

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

24 September 2025

1. INTRODUCTION AND EVIDENCE SUMMARY

- 1.1 This evidence has been prepared on behalf of Foodstuffs North Limited (**Foodstuffs**) as it relates to its submission and further submission relevant to the PDP – Hearing Stream 15D. My evidence focuses on responses to the recommendations¹ in the Far North District Council (**Council**) Rezoning Requests Urban Section 42A Hearing Report (**s42A**), and in particular the spatial extent and provisions of the proposed Town Centre Zone (**TCZ**) as it relates to Foodstuffs interests in the Far North.
- 1.2 In summary, I support the spatial extent of the TCZ, and more specifically the inclusion of Foodstuffs' New World Kerikeri site within the TCZ.
- 1.3 However, I consider that the TCZ provisions as recommended by the Reporting Officer are poorly conceived, and contain significant gaps and drafting issues. They derive largely from the Kāinga Ora submission and lack a targeted section 32AA evaluation as to the efficiency and effectiveness of the provisions. Key concerns that I identify and address in this evidence include policy gaps around commercial activities such as supermarkets, unclear or inconsistent rules (notably TCZ-R1, TCZ-R2, TCZ-R15), and standards such as TCZ-S6 and TCZ-S10 that are ambiguous or unnecessarily onerous.

¹ My evidence responds only to the recommendations provided by Sarah Trinder in Section 5.2 of the s42A report. I do not respond to any of the recommendations provided by Jerome Wyeth in Section 5.3 of the s42A report.

- 1.4 I recommend targeted amendments to improve clarity, remove duplication, and ensure the provisions are efficient and effective while achieving the objectives and policies for the TCZ. I have undertaken a s32AA assessment that demonstrates that these changes better achieve the RMA's purpose and the PDP's strategic objectives.

Qualifications and experience

- 1.5 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.
- 1.6 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:

- (a) Filed statements on behalf of Foodstuffs on:
 - (i) 22 July 2024 for Hearing Stream 4;
 - (ii) 7 October 2024 for Hearing Streams 6 and 7;
 - (iii) 12 May 2025 for Hearing Stream 12; and
 - (iv) 9 June 2025 for Hearing Stream 13.
- (b) Filed evidence on 18 November 2024 which addressed planning matters in relation to Hearing Stream 9 – Rural and Horticulture on behalf of Foodstuffs; and
- (c) Filed evidence on 7 July 2025 which addressed planning matters in relation to Hearing Stream 14 – Urban Zones on behalf of Foodstuffs.

Purpose and scope of evidence

- 1.7 This evidence addresses the submission (#S363) and subsequent further submission (#FS542) by Foodstuffs on the PDP.
- 1.8 My evidence will address the following topics:
- (a) Evidence Context (Section 2);

- (b) Supported Recommendations of the Section s42A (Section 3);
- (c) Centres Hierarchy (Section 4);
- (d) Town Centre Zone – Spatial Extent (Section 5);
- (e) Town Centre Zone – Provisions (Section 6);
- (f) Consequential Amendments to Plan Wide Rules (Section 7);
- (g) Section 32AA Assessment (Section 8); and
- (h) Concluding Comments (Section 9).

Code of conduct

- 1.9 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.
- 1.10 I note that one of the Reporting Officers for the Rezoning Requests Urban s42A is Sarah Trinder. Ms Trinder worked at B&A for approximately one and a half years from March 2023 – July 2024 before she returned to work for Council. I confirm that I have had no involvement in the Rezoning Requests Urban topic, nor Ms Trinder's preparation of the Rezoning Requests Urban s42A, which was undertaken after she left B&A. I have no conflict of interests to declare as it relates to this evidence.

2. EVIDENCE CONTEXT

- 2.1 My involvement with Foodstuffs and the context of Foodstuffs submission and its presence in the Far North District is outlined in Section 4 of my planning evidence statement for Hearing Stream 9 – Rural and Horticulture on behalf of Foodstuffs.
- 2.2 As I outlined in my evidence on behalf of Foodstuffs for Hearing 14, Foodstuffs did not 'opt in' to the voluntary rezoning process for the Hearing 15D stream. This was primarily because Foodstuffs was awaiting Council's response to the matters raised in

the Panel's Minute no. 7, and in particular confirmation of Council's recommendations relating to the spatial extent of the TCZ and the provisions for the Mixed Use Zone (**MUZ**) Chapter. Council have now done that, with the circulation of the s42A Report for Hearing 15D. Spatially, the TCZ includes Foodstuffs New World Kerikeri Site (refer to **Figure 1** below).

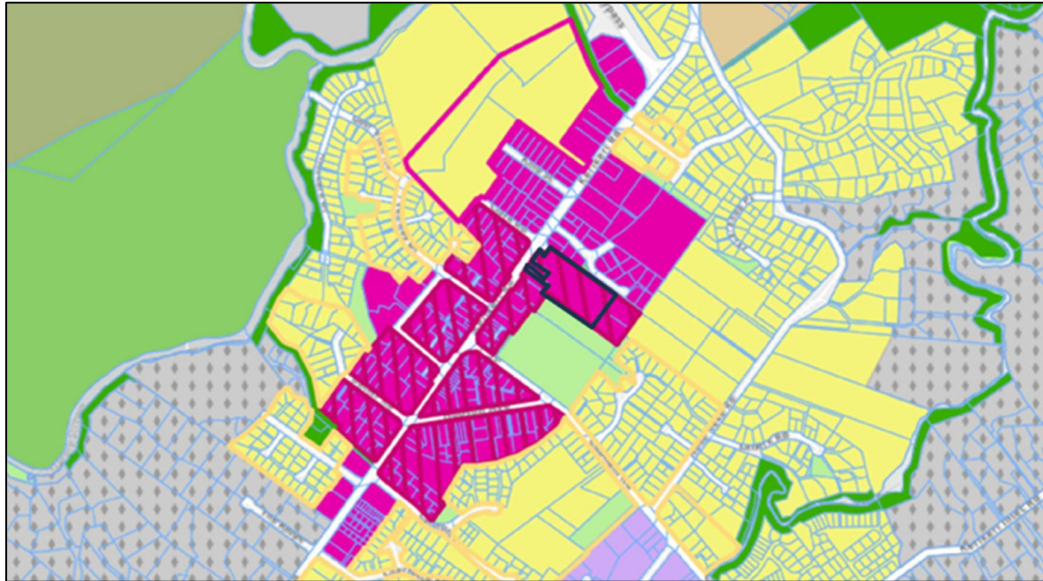


Figure 1: Foodstuffs Kerikeri Site (blue outline) in the context of the recommended TCZ.

- 2.3 Given the nature of its original submission, and the fact that Council have recommended rezoning it's New World Kerikeri Site, I consider that Foodstuffs has clear scope to present evidence on the TCZ spatial extent and provisions.

3. SUPPORTED RECOMMENDATIONS OF THE S42A REPORT

- 3.1 Given the nature of Council's approach to the PDP Reporting, the majority of Foodstuffs submission points on urban zones were initially addressed in Hearing 14 – Urban Zones. However, I noticed that the Reporting Officer has recommended the rejection of Foodstuffs submission point relating to the Four Square Waipapa site² on the basis that the S42A Urban report for Hearing 14 recommended to add a Waipapa Control area which covers the site.³ This control layer permits supermarkets under LIZ-RXX. On this basis, I am therefore supportive of the recommendation to reject submission point 363.019.

² 363.019 – this submission point sought that Council rezone the Waipapa Site from LIZ to a more appropriate and enabling commercial zone.

³ Paragraph 523 of the Hearing 14 s42A.

- 3.2 The remainder of my evidence focuses on the areas in contention where I have a different opinion to that of the Reporting Officer.

4. CENTRES HEIRACHY

- 4.1 On behalf of Foodstuffs and other submitters⁴, I presented planning evidence during Hearing 1 which was critical of the lack of direction regarding a centres hierarchy in the Strategic Direction Chapter, and in particular, the lack of zones that have been utilised in the PDP.

- 4.2 As outlined in my evidence and presentation for Hearing 14, I support the conclusion regarding the Tier 3 status for Kerikeri / Waipapa, and the subsequent inclusion of a TCZ. Although, I continue to maintain the position that the inclusion of just a TCZ spatially within the Kerikeri centre does not go far enough because:

- (a) There are other centres within the Far North District which I consider could also logically be considered a TCZ – most notably the Kaitaia and Kaikohe townships; and
- (b) Remaining commercial areas within the Far North are subject to the blunt application of the MUZ, which in my opinion, does not provide sufficient direction as to the appropriate location of commercial activities (in particular supermarkets).

- 4.3 My position on the above remains unchanged from previous hearings. I focus below on the spatial extent of the TCZ and provisions as they relate to Foodstuffs interests.

5. TOWN CENTRE ZONE – SPATIAL EXTENT

- 5.1 In my opinion and experience, the development of the TCZ has been the subject of an unconventional approach by Council. The PDP was notified with no TCZ, and a number of submitters, including Foodstuffs and others, identified this as a significant gap in the PDP Zoning Framework. This was highlighted within Hearing 1, and was subject to follow-up requests from the Panel relating to whether Kerikeri-Waipapa was an "urban environment" under the National Policy Statement: Urban Development (NPS:UD).⁵

⁴ Such as Willowridge Developments and McDonald's.

⁵ As outlined in Minute 7 from the Hearings Panel.

Te Pātukurea – Kerikeri-Waipapa Spatial Plan

5.2 Concurrently to the PDP hearing process, Council have developed, notified and adopted 'Te Pātukurea – Kerikeri-Waipapa Spatial Plan' (**Spatial Plan**). This is a non-statutory document, which provides a strategic framework for urban growth over the next 30 years.

5.3 The Spatial Plan identifies the Medium Density Residential Zone (**MDRZ**) and TCZ as key mechanisms to deliver this vision, particularly within walkable catchments of the Kerikeri town centre. The Reporting Officer notes that:⁶

"These zones support the Spatial Plan's preferred hybrid growth scenario, which focuses intensification in Kerikeri South and Waipapa, aligning with community aspirations and infrastructure planning."

5.4 In my opinion, as a non-statutory document, I consider that the Spatial Plan should be attributed significantly less weight than the relevant statutory documents, for instance the Northland Regional Policy Statement and national direction in the form of the relevant national policy statements and national environmental standards.

5.5 Notwithstanding the above, I support the overall recommendation to include the MDRZ and TCZ.

Spatial Extent of the TCZ

5.6 It appears that the Reporting Officer has utilised the spatial extent of the TCZ as outlined in the submission by Kāinga Ora as a starting point.⁷ The Reporting Officer provides the following justification regarding the spatial extent of the TCZ:⁸

"I support a smaller core TCZ than that proposed by Kāinga Ora. A more focused TCZ would better reflect Kerikeri's current urban structure and commercial footprint, while still enabling intensification and supporting the town's role as a district centre. This approach also allows for clearer built form transitions to surrounding MUZ and MDRZ zones, and ensures the TCZ remains legible, accessible, and well-integrated with future transport and residential planning."

⁶ Paragraph 97 of the Hearing 15D s42A.

⁷ Paragraph 5(vi), Submission Points S561.079, S561.111 & S561.117, and Appendix 5 of Kainga Ora's Original Submission.

⁸ Paragraph 107 of the Hearing 15D s42A.

- 5.7 I understand that a wide range of factors were considered by the Reporting Officer when making a recommendation on the spatial extent of the TCZ. This included criteria such as location, land use, site suitability, infrastructure capacity, and growth demand.
- 5.8 The section 32AA evaluation concludes that the spatial extent of TCZ is appropriate in Kerikeri for the following reasons:⁹
- (a) It concentrates commercial activities in the town centre, reducing urban sprawl and preserving green spaces and productive land;
 - (b) It encourages business activity, retail and commercial services to locate in a central area, supporting local employment and investment, and acts as a “community hub” for social interaction, strengthening community identity; and
 - (c) It is consistent with urban design principles, including those identified within the Spatial Plan.
- 5.9 Notwithstanding my evidence relating to the TCZ provisions below, I am supportive of the recommended spatial extent of the TCZ, and the inclusion of the Kerikeri New World site within it. In my opinion, it is clear that this is the main commercial and business area of Kerikeri which contains a wide range of commercial, retail, service, recreational and community activities, and is thereby consistent with the purpose of the TCZ.
- 5.10 My evidence below focuses on the TCZ provisions, which I consider present a number of issues.

6. TOWN CENTRE ZONE – PROVISIONS

Basis for the TCZ Provisions

- 6.1 The basis of the Reporting Officer’s recommended TCZ provisions in Appendix 3 were those prepared by Kāinga Ora in its original submission:¹⁰

“Other than an amendment to the height limit for the TCZ, I largely agree with the provisions proposed by Kāinga Ora subject to some minor plan wide consistency changes, the marked up provisions can be found in Appendix 3.

⁹ Paragraph 124 of the Hearing 15D s42A.

¹⁰ Paragraph 121 of the Hearing 15D s42A.

As a result of the introduction of TCZ Consequential changes to provisions plan wide are necessary these are shown in Appendix 3.”

6.2 In my evidence for Hearing 14,¹¹ I outlined frustration on behalf of Foodstuffs with the uncertainty created by Council’s lack of confirmation of their recommended spatial extent and provisions for the TCZ. Fast forward to Hearing 15D, Council have finally released their recommended spatial extent and TCZ provisions on Wednesday 10 September 2025. I reinforce frustration on behalf of Foodstuffs and others with this approach because:

- (a) First, Council could have signalled earlier (e.g., during the s42A release or hearing for Hearing 14) that it planned to utilise Kāinga Ora’s provisions as the basis for their recommended TCZ.
- (b) Secondly, the expert evidence circulation date for Hearing 15, is 24 September 2025 giving only two weeks to formulate and circulate evidence on this matter. In my opinion, I consider this an unhelpfully short period of time to review, understand and prepare evidence on a completely novel zone and provisions, especially given that Council could have signalled the use of the Kāinga Ora submission provisions earlier.
- (c) Finally, the TCZ provisions are poorly drafted, with a multitude of drafting issues, numbering errors and consistency issues as I outline in more detail below.

Lack of Justification for the TCZ Provisions

6.3 The section 32AA evaluation assessments undertaken by Council and the Reporting Officer to date only consider the general appropriateness of the MDRZ and TCZ for Kerikeri¹² and evaluate three options for urban growth for Kerikeri-Waipapa.¹³ I could find no targeted assessment of the TCZ provisions themselves, and why they are considered the most appropriate in terms of efficiency and effectiveness pursuant to the relevant requirements of s32AA.

6.4 I consider that this omission represents a significant gap in Council’s assessment of the TCZ provisions, with little, if any, specific justification as to why certain provisions

¹¹ See Paragraph 4.4 of my Hearing 14 planning evidence.

¹² Paragraph 124 of the Hearing 15D s42A.

¹³ Appendix 5 – Evaluation of Urban Growth Zoning Options for Kerikeri-Waipapa.

have been drafted as they have. This also undermines the integrity of the assessment, and raises concerns about whether the proposed provisions have been adequately tested against the relevant statutory requirements. With regard to Foodstuffs' interests, I consider that this is particularly problematic for trying to understand the rationale for TCZ-R1, TCZ-R2, TCZ-R15 and other provisions, which I address in greater detail below.

Nesting Tables

- 6.5 In Hearing 14, my evidence and presentation for Foodstuffs addressed concerns that I had with the lack of nesting tables for key activity terms such as “commercial activity”, “industrial activity”, “civic activity”, “community activity” and “residential activity”.
- 6.6 I have reviewed the Right of Reply for Hearing 14 from the Reporting Officer, and am disappointed to see that this has been recommended for rejection, on the basis that it would need to be applied consistently across the plan resulting in comprehensive amendments and because a number of other district plans do not use nesting tables and remain effective. I consider that this is ultimately flawed logic, however I do not recanvas this further, other than to highlight that the exact same issues resurface upon review and application of the recommended TCZ provisions as I outline below.

Objectives and Policies for the TCZ

- 6.7 The TCZ includes four objectives and eight policies. In my opinion, these clearly anticipate and provide for commercial activities:
- (a) TCZ-O1 and TCZ-O2 expressly recognise Kerikeri's town centre as a key focal point for ongoing investment and intensification, providing capacity for employment, commercial activity, and a full range of goods and services.
 - (b) TCZ-P1 and TCZ-P4 seek to accommodate and enable a wide variety of compatible commercial activities and support growth of commercial activities through intensification and increased building heights and scale.
 - (c) TCZ-O3, TCZ-O4 and TCZ-P5, TCZ-P8 ensure that commercial development, including supermarkets, occurs in a form and scale that achieves attractive urban design, integrates well with surrounding zones, and manages effects on residential areas.

- 6.8 I am generally supportive of the recommended objectives and policies for the TCZ, as they relate to Foodstuffs submission and the particular provision for commercial activities. However similar to my evidence for Hearing 14¹⁴, and due to the lack of nesting tables confirming which activities are deemed as “commercial activities”, I recommend the following amendment to TCZ-P4 as outlined in **Attachment 1**:

“Provide for growth in commercial activities **(including supermarkets)** by enabling a wide range of compatible activities and increased building heights and building scale.

Improve access to a range of facilities, goods and services in a convenient and efficient manner.

Supports a safe and efficient multi-modal transport network which his integrated with the centre.”

- 6.9 I note that in the Right of Reply for Hearing 14, the Reporting Officer has recommended the acceptance of a similar change that I recommended in my evidence for MUZ-P1.¹⁵
- 6.10 Alternatively, if Foodstuffs relief regarding the inclusion of nesting tables as discussed above is accepted, then I consider that the addition of “(including supermarkets)” may no longer be necessary within this policy.

TCZ-R1 – New buildings or structures, relocated buildings or extensions or alterations to existing buildings or structures

- 6.11 I consider that the drafting of this rule gives rise to two substantive issues as follows:
- (a) PER-1 requires that any extension or alteration must comply with all applicable standards, and any non-compliance triggers a restricted discretionary resource consent. I consider that PER-1 should be redrafted to remain consistent with the equivalent rule in the MUZ (MUZ-R1) so that it can provide greater flexibility for extensions and alterations which do not increase the building footprint; and
 - (b) PER-2 of this rule requires non-complying activity resource consent to be obtained under TCZ-R1 where any extension or alteration is undertaken to an existing building or structure which accommodates an activity that is non-complying. I consider that PER-2 is totally unnecessary. If an activity within an extension or alteration triggers a non-complying activity resource consent

¹⁴ See paragraph 6.5 – 6.6 of my Hearing 14 planning evidence for Foodstuffs.

¹⁵ See Paragraph 82 of the Hearing 14 Right of Reply.

under another provision, then it is already a non-complying activity and it is redundant and ineffective to require another non-complying activity resource consent trigger within TCZ-R1.

- 6.12 Accordingly, I recommend that TCZ-R1 be amended as set out in **Attachment 1** to make TCZ-R1 PER-1 consistent with the equivalent MUZ provision, and that PER-2 be deleted entirely.

TCZ-R2 – Commercial activity excluding trade and yard-based retail

- 6.13 The Reporting Officer has recommended the inclusion of TCZ-R2 which is drafted as follows:

“Activity status: Permitted

Where: PER-1

Any new non-residential activities or extensions or alterations to an existing building or structure is:

- a. Less than 450m² GFA where a pedestrian frontage applies as identified on the Planning Maps.
- b. Less than 1,000m² GFA where a pedestrian frontage does not have apply as identified on the Planning Maps.”

- 6.14 In my opinion, the drafting of TCZ-R2 is problematic for the following reasons, and I recommend amendments outlined in **Attachment 1**:

- (a) The title of the rule is “Commercial activity excluding trade and yard-based retail”. I could find no definition of “trade and yard-based retail” in the proposed PDP definitions Chapter. In the absence of any defined term, I consider it is most likely that this intended to refer to “trade supplier” which is proposed to be defined in the PDP¹⁶, and therefore recommend that the rule title is updated accordingly to refer to “trade supplier”.

¹⁶ means a business that involves the sale of wholesale goods to businesses, as well as limited retail sales to the general public, which fall into the following categories: a. automotive and/or marine suppliers; b. building suppliers; c. catering equipment suppliers; d. farming and agricultural suppliers; e. garden and patio suppliers; f. hire services (except hire or loan of books, videos, DVDs and other similar home

- (b) PER-1 refers to “alterations or extensions to an existing building or structure.” It is unclear why this is included within the rule. New buildings or structures or extensions or alterations to existing buildings or structures are already captured by TCZ-R1. I can see no benefit in having another building trigger and consequentially recommend that this term is deleted from the rule.
- (c) PER-1 refers to 450m² where a pedestrian frontage applies, and less than 1,000m² where a pedestrian frontage does not apply. Again, there is no justification for the 450m² limit¹⁷ or the 1,000m² limit. From Foodstuffs’ perspective, this is particularly relevant to the provision of “supermarkets” within the TCZ which includes the existing New World Kerikeri site. No explanation is provided as to why these arbitrary GFA limits should apply to “commercial activities” such as “supermarkets” but not to other activities such as a “healthcare activity” or a “community facility”. I therefore recommend that:
- (i) The title of TCZ-R2 is updated to exclude “supermarkets”.
 - (ii) A new TCZ-RX with a permitted activity status for “supermarkets” is included within the TCZ provisions – I discuss this further below with regard to TCZ-R15.
 - (iii) The leader sentence within PER-1 is updated to state “The new activity, or extension to an existing activity, is...”
- (d) The matters of discretion read like assessment criteria rather than targeted matters of discretion. I recommend that they are redrafted to focus clearly on relevant matters, using clear and simple language.

TCZ-R15 – Large format retail

- 6.15 The Reporting Officer has also recommended a non-complying activity rule for large format retail (TCZ-R15)¹⁸.

entertainment items); g. industrial clothing and safety equipment suppliers; and h. office furniture, equipment and systems suppliers.

¹⁷ I addressed this within my Hearing 14 planning evidence as it relates to the MUZ – see paragraph 6.11.

¹⁸ Proposed to be defined as “means any individual retail tenancy with a gross floor area greater than 450m².”

- 6.16 I consider that the non-complying activity status for large format retail within the TCZ directly contradicts the permitted activity rule for commercial activities as recommended by the Reporting Officer. Specifically, commercial activities are permitted where they are less than 450m² GFA in areas with a pedestrian frontage, or less than 1,000m² GFA in areas without a pedestrian frontage, with a default to restricted discretionary if these thresholds are exceeded.
- 6.17 This approach results in a lack of clarity and overlap in the application of definitions and rules – particularly for “supermarkets” as it relates to Foodstuffs interests. Most “supermarkets”, including the New World Kerikeri require substantial floor areas – typically well-exceeding 450m² - to operate effectively. As such, they fall within the definition of “Large format retail” and are not provided for in the TCZ under rule TCZ-R15. Supermarkets are a key community asset providing essential goods and services that are typically expected to be located within town centres, urban centres or other commercial zones.
- 6.18 Furthermore, there is no clear directive within the TCZ objectives and policies to “avoid” commercial activities, or large format retail specifically. In fact, the TCZ overview states that *“the zone provides for a wide range of retail, service, business, recreational and community activities to serve the needs of local residents, regional businesses, as well as visitors.”* This is coupled with objectives and policies which I have outlined in paragraph 6.7 above which seeks to promote commercial activities that provide employment and goods and services (TCZ-O1) and provide growth in commercial activities by enabling a wide range of compatible activities (TCZ-P3).
- 6.19 To address these issues, and to remain consistent with the Reporting Officer’s recommendation for “supermarkets” within the MUZ, I recommend that TCZ-R15 be amended to specifically exclude “supermarkets”, as outlined in **Attachment 1**. However, I consider that a strong argument could be made that TCZ-R15 should be deleted entirely, or that the activity status is at least downgraded to restricted discretionary or discretionary.

TCZ-S6 – Landscaping for sites that adjoin any sites other than mixed use or industrial

- 6.20 The Reporting Officer has recommended a standard which requires landscaping for sites that adjoin any sites other than those zoned MUZ or zoned Industrial.

- 6.21 As currently drafted, this standard appears to require landscaping along site boundaries that adjoin other sites also zoned TCZ. This approach is inconsistent with the equivalent standard in the MUZ (MUZ-S9), which specifically exempts landscaping requirements for boundaries shared with other sites also zoned MUZ.
- 6.22 I therefore recommend that TCZ-S6 is amended to provide clarity that there is no requirement to landscape site boundaries adjoining other TCZ sites, as outlined in **Attachment 1**.

TCZ-S10 – Coverage

- 6.23 The Reporting Officer has recommended TCZ-S10 which states:

“TCZ-S10

1. At least 10% of the site shall be planted in grass, vegetation or landscaped with permeable material; and
2. Where a connection to Council's reticulated stormwater system is not available the stormwater must be disposed of within the site.

An engineering/ site suitability report is required to determine compliance with these standards”

- 6.24 A similar provision was included within the MUZ.¹⁹ In my opinion, this rule should be redrafted for the TCZ for the following reasons:
- (a) The inclusion of clause 2 is unnecessary, as I understand that the Kerikeri TCZ is located within the Council's reticulated stormwater network and as such connections will be readily available, and I am unaware of any site within the existing spatial extent of the TCZ which would be able to feasibly dispose of stormwater within the site. As such, I recommend that clause 2 of this rule is deleted.
 - (b) An engineering assessment is not required to demonstrate compliance with clause 1 which relates to landscaping by permeable material. This is easily demonstrated on plans and can be checked by anyone, and does not require

¹⁹ See MUZ-S10.

the additional expense and time associated with obtaining a site suitability report. As such, I recommend that this requirement is deleted from the rule.

- (c) The matters of discretion are unnecessarily long and should be simplified.
- (d) The heading of the rule should be updated from “coverage” to “general landscaping” to better reflect what the rule is addressing (noting my amendments above).
- (e) The rule number should be updated to TCZ-R7 so that it sequentially flows from the previous rule.

SUB-S1 – Minimum Allotment Sizes

- 6.25 The TCZ provisions include SUB-S1 which states “no minimum allotment size” as a controlled activity or discretionary activity for the TCZ.
- 6.26 I agree with there being no minimum allotment size within the TCZ. However, in my opinion, the inclusion of SUB-S1 at the end of the TCZ chapter is inappropriate and inconsistent with the approach taken for how subdivision is managed across other zones in the PDP.
- 6.27 I recommend that SUB-S1 be removed from the TCZ chapter entirely. Instead, the Subdivision Chapter should be updated to include a similar provision. As no minimum lot size is specified as a controlled activity, I would also recommend that the reference to the discretionary activity side of the table is deleted.

Other changes

- 6.28 I have noted a number of other inconsistencies or clear errors in the provisions as follows:
 - (a) TCZ-R4 has a discretionary activity status for where PER-1 is not complied with, however there is no PER-1 within the rule. I therefore recommend that the “activity status where compliance not achieved” component is deleted.
 - (b) The rule numbering is missing numbers – for instance it jumps from TCZ-R7 to TCZ-R10, TCZ-R12 to TCZ-R14, TCZ-R15 to TCZ-R17, and TCZ-S6 to TCZ-S10. For ease of reference and understanding for the plan user, I recommend that this is updated to flow consistently so that it does not look like there are missing rules.

- (c) “Healthcare activity” is repeated twice as a permitted activity in TCZ-R6 and TCZ-R11. I recommend deleting one of these rules to avoid unnecessary duplication.
- (d) Rule TCZ-R17 Activities not otherwise listed in this chapter, is out of sequence within the rule framework. I recommend that it is relocated to TCZ-R13 so that the rule framework logically proceeds from permitted, restricted discretionary, discretionary to non-complying.
- (e) The reference to “non-complying” is inconsistent throughout the chapter with “non - complying”²⁰ and “Non Complying”²¹. I recommend that these are updated to “non-complying” for consistency with other PDP chapters.
- (f) The colouring of the rules is inconsistent and should be updated to be consistent for discretionary and non-complying activities in accordance with the National Planning Standards.

7. CONSEQUENTIAL AMENDMENTS TO PLAN WIDE RULES

7.1 The Reporting Officer has included a table in Appendix 3 summarising a large number of consequential changes to other provisions within plan. Unhelpfully, this does not actually track the changes to the provisions, but rather is presented simply as a table with various comments to “add MDRZ” and / or “add TCZ.” Based on my brief review, there are consequential changes outlined to various provisions where implications remain unclear, making it difficult to assess whether they may be problematic for submitters. For instance:

- (a) EW-S1 – It is assumed that the maximum earthworks volume will be 200m³ and the maximum earthworks area will be 2,500m² within the TCZ, consistent with the MUZ. However, this is not explicitly stated, and there is no clarity confirming whether these thresholds also apply to the TCZ.
- (b) NOISE-S1 – There is uncertainty regarding the applicable noise limits for the TCZ. While it is reasonable to assume that the MUZ noise limits may apply, this has not been confirmed, and the lack of clarity creates uncertainty for submitters.

²⁰ See for instance TCZ-R5.

²¹ See for instance TCZ-R14 and TCZ-R15.

- 7.2 This is just a brief snapshot of the issues created by the lack of detail provided by Council. In my opinion, Council need to provide the specific wording proposed to be changed, with submitters such as Foodstuffs provided the opportunity to review and comment on that as necessary.

8. SECTION 32AA ASSESSMENT

- 8.1 Section 32AA of the RMA requires further evaluation of any recommended changes. I have recommended a set of targeted amendments to the TCZ provisions to address clear deficiencies. I consider these amendments to be the most appropriate way to achieve the purpose of the RMA and the relevant objectives of the PDP for the following reasons:

- (a) **Amendment to TCZ-P4:** Amending TCZ-P4 to expressly provide for commercial activities (including supermarkets) ensures the policy framework clearly anticipates key community-serving uses such as supermarkets. This improves the internal consistency of the TCZ provisions and provides a direct policy basis for assessing and granting resource consents, thereby increasing plan efficiency and certainty for plan users.
- (b) **Amendments to rules TCZ-R1, TCZ-R2, TCZ-RXX and TCZ-R15:** These amendments ensure that commercial activities and supermarkets are enabled within the TCZ where they are logically anticipated, without resulting in unnecessary resource consents and associated costs. This aligns with the proposed objectives and policies for the TCZ, which clearly anticipate and provide for a range of commercial and retail activities to be located in the TCZ. From a planning perspective, this improves the effectiveness and efficiency of the rule framework while retaining the requirement to assess supermarkets against other permitted rules and standards within the TCZ and the district-wide chapters of the PDP.
- (c) **Amendments to rules TCZ-R4, TCZ-R11, TCZ-S6, TCZ-S10 and other changes:** There are clear errors within the recommended TCZ provisions that need to be addressed. My recommendations delete unnecessary rule duplications, correct drafting errors, clarify landscaping obligations and address formatting and numbering inconsistencies. These refinements tighten the relationship between objectives, policies and methods and deliver a rule set

that is simpler to interpret and apply, without weakening the intended outcomes of the provisions.

- (d) **Costs and benefits:** The social and economic benefits of the recommended amendments—including reduced compliance costs, improved clarity, and a more enabling framework for supermarket development—outweigh any potential costs.

- 8.2 Overall, I consider that the amendments better achieve RMA section 5 by enabling the community's social and economic well-being and more effectively implement the strategic objectives of the PDP, including compact urban form, high-quality design, and provision of a range of essential goods and services within the TCZ.
- 8.3 Having regard to efficiency, effectiveness, and the balance of costs and benefits, I consider these changes to be the most appropriate means of achieving the purpose of the RMA and the PDP's objectives, and therefore they satisfy the requirements of section 32AA.

9. CONCLUDING COMMENTS

- 9.1 In conclusion, I consider that there are a number of issues with the TCZ provisions that need to be addressed by the Hearings Panel. These primarily relate to there being policy gaps around commercial activities such as supermarkets, unclear or inconsistent rules (notably TCZ-R1, TCZ-R2, TCZ-R15), and standards such as TCZ-S6 and TCZ-S10 that are ambiguous or unnecessarily onerous.
- 9.2 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 TCZ Chapter.

David Eric Badham

Date: 24 September 2025

Attachment 1 – Recommended Amendments to Town Centre Zone Chapter Provisions

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

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

TOWN CENTRE ZONE PROVISIONS

TCZ-P4

~~Growth of Town Centre Zone~~

Provide for growth in commercial activities (including supermarkets) ~~primarily through the intensification of Kerikeri town centre~~ by enabling a wide range of compatible activities and increased building heights and building scale.

Improve access to a range of facilities, goods and services in a convenient and efficient manner.

Supports a safe and efficient multi-modal transport network which is integrated with the centre.

TCZ-R1 – New buildings or structures, relocated buildings or extensions or alterations to existing buildings or structures

“Activity status: Permitted

PER-1

The new building, or structure, relocated buildings or extension or alteration to an existing building or structure that increases the existing building footprint complies with standards:

TCZ-S1 Maximum height;

TCZ-S2 Height in relation to boundary;

TCZ-S3 Setback (excluding from MHWS or wetland, lake and river margins);

TCZ-S4 Pedestrian frontages;

TCZ-S5 Verandahs;

TCZ-S~~69~~ Landscaping for sites that adjoin any other than mixed use.

PER-X

Extension or alteration to an existing building or structure that does not increase the building footprint, complies with standards:

TCZ-S1 Maximum height; and

TCZ-S2 Height in relation to boundary.”

PER-2

Any extension or alteration to an existing building or structure where the activity is Noncomplying

Activity status where compliance not achieved with PER-1 **and PER-2**: Restricted Discretionary

Matters of discretion are restricted to:

a. the matters of discretion of any infringed standard.

Activity status where compliance not achieved with PER-2: Non-Complying

TCZ-R2 – Commercial activity (excluding trade **suppliers and **supermarkets** **yard-based retail**)**

Activity status: Permitted

Where: PER-1

Any new non residential activities or extensions or alterations to an existing building or structure is ~~The new activity, or extension to an existing activity, is:~~

- a. Less than 450m2 GFA where a pedestrian frontage applies as identified on the Planning Maps.
- b. Less than 1,000m2 GFA where a pedestrian frontage does not have apply as identified on the Planning Maps.

Activity status where compliance not achieved with PER-1: Restricted Discretionary

- a) **Effects on streetscape character and amenity.**
- b) **Building bulk and design.**
- c) **Privacy and amenity effects on adjoining sites outside of the Town Centre Zone.**
- d) **Crime prevention through environmental design principles.**
- e) **Functional and operational requirements of the proposed activities.**

The extent to which the development:

- a) Recognises and reinforces the centre's role, context, and character.
- b) Promotes active engagement with, and contributes to the vibrancy and attractiveness of, any adjacent streets, lanes or public spaces.
- c) Takes account of nearby buildings in respect of the exterior design, architectural form and detailing of the building.
- d) Provides a human scale and minimises building bulk while having regard to the functional requirements of the activity.
- e) Is designed to promote Crime Prevention Through Environmental Design (CPTED) principles, including surveillance, effective lighting, management of public areas and boundary demarcation.
- f. Provides safe, legible, and efficient access for all transport users.

TCZ-RXX – Supermarkets

Activity status: Permitted

TCZ-R4 Emergency Service Facility

Activity status: Permitted

Activity status where compliance not achieved with PER-1: Discretionary

TCZ-R11 Healthcare Activity

Activity Status: Permitted

TCZ-R15 – Large format retail (excluding supermarkets)

TCZ-S6 – Landscaping for sites that adjoin any sites other than mixed use, town centre or industrial

Site boundaries that adjoin any zone other than Mixed Use, **Town Centre**, Light Industrial or Heavy Industrial must:

1. Be fenced with a solid fence or wall with a minimum height of 1.8m; or

2. Be landscaped with plants or trees with a minimum height of 1m at installation and shall achieve a continuous screen of 1.8m in height and 1.5m in width within five years; or
3. Be screened with a combination of (1) and (2) above.

TCZ-S740 General Landscaping Coverage

1. At least 10% of the site shall be planted in grass, vegetation or landscaped with permeable material.; **and**

2. Where a connection to Council's reticulated stormwater system is not available the stormwater must be disposed of within the site

An engineering/ site suitability report is required to determine compliance with these standards

Where the standard is not met, matters of discretion are restricted to:

a. Stormwater management.

b. Streetscape character and amenity.

c. The appropriateness of the nature, type and size of the planting proposed.

a. the character and amenity of the surrounding area;

b. whether the activity is within an existing consented urban stormwater management plan or discharge consent;

c. the extent to which building site coverage and impermeable surfaces contribute to total catchment impermeability and the provisions of any catchment or drainage plan for that catchment;

d. the extent to which low impact design principles have been used to reduce site impermeability;

e. natural hazard mitigation and site constraints;

f. the effectiveness of the proposed method for controlling stormwater without adverse effects on adjoining waterbodies (including groundwater and aquifers) on adjoining or downstream properties;

~~g. the extent to which existing grass, vegetation or landscaping provided on site can mitigate the adverse effects resulting from reduced, alternative or no permeable surface; and~~

~~h. extent of potential adverse effects on cultural, spiritual, heritage and/or amenity values of any affected waterbodies.~~

SUB-S1 – Minimum allotment sizes

<u>Zone</u>	<u>Controlled Activity</u>	<u>Discretionary activity</u>
<u>Town Centre zone</u>	<u>No minimum lot size</u>	<u>No minimum lot size</u>