

**SUBMISSION ON PROPOSED PRIVATE PLAN CHANGE 84 TO
THE KAPITI COAST DISTRICT PLAN**

To: Chief Executive Officer
Kapiti Coast District Council
Private Bag 601
Paraparaumu 5254

Submission on: Proposed Private Plan Change 84 (proposed PPC 84)
to the Kapiti Coast District Plan

Name of Submitter: **Coastlands Shoppingtown Ltd** (Coastlands)
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Paraparaumu

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1. The full details of the submission and the decisions sought from the council are contained in the submission below.
2. Coastlands could not gain an advantage in trade competition through this submission.
3. Coastlands wishes to be heard in support of this submission.
4. Coastlands would be prepared to consider presenting its submission in a joint case with others making a similar submission at any hearing.



.....
Chris Hansen
Authorised Agent for Coastlands
Shoppingtown Ltd
23 March 2016
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Date

SUBMISSION ON PROPOSED PRIVATE PLAN CHANGE 84 TO THE KAPITI COAST DISTRICT PLAN

1 Coastlands interest in the Kapiti Coast District

The following submission is made on behalf of Coastlands Shoppingtown Ltd (Coastlands) to proposed Private Plan Change 84 (proposed PPC 84) to the operative Kapiti Coast District Plan (the operative District Plan) that was publicly notified on 24 February 2016. Submissions to proposed PPC 84 close at 5pm on 23 March 2016.

Coastlands began operating in 1969 and is a substantial contributor to the Paraparaumu Town Centre. In its capacity as a key stakeholder in the district, it has played an unprecedented role in both the private and civic development of the Paraparaumu Town Centre and associated infrastructure.

Examples of Coastlands' involvement in the community include:

- Securing the naming rights for the new Coastlands Aquatic Centre;
- Assisting the Coastlands Kapiti Sports Turf and its Coastlands Pavilion;
- Assisting Coastlands Kapiti Netball build its Umpires and ground controllers room;
- Continuing to be the “go to” funder of many community organisations who are actively working to make our community a better place;
- Providing a location for charitable collections, the display place for local art, cultural, service or sporting organisations
- Contributing to the Zeal Youth Centre to be located at Coastlands;
- In the process of contributing to the Kapiti Performing Arts Centre.

Coastland's takes exception to Kapiti Coast Airport Holdings Limited's (KCAHL) description of it in the request documentation as a “trade competitor” to KCAHL under the RMA, and the attempt by KCAHL to exclude Coastlands as a potential submitter on this basis in the plan change request material is inappropriate. It is also considered that the letter dated 25 February 2016 from Russell McVeagh, solicitors for KCAHL (attached), is an inappropriate attempt to prevent or persuade Coastlands from exercising its statutory rights. KCAHL's classification and description of Coastland's as a trade competitor is incorrect.

2 Submission on Proposed Private Plan Change 84 to Operative District Plan

Coastlands opposes proposed PPC 84 in its entirety. Proposed PPC 84 is considered to be incomplete as it fails to provide an effects assessment required under the RMA, and fails to meet the requirements of Schedule 1 of the Act.

In particular Coastlands opposes the following specific amendments to the operative District Plan sought by proposed PPC 84:

- The activity status of one supermarket being changed to discretionary activity, and the activity of more than one supermarket being changed to non-complying activity;
- The activity status of one Department Store being changed to non-complying (although what is being sought is confused when regard is had to the application, subsequent notification);
- The activity status of more than one store of between 151m² and 1,500m² gross floor area retailing groceries or non-specific food lines being changed to discretionary activity.

Coastlands wishes to make the following submission points to substantiate its opposition to proposed PPC 84.

2.1.1 Contrary to the Resource Management Act 1991 (RMA)

Purpose of the RMA

Coastlands considers proposed PPC 84 is contrary to the purpose of the RMA. In particular, proposed PPC 84 does not promote the sustainable management of the Paraparaumu Town Centre which is defined as a physical resource under RMA. Furthermore, proposed PPC 84 does not meet s.32 (1) (a) which requires an examination of the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of the Act.

Section 7 Other matters

Proposed PPC 84 is contrary to the following *other matters* when considering the Paraparaumu Town Centre:

- s.7 (b) the efficient use and development of physical resources;
- s.7 (c) the maintenance and enhancement of amenity values; and
- s.7 (f) the maintenance and enhancement of the quality of the environment.

Section 31 Functions of territorial authorities under this Act

Proposed PPC 84 does not allow Council to meet its functions under s.31 (1) (a) – “*establish and implement objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district*”. In particular, proposed PPC 84 is contrary to the objectives, policies and methods relevant to the Paraparaumu Town Centre (which is a physical resource), as discussed below.

Section 32 Requirements for preparing and publishing evaluation reports

It is considered the proposed activity status changes relating to supermarkets, a Department Store and more than one retail store between 151m² and 1,500m² in gross floor area is not the ‘*most appropriate way*’ to achieve relevant objectives of the Retail/Commercial and Paraparaumu Town Centre Zone objectives as required by s.32 (1) (b). Proposed PPC 84 does not adequately identify other reasonably practicable options, or the efficiency and effectiveness of the provisions in achieving the objectives relevant to the Paraparaumu Town Centre.

In addition, proposed PPC 84 does not meet s.32 (1) (c) of RMA which requires the evaluation report to “*contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal*”. In particular, the focus of this requirement is on the *implementation* of proposal. Proposed PPC 84 claims there are no effects of the plan change itself or changing the activity status as proposed, and it fails to contain a level of detail of the scale and significance of the environmental, economic, amenity, community, social and cultural effects, including effects on the Paraparaumu Town Centre and wider District.

Furthermore, the assessment of the efficiency and effectiveness of the provisions in achieving the objectives required under s.32 (2) (a) – (c) is inadequate as the benefits identified only relate to the requester (apart from general unsubstantiated statements about economic growth and employment) and costs to the requester (apart from a general comment about consenting an activity in the wrong location). This means the efficiency and effectiveness of the provisions in achieving the wider objectives of the plans, including relevant to the Paraparaumu Town Centre and wider District, has not been assessed.

2.1.2 Inadequate Assessment of Effects

As stated above, proposed PPC 84 claims the plan change simply changes the activity status of certain activities and does not have an effect, and therefore does not consider effects on the wider ‘*environment*’ as defined as RMA. This means that wider environmental effects including (but not limited to) ecosystems and their constituent parts including people and their communities; all physical resources (which include all structures); amenity values; social, economic, community, aesthetic, health and safety and cultural conditions which affect the matters stated above or which are affected by those matters have not been adequately assessed.

It is considered wrong to claim no effects will arise from proposed PPC 84 and that a future resource consent process will ensure any effects are appropriately assessed and managed, otherwise consent will not be granted. The submitter considers that the effects are likely to be adverse and significant.

2.1.3 Inadequate Evaluation of Costs and Benefits

It is noted that the only cost identified in proposed PPC 84 would come if an activity not appropriate for the relevant location is consented (apart from the costs submitters would incur being involved in the plan change process), but that this cost is addressed by the resource consent process. Proposed PPC 84 suggests any distributional effects can be also addressed at resource consent stage. This is considered an inadequate identification and evaluation of costs associated with the implementation of the provisions of the proposed PPC 84. These costs should address matters such as the potential for the proposed department store and new supermarket to dissipate the economic benefits from concentrating retail activities within the Paraparaumu Town Centre; and an increase in investor uncertainty as to where future development of department stores and supermarkets will occur in Paraparaumu, particularly if these “anchors” are seen to determine where other retail/commercial development may locate.

It is also noted that the benefits identified in proposed PPC 84 are limited to the ability of the requester to apply for resource consent; the ability of the requester to undertake master planning; and the ability of the requester to engage with the market. There are also general references to economic growth and employment, and addressing retail leakage, but none of these references are substantiated.

As there is no assessment of the immediate effects on the environment, it is stated it is not practicable to quantify benefits apart from a general statement that there will be economic growth of the airport, district and region, and employment anticipated. It is considered proposed PPC 84 is inadequate in its identification and assessment of benefits to the wider ‘environment’, which have not been quantified or justified.

Without a full assessment of the costs and benefits, it is not possible to determine whether the change to the activity status to allow currently prohibited activities will have costs on the wider community, such as the Paraparaumu Town Centre, and whether any benefits to the wide community outweigh these costs.

2.1.4 Consistency with Relevant Regional Policy Statement

The operative Wellington RPS have the following provisions relevant to proposed PPC 84:

- Issue 2 (c), (d) and (e) relating to sporadic and uncontrolled and/or uncoordinated developments
- Objective 22 (b) relating to compact well designed and sustainable regional form that has an integrated, safe and responsive transport network;

- Policies 30; 33; 54; 55 and 57 relating to regional urban form and the need to support a compact, well designed and sustainable regional form – Regional Land Transport Strategy

It is also noted that the Paraparaumu Airport is identified as a Regionally Significant Infrastructure and Objective 10 seeks for the social, economic, cultural and environmental, benefits of regionally significant infrastructure to be recognised and protected. The Paraparaumu Airport is also a strategically important regional asset in event of earthquake in Wellington. Retention of the Airport land as an airport would be consistent with the Wellington RPS.

Overall it is considered proposed PPC 84 is contrary to these relevant provisions as it does not give effect to a regional policy statement which intends to consolidate regionally significant centres (including the Paraparaumu Town Centre) and recognise the Paraparaumu Airport as Regionally Significant Infrastructure, as required by s.75 (3) of the RMA.

2.1.5 Consistency with Operative District Plan

It is considered proposed PPC 84 is contrary to the objectives, policies and methods of the operative District Plan in that:

- It undermines the role and function of the Paraparaumu Town Centre (also named a District Centre);
- It is contrary to the purpose of the Airport Zone which had an aviation activity focus and the issue in B.5 Commercial/retail issues identified in Part B of the operative District Plan [page B-16] “*Specific provision is made for retail and commercial activities to provide certainty and avoid or mitigate effects on the Paraparaumu Town Centre.*” – in this case the ‘*specific provisions*’ refers to those activities that are specifically provided for and not those activities that are specifically prohibited through the PC 73 process;
- It is contrary to Policy 2 Uses; Policy 2 Commercial Activity and Policy 5 Traffic Effects of the Airport Zone; Anticipated Environmental Outcomes xv (operative District Plan);
- It is contrary to Objective 2; Policy 1: Consolidation; Policy 2: Large format Retail; Policy 3; of the Commercial/Retail Zone (operative District Plan);
- It is contrary to Objectives 1 and 2; and Policy 1 of the Paraparaumu Town Centre Zone (operative District Plan).

2.1.6 Consistency with Proposed District Plan (PDP)

The PDP has generally carried over the intent of the operative District Plan in relation to the Airport and the Paraparaumu Town Centre provisions, albeit with a greater level of detail

relating to the outcomes sought for the Town Centre. It is considered Proposed PPC 84 is contrary to objectives, policies and methods of the PDP in that:

- It is contrary to the following Objectives:
 - Objective 2.3 – Development Management;
 - Objective 2.8 – Strong Communities;
 - Objective 2.11 - Character and Amenity;
 - Objective 2.14 - Access and Transport;
 - Objective 2.16 - Economic Vitality;
 - Objective 2.17 – Centres.

- It is contrary to the following objectives of the Working Environment:
 - Policy 6.1 - Consolidation of Business Activities;
 - Policy 6.2 - Business Distribution;
 - Policy 6.3 - Centres Hierarchy;
 - Policy 6.4 - Zone and Precinct Framework;
 - Policy 6.6 - Retail, commercial and industrial activity not within the working zones;
 - Policy 6.7 - Intensification of Centres;
 - Policy 6.9 - Paraparaumu Sub-Regional Centre;
 - Policy 6.10 – District Centre Zone;
 - Policy 6.26 Airport Zone Precincts.

2.1.7 Consistency with Strategic Directions of KCDC

Proposed PPC 84 is contrary to previous KCDC strategic planning between 2003 and 2005 when the vision for the Paraparaumu District Centre was developed as part of the *'Kapiti Coast: Choosing Futures'* process. This process was part of the preparation of the 2003/4 Long Term Council Community Plan (LTCCP) and clearly identified a community desire to reinforce and build on existing centres for a range of reasons. This work was supported by technical assessments that led to defining how the Paraparaumu Town Centre Zone fitted within the wider District Centre, and the Paraparaumu District Centre Local Outcomes that were adopted by the Council in June 2006.

At the same time the significance of the Paraparaumu District Centre in the regional context was tested via the Wellington Regional Strategy. The Paraparaumu District Centre was identified as having this sub-regional role, with confirmation of the need for a greater maturity of uses and the concentration rather than dispersal of activities, particularly retail. The Kapiti Coast Recommended Retail Strategy was completed by McDermott Miller in 2006 which affirmed the recommended approach to managing retail pressures facing the District of focusing on consolidation around town centres.

This work led to Council determining that the operative District Plan rules for the Paraparaumu Town Centre Zone (at that time) would not adequately enable the development of a quality mixed use precinct, as it only provided for limited retail opportunities and did not contain suitable design controls to create the main street. Council introduced Plan Change 72A for part of the Paraparaumu Town Centre to facilitate retail/mixed use growth and consolidate the function of the Town Centre, the appropriateness of PPC72A was confirmed by the Environment Court late last year.

2.1.8 Consistency with Plan Change 73

Proposed PPC 84 is also contrary to the intention and provisions of PC 73 as it was approved by Council and confirmed by the Environment Court [Ref: W082/2009].

Furthermore, proposed PPC 84 is contrary to a legally binding agreement previously entered into by the Paraparaumu Airport Ltd (PAL) with Coastlands in respect of PC 73. In Section 2.2 of proposed PPC 84 reference is made to PAL's position about prohibited activity status, and that a plan change could be sought in the future. Whatever PAL or KCAHL may say they thought at the time (and if they did this was not recorded), PAL/KCAHL are bound by the terms of the agreement with Coastlands. It is also to be noted that at the time the agreement was executed, PAL was receiving legal advice from Russell McVeagh who are now advising KCAHL. The intentions and reasons why PAL entered into the agreement are not relevant. It is the agreement itself that is relevant.

The background to the request does not properly acknowledge that the prohibited activity status offered up by the PAL to address the potential significant adverse environmental effects on the Paraparaumu Town Centre and the traffic network had PC 73 provided for the activities prohibited in exchange for permitting some controlled retail in the Airport Zone. Through the hearings process there was no indication that PAL opposed the provisions that it proposed or that it would seek a plan change in the future to reverse this offer.

2.1.9 Potential Effects

As discussed above, proposed PPC 84 fails to adequately identify or assess any actual or potential adverse environmental effects that might occur from the implementation of the proposal. It is considered the following significant adverse environmental effects arise from the request:

Economic

Proposed PPC 84 suggest there are tangible economic benefits – the district becomes self-sufficient with increase retail development, employment opportunities and a reduction in outward economic ‘leakage’ to other districts. It is also stated in proposed PPC 84 that any distribution effects associated with proposal would be incremental impacts within acceptable range (i.e. no store closures). It is considered these “district benefits” are likely to be overstated and there are few, if any, economic benefits from proposed PPC 84.

The adverse economic effects associated with the request include the potential for the proposed department store and new supermarket to dissipate the economic benefits from concentrating retail activities within the Paraparaumu Town Centre (these may include loss of agglomeration benefits, loss of amenity benefits, higher cost in the provision of public infrastructure and higher transport costs); and an increase in investor uncertainty as to where future development of department stores and supermarkets will occur in Paraparaumu.

Retail

Proposed PPC 84 suggests there is “no scope for unconstrained retail distribution effects to occur as a result of the proposed changes as any new supermarket or department store will still require a resource consent to operate in any event.” (Para 5.4, page 7 of the application). However, without a proper assessment of the likely effects on retail activities of the proposed PPC 84 provisions, this statement cannot be substantiated.

In particular, there seems to be little detailed consideration given to how the provisions of proposed PPC 84 would affect the amenity and vitality of the Paraparaumu Town Centre, from a retail perspective. The retail effects of the proposed department store and supermarket may be significant, and may lead to major store closures in the Paraparaumu Town Centre resulting in loss of employment on a permanent basis.

Traffic

It is noted that no traffic assessment has been undertaken to determine the traffic impacts on the network by the requester of proposed PPC 84. Proposed PPC 84 simply states that the traffic thresholds identified from the previous modelling work remain valid, and that the effects of new activities enabled by the PPC can be suitably determined (on an individual basis) at the Resource Consent stage. Furthermore, the traffic generation predictions included in the traffic assessment are considered to be at the low end of the scale.

Overall it is considered that the traffic thresholds used in the proposed PPC 84 are not valid and need to be revisited, and that the alteration to traffic patterns of the scale anticipated by proposed PPC 84 could have significant effects on the performance of both the strategic and local road network. In the event that the PPC is approved, the higher traffic generating activities that could be established within the Airport Mixed Use Precinct (AMUP) would erode the network capacity and frustrate other development anticipated within land already zoned for such activities (even if mitigation measures are provided at the AMUP site access). Furthermore, it is likely to necessitate additional network upgrades much sooner than they would have otherwise been required.

Urban Design and Form

The conditions set out by Plan Change 73 (restrictions on establishing a supermarket, department store, retail outlets greater than 151m² and less than 1,500m² gfa, and residential uses in a noise restriction zone) were put in place by consent to prevent a mixed use town centre emerging at the grade separated intersection at the airport on the new expressway. A mixed use “town centre” in this location would result in negative effects on the Paraparaumu Town Centre, as well as the Paraparaumu Beach Centre and possibly Waikanae Town Centre to the detriment of the development of the actual centres the plan seeks to support and enhance.

The Waikanae and Paraparaumu Centres have considerable community as well as commercial investment, (including public transport and civil facilities and infrastructure and community services) that have to adjust to the issues and opportunities of the change of status of the existing State Highway 1. The emergence of a master planned mixed use centre at the airport, which would be enabled by proposed PPC 84, would undermine the Urban Renewal of the existing Town Centres on the Kapiti Coast and community use and investment in those facilities.

2.1.10 Reasons for Proposed Plan Change 84

It is considered the reasons stated for why proposed PPC 84 is needed does not justify the amendments proposed. It is noted that PC 73 became operative in January 2010 and has not been implemented as intended, despite consents being obtained for retail development at the Airport these have not all been implemented. The fact that development under PC 73 may not be economically viable now is not in itself a justifiable reason to say its provisions require changing, the district does not guarantee the economic viability of consents granted – that is a private matter for the Applicant/ consent holder. It is considered wrong to say KCAHL cannot undertake master planning – it can undertake master planning within the framework of the provisions included by agreement into the operative Plan by PC 73. It is also considered wrong to say KCAHL cannot engage with the market – it can in respect to those activities provided for through PC 73 included into the operative District Plan.

Furthermore, it is considered wrong to suggest the Expressway will allow new development that will make the Airport economically viable. It is considered likely that proposed PPC 84 is contrary to the Kapiti Expressway Project Objectives, particularly *“to enhance efficiency and journey time reliability from, to and through the Kāpiti District, Wellington’s CBD, key industrial and employment centres, port, airport and hospital”*.

It is considered wrong to suggest that prohibited activity status is not appropriate in the operative or proposed Kapiti Coast District Plan. The claim that the plans use this activity status ‘very sparingly’ is not correct as it is widespread through various zones in the plans. To also claim that the use of prohibited activity status in the district plans it is an anomaly and lack an effects justification is also wrong and does not recognise that the agreed use of prohibited activity status was intentional in order to address specific environmental effects, on the Paraparaumu Town Centre. It was determined through the PC 73 process that the effects

of certain activities on the Town Centre need to be avoided, and Council rightly adopted prohibited activity status voluntarily offered by PAL at that time, which it is entitled to do.

2.1.11 Proposed Plan Change 84 Amendments

It is noted that proposed PPC 84 is only a partial solution to the concerns raised by the requester. Should proposed PPC 84 be approved, the amended provisions are not carried through into the PDP and this would need to be addressed. It is noted that the KCAHL submission to the PDP seeks further amendments to the Airport Mixed Use Zone provisions beyond proposed PPC 84. In the submitters view, the timing and isolated nature of the request are problematic, give rise to an abuse of process and duplication and are matters that should be more appropriately considered in their entirety in the PDP.

It is acknowledged in proposed PPC 84 that it only provides an interim position. It is considered that proposed PPC 84 provides an incremental position for the requester between the operative District Plan and the PDP, and in essence represents ‘planning creep’ should the PDP adopt the further amendments to the provisions sought by the requester.

2.1.12 Relief Sought

Coastlands Shoppingtown Ltd seeks for Council to decline proposed PPC 84 in its entirety, and retain the specific provisions of the Airport Mixed use zone the subject of proposed PPC 84 as they are currently written.

ATTACHMENT: Letter dated 25 February 2016 from Russell McVeagh