative of the wider community. Economic evidence for the Applicant is based on all current and future households.⁵¹

⁴⁸ *Environmental Defence Society Inc v Minister for the Environment* [2024] NZEnvC 24, (2024) 25 ELRNZ 691 at [58].

⁴⁹ Statement of Evidence of Natalie Hampson, 18 July 2025 at [128].

⁵⁰ At [72] and [75].

⁵¹ Statement of Evidence of Natalie Hampson, 18 July 2025.

- (c) Provision for carparking is appropriate. Mr Rossiter's evidence is that the proposed carpark is appropriately sized.⁵² Mr McGonigal has not raised any concerns in relation to carparking.⁵³
- (d) The Proposal contains adequate provision for pedestrian access. The Proposal provides a primary separate pedestrian entry which bisects the Site connecting the main parking area to the principal entry of the supermarket.⁵⁴ This access way is covered with the primary purpose to provide clear visual legibility and signal to supermarket visitors that there is a pedestrian route in this location.⁵⁵ The addition of the extended landscape strip into the carpark at the northern entrance will likely encourage pedestrians towards this central access point.⁵⁶ Internal vehicle accessway crossing points will use recognised zebra crossing paving treatments to provide continuity and priority for pedestrians accessing the centre and pocket park.⁵⁷ All pedestrian pathways are on-grade within the carpark which provides opportunities for use of shopping trolleys and general universal accessibility throughout the Site. We also clarify that the purpose of the northern internal pedestrian crossing near the store entrance is a link to the accessibility van drop-off area and is not a loading bay.
- (e) Juanita O'Connell and Daniel Stedmond consider that accesses to Purchas and Packe Streets should be included in the Proposal to disperse traffic. However, Mr Collins' evidence for Juanita O'Connell and Daniel Stedmond does not address the consequences if 100% of traffic used Madras Street. In oral evidence, Mr McGonigal confirmed that traffic from the Proposal will not be noticeable for Madras Street as a collector road but increased traffic could have amenity effects for Purchas and Packe Streets due to these streets having a much lower volume starting point. Mr Rossiter and Mr McGonigal agree that the Proposal will not result in adverse effects on the transport network.⁵⁸
- (f) We consider that the oral evidence of David Wallace on behalf of Juanita O'Connell and Daniel Stedmond is not relevant to the Panel's decision making.
- (g) In response to general comments by submitters that residential infill has already been undertaken in St Albans, it is clear that this will be ongoing,

⁵² Statement of Evidence of Chris Rossiter, 18 July 2025 at [64].

⁵³ Christchurch City Council, David McGonigal, Asset Planning Memo, 15 August 2025.

⁵⁴ Statement of Evidence of Mark Brown, 18 July 2025 at [18].

⁵⁵ At [18].

⁵⁶ Statement of Evidence of Tim Church, 18 July 2025 at [101].

⁵⁷ At [67].

⁵⁸ Christchurch City Council, David McGonigal, Asset Planning Memo, 15 August 2025 at [10].

highlighted by the consented residential development to the north of the Site under RMA/2021/3901. In addition, Ms Hampson's assessment as to future growth is based on the StatisticsNZ medium projection so is conservative.⁵⁹ The Proposal's local catchment also extends south of Bealey Avenue into the city centre with confirmed High Density Residential Zoning under PC14. This area is also a key focus for ongoing high levels of intensification across National Policy Statement on Urban Development 2020, the CPRS and the Greater Christchurch Spatial Plan.

- (h) The proposed stormwater tanks will be maintained and replaced as needed to meet the manufacturer's specifications and any consent conditions. The proposed approach to stormwater management is considered acceptable by Mr Mthamo. Moreover, successfully operating the stormwater system is detailed in condition 40 which can be relied on being complied with.⁶⁰ The onsite infrastructure will remain the responsibility of the consent holder.

72. We submit that the following matters raised by submitters are not relevant to the jurisdiction of the Panel under the RMA:

- (a) Greenhouse gas emissions and climate change which the Supreme Court has held are not provided for under s 104.⁶¹
- (b) Trade competition effects in accordance with ss 104(3)(a)(i) and 308B. We agree with the Council that the majority of submission points contained within the submissions lodged by Stephen Anderson (Submission 78) and Fresh Choice Edgeware (Submission 82) relate to trade competition and therefore cannot be considered by the Panel.⁶² In relation to the remaining submission point on traffic effects, at the Hearing, Mr Anderson clarified that he is not affected by this. We therefore submit that the entirety of Stephen Anderson and Fresh Choice Edgeware's submissions cannot be considered by the Panel. This situation is akin to *Woolworths New Zealand Limited v Christchurch City Council* where the Environment Court held that it was "required to ignore" evidence from a trade competitor.⁶³

⁵⁹ Statement of Evidence of Natalie Hampson, 18 July 2025 at [31].

⁶⁰ *88 The Strand Ltd v Auckland City Council* HC Auckland M330-PL02, 15 July 2002, [2002] NZRMA 475 at [19].

⁶¹ *West Coast ENT Inc v Buller Coal Ltd* [2013] NZSC 87, (2013) 17 ELRNZ 688 at [173].

⁶² Christchurch City Council, Section 42A Report, RMA/2024/3209, 26 June 2025 at [43]-[50].

⁶³ *Woolworths New Zealand Ltd v Christchurch City Council* [2021] NZEnvC 133, [2021] ELHNZ 221 at [209].

CONDITIONS

73. The Applicant has responded to concerns raised by the Panel, recommendations from the Council's experts and issues raised by submitters and has made amendments to the proposed conditions of consent. Mr Clease and Mr Blair have met to workshop conditions and now agree in full as to the conditions of consent. Attached to these closing submissions is a word version of the agreed condition set as Annexure A and revised set of plans referenced in condition 1 as Annexure C containing:
- (a) Woodhams Meike Zhan Architects, Proposed Supermarket RMA Plans, Revision C;
 - (b) Boffa Miskell, Landscape Design Report, Revision E;
 - (c) Stantec, Concept Plans;
 - (d) Eliot Sinclair, Servicing and Earthworks Plans; and
 - (e) ENGEO, Site Management Plan.
74. The condition set includes the transport condition precedent discussed above in relation to proposed works within the road reserve on Madras Street at condition 47.
75. Other key amendments to the condition set are as follows:
- (a) In addition to specific amendments addressed below, the Applicant has also addressed general comments as to the need for greater certainty as to outcomes and the restructuring of conditions.
 - (b) Pulling forward operational conditions to condition 1 and providing further specificity in relation to those including opening hours, the pocket park outdoor dining and alcohol consumption restrictions, compliance with District Plan noise standards for non-supermarket tenancies and a prohibition on digital signage.
 - (c) Condition 2 provides that the Applicant will permit public access to the Site from Purchas Street if a publicly accessible access route is formed by the neighbouring landowners. Although the amended design physically provides for this connection at the boundary, this condition makes it clear as to the public's ability to use this access.
 - (d) Condition 9 prohibits outdoor music between 10pm and 7am in the pocket park area.

- (e) Condition 10 specifies which District Plan noise limits are applicable to the Proposal.
- (f) Condition 11 provides conditions for a gymnasium tenancy.
- (g) Conditions 12 and 13 address lighting in the carpark, loading bay, and the Madras Street entrances.
- (h) Condition 14 addresses lighting in the pocket park area.
- (i) Conditions 15-18 specify requirements for landscaping including for pedestrian visibility splays. Condition 18 references the visibility splays shown on sheet 22 of the Landscape Design Report included in Annexure C.
- (j) Conditions 19-40 address management plans and incorporate discussions at the Hearing regarding aligning and providing greater certainty regarding the objectives, content and processes for these management plans. Three additional management plans have also been included namely the Landscape Establishment Plan, Landscaping Maintenance Plan and the Stormwater System Management Plan. The management plans provided for in conditions 19-40 are as follows:
 - (i) Traffic Management Plan;
 - (ii) Construction Management Plan;
 - (iii) Erosion and Sediment Control Plan;
 - (iv) Construction Noise and Vibration Management Plan;
 - (v) Landscape Establishment Plan;
 - (vi) Landscaping Maintenance Plan; and
 - (vii) Stormwater System Management Plan.

CONCLUSION

76. In our submission, the Panel can, and should, prefer the evidence presented on behalf of the Applicant at the Hearing. Since then, the Madras Street right-turn works as recommended by Council have been agreed, the opportunity for a pedestrian and cycle link to Purchas Street has been provided and the condition set has been further refined particularly in relation to operation of the Proposal, landscaping and management plan conditions.

77. The evidence has demonstrated that as the Proposal will not have significant retail distribution effects, it is consistent with the role of a Neighbourhood Centre and will sit appropriately within the existing centres hierarchy.
78. The evidence and hearing process has resulted in significant refinement of outstanding matters in contention. With the post hearing amendments made, the only two matters in dispute with Council experts relate to effects on the centres hierarchy, including precedent and plan integrity and the urban design response:
- (a) In relation to the centres hierarchy, for the Panel to agree with Mr Heath and Mr Blair that the hierarchy is undermined by the addition of a supermarket serving the immediate residential catchment would ignore the flexibility within the hierarchy as to centre and catchment size, and express role within the policy framework for the expansion of centres in appropriate circumstances. That conclusion is also not supported by any economic evidence, with both Mr Heath and Ms Hampson agreeing that there will not be any retail distribution effects resulting from the Proposal, and that the integrity of other centres will be maintained and will not decline.
 - (b) The only remaining urban design concerns of Mr Hattam relate to the location of buildings on the Site in relation to the Madras Street frontage and the Packe Street pedestrian and cycle link, both of are responded to above.
79. The evidence and hearing process has resulted in a robust and defensible proposal now sitting before you worthy of consent under the relevant provisions of the District Plan. Accordingly, we submit that the Panel can be satisfied it is appropriate to grant consent for the Proposal, subject to the amended conditions proposed by the Applicant attached to our closing legal submissions.

Dated this 29th day of August 2025



**Joshua Leckie / Sarah Anderton /
Laura Brown**

Counsel for Woolworths New
Zealand Limited

Annexure A

Conditions