

BEFORE THE HEARINGS PANEL

IN THE MATTER of the Proposed Kapiti
Coast District Council Plan
Review 2012

AND Submissions by **Coastlands
Shoppingtown Limited**

**Submitter No. 218 and
Further Submitter No. 55**

**BRIEF OF EVIDENCE OF RICHARD MILLER
ECONOMICS AND RETAIL
ON BEHALF OF COASTLANDS SHOPPINGTOWN LIMITED**

31 March 2016

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BRIEF OF EVIDENCE OF RICHARD OGILVY MILLER

ON BEHALF OF COASTLANDS SHOPPINGTOWN LIMITED

1. INTRODUCTION

Qualifications and Experience

- 1.1. My full name is Richard Ogilvy Miller I am the Managing Director of McDermott Miller Limited, a commercially independent Wellington-based strategic planning and economics consultancy, which specialises in retail planning, market analysis and development planning.
- 1.2. I have a BA Hons in Public Administration and Economics from Victoria University and a MSc in Regional Planning from Edinburgh University. I am a long-standing member of the Royal Town Planning Institute and have been a Member of the New Zealand Planning Institute for thirty-five years.
- 1.3. As a consultant over the last twenty-eight years, I have directed and undertaken for private and public sector clients strategy studies, market appraisals, feasibility studies and economic impact assessments of retail development projects in Auckland, Rotorua, Hastings, Masterton, Kapiti Coast, Lower Hutt, Porirua, Wellington City, Blenheim, Nelson City, Christchurch, Rangiora, Timaru, Dunedin, Queenstown and Invercargill. Many culminated in presentation of expert evidence at local planning hearings and Environment Court appeals.
- 1.4. Before establishing McDermott Miller, in Wellington, I directed Development Planning within the then Ministry of Works and Development (MWD). During my career in MWD I led combined central government, local authority and consultancy teams working on regional economic and urban development strategies for Marlborough, West Coast, Northland, East Cape, Manawatu, Hawke's Bay and Western Bay of Plenty.

- 1.5. I am responsible within McDermott Miller for preparation of this evidence.

2. CODE OF CONDUCT

- 2.1. Although not necessary in respect of council hearings, I confirm I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2014. I have complied with the Code of Conduct in preparing this evidence and I agree to comply with it while giving oral evidence before the hearing committee. Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

3. BACKGROUND

My Involvement in retail planning of Paraparaumu District Centre

- 3.1. I am to appear as an expert retail planning and economics witness in support of Coastlands Shoppingtown Limited's (Coastlands) submissions on the Kapiti Coast District Proposed District Plan.
- 3.2. I have been involved closely with retail planning in Kapiti Coast over the 20 years. I summarise milestones:
- 3.3. In 1996 McDermott Miller was commissioned by Kapiti Coast District Council to undertake an independent assessment of the economic and social repercussions of the development of LFR-only retail development on council-owned land to the west of Rimu Road. McDermott Miller's recommendation was that major retail use for the Kapiti Coast District Council Rimu Road be deferred until other potential commercial uses have been fully investigated and the unused capacity of Coastlands retail land had been more fully utilised. In my opinion those conditions had been met by 2006.

- 3.4 McDermott Miller was engaged again by Kapiti Coast District Council in April 2005 to research and investigate retail demand and development options in Kapiti Coast District and in April 2006 it recommended a draft Kapiti Coast Retail strategy. It subsequently advised Kapiti Coast District Council on aspects of the retail strategy implementation, including strategic and economic implications of Plan Change 72A. In October 2007, I presented expert evidence on Proposed Plan Change 72A before the Independent Commissioner Hearing on behalf of Kapiti Coast District Council. My evidence at that hearing was based on McDermott Miller's reports for the Kapiti Coast District Recommended Retail Strategy (28 April 2006) and Kapiti Coast District Council Review of Proposed Plan Change 72A.
- 3.5 In particular, McDermott Miller's work on the *Kapiti Coast Retail Strategy* involved comprehensive technical evaluation of commercial/retail spatial development scenarios, including development on St Heliers Capital Limited properties at 109 and 77 Kapiti Road¹. This evaluation led to the conclusion that consolidation of future retail and commercial development in and around the existing Paraparaumu Commercial/Retail core is the best development option for the Kapiti Coast community. A copy of this is **attached** "*McDermott Miller final report to KCDC on: Kapiti Coast District Recommended Retail Strategy (April 2006)*".
- 3.6 In 2007 McDermott Miller also assessed the retail and economic impact of proposed mixed use development of Paraparaumu Airport land and I gave evidence to the Hearing Commission on behalf of Kapiti Coast District Council (refer private Plan Change 73 – Airport Mixed Use Development).
- 3.7 As part its Economic Development Plan, Kapiti Coast District Council (KCDC) commissioned McDermott Miller (in 2011) to carry out an evaluation of the effectiveness of Nature Coast Enterprise (NCE) in its tourism and economic development services. This review included an

¹ Annex II to my evidence and Annexure 1 to Mr Robert's evidence

assessment of the District's economic performance and potential, and updated and broadened previous research by McDermott Miller for KCDC. The review involved a survey of Kapiti Coast Businesses to help identify measures to the advance economic development on of the District. This work brought me up to date with the performance of Kapiti Coast District's economy.

- 3.8 In early 2013, I undertook additional work for Coastlands in relation to St Heliers Capital Limited's appeal against Kapiti Coast District Council's Proposed Plan Change 72A. This culminated in presentation of expert economics and retail planning evidence to the Environment Court in support of Coastlands' opposition to St Heliers Capital Limited's appeal.
- 3.9 I draw on this experience in the following statement on the Kapiti Coast Proposed District Plan.

4. SCOPE AND STRUCTURE OF EVIDENCE

- 4.1. I have structured my evidence as follows:
- Coastlands' support for the Proposed Plan (Section 5 – P6, paras 5.1-5.7);
 - Other Submissions on the PDP (Section 6 – P7. paras 6.1-6.3)
 - Comments on Objective 2.3 Development Management (Section 7 – P10. paras 7.1-7.3);
 - Comments on Objective 2.16 Economic Vitality (Section 8 – P10. paras 8.1-8.4);
 - Comments on Objective 2.17 Centres (Section 9 – P12. paras 9.1-9.10); and,
 - My opinion (Section 10 – P14. paras 10.1-10.4).

5. COASTLANDS' SUPPORT FOR PROPOSED PLAN

- 5.1 Coastlands has provided a comprehensive submission on a wide number of matters, the following are key statements relevant to my expert evidence:
- 5.2 *“Coastlands supports the intent of the Proposed Plan in as far as there is a clear intention to consolidate retail and commercial activity within the existing areas and close to Coastlands in Paraparaumu via developing a District Centre Zone”.*
- 5.3 *“As a corollary to this, Coastlands supports the Proposed Plan provisions in other zones and precincts that restrict retail activity and supports the consolidation of retail and commercial activities in existing areas”.*
- 5.4 *“Coastlands is also concerned about comments in the proposed plan to the extent that if Coastlands “underperformed” in its retail development of District Centre Zone Precinct A1 and Precinct A2 Council may consider permitting retail development in other areas including intensification of other centres and suggestion of time frames for this to occur (in the long version of the structure plan). New development in the District Centre Zone particularly Precinct A2 will be market dependent, demand driven and require considerable investment from Coastlands”.*
- 5.5 The submission goes on to state *“To justify and warrant such an investment, particularly given the current requirement for considerable community infrastructure to be provided by the developer Coastlands considers that there needs to be long term commitment, support and understanding about the market constraints in which Coastlands operates in. Coastlands considers that alluding to circumstances in which Council may permit intensification of retailing in other areas in the event that it considers that Coastlands was “underperforming” is unhelpful and has the*

potential to undermine the success of the District Centre Zone concept.”

- 5.6 *“Coastlands also questions how such an assessment would be made and on what it would be based and is concerned that objectives, policies and rules seeking to implement this approach would encourage applicants seeking to intensify retailing in other areas to criticise Coastlands operations in order to advance their own project. Should this occur Coastlands is concerned that its ability to submit on these applications or respond to such claims may be impeded due to s.96(4) and s.308B(2)(b) of the RMA which precludes submissions on the effects of trade competition.”*
- 5.7 I agree with the concerns raised and views expressed by Coastlands in its submission, as I discuss further below.

6. OTHER SUBMISSIONS ON THE PDP

- 6.1 A number of submissions from other parties seek to overturn this fundamental intention of the PDP to consolidate retail and commercial activity within the exiting areas and close to Coastlands Paraparaumu via developing a District Centre Zone.

Progressive Enterprises Limited

- 6.2 The relief sought by Progressive Enterprises Limited is to weaken District Plan controls over:
- range of activities of supermarkets (e.g. supermarket definitions to include pharmacies);
 - their locations (Progressive proposes activities be permitted in town centres, local centres, Outer Business zone, and industrial zones);
 - allowing greater dispersal of retail activities throughout the district; and

- softening the requirements for consents by changing the requirements to be, at most, discretionary or restricted discretionary.

6.3 The overall effect of these changes, in my opinion, is to reduce protection of the district from adverse economic effects arising from potential establishment and operation of supermarkets (contrary to objective 2.16 *Economic Vitality*), and impair the Council's centres-based approach by encouraging dispersal of retail outside of existing centres (contrary to objective 2.17 *Centres*).

6.4 In my view, Progressive's approach will have significant adverse economic amenity and vitality impacts on the district and contribute to a breakdown of the Council's centres-based retail development objective.

6.5 I therefore do not support the submissions made by Progressive Enterprises Limited.

St Heliers Limited

6.6 While the St Heliers' submission emphasises their support for objective 2.17 *Centres*, they are seeking substantial reorientation of the Paraparaumu Town Centre consent to changes in the environment (sand dunes) and more accommodating consent provisions in respect of its own land adjacent to the Expressway. In my view, these proposals have the possibility of causing a dispersal of retail distribution which is contrary to the intent of the PDP provisions of consolidating retail and commercial activities in the Paraparaumu Town Centre, and is contrary to the Environment Court decision on Plan Change 72A.

6.7 I therefore do not support the submissions made by St Heliers Limited.

Kapiti Coast Airport Holdings Limited

6.8 Kapiti Coast Airport Holdings Limited (KCAHL) is seeking to reverse the restrictions, policies and rules accepted and agreed by it when PC73 was approved. These policies and rules were established to avoid

disadvantages a new centre at the airport could have on the District's economy and the conflict such development would have with the District Plan's centres-based objectives.

- 6.9 KCAHL now seeks to promote its existing centre at the airport a into the second largest retail centre in the district, (behind Paraparaumu Town Centre and ahead of Waikanae), with very little benefit for the district as a whole.
- 6.10 In my view, this means there is no positive economic case for removing the existing restrictions or changing these policies and objectives. The effect of approving the changes sought by KCAHL, rather than retaining the "status quo", is likely to result in greater proliferation of retail and loss of amenity and vitality in the Paraparaumu Town Centre. This would be contrary to the District Plan objectives 2.16 *Economic Vitality* and 2.17 *Centres*.
- 6.11 I therefore do not support the submissions made by KCAHL.
- 6.12 In general, I agree with the Officer's approach to these objectives and support her recommendations (as amended by the wording sought by Coastlands put forward in Mr Hansen's Planning evidence). Which I discuss in more detail below .

7. OBJECTIVE 2.3 DEVELOPMENT MANAGEMENT

- 7.1 The Proposed Plan commentary to Objective 2.3 identifies among regional considerations that: poor quality urban design can adversely affect the vibrancy of local centres and economies; sporadic and uncoordinated development can adversely affect the region's compact form, resulting in (amongst other things) new infrastructure that can encourage development in locations that undermine existing centres.
- 7.2 Overall, Coastlands supports consolidated urban form which reinforces the function and vitality of existing centres and sees such an approach as vital for future retail and commercial growth. It

seeks Council to retain the intent of Objective 2.3 as it is currently written.

- 7.3 I consider Coastlands' position (and minor amendment to wording recommended by Mr Lunday and Mr Hansen to strengthen links to public transport) to be soundly based in terms of urban/spatial economics and in principle supportive of Objective 2.3 of the Proposed District Plan.

8. OBJECTIVE 2.16 ECONOMIC VITALITY

- 8.1 Coastlands in its submission supports the intent of Objective 2.16 Economic Vitality. Generally, it acknowledges the potential for economies of scale to arise from concentration of retail and commercial services in a compact Paraparaumu sub-regional centre. I agree with this view of Objective 2.16. On the other hand, Coastlands understandably is concerned that the territorial authority intends to 'manage' business activity on the basis of 'the activity and its potential local and strategic effect of their operation'. The Kapiti Coast District Council's intent behind this is unclear, but on its face appears to be a desire to 'second guess' private business investors as to which activities will be commercially successful. If this is the case, I firmly oppose it.
- 8.2 I support the general intent of Objective 2.16 to promote sustainable and on-going economic development in Kapiti Coast District, through "*encouraging business activities in appropriate locations within the District*".
- 8.3 In my opinion, if the changes sought by St Heliers, Progressives and Kapiti Coast Airport Holdings Limited are accepted there is a risk of sporadic retail development occurring in response to pressures for dispersal of retail across the District's industrial and mixed use zones. An example is a proposal for further retail development in the Airport Mixed Use Precinct. The development of the Kapiti Expressway will stimulate further such proposals. However, as the Environment Court

decision on St Heliers Capital Limited's Plan Change 72A Appeal indicates, the Expressway is not a "game changer" in relation to the need for a centres-based, "concentration" approach to retail development in the District: The decision, accepted my arguments. Refer para 91, Environment Court Decision on 13 March 2014:

"Having regard to all of the above factors we find that although the Expressway is clearly a significant change of circumstances at Paraparaumu, it is far from the game changer in terms of PC72A which St Heliers contents it to be. We consider that St Heliers' case is founded on minimising the importance of SH1 and the part which it will play as the primary local route after the Expressway commences operation. We accept the evidence that the Town Centre primarily services local needs and we concur with the submission made in closing by Mr Conway on behalf of the Council that the change from the Western Link Road to the Expressway has in fact improved the appropriateness of PC72A because of this local factor."

8.4 In summary, I support the general approach of the PDP to concentrate retail activities in Precinct A of Paraparaumu Town Centre and other designated retail centres in order to achieve the economic benefits of concentration, but it should be done in such a way that private investors who bear the financial risk determine what, when and how commercial development occurs within the PTC zone guidelines and regulations as opposed to Council being overly prescriptive.

9. OBJECTIVE 2.17 CENTRES

9.1 Coastlands' submission supports the intent of Objective 2.17 particularly with regards to retail activities outside the current centres. It notes that the intent is to have an 'economically viable' centre, but it is concerned about the appropriateness of the objective in relation to economic viability, social outcomes and employment opportunities.

It considers 'economic viability' is a commercial and business matter for individual enterprises, and questions whether it is a proper function of a district council. Notwithstanding this, Coastlands wishes to see a vibrant Paraparaumu Sub-regional centre, with high amenity values and a sense of place.

9.2 I support the intent of Objective 2.17 but share Coastlands' concern that economic viability remain primarily a commercial matter for businesses and private investors.

9.5 As I have indicated earlier, my evidence to the Environment Court hearing on St Heliers Capital Limited's appeal against Plan Change 72A in support of Coastlands Shoppingtown Limited, on 4 June 2013 supported such a centres-based approach to commercial/retail development in Kapiti Coast District. This evidence drew on evidence I gave to the earlier Independent Commissioner's Hearing in 2007.

9.6 In its decision (ENV-2011-WLG-000051) Decision No.[2014] NZEnvC52, the Court drew extensively on my evidence and my contribution to the witness conference statement.

9.7 Paragraph 61 of the second witness conference statement says: *"Mr Miller put forward that these proceedings were not so much about growth as the about the most appropriate location for growth within the PTC Core and adjoining PTC Zone"*.

9.8 In paragraphs 74 to 78 of its Decision, the Court extracts principal points from my evidence. This includes the following:

"[75] In his statement of evidence to the commissioner's hearing in 2007, Mr Miller concluded (inter alia):

- *Paraparaumu Town Centre is the major retail centre in Kapiti Coast District, but it is now running out of commercial/retail zoned land for further retail development to meet the LFR and other retail demand growth identified.*

- *There is little scope in the Paraparaumu Retail Core, zoned Commercial/Retail, for further development of LFR,' new LFR sites adjoining the retail core need to be zoned, serviced and put on the land market urgently.*
- *If suitable land for LFR development is not soon rezoned adjacent to Paraparaumu Commercial/Retail core, a "rogue" LFR proposal involving a plan change could result in a new, rival retailing centre away from the Paraparaumu Town Centre and seriously weaken its vitality and amenity."*

The above conclusions underpinned Mr Miller's support for PC72A and were reflected in the commissioner's decision. It is clear that in 2007, Mr Miller was concerned about the possibility of a retailing centre developing away from the Town Centre. He identified the need for any new LFR development to happen adjacent to the retail core, hence his support for rezoning of the Wharemauku Precinct as proposed in PC72A."

9.9 In his costs decision, Decision No.[2014] NZEnvC162, Judge Dwyer noted at Para 12 that *"St Heliers' appeal failed by a most decisive margin. The Court found that far from making PC72A in appropriate, the change of circumstances brought about by the Expressway support strengthening the existing Town Centre as opposed to St Heliers' proposition for development on its land"*.

9.10 In my opinion, any new change to the District Plan that weakens the primacy of the Precinct A of the District Centre and facilitates creation of a rival retail centre, would be contrary to the recent Environment Courts' filings on appeal.

10.0 OPINION

10.1 I continue to support the centres-based approach to retail/commercial development as expressed in the Proposed District Plan (Objectives 2.3 2.16 and 2.17).

- 10.2 In my opinion, enabling continued concentration of retail, offices and leisure services in Paraparaumu Town Centre, while tightly controlling dispersed and sporadic development beyond the centre fringe of the PTC, should ensure the optimum economic and social outcome for the Kapiti Coast District.
- 10.3 I support the further changes to the Proposed District Plan provisions proposed in Mr Hansen's evidence to rectify this at Attachment 2 of his evidence.
- 10.4 I do note, however, that if the Objectives 2.3, 2.16 and 2.17 are applied collectively (with the Policies and Rules as currently proposed in the PDP) it could result in an overly prescriptive approach to administering the District Plan at the policy and precinct rule level. I will discuss this in more detail in the Working Environment Chapter to come.

Richard Ogilvy Miller

Date: 31 March 2016.