

**Before a Hearings Commissioner appointed by  
the Kāpiti Coast District Council**

**Under** the Resource Management Act  
1991

**And**

**In the Matter** of an application under section 88 of  
the Act by Kāpiti Retail Holdings  
Limited for the construction and  
operation of a Countdown  
supermarket at 160 Kāpiti Road,  
Paraparaumu RM210151.

**Statement of Evidence of  
Kay Panther Knight  
for Kapiti Retail Holdings Limited**

Dated: 8 March 2022

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## INTRODUCTION

### Qualifications and Experience

1. My name is Kay Panther Knight. I am Director of Forme Planning Limited. I have held this position since March 2017.
2. I hold a Master of Planning Practice from the University of Auckland. I am also an intermediate member of the New Zealand Planning Institute.
3. I have over 18 years' experience covering a wide range of land use planning matters on behalf of local authorities, government departments and private entities and individuals in New Zealand. During that time, I have been involved with the full range of resource management matters, including planning due diligence, resource consenting advice, policy reviews, submissions and the presentation of evidence to local authorities in respect of proposed plans and plan changes and resource consent applications.
4. Notably, I have prepared submissions and presented evidence on behalf of clients regarding various plan changes, consenting and appeals on supermarket and other retail proposals across New Zealand.

### Background and Involvement

5. I have been advising Kapiti Retail Holdings Limited (**Applicant**) in respect of planning matters for the proposed Countdown Supermarket (**Proposal**) at 160 Kāpiti Road (**Site**) over the last year. I prepared the Assessment of Environmental Effects (**AEE**) for the Applicant in July 2021 and assisted in reviewing and responding to requests for further information throughout the course of processing (pre- and post-notification). I have reviewed the submissions received on the application for land use consent (**Application**) from the Kāpiti Coast District Council (**Council**) and I have reviewed the Council's Section 42A Hearing Report (**s42A Report**).
6. I have visited the site multiple times and am familiar with the site and surrounding environment.
7. Further, I was involved in the preparation of the Council's now Operative District Plan 2021 (**District Plan**) at the post-Decisions appeals stage (and on behalf of Woolworths New Zealand Limited) providing expert advice in Court-assisted mediation on the relevant provisions, including those that are

the subject of this Application. I am therefore very familiar with the planning policy framework that applies.

### **Code of Conduct**

8. While this is not an Environment Court hearing, I have read and agree to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014. This evidence is within my area of expertise, except where I state that I am relying on material produced by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in my evidence.

### **SCOPE OF EVIDENCE**

9. My evidence will cover the following topics:
- (a) Proposal;
  - (b) Site and surrounding environment;
  - (c) Assessment framework;
  - (d) Assessment of effects;
  - (e) Plan and statutory assessment;
  - (f) Response to submissions;
  - (g) Response to Section 42A Report; and
  - (h) Proposed conditions of consent.

### **EXECUTIVE SUMMARY**

10. The Applicant proposed to develop the land at 160 Kāpiti Road, Paraparaumu to construct and operate a supermarket activity and two trade retail activities, along with associated car parking, access, servicing and landscaping. Off-site mitigation in the form of an additional left-turn lane with the road reserve of Friendship Place, pedestrian refuge on Kāpiti Road and possible bus stops is also included in the Proposal.
11. The Proposal requires consent for a non-complying activity under the District Plan.

12. The Proposal has been assessed in this statement of evidence and in other supporting evidence (and in the Application documentation itself) in respect of the potential and actual effects on the environment. Overall, I conclude that the Proposal results in less than minor adverse effects in respect of transport, economics, urban design (including signage), servicing and infrastructure, natural hazards, temporary construction, contaminated soil and cultural effects.
13. I have undertaken a detailed assessment of the relevant objectives, policies, rules and assessment criteria (where relevant given the overall non-complying activity status) of all relevant planning documents. I conclude that the Proposal is generally consistent with these provisions.
14. I therefore conclude that the Proposal passes both gateway tests set out in Sections 104D of the Resource Management Act 1991 (**Act**).
15. I consider that the Proposal is acceptable pursuant to Section 104 of the Act, taking into account positive effects and all other matters addressed in this evidence. To summarise, the following positive effects are considered to arise:
  - (a) The community benefit resulting from the provision of an additional full-service supermarket within the Paraparaumu community;
  - (b) The resultant reduction in travel time for residents to fulfil their grocery needs and a more sustainable travel pattern for customers given the proposed supermarket's location proximate to the catchment it serves and the alternative modes of transport promoted to and from the site;
  - (c) The new employment offer as an economic benefit both during construction and when operational, noting that a supermarket of this size typically employs 80 - 100 staff, being a mix of full-time and part-time employees, in addition to the employment opportunities within the two trade supplier tenancies;
  - (d) Additional indirect economic effects arising from the Proposal as a catalyst for additional investment within the local community; and

- (e) A comparatively efficient use of an existing but vacant physical resource, being a well-serviced, urban site with convenient access to transport routes, Paraparaumu town centre and residential catchment, and a corresponding comparative improvement in the amenity afforded to the surrounding area by redeveloping an under-utilised site visible from Kāpiti Road as a key corridor.
16. Submissions received on the Application raise concern regarding transport effects, which I consider have been wholly addressed by the Applicant's Transport Engineer, and further such effects have been appropriately mitigated, in line with the works proposed and the conditions of consent (addressed below). The three submissions received raise no other objections.
17. I conclude that the Application should be granted resource consent, subject to the conditions as set out (and as proposed to be amended from the set of conditions produced in Attachment D of the Section 42A Hearing Report) in **Appendix 1** to this evidence.
18. As set out in the s42A Report, the Council has also recommended grant of consent.

## **THE PROPOSAL**

19. A full description of the Proposal is outlined at section 4 of the AEE. In summary, the Applicant proposes to construct and operate two trade retail tenancies and a Countdown supermarket on the subject site, comprising the following key elements:
- (a) 3,800m<sup>2</sup> gross floor area (**GFA**) supermarket building, including 200m<sup>2</sup> of office and 200m<sup>2</sup> for online (Pick up) activities;
  - (b) Two trade retail tenancies comprising 400m<sup>2</sup> each in GFA;
  - (c) Construct a new building comprising approximately 6.5m in maximum height (up to 8m including roof plant), which will be located on the rear half of the site;
  - (d) Signage on the building and a 9m-high pylon sign on the site frontage, as well as directional and wayfinding signage throughout the site;

- (e) 211 parking spaces on-site, including 6 parent parks, 6 accessible parks and 6 designated Pick up parks for customers collecting online orders;
  - (f) All vehicular access from Kāpiti Road via two crossings – one via the existing roundabout intersection with Friendship Place for all vehicles and manoeuvres, and the second, southern access for left-turn manoeuvres only;
  - (g) Provision for a second lane on the southern arm (Friendship Place) of the roundabout, within the road reserve, to enable left turns out of Kāpiti Landing - as off-site mitigation of the proposed works but forming part of the Application;
  - (h) Provision of on-site and boundary landscape planting, including replacement street tree planting within the road reserve on Kāpiti Road;
  - (i) Retaining walls to the eastern and southern boundaries and acoustic fencing surrounding the service yard to the rear of the site, as illustrated on the drawings lodged with the Application;
  - (j) Earthworks and other preparatory site works to construct and service the development, as further outlined in the Application, and including excavation for and installation of underground storage tanks to manage existing flood ponding on the site.
20. The relevant consent matters are outlined in the AEE at section 5. It is noted that the s42A Report identifies three additional matters for consent,<sup>1</sup> as follows:
- (a) The construction of a BIC Type 2c building located on sand soils requires Restricted Discretionary activity consent under Rule NH-EQ-R23;
  - (b) Offices within the General Industrial zone that do not comply with the relevant requirements of Rule GIZ-R8 require Non-complying activity consent under Rule GIZ-R14; and

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<sup>1</sup> Council's Section 42A Hearing Report dated 1 March 2022 at [31].

- (c) Off-license premises require Non-complying activity consent under Rule GIZ-R20.
21. Upon review of the s42A Report, the District Plan Response and the Geotechnical Report submitted with the Application (**Appendix 8**), I accept that consent is required under Rule NH-EQ-R23 and that the Geotechnical Report has satisfactorily addressed the relevant effects, noting that there are no listed matters of discretion in the District Plan against this consent requirement.
22. I do not consider it necessary to apply for consent for the ancillary offices associated with the supermarket as a separate matter under Rule GIZ-R14, noting that my interpretation of Rule GIZ-R8 is that it pertains to stand-alone offices as a commercial activity in their own right, and noting the inherent nature of the “offices” associated with the supermarket being specifically for supermarket-related administration. Further, the definition of “office” in the District Plan specifically excludes administrative office activity “defined as retailing”, which is the case here. That said, it does not alter the overall activity status of the Proposal and does not affect the resultant assessment, either in the s42A Report, or in the AEE.
23. Finally, as regards the consent matter for off-license premises requiring Non-complying activity consent under Rule GIZ-R20, this is also accepted and again does not affect the resultant assessment in the AEE.
24. I agree that the overall activity status in this instance is Non-complying.
25. Nominal changes to the Application since lodgement have occurred as a result of responding to Council’s further information requests, as follows:
- (a) Provision of further transport-related plans that illustrate how the proposed additional left-turn lane from the southern arm (Friendship Place) of the roundabout can be accommodated within the road reserve;
- (b) Likewise, transport-related plans that illustrate appropriate design for tracking of service vehicles has been accommodated within the Proposal;



- (c) Confirmation that two existing Pohutukawa street trees would be required to be removed to accommodate the new southern crossing from the site onto Kāpiti Road and suggested mitigation in the form of replacement street tree planting. This amendment was highlighted and assessed prior to notification, with inclusion of an arborist report (recommending mitigation planting) in the Application as notified;
  - (d) Provision of updated civil drawings detailing how the Proposal does not affect the existing stormwater easement on the site; also detailing how 3 individual water connections, one for each of the two trade retail tenancies and one for the supermarket, could be provided; and finally an Erosion and Sediment Control Plan.
26. In all, the above represents clarification of, rather than any significant amendment to, the Proposal.
27. Finally, the Applicant lodged a resource consent with the Wellington Regional Council for earthworks and flood mitigation works, as required under the Natural Resources Plan. Consent to a Discretionary activity is required and the status of that consent decision is pending, with responses to further information requests having been returned to the Regional Council on 2 March 2022.

## **SITE AND SURROUNDING ENVIRONMENT**

28. A description of the Site and surrounding environment is provided at section 3 of the AEE and at section 2.2 of the s42A Report. In brief, the following Site characteristics are noted:
- (a) The Site comprises approximately 2.6ha in area and is legally described as Lots 1 and 2 DP 63027 and Lot 3 DP 63992, at 160 Kāpiti Road, Paraparaumu.
  - (b) The Site currently accommodates existing motor vehicle sales and trade suppliers, along with a now vacant but former trade supplier warehouse on the area of the wider Site that is the subject of this Application.
  - (c) In terms of topography, the Site is relatively flat, albeit at a level approximately 1m below the level of Kāpiti Road, on the south-

western boundary. To the north-east, the land slopes up again and adjacent properties on that boundary vary from being flush with to approx. 1m above the subject site.

- (d) The Economic Report (**Appendix 6** to the Application) and as summarised in Mr Colegrave's economic evidence for the Proposal, provides a detailed description of the variety of business, industrial and residential activities in the surrounding area. Likewise, the s42A Report describes the wider area as being "characterised largely by industrial, heavy commercial, retail and service activities".<sup>2</sup> I agree with this summary description. Mr Colegrave also describes the characteristics of Paraparaumu town centre, being the nearest centre to the site and therefore of relevance in respect of economic effects and a policy analysis of the Proposal. That description concludes Paraparaumu town centre is vital, healthy and importantly, accommodates two existing full-service supermarkets, neither of which are expected to close as a result of this Proposal.<sup>3</sup>

29. The s42A Report has provided a comprehensive review of the surrounding consents for the area – some historic and some recent. I accept that those consents not yet implemented (and not lapsed) form part of the existing environment. I do not consider that any implicate the conclusions drawn in the AEE with respect to effects on the existing environment arising from the Proposal. This includes a description of the existing environment as it relates to Kāpiti Landing business park – further elaborated upon in this evidence.

## **ASSESSMENT FRAMEWORK**

30. The reasons for consent are listed at section 5 of the AEE and as summarised and amended in this evidence. As noted, consent for a Non-complying activity is required, specifically by virtue of the Proposal for a non-industrial use of a General Industrial zoned site.
31. As a result, before an assessment of the Proposal can be made under section 104 of the Act, the two "gateway tests" of section 104D must be considered. I make the following assessment.

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<sup>2</sup> At [11].

<sup>3</sup> Statement of Evidence of Fraser Colgrave dated 8 March 2022, at [53(d)].

**Adverse Effects (Section 104D(1)(a))**

32. For a Non-complying activity to be able to pass through this gateway, the adverse effects of the proposal can be no more than minor.
33. The s42A Report does not state an explicit conclusion with respect to whether or not the overall effects are minor or more than minor and whether the Application passes this gateway test. However, based on the conclusions at paragraphs 91 – 93 of the s42A Report it appears that the Council considers the effects are no more than minor overall. This accords with my view for the reasons summarised in paragraphs 42 to 73 of my evidence below and further detailed in section 7 of the AEE.
34. For the reasons outlined below, and as more fully addressed by others' expert evidence, I continue to consider that the Proposal gives rise to no more than minor adverse effects.
35. Therefore, I consider that the Proposal passes the effects gateway test of section 104D(1)(a), including in respect of transport and economic effects, and subject to mitigation as outlined below.

**Objectives and Policies (Section 104D(1)(b))**

36. For a Non-complying activity to be able to pass through this gateway, the Proposal cannot be contrary to the relevant objectives and policies of the relevant plans, here the District Plan is of most relevance.
37. This analysis was comprehensively presented in section 10 of the AEE and a summary therefore follows in this evidence at paragraphs 75-83. It appears that the s42A Report confirms Council agrees that the Proposal can meet the policy gateway test of section 104D(1)(b).
38. I also consider that the Proposal meets the gateway test of section 104D(1)(b) in as it is not contrary to the objectives and policies of the relevant plans as a whole.
39. For these reasons, I consider that the Application can proceed to section 104 for consideration as to whether or not to grant consent.

## ASSESSMENT OF EFFECTS

40. The below section of my evidence addresses the environmental effects of the Proposal. I have used the Council's effects headings from the s42A Report in order to assist with ease of reference. Further, where a view is stated in the s42A report, this is addressed in the following assessment.

### Positive Effects

41. The s42A Report<sup>4</sup> sets out a useful summary of the positive effects arising from the Proposal including those listed in the AEE, supporting reports and as considered by the Council. These can be summarised as:

- (a) The community benefit resulting from the provision of an additional full-service supermarket within the Paraparaumu community;
- (b) The resultant reduction in travel time for residents to fulfil their grocery needs and a more sustainable travel pattern for customers given the proposed supermarket's location proximate to the catchment it serves and the alternative modes of transport promoted to and from the site;
- (c) The new employment offer as an economic benefit both during construction and when operational, noting that a supermarket of this size typically employs 80 - 100 staff, being a mix of full-time and part-time employees, in addition to the employment opportunities within the two trade supplier tenancies;
- (d) Additional indirect economic effects arising from the Proposal as a catalyst for additional investment within the local community; and
- (e) A comparatively efficient use of an existing but vacant physical resource, being a well-serviced, urban site with convenient access to transport routes, Paraparaumu town centre and residential catchment, and a corresponding comparative improvement in the amenity afforded to the surrounding area by redeveloping an under-utilised site visible from Kāpiti Road as a key corridor.

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<sup>4</sup> At [44] – [48].

## Transport Effects

42. Mr Kelly has prepared an Integrated Transport Assessment (**Appendix 5** to the Application), responses to Further Information Requests from Council, and prepared evidence in respect of the transport effects arising from the Proposal.
43. Mr Kelly concludes in his evidence that, with mitigation proposed as part of the Application, namely the construction of a left-turn lane on the southern approach to the roundabout of Kāpiti Road and Friendship Place, the Proposal “will operate with only minor effects upon the adjacent road network”.<sup>5</sup>
44. This conclusion follows robust analysis of the matters raised in (and a corresponding response to) submissions and resolution of the one remaining matter (at the time of Mr Kelly preparing his evidence which preceded the release of the s42A Report) around “the reliability of the forecast turning count used as the basis of the assessed effects at the Kāpiti Road / Friendship Place roundabout for the modelled Saturday peak period”.
45. As I understand it, this “residual transportation issue” has been resolved and is not considered to be a matter of contention by either Mr Kelly or Mr Trotter, with the imposition of proposed review condition 28. This condition requires monitoring at three points in time – prior to operation of the supermarket, 12 months post-operation and 24 months post-operation – to ascertain whether additional mitigation of transport effects is required. That additional mitigation relates to the subsequent provision of an additional left-turn lane approach on the western arm of the roundabout to enable dedicated access into the supermarket site. Provision of this lane is wholly achievable within the road reserve and with use of land also under the Applicant’s control. Subject to the edits I suggest in **Appendix 1** and as addressed in this evidence, I consider the condition suitably addresses the transport effects such that they are mitigated appropriately.
46. Mr Kelly also identifies beneficial effects of the Proposal – changing shopping patterns and vehicle movements diverting from other areas,<sup>6</sup> which

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<sup>5</sup> Statement of Evidence of Timothy Kelly dated 24 February 2022 at [78].

<sup>6</sup> As above, n 5 At [79].

combined with the economic evidence presented by Mr Colegrave,<sup>7</sup> confirm the locational benefits of the supermarket as proposed.

47. I consider the transport effects have been robustly assessed pre- and post-lodgement of the Application and that altogether, the Application and proposed conditions represent appropriate mitigation of these effects to an acceptable degree. I conclude that the transport effects can therefore be deemed to be less than minor.<sup>8</sup>

### **Urban Design Effects**

48. The AEE addressed design, appearance and effects on streetscape, with assistance from Mr Knott. At section 7.1, the AEE concluded that, having regard to the supermarket's operational and functional requirements, "the proposed scheme is considered to achieve and enhance the pedestrian amenity of the public realm through the provision of an attractively landscaped edge, providing clear and legible pathways through the site via the covered walkway and footpaths". The AEE also concluded that "the Proposal is not considered to result in adverse effects in respect of urban design, and further is considered to positively contribute to the amenity of the surrounding environment through the provision of both a commercial service for which there is a recognised need and of a public and community resource, being the landscaped frontage and enhanced pedestrian realm along Kāpiti Road in the vicinity of the subject site".
49. I continue to consider the urban design effects arising from the Proposal are less than minor, including consideration of the way in which the site is designed and laid out relative to its surrounding environment and public realm, and also in the broader urban design sense as regards the site itself being a suitable location for a supermarket, proximate to transport corridors, Paraparaumu town centre and residential catchments. This position is supported in evidence by Mr Knott and Mr Colegrave.
50. The s42A Report summarises Mr Knott's Urban Design Assessment and the peer review response received from Council's consultant Urban Designer (Ms Devereux). The s42A Report sets out a view that mitigation is considered to be required by way of a landscape plan condition (presumably

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<sup>7</sup> Above, n 3 At [68].

<sup>8</sup> Statement of Evidence of Neil Trotter dated 10 February 2022 at [14.4]; Above n 1, at [51].

condition 13). I address proposed condition 13 at paragraph 114 of my evidence below.

### **Servicing and Infrastructure Effects**

51. The AEE noted the following in respect of infrastructure effects:<sup>9</sup>
- (a) Stormwater discharge – the effects are as existing given the 100% imperviousness of the site and having regard to the proposed management strategy including on-site measures to treat and convey stormwater including cesspits and storm filters or similar proprietary devices. Overall, the AEE concludes there will be less than minor adverse effects in respect of stormwater.
  - (b) Wastewater discharge – the public wastewater network has sufficient capacity to accommodate the Proposal without resulting in adverse effects on the capacity of the network.
  - (c) Water supply – the public water network has sufficient capacity to accommodate the Proposal without resulting in adverse effects on the demand of the network.
  - (d) Overall, the proposed development results in less than minor adverse effects on the surrounding public infrastructure and the Proposal can be serviced without detriment to the wider environment.
52. I continue to conclude as per the above in respect of less than minor adverse servicing and infrastructure effects. This position is supported in evidence by Mr Bellingham.
53. The s42A Report identifies that “the Infrastructure Report submitted with the application concluded that there was sufficient capacity within these systems [water and wastewater] to provide for the new supermarket and trade retail premises”.<sup>10</sup>
54. The s42A Report further concludes that conditions relating to the construction of two new pump stations, individual service connections for each tenancy and CCTV footage of an existing rising main will be required.

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<sup>9</sup> AEE dated 8 July 2021 at Section 7.3.

<sup>10</sup> At [58].

It is understood that, with these conditions, that the Council concludes the servicing and infrastructure effects will be acceptable.

### **Natural Hazard Effects**

55. The s42A Report identifies that the Site is subject to ponding and by virtue of its underlying sand soils, may be earthquake prone.
56. The s42A Report does not conclude the level of effects overall relative to natural hazards but does recommend conditions relating to the requirements of the Infrastructure Report and Geotechnical Report lodged with the Application, which are assumed to effectively mitigate related effects.
57. The AEE concluded similarly that effects relating to natural hazards could be appropriately mitigated<sup>11</sup> and with support from Mr Bellingham's evidence in relation to civil matters and ponding or flood management, I continue to consider that the adverse effects arising from natural hazard risk are less than minor.
58. I consider the proposed conditions relating to servicing are acceptable, subject to an amendment to condition 14, addressed at paragraph 115 of my evidence.

### **Economic Effects**

59. I adopt Mr Colegrave's expert view on the potential economic effects of the Proposal and consider that the potential effects are less than minor.
60. While the economic effects of the proposal are not a point of contention, I consider it prudent to outline the key considerations by Mr Colegrave (in his Report and in his evidence) given the dependence on the following statutory analysis in respect of economic effects.
61. To summarise, Mr Colegrave considers:
  - (a) The Proposal will not give rise to "any material adverse distributional effects on the Paraparaumu town centre (or any other district centre)". Mr Colegrave elaborates clearly on the reasons for this position in his evidence.<sup>12</sup>

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<sup>11</sup> At Section 7.4.

<sup>12</sup> Above, n 3 at [41]-[53].



(b) The Proposal will have no material impacts on the supply of industrial land. This position has been further strengthened since the preparation of the Application, with Mr Colegrave's updated analysis confirming there remains approximately 46ha of vacant industrial land and a forecast demand of 17,000m<sup>2</sup> of industrial floorspace over the next 25 years.<sup>13</sup>

62. Finally, from a planning perspective but relative to the efficient use of land, I note that the AEE concluded the Proposal does not give rise to any adverse reverse sensitivity effects on neighbouring industrial uses. This is because a supermarket (and trade retail) is not a sensitive activity relative to industrial uses and their commonplace effects – including traffic, noise, dust and potentially odour. By virtue of its form and function, a supermarket will not give rise to reverse sensitivity effects. It is further noted that the surrounding environment does not typically exhibit heavy industrial uses, and instead is more akin to a heavy commercial, service and retail environment. For these reasons, the Proposal is not considered to adversely affect the efficient operation of surrounding industrial land.

63. The s42A Report adopts the position of Mr Colegrave as summarised above, which is also supported by Council's consultant economic expert, Property Economics.<sup>14</sup>

### **Construction Effects**

64. The s42A Report identifies that construction "has the potential to result in adverse effects with respect to noise, dust and construction vehicle movements".<sup>15</sup>

65. I agree. I also agree that the conditions proposed will suitably mitigate these temporary effects and that overall, the adverse effects in relation to construction will be less than minor.<sup>16</sup>

### **Contaminated Soil Effects**

66. The AEE considered soil contamination in its assessment of natural hazards on the site and concluded that "in terms of natural hazards, [these] can be

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<sup>13</sup> Above, n 3 at [54-67].

<sup>14</sup> Above, n 1 at [71].

<sup>15</sup> At [73].

<sup>16</sup> Above, n1 at [75]; Above, n9 at Section 7.6.

fully mitigated through the imposition of conditions in accordance with the expert recommendations” provided in supporting reports to the Application.<sup>17</sup>

67. I therefore continue to consider no adverse effects arise in respect of contaminated soil given such effects can be fully mitigated through the Detailed Site Investigation process.
68. The s42A Report sets out the Applicant-proffered condition to prepare and provide a Detailed Site Investigation once existing buildings on the site have been demolished, given the limited ability for soil testing prior.<sup>18</sup>

### **Cultural Effects**

69. The s42A Report addressed concerns raised by the Ātiawa ki Whakarongotai Charitable Trust, which were resolved through additional responses by the Applicant – including provision of an Erosion and Sediment Control Plan which now forms part of the Application and is proposed to be conditioned for implementation; confirmation that proposed tree plantings would be native species; and confirmation that no adverse effects on groundwater and the nearby Wharemaukū Stream will arise.
70. On the basis that the Trust’s concerns were wholly resolved through processing, I consider there are no adverse cultural effects arising from the Proposal.

### **Signage Effects**

71. The AEE assessed signage alongside the assessment of the Proposal as a whole under Design, Appearance and Effects on Streetscape. I continue to consider that the signage is appropriate and commensurate with the scale and character of the Proposal and its surrounding industrial and commercial environment.<sup>19</sup>
72. The s42A Report considers Pick up signage, directional and wayfinding signage, signage on the building facades and free-standing signage. Having regard to all signage components, the s42A Report concludes that the

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<sup>17</sup> Above, n 9 at Section 7.4.

<sup>18</sup> At [79].

<sup>19</sup> Above, n9 at Section 7.1.

signage is considered “to have a less than minor effect” and that there are no cumulative effects arising.<sup>20</sup>

73. I endorse the s42A Report conclusion that the free-standing sign location and scale is necessary to enable safe decision-making for motorists in respect of accessing the site and wayfinding, generally.<sup>21</sup>

### **Summary of Effects**

74. I consider the preceding summary, and as established in the Application and in others’ evidence, confirms that overall, the Proposal results in less than minor adverse effects in respect of transport, urban design, servicing and infrastructure, natural hazards, construction, contaminated soil, cultural values and signage. Further, the Proposal is considered to result in positive effects as stated but summarised as provision of a needed commercial service in an accessible location convenient to the market it serves and efficient use of an existing physical resource being an underutilised urban site.

## **PLAN AND STATUTORY ASSESSMENT**

### **District Plan Assessment**

75. The AEE included a detailed assessment of the Proposal against the relevant objectives and policies of the District Plan.<sup>22</sup> This is not repeated here with a focus instead on only the most relevant objectives and policies.

### ***District-wide Objectives and Policies***

#### ***Earthworks, Natural Hazards and Signs***

76. The enabling provisions found in the District Plan Chapters on Earthworks, Natural Hazards, and Signs are uncontentious and I agree with the s42A Report findings on these provisions of relevance and that the Proposal is not contrary to (in fact is consistent with) these District Plan Chapters’ objectives and policies.<sup>23</sup>

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<sup>20</sup> Above n1, at [89].

<sup>21</sup> At [88].

<sup>22</sup> Above, n9 at Section 10.4.

<sup>23</sup> See above, n 9 at Section 10.4.4.

*Infrastructure*

77. Likewise, the objectives and policies under the heading Infrastructure in the s42A Report support the Proposal and I agree that the Proposal is consistent with the intent of those provisions identified.<sup>24</sup>

*Transport*

78. Turning to the matter of transport, and bearing in mind the objections from submitters, I set out my opinion on the following:
- (a) Policy TR-P1 requires that development is integrated and consistent with the transport network hierarchy to ensure that network is capable of serving the projected demand safely and efficiently. It also seeks enhanced community connectivity through minimising travel time and distance, locating development to reduce unnecessary travel and in a manner that is consistent with relevant principles published by Council. I consider that the Proposal is consistent with this policy. I note that the Proposal does not challenge the network hierarchy; does not result in unacceptable adverse effects; and results in a supermarket activity, being a high traffic generating activity, on a critical route with access by all forms of transport, including public transport, and in proximity to the community it is designed to serve.
  - (b) Policy TR-P2 seeks that development is integrated with a wide range of travel mode choices which has been demonstrated to be the case here.
  - (c) Policy TR-P3 promotes an efficient and economic transport network that increases the economic vitality of the District by promoting timely and reliable access to all goods, activities and services. I do not consider that the Proposal adversely affects this function, and given its accessibility, contributes to enabling convenient access to a key community service.
  - (d) Policy TR-P5 seeks that potential adverse effects on transport networks from development should be avoided, remedied or

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<sup>24</sup> Above, n1 at [111].

mitigated. I consider that the Proposal achieves this policy as articulated in Mr Kelly's evidence and as supported by Mr Trotter and the s42A Report.

- (e) Policy TR-P6 focuses on safety. This matter has been addressed in the Application and by Mr Kelly, with the conclusion reached that the Proposal does not give rise to adverse safety outcomes for users of the network, including motorists, cyclists or pedestrians. I agree with this conclusion.
- (f) The Proposal is considered to promote safe, efficient and amenable access to and from the site by pedestrians and cyclists and so is consistent with Policy TR-P7.

79. In addition to the above, the s42A Report identifies reasons for why the Proposal is considered to be consistent with Objectives DO-O3, DO-O8, DO-O14 and DO-O15 with relevance to transport.<sup>25</sup> I endorse those reasons.

80. For all of the above reasons I conclude that overall, the transport components of the Proposal ensure that it is not contrary to the transport-related objectives and policies of the District Plan.

#### *General District Wide Objectives*

81. Turning then to the District Objectives and Policies of broader application, the following comments are made, which are largely endorsed by the s42A Report and as assessed in detail in the AEE:

- (a) Objective DO-O3 seeks to maintain a consolidated urban form within existing urban areas. The Proposal develops a site within an urban area, relying on existing infrastructure and transport network, without detriment. The Proposal delivers service and employment in "a manner which reinforces the function and vitality of centres" as set out in Mr Colegrave's evidence.<sup>26</sup> I do not consider that the Proposal is contrary to this objective. Rather I consider it to be consistent with the desired outcomes.

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<sup>25</sup> Above, n1 at [113] – [117].

<sup>26</sup> Above, n3 at [66].

- (b) I consider that the Proposal is consistent with Objective DO-O8 to the extent relevant, in that the Proposal enables more convenient access to food retail services, through a variety of transport means, and the site is designed to ensure CPTED principles are followed, with appropriate layout, sightlines and lighting.
- (c) I consider that the Proposal is consistent with Objective DO-O11 in that it delivers a modern, attractive development on an urban site, supporting the role and function of Paraparaumu town centre whilst delivering employment and community services with high levels of amenity, accessibility and convenience. Further, I consider that the Proposal is a useful buffer activity at the interface of industrial and residential land in the vicinity, without creating reverse sensitivity effects, cumulative or otherwise.
- (d) With respect to Objective DO-O15, the Proposal introduces approximately 80 – 100 full and part-time employees into the District. The other economic benefits of the Proposal include customer net benefits including reduced travel time and cost because the new store is closer to residents; ability to visit a new store that incorporates the latest and modern designs in internal fitout and sustainability measures; access to a wider range of fresh produce and other groceries; community-wide benefits of increased competition in the supermarket arena; and generating economic stimulus in District GDP. In my opinion Proposal is consistent with this objective.
- (e) Objective DO-O16 seeks to create and support a hierarchy of centres in the Kāpiti District (**District**) that function as “key employment and economic nodes”. The Proposal is not located in a centre, hence the Non-complying activity status. However, the Proposal is not considered to preclude the ability for the centres-focused outcomes for business activities to be achieved. Mr Colegrave has outlined that the Proposal will have no significant adverse effects on Paraparaumu town centre. For the reasons addressed in Mr Colegrave’s evidence,<sup>27</sup> I consider the Proposal is not contrary to this objective.

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<sup>27</sup> Above, n3 at [53(j)] and [63]-[66].

*Business Activities Policies*

- (f) I have described Policy BA-P1 as comprehensive in the AEE. I also supplied a “detailed response”.<sup>28</sup> That response is repeated below:
- (i) The Proposal provides the community with convenient access to goods and services; opportunities for employment and social interaction in the form of convenience retail; a key employer; modern and attractive format; and on an arterial road
  - (ii) The Application and Mr Colegrave’s evidence confirm categorically that use of the Site for non-industrial use does not adversely affect the supply of industrial land to meet the District’s reducing demand in any way.
  - (iii) The Proposal has been carefully considered and designed in respect of the potential for impacts on the transport network and this has been assessed above and concluded such effects are less than minor, as agreed by Mr Trotter. Provision is made for alternative modes of transport including by electric vehicle, walking, cycling and public transport.
  - (iv) The Proposal is subject to no environmental or servicing capacity constraints.
  - (v) The Proposal does not preclude the delivery of the Council’s distribution strategy of business activities and the proposed supermarket out of centre has been comprehensively assessed having regard to this ‘centres first’ framework. Mr Colegrave concludes that the Proposal will not give rise to adverse effects on the efficient operation, function, viability and sustainability of any of the District’s centres, such that the Proposal is not contrary to this component of the Policy.
  - (vi) The Proposal will not adversely affect either the industrial land supply to meet demand nor the ability of existing and

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<sup>28</sup> Above, n9 at Section 10.4.2.

permitted industrial land uses in the surrounding zone to continue to operate efficiently.

- (vii) The Proposal is therefore largely consistent with Policy BA-P1 and certainly not contrary.
- (g) As for Policy BA-P1, Policy BA-P2 is comprehensive and the AEE provided a robust response, repeated below for ease of reference:
  - (i) The Proposal represents retail activity located outside of centre but does not result in detrimental effects on the efficient operation, function, viability and sustainability of the District's centres as assessed by Mr Colegrave. Indeed, the Proposal is considered to result in positive economic benefits overall.
  - (ii) The Proposal does represent a retail activity that serves a market beyond the daily convenience needs of the immediate residential neighbourhood by virtue of its size and function. Therefore, the Proposal is inconsistent with this sub-clause of Policy BA-P2.
  - (iii) The Proposal is not considered to be an inefficient use of infrastructure including the transport network as set out in others' evidence and in the AEE.
  - (iv) The Proposal does not result in more than minor adverse effects on amenity values, local environmental qualities or infrastructure capacity.
  - (v) The Proposal does not result in adverse reverse sensitivity effects, noting that a supermarket is not a sensitive activity relative to industrial uses.
  - (vi) Therefore, the Proposal is largely consistent with Policy BA-P2, excluding sub-clause (1)(b) with respect to the catchment the supermarket is designed to serve, and by virtue of that sub-clause's strict wording. Overall, however I do not consider that this renders the Proposal contrary to Policy BA-P2. In arriving at this position, I have considered the



assessment framework set out at (2) of Policy BA-P2 which sets out when retail activities outside of centre zones will be appropriate. On this basis, I note as follows:

- (A) The Proposal will not adversely affect the function, role, viability and vitality of centres or other Working Zones as set out in the preceding assessment of effects, others' evidence and the AEE.
- (B) The Proposal is deemed to be an efficient use of infrastructure.
- (C) I consider that the location, scale and intensity of activities are wholly in keeping with the surrounding mixed service and heavy commercial environment in terms of the nature of activity and large format building bulk, as well as site layout and orientation, and in terms of traffic and people activity generation within, to and from the Site.
- (D) The surrounding environment is not sensitive in a visual or landscape sense and the Proposal is consistent with surrounding scale and character as noted. Landscape planting along the frontage will soften views from the streetscape and support the existing setback character of development along Kāpiti Road.
- (E) The transport effects are considered to be acceptable and less than minor overall.
- (F) The proposed car parking is more than sufficient for both the supermarket and trade retail. Sufficient loading and servicing areas are provided for all activities and accesses have been safely designed and sited to ensure safe and efficient ingress and egress of all types of vehicles.

- (G) The proposed supermarket will operate 7 days, likely trading 7am – 10pm, with servicing occurring in the early mornings and around network peaks.
- (H) The local character is mixed, accommodating a variety of heavy commercial, industrial, retail and service activities such that the Proposal is wholly in keeping with that character. No adverse amenity effects are considered to arise, and positive effects with respect to streetscape and urban design contribution are considered to arise.
- (I) No nuisance effects arise.
- (J) Signage is comprehensively designed and an integral component of the design, consistent with national branding as well as the scale and character of the Proposal. The free-standing sign on the site frontage will not distract motorists in any way.
- (vii) Therefore, for the above reasons, I consider that the Proposal is not contrary to Policy BA-P2 and that, by virtue of the wording of sub-clause (1)(b) only, could be considered inconsistent at worst overall. Indeed, my considered view is that the Proposal is generally consistent with this policy.
- (h) Policy BA-P3 sits alongside Policy BA-P2 and identifies that business activities will be managed to consolidate the centre hierarchy – namely that retail activities will be primarily focused in the centre zones “and otherwise managed to avoid the dispersal of business activity which would be detrimental to the efficient operation, function, viability and sustainability of the District’s centres”. For the reasons clearly set out in relation to Policy BA-P2 above, I consider the Proposal is not contrary with this policy, supported by Mr Colegrave’s evidence that although out of centre, the proposed supermarket does not give rise to any significant adverse effects on the District’s centres.<sup>29</sup> Further, the Proposal is considered to make efficient use of an underutilised site and has been found to be easily

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<sup>29</sup> Above, n3 at [66].

able to be accommodated by existing services, so as to be in accordance with Policy BA-P3 overall.

*Urban and Environmental Design and Incentives*

- (i) Policies UEDI-P1 and P2 seek to achieve quality and safe urban design outcomes. I consider the Proposal is consistent with these policies for the reasons noted in the AEE and in Mr Knott's evidence.<sup>30</sup>

**General Industrial Zone Objectives and Policies**

82. Of most relevance, in my view, are the General Industrial zone objectives and policies. Again, these were canvassed comprehensively in the AEE<sup>31</sup> and have been considered in the s42A Report.<sup>32</sup> It appears that the s42A report concludes that the Proposal is not contrary to these provisions. I support that conclusion and provide the following assessment for completeness:

- (a) Policy GIZ-P1 – the Proposal accommodates some industrial activity in the form of trade retail but is otherwise non-industrial use that does not adversely affect adjoining sensitive activities or areas. Further, as noted by Mr Knott<sup>33</sup>, the location, type, scale and built form of the proposed development is consistent with the existing and planned character of the General Industrial zone. The Proposal represents provision of an essential service in a convenient location without detriment to the overall supply and demand of industrial land. A more detailed analysis of the Proposal against this policy is included in the AEE<sup>34</sup> and overall, I consider the Proposal is consistent with this policy.
- (b) Policy GIZ-P2 – the Proposal is for retail activity which is not ancillary to a primary industrial activity, however as outlined by Mr Colegrave, and earlier in this evidence, the proposed use is not considered to

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<sup>30</sup> Above, n9 at Section 7.1; Statement of Evidence of Richard Knott dated 8 March 2022 at [24]-[27].

<sup>31</sup> Above, n9 at Section 10.4.4.

<sup>32</sup> Above, n1 at [129] – [131].

<sup>33</sup> Statement of Evidence of Richard Knott dated 8 March 2022 at [19].

<sup>34</sup> Above, n9 at Section 10.4.4.

represented an inefficient use of the industrial land resource.<sup>35</sup> Further, whilst the supermarket activity may be provided for in centre zones, Mr Colegrave has outlined why the proposed location is suitable from a catchment analysis and service perspective, and further, that it does not adversely affect the vitality, function and amenity of centres, including Paraparaumu town centre, which already accommodates several supermarkets, which will not close as a result of this Proposal.<sup>36</sup> The Proposal is considered to be wholly compatible with the character and standards of amenity in the General Industrial zone representing a relatively functional form, consistent in scale and design to industrial warehousing or similar. Nor does the Proposal give rise to reverse sensitivity effects. I, therefore, consider the Proposal is generally consistent with this policy.

- (c) Policy GIZ-P3 manages building bulk, outdoor storage, signage, noise and vibration at the interface of the zone with neighbouring zones. The Proposal is wholly consistent with this policy, as elaborated upon in response to other policies and in the AEE.<sup>37</sup>
- (d) Policy GIZ-P4 sets out a list of principles that subdivision, use and development within the Working zones will achieve. Relative to these principles, the following assessment is made of the Proposal, noting at the outset that I consider it achieves the Policy's intent:
  - (i) Local and on-site amenity are enhanced compared to both existing and anticipated built character;
  - (ii) Built character is consistent with local built identity (including existing setbacks on Kāpiti Road), noting the building is of a scale and functional design consistent with the General Industrial zone;
  - (iii) Connectivity for all modes of transport is provided in the design and layout, with provision for private vehicle, service

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<sup>35</sup> Above, n3 at [64].

<sup>36</sup> Above, n3 at [53(c)].

<sup>37</sup> Above, n9 at Section 10.4.4.

vehicles, bus transport along Kāpiti Road and pedestrian and cycling movements;

- (iv) To the extent relevant, the site is located on a key route to and from the town centre and in close proximity to other Working zones.

83. Overall, therefore, I consider the Proposal to be consistent with all relevant objectives and policies of the District Plan where considered as a whole. The one sub-clause of Policy BA-P2 is not considered to be determinative in this assessment or in the context of section 104D(1)(b) as the Proposal is consistent when Policy BA-P2 is considered as a whole.

### **Relevant Higher-Order Objectives and Policies**

84. For completeness, I have also undertaken an assessment of the relevant provisions in higher order documents, including the National Policy Statement on Urban Development, the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health, and the Regional Policy Statement.

#### *National Policy Statement on Urban Development*

85. The National Policy Statement on Urban Development 2020 (**NPSUD**) directs local authorities to provide sufficient development capacity to meet demand in housing and business growth. The NPSUD acknowledges the importance of commercial feasibility and commercial viability when taking account of whether certain developments occur in certain locations.

86. A comprehensive assessment of the Proposal against the NPSUD is provided at section 10.1 of the AEE.

87. I consider the Proposal is consistent with the NPSUD and further, does not preclude the Council's ability to deliver on its obligations under the NPSUD, in fact it catalyses additional growth within Paraparaumu as set out in Mr Colegrave's evidence.<sup>38</sup> Specifically, the non-industrial use of General Industrial zoned land is not contrary to the NPSUD since it delivers a feasible commercial use without detriment to the ongoing efficiency of surrounding industrial and other zoned land.

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<sup>38</sup> Above, n3 at [68(c)].

### *National Environmental Standards*

88. The relevant National Environmental Standard is the NES – Contamination. This higher order plan does not include any objectives and policies, however it is considered the proposal is consistent with (and therefore not contrary to) the NES – Contamination given the findings of the Preliminary Site Investigation and the Applicant’s commitment to preparing and providing a Detailed Site Investigation in due course.

### *Regional Policy Statement*

89. The Proposal is not considered to be of regional significance. However, the AEE provided a brief assessment of the relevant provisions in the Wellington Regional Policy Statement 2013. It concluded that the Proposal was not contrary to Objective 19 in respect of natural hazard risk and Objective 22 in respect of encouraging a compact, well-designed and sustainable regional form.<sup>39</sup>
90. The s42A Report considers the relevant objectives and policies, in addition to those above, are found at Section 4-2 of the RPS<sup>40</sup> and include natural hazards, regional form, design and function and resource management with Tāngata Whenua. The s42A Report finds the Proposal favourable relative to these provisions. I adopt that assessment and consider that overall, the Proposal is not contrary to any relevant RPS provisions.

### **Other Matters**

91. I do not consider there are any other relevant matters that have not otherwise been addressed.

### **Part 2 and Overall Assessment**

92. I consider that the Proposal will promote the sustainable management of natural and physical resources by:
- (a) Enabling the Applicant to develop the Site in a manner that will contribute to the social, and economic wellbeing of those who will be serviced by the proposed supermarket in the wider Paraparaumu community. In this way, necessary trips for supermarket shopping

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<sup>39</sup> Above, n9 at Section 10.3.

<sup>40</sup> Above, n1 at [103 – 109].

will be shortened and achieve greater sustainability for the resident community.

- (b) Enabling the Applicant to develop the Site in a way that will assist in providing for the reasonably foreseeable needs of future generations.
  - (c) Providing for the more efficient use and development of the valuable natural and physical resource represented by the Applicant's General Industrial zoned land, particularly when considering the oversupply of industrial land in the District relative to forecast demand.
  - (d) Enhancing the amenity of the area and the quality of the developing urban environment by proposing a modern, attractive and full-service store, in a location that minimises its bulk and visual impact on the streetscape and surrounding environment.
  - (e) Appropriately managing potential adverse effects.
93. I agree with the conclusions in the s42A Report that there are no particular section 6 matters of relevance aside from the management of natural hazard risk, which has been addressed. Further, I agree with the conclusions in the s42A Report that the Proposal is consistent with the section 7 matters, namely "the efficient use and development of resources, amenity values and the quality of the environment". Finally, I agree that the Proposal is not inconsistent with the principles of the Treaty of Waitangi.<sup>41</sup>
94. On the basis of the preceding assessment, and having regard to Part 2, I consider that it is appropriate to grant consent to the Proposal, subject to conditions as addressed in this evidence at paragraphs 110-121 below.

## **SUBMISSIONS**

95. The Application received a total of three submissions, all in opposition and all citing potential adverse transport effects as the key reason for that opposition.
96. The submissions were received from Modern Merchants Limited – self-described as the "head lessor" of New World Kāpiti, located within the Kāpiti

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<sup>41</sup> Above, n1 at [141].

Landing opposite the subject site; Young Supermarkets Limited – self-described as the operators of New World Kāpiti; and Templeton Kāpiti Limited, the owner of the Kāpiti Landing business park.

97. Each of the three submissions sought further information to satisfy their concerns that the Proposal resulted in unacceptable adverse effects on the transport network and specifically that those effects would give rise to delays relating to access on Friendship Place in and out of Kāpiti Landing.
98. Mr Kelly has addressed the transport matters raised by submitters in his evidence and concludes that the information sought by submitters already formed part of the Application, either as lodged or in response to Further Information Requests by Council.<sup>42</sup> Mr Kelly does not agree with the concerns raised by the submitters. Mr Kelly and Mr Trotter for the Council are in agreement that the effects on the transportation network can be appropriately mitigated to a less than minor degree.<sup>43</sup>
99. One matter that Templeton Kāpiti Limited raised was whether the transport analysis had included all of Kāpiti Landing's permitted activities' and consented activities' traffic generation in modelling and with respect to the potential for cumulative adverse effects on the function and safety of the transport network, namely Kāpiti Road.
100. Mr Kelly has confirmed that the only relevant development identified by Council as consented but not yet constructed was an extension to the Mitre 10 Mega trade retail store at Kāpiti Landing. Mr Kelly identifies that the scale of that extension was small and that consequently no further action or additional modelling was required.<sup>44</sup>
101. With reference to permitted development within Kāpiti Landing, Rule AIRPZ-R13 sets a permitted threshold for cumulative GFA of 43,050m<sup>2</sup>. Beyond that consent is required and a transport assessment must be carried out. There are further limits in GFA of individual activities as listed in Rule AIRPZ-R5 – for example, 10,000m<sup>2</sup> for large format retail activities, 17,000m<sup>2</sup> for home improvement retail, 1,500m<sup>2</sup> for small-scale convenience retail and 1,200m<sup>2</sup> for small-scale commercial services.

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<sup>42</sup> Above, n5 at [50] – [72]

<sup>43</sup> Above, n8 at [14.4].

<sup>44</sup> Above, n5 at [55].



102. In addition to the activity GFA thresholds in the Airport zone (Mixed Use Precinct), the Transport chapter of the District Plan sets trip generation rates for activities where consent is required – specific to Kāpiti Landing, the permitted traffic generation is 100vpd.
103. The total constructed GFA of Kāpiti Landing is understood to be approximately 22,000m<sup>2</sup>. Some of the above listed activity thresholds have already been exceeded and therefore even within the remaining overall permitted GFA threshold, consent will be required for new activities – specifically, any new small-scale convenience retail.
104. There is therefore very limited opportunity for permitted activities of any significant scale such that they would affect the existing environment in the modelling analysis of this Proposal. Any such activity that requires resource consent, and specifically requires its own transport assessment is therefore not required to be considered within the modelling analysis of this Proposal. I understand this is the correct approach as undertaken by Mr Kelly in his analysis and as endorsed by Mr Trotter.
105. The submitters raise no other concerns with the Proposal.

## **SECTION 42A REPORT**

106. The Council's planning officer has recommended that the application be granted consent, subject to a number of conditions. I endorse this recommendation for the reasons set out in the AEE and in this evidence.
107. As noted, the s42A Report is not clear regarding whether or not the Proposal passes one or both of the gateway tests in section 104D, albeit this is assumed given the positive recommendation. Notwithstanding, I am of the view that the Proposal does indeed pass both gateway tests and that the Commissioner is therefore able to proceed to consider the Application in respect of section 104 for determination.
108. As addressed in the preceding evidence, I have clarified where the Council's planning officer and myself are aligned in respect of assessment of effects and the relevant planning provisions. I consider we are generally aligned overall, and that there remain no outstanding areas of contention or points of difference.

109. I do recommend some amendments to the proposed conditions as set out in Appendix D of the s42A Report. I address these amendments below.

## PROPOSED CONDITIONS OF CONSENT

110. Updated proposed conditions of consent are attached as **Appendix 1** to my evidence. The base document is the set of conditions attached at Appendix D to the s42A Report.
111. Condition 1 needs to include the landscape plan and the draft travel plan that formed part of the Application, to assist with framing the requirements of subsequent conditions 13 and 27, referenced below.
112. With input from the Applicant's project manager, it is recommended that the timeframe for the provision of a Construction Management Plan in Condition 8 be reduced from 20 working days to 10 working days. I understand this aligns with the contractor's mobilisation plan and should not cause issues from a logistics perspective for Council.
113. I agree with Mr Knott that Condition 12 is not necessary for the reasons noted in his evidence<sup>45</sup> and propose deletion of this condition in **Appendix 1**. In brief, I agree that paving treatment is not likely to be appreciable beyond the site, given the landscaping proposed along the boundaries and within the site, and given the distances involved between car park and street. I also agree with Mr Knott that the Proposal already successfully breaks up the perception of unmitigated expanse of car parking through layered landscaping and differentiation already provided in terms of different parking designations (accessible, parent, EV, Pick-up, drop-off).
114. Condition 13 requires a Landscape Management Plan be prepared. This condition needs to link back to and achieve the outcomes of the landscape plan submitted with the application and to be approved under Condition 1.
115. Condition 14 requires that the consent holder investigate the actual material and condition of the existing private sewer rising main and that if such investigation finds the private sewer is in poor condition, it shall be upgraded. This condition needs a more measurable position in relation to when the rising main would be required to be replaced and what standard the new

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<sup>45</sup> Above, n33 at [35]-[38].

pipe is required to meet. I have edited condition 14 accordingly and I understand Mr Bellingham supports this amendment.<sup>46</sup>

116. Condition 15 requires the provision of details for approval of “the improvements to the Friendship Place / Kāpiti Road roundabout and the secondary access to Kāpiti Road”. The condition needs to be clarified in respect of the improvements proposed. I assume the improvements referenced relate to the left turn lane out of Friendship Place and the construction of the vehicle crossings and accesses to the Site. I have proposed amendments to Condition 15 in this regard.
117. Further, with respect to Condition 15, the time for which these works need to be completed should be triggered by occupation of the supermarket, not the commencement of construction works on the site. Specifically, the trigger should relate to the effect being mitigated, which is traffic generated by the supermarket activity and subsequent potential delays for vehicles exiting Kāpiti Landing. The additional lane is not therefore required to be constructed until prior to occupation. There is potential that any such roadworks would conflict with construction access to and from the site and therefore logically it should follow construction works.
118. Condition 24 requires clarification for the same reason as condition 15. Currently, the condition references “alterations to Friendship Place / Kāpiti Road roundabout and secondary access to Kāpiti Road”. I have proposed amendments for clarity regarding the scope of works to be addressed therefore.
119. Condition 27 should reference the draft Travel Plan already submitted with the Application (and to be referenced in Condition 1) such that any final version can be certified by Council against that draft.
120. Finally, I have suggested to the Applicant that advice be sought from Mr Kelly regarding proposed Condition 28. I accept both Mr Kelly and Mr Trotter have accepted the monitoring and review approach relative to uncertainty around modelling of traffic generation and effects on Kāpiti Road. However, given Mr Kelly has not yet had an opportunity to review the condition wording, I have suggested the Applicant seek advice on the ability to achieve Level of Service C as referenced in proposed Condition 28 as well as being

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<sup>46</sup> Statement of Evidence of Glen Bellingham dated 8 March 2022 at [39].

clear in the wording as regards any mitigation trigger relating solely to traffic generated by the supermarket, rather than a blanket potential increase in traffic generation on the corridor. I will address this matter further at the hearing.

121. Subject to the amendments addressed above and as set out in **Appendix 1**, I am satisfied the conditions are relatable and enforceable with respect to the Proposal.



**Kay Panther Knight**

**8 March 2022**

**Appendix 1**  
**Proposed Condition Amendments**

## General

1. The proposed activity shall be undertaken in general accordance with:
  - Woodhams Meikle Zhan Architects Plans:
    - Proposed Site Plan, Job No. 2026-73, DWG No. RMA-101, Rev. G
    - Elevations, Job No. 2026-73, DWG No. RMA-102, Rev. D
    - Cross Sections, Job No. 2026-73, DWG No. RMA-103, Rev. C
  - NR Landscape Architecture Landscape Plans
    - Landscape Concept Plan, Sheet 1 of 3, Rev C
    - Planting Plan, Sheet 2 of 3, Rev C
    - Plant Schedules, Sheet 3 of 3, Rev C
  - Tim Kelly Transportation Planning Limited Plans:
    - Indicative Road Layout Changes, Drawing No. 21-005-SK001, Rev. C
    - Vehicle Tracking Plan, Drawing No. 21-005-SK002, Rev. C
    - Vehicle Tracking Plan, Drawing No. 21-005-SK003, Rev. C
    - Vehicle Tracking Plan, Drawing No. 21-005-SK004, Rev. C
    - Vehicle Tracking Plan, Drawing No. 21-005-SK005, Rev. C
    - Annexure E to the Integrated Transport Assessment entitled Travel Plan (draft)
  - Maven Associates Plans:
    - Proposed Carpark Flood Volume Plan, Project No. 109022, Drawing No. C202, Rev. A
    - Proposed Earthworks Plan, Project No. 109022, Drawing No. C203, Rev. A
    - Proposed Flood Storage Tank Earthwork Plan, Project No. 109022, Drawing No. C204, Rev. A
    - Proposed Retaining Plan, project No. 109022, Drawing No. C220, Rev. A
    - Proposed South-East Retaining Wall Long Section, Project No. 109022, Drawing No. C221, Rev. A
    - Proposed Carpark Plan, Project No. 109022, Drawing No. C310, Rev. A
    - Proposed Carpark Plan, Project No. 109022, Drawing No. C311, Rev. A
    - Proposed Carpark Plan, Project No. 109022, Drawing No. C312, Rev. A
    - Proposed Carpark Plan, Project No. 109022, Drawing No. C313, Rev. A
    - Proposed Carpark Plan, Project No. 109022, Drawing No. C314, Rev. A
    - Proposed Carpark Cross Sections, Project No. 109022, Drawing No. C320, Rev. A
    - Site Overview Plan, Project No. 109022, Drawing No. C400, Rev. A

- Stormwater Flooding Cross Sections, Project No. 109022, Drawing No. C401, Rev. A
- Stormwater Flooding Cross Sections, Project No. 109022, Drawing No. C402, Rev. A
- Truck Access Long Section, Project No. 109022, Drawing No. C403, Rev. A
- Proposed Private Services Plan, Project No. 109022, Drawing No. C410, Rev. B
- Proposed Services Standard Details, Project No. 109022, Drawing No. C490, Rev. A
- Proposed Private Services Plan, Project No. 109022, Drawing No. C430, Rev. A
- Proposed Private Services Plan, Project No. 109022, Drawing No. C431, Rev. A
- Proposed Sediment Control Plan, Project No. 109022, Drawing No. C205, Rev. A
- Proposed Sediment Control Details, Project No. 109022, Drawing No. C206, Rev. A

All stamped as 'Final Approved Plans' on **XX** April 2022 and the information specifications lodged with the application RM210151 and the further information request responses provided by Forme Planning Limited on 3, 9 and 12 August, 30 September and 5 October 2021 except where modified by conditions of consent.

8. At least ~~20~~ 10 working days prior to the commencement of works, the consent holder shall submit for approval in writing by Council's Development Engineer and Access and Transport Manager, a Construction Management Plan (CMP) which shall include the following:
  - a. Details of control of mud and detritus from the site onto the road – onsite wheel washing and offsite road sweeping.
  - b. Details of onsite turning for delivery vehicles.
  - c. Site compound location shown on a plan.
  - d. Identified areas for site offices and site operative parking.
  - e. Mitigation for the prevention of discharge of any material beyond the boundary of the subject site.
  - f. Noise controls and hours of construction.
  - g. Stormwater runoff.

h. The matters outlined in the Ministry for the Environment's Contaminated Land Management Guidelines No.1 Reporting on Contaminated Sites in New Zealand (Revised 2011).

**Note:** For the avoidance of doubt, material includes but is not limited to silt, sediment, vegetation and aggregate.

~~12. The consent holder shall provide a detailed design site plan to Council's Development Engineer for approval that shows diversity in surface treatments/changing materials for the construction of the customer car parking area fronting Kapiti Road, to enhance the visual appearance of the site.~~

13. A Landscape Management Plan (LMP) shall be provided at least 20 working days prior to the purchasing of plants for approval by Council's Development Engineer. The LMP shall achieve the outcomes of the approved Landscape Concept Plan referenced in Condition 1 and contain the following:

- Existing vegetation to be retained;
- Any vegetation to be removed;
- The extent of planting, paved (impermeable) surfaces and other landscaping elements;
- Details of plant species that shall be native to the Foxton Ecological District;
- Location of plants;
- Number of plants;
- Plant grade sizes;
- An implementation plan describing the methods of soil preparation, details of drainage, fertilising, mulching, spraying, irrigation, staking tree pits, ongoing maintenance, replacing of dead/poorly performing plants and weed and pest management;
- Scheduling of work, including maintenance to ensure successful establishment;
- and,
- The location, height, and type of fencing.



14. The consent holder shall investigate the actual material and condition of the existing 800mm private sewer rising main and provide the findings to Council's Development Engineer as part of the detailed design. If the private sewer rising main is found to be ~~in poor condition~~ not fit for purpose, the pipe shall be upgraded with the necessary details provided to the Council as part of the required building consent.
  
15. Prior to the commencement of works within the road reserve, detailed design of the improvements to the Friendship Place/Kapiti Road roundabout and the secondary access to Kapiti Road shall be provided for approval in writing by Council's Access and Transport Manager. ~~No further construction~~ The approved activity shall not commence operation onsite until the improvement works have been completed.

Note: For the avoidance of doubt, the improvement works referenced in Condition 15 relate to the construction of the crossings to the site and the construction of the left-turn lane from Friendship Place heading north on Kapiti Road. These works are illustrated in concept in the drawings at Condition 1.

24. Detailed Design and Post Construction road safety audits are to be provided upon completion of works and are required for the proposed alterations to Friendship Place/Kapiti Road roundabout and the secondary access to Kapiti Road.

**Note:** The road safety audits are to be carried out in accordance with guidance contained in the Kāpiti Coast District Council Subdivision and Development Principles and Requirements 2012 and Waka Kotahi (NZTA) guidance.

Note: For the avoidance of doubt, the proposed alterations referenced in Condition 24 relate to the construction of the crossings to the site and the construction of the left-turn lane from Friendship Place heading north on Kapiti Road. These works are illustrated in concept in the drawings at Condition 1.

27. A workplace travel plan shall be submitted to Council's Access and Transport Manager for ~~approval in writing~~ certification at least 20 working days prior to the opening of the supermarket. ~~The~~ the travel plan shall achieve the outcomes of the draft Travel Plan referred

to in Condition 1 and outline measures, facilities, and incentives to encourage non-car travel to and from the site.