PAK’nSAVE SUPERMARKET WITH ASSOCIATED FUEL FACILITY
980 TE RAPA ROAD
HAMILTON

ASSESSMENT OF ENVIRONMENTAL EFFECTS

PREPARED FOR:
Foodstuffs North Island Limited

B&A Urban & Environmental
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1.0 THE APPLICANT AND PROPERTY DETAILS

To: Hamilton City Council

Site Address: 980 Te Rapa Road, Hamilton

Applicant's Name: Foodstuffs North Island Limited

Address for Service: Barker & Associates Ltd
PO Box 1986
Shortland Street
Auckland 1140
Attention: Matt Norwell / Mary Wong

Legal Descriptions: Section 23 SO 465769 and Section 24 SO 465769

Site Area: 2.013 hectares

Zoning: Industrial

Additional Limitations: Potential land contamination

Designations: E81 – Te Rapa Road

Additional Limitations: Potential land contamination

Road Classification: Te Rapa Road – Major Arterial Road
Eagle Way – Local Road

Brief Description of Proposal: Resource consent for the construction and operation of a new PAK’nSAVE supermarket with an associated on-site fuel facility including car parking and all other enabling works.

Summary of Reasons for Consent: Restricted discretionary activity consent overall under the Hamilton City District Plan; and controlled activity consent under the NES for Contaminated Land – refer 6.0 of this report.
We attach an assessment of environmental effects that corresponds with the scale and significance of the effects that the proposed activity may have on the environment.

AUTHORS

Matt Norwell / Mary Wong
Director / Planner
Barker & Associates Ltd

Date: 19 July 2018
2.0 INTRODUCTION

This report has been prepared in support of a resource consent application submitted on behalf of Foodstuffs North Island Limited ("Foodstuffs") for removal of the existing buildings and the construction and operation of new PAK’nSAVE supermarket with an associated fuel facility at 980 Te Rapa Road, Hamilton ("the site").

The site for this resource consent application forms part of a larger landholding of multiple contiguous lots with a combined area of 11.6 hectares that is currently in process of being subdivided at the time of preparing this report. This subdivision consent\(^1\) involves the creation of seven lots for future land development and one road to vest providing a connection between Maui Street and Karewa Place. The proposed supermarket will be located on Lot 8 of the subdivision and this application has been prepared on the basis that the subdivision consent precedes this land use consent.

The site is zoned Industrial in the Hamilton City District Plan (HCDP) which specifically provides for the development of new supermarkets, as a restricted discretionary activity, where a Centre Assessment Report (CAR) is provided and demonstrates that the proposal will not undermine the role and function of other business centres. The CAR submitted with this application, in our view, reaches this conclusion and the activity status of the new supermarket is considered to be a restricted discretionary activity. However, in the event that Council does not reach this same conclusion we have adopted a conservative approach and provided the appropriate assessments in this report should Council reach the view that this new supermarket requires consideration as a non-complying activity.

Having regard to the scope of this application and the range of consent matters identified, it is considered that the principal resource management effects for consideration, amongst others identified, are effects on the viability and vitality of other business centres in the local catchment and operations of the surrounding transport network from additional vehicle trips generated by the new supermarket. These effects are assessed in detail within the body of this report and it is considered that the adverse effects will be avoided, remedied or mitigated to be less than minor and, on balance, the effects on the environment will be positive by the mitigation proposed as part of this application.

This Assessment of Environmental Effects (AEE) and supporting reports has been prepared in accordance with the requirements of Section 88 of and Schedule 4 to the Resource Management Act 1991 (the Act) and is intended to provide the information necessary for a full understanding of the activity for which consent is

\(^1\) Council reference 011.2018.00006674.001
sought and any actual or potential effects the proposal may have on the environment.

3.0 SITE CONTEXT

3.1 SITE DESCRIPTION

The site is part of the former Porter Group Headquarters at Te Rapa which included activities such as the sales, hire and maintenance of heavy construction machinery. A large part of the site was used for the outdoor storage of hire equipment on a metalled yard which included a series of large buildings that were used for workshops and general storage of equipment. As a result of these former uses, the site reflects an industrial character and highly modified landform with expansive areas of hardstand surfaces with little to no landscaped areas on site.

The site created from the subdivision for the new supermarket will have interfaces with three road frontages. It will be bound by Te Rapa Road to the south, Eagle Way to the east and Maui Street Extension to the north that will be formed and vested as part of the subdivision consent. Aside from two office buildings located along the Te Rapa Road frontage of the site the remaining balance is all hardstand surfaces.

Topography wise, the site is flat with no distinguishable slope or depression in the land form.

Figure 1: Locality plan of application site for new supermarket.
Within the boundaries of the application site (Lot 8) there are two existing vehicle crossings along the Te Rapa Road frontage and two crossings along the Eagle Way frontage too.

3.2 SURROUNDING LOCALITY

The site is adjacent to the Te Rapa sub regional centre with “The Base” shopping centre located directly opposite the site on the other side of Te Rapa Road. Surrounding “The Base” are a number of large format retailers on the southern side of Te Rapa Road which continues in the western direction for approximately 500 metres. Also located opposite the site, on the opposite side of Eagle Way, is a Countdown supermarket and a Kmart retail store.

More generally, this contiguous block of Industrial zoned land is surrounded by a combination of open space, residential and commercial activities and is therefore in a state of transition from its historical heavy industrial uses to non-industrial activities. It is our understanding that a preliminary development concept for a Special Housing Area has been approved by Council providing for the development of approximately 186 new dwellings on Lots 1-4 created from the subdivision.

4.0 PROPOSAL

This application seeks resource consent for the construction and operation of a new PAK’nSAVE supermarket with an associated fuel facility, at-grade car parking and all other associated enabling works. The following provides a description of the proposal which should be read in conjunction with the visual material and technical reports accompanying this application.

4.1 NEW SUPERMARKET BUILDING

The existing commercial buildings along the southern border of the site will be removed to facilitate the development. The new supermarket building will be developed to abut the western boundary of site with a gross floor area (GFA) totalling 6358m². This GFA figure includes all the back-of-house delivery, service and storage areas plus the main retail and mezzanine levels.

The supermarket building will be approximately 8 metres high. It will be setback approximately 68m from the Te Rapa Road frontage, 51m from the Eagle Way frontage and 20m from Maui Street Extension. The main entrance to the supermarket will be located at the southern building elevation facing Te Rapa Road and all the necessary loading and servicing areas will be provided at the northern elevation facing Maui Street Extension. Adjacent to the main entrance will be a covered outdoor public space for customers and the trolley bay area. A dedicated
pedestrian access with a covered canopy for shelter protection will be provided from Te Rapa Road leading to this main entrance.

The new supermarket will present as a single storey building when viewed from the exterior. The mezzanine level will be 4m above main retail level directly below and will contain accessory offices and associated staff facilities related to the supermarket.

The elevation drawings in Appendix 2 illustrate the exterior materials palette proposed on each respective elevation of the building and, in summary, this will feature a combination of powder coated aluminium joinery, precast concrete panels, rodeca wall cladding and metal roofing with inbuilt roof lights. The colour palette will be generally differing shades of grey with black and yellow inserts to be consistent with the PAK’nSAVE branding.

![Figure 2: Visual renders of the proposed supermarket.](image)

4.2 PAK’N SAVE FUEL FACILITY

An associated fuel facility is proposed at the north-eastern corner of the site. The forecourt of this fuel facility will cover an approximate area of 293m², it will have a height of 5.7m and will be set back 3.7m from the Eagle Way frontage at the closest point.

The fuel facility will contain a total of four dispensers/pumps and eight outdoor payment terminals (i.e two cars accommodated on each side of each pump). Liquid fuel will be stored in two underground double wall fibreglass tanks with the following capacities:

- 70,000 litre tank for 91 unleaded
- 40,000 litre and 30,000 litre split tank for Diesel and 95 Octane
Babbage Consultants have undertaken a Hazardous Facility Screening Procedure in accordance with the Hazardous Substances and New Zealand Organisms (HSNO) Act 1996 and this is enclosed as Appendix 9. An Emergency Management Plan (EMP) is also enclosed as Appendix 10 which sets out Foodstuffs corporate approach for the management of their fuel facilities, maintenance procedures and health and safety practices in the event of emergencies and any accidental spills.

4.3 SIGNAGE

Two “PAK’nSAVE” signs are proposed on the eastern and southern elevations of the supermarket building. The design and graphics will be simple and presented in a legible manner consistent with the branding of this particular supermarket by way of its black and yellow colour scheme and font. No signs are proposed on the northern and western elevations of the building.

Two “PAK’nSAVE FUEL” signs are proposed on the forecourt canopy facing Eagle Way and Maui Street Extension in the same branding and style as per the signage on the supermarket building. The drawings in Appendix 2 provide all the necessary dimensions for the signs proposed.

Three freestanding pylon signs measuring 9.2m high by 3.2m wide are also proposed. One freestanding sign is proposed at each of the Te Rapa Road and Eagle Way frontages of the site, and one at the corner intersection between these roads. The freestanding signs will be located within the boundaries of the site and will serve as directional/way finding purposes in addition to general advertising of the supermarket. The pylon signs will also feature dimly backlit LED panels measuring 1220mm in height by 1830mm in width and will display weekly specials on offer at the supermarket.

4.4 PARKING AND ACCESS ARRANGEMENTS

The existing vehicle crossings serving the site will be removed and new crossings will be formed at each of the three road frontages to serve the development as shown on the proposed site plan.

Vehicle movements at the crossings along Te Rapa Road and Eagle Way will be restricted to left turns in and out only for safety purposes which will be achieved by existing and proposed traffic islands. Turning movements at the eastern crossing on Maui Street Extension will be unrestricted. The two other crossings along this frontage will be for loading/service vehicles only and has been designed for one-way circulation.
A total of 300 car parking spaces will be provided on site including seven mobility spaces and five less mobile spaces. The standard spaces will be 2.5m wide by 5.0m long while the less mobile spaces will be 3.5m wide and 5.0m long.

Loading for the supermarket will be provided adjacent to the delivery and storeroom area on the northern side of the site. No dedicated bicycle parking is proposed on site.

4.5 LAND DISTURBANCE

Earthworks are required across the whole of the site to facilitate the development and at-grade car parking at the proposed finished levels. Babbage Consultants have estimated that the total volume of earthworks required is approximately 13,600m³ which will include topsoil stripping, undercutting of non-engineered fill and its replacement with certified fill plus the placement of hardfill for pavement areas.

All disturbed areas will be progressively stabilised as the earthworks are completed. It is expected that all necessary earthworks will be completed in one earthworks season.

4.6 LANDSCAPING

The development will comprise 6.7% of permeable surfaces primarily made up of the 2m wide planting strip along each frontage of site, except at the access points.

Landscape buffers will also be spread out across the car parking areas providing opportunities for specimen planting where this can be feasibly accommodated given available spacing. The conceptual landscaping strategy presented on the proposed site plan indicates that 31 specimen trees will be planted throughout the carpark.

4.7 INFRASTRUCTURE AND SERVICING

A Water Impact Assessment (WIA) for the proposal has been prepared by Babbage Consultants and this is enclosed as Appendix 5. This report describes the disconnection and removal of existing services as part of the site clearance process and how the development will be serviced in terms of the three waters. To summarise, the development will be serviced as follows:

- Stormwater: the existing 120mm and 2300mm stormwater pipes traversing through the site will be maintained in their current positions and it is proposed to build over these with appropriate foundation design which will be presented in the necessary building consent application. Stormwater runoff from roofed areas and the delivery canopy will be collected and discharged via a separate system to the existing 2300mm public line. Two grassed treatment
swales collecting runoff from the paved parking and deliver areas will then be discharged to the same public system.

- Wastewater: there is an existing 225mm wastewater trunk main along the northern boundary of the site which will be realigned by the applicant of the preceding subdivision consent. A new wastewater line servicing the development is proposed along the eastern boundary of the site and connecting to the trunk main.

- Water Supply: the preceding subdivision consent proposes the establishment of a 225m bulk water main within Maui Street Extension which the development will connect to. Hydrant testing to understand the capacity of the water supply network to accommodate the development is currently underway and the results will be presented to Council once received.

A proposed drainage plan and further information on the infrastructure and servicing arrangements for the proposal are in Appendix 5.

5.0 REASONS FOR THE APPLICATION

5.1 HAMILTON CITY DISTRICT PLAN

An assessment of the proposal against the relevant chapters of the Hamilton City District Plan (HCDP) has been undertaken and it has been identified that the proposal requires resource consent for the following reasons:

Chapter 9 Industrial Zone

- Rule 9.3(a) – The construction of new buildings on sites adjoining the Te Rapa Road transport corridor in the Industrial zone requires consideration as a controlled activity. The proposal involves the construction of a new supermarket building and associated fuel facility forecourt on this site which adjoins Te Rapa Road along the southern boundary.

- Rule 9.3(cc) – The development of new supermarkets in the Industrial zone where the activity complies with the standards in rule 9.5.4 is a restricted discretionary activity. The proposal involves the development of a new PAK’nSAVE supermarket on this Industrial zoned site which is accompanied by a Centre Assessment Report (refer Appendix 4) that is considered to satisfy the standards in rule 9.5.4.

- Rule 9.5.4 – The minimum permeability required across the site is 10% or 2001.3m². The proposal will provide 6.7% or 1,353m² of permeable area on

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2 Old Port HQ Development Ltd
3 Rule 9.5.4 refers to specific standards for new supermarkets in the Industrial Zone and the requirement to provide Centre Assessment Report in accordance with section 1.2.2.19.
site which is 3.3% or 648.3m² less than the minimum required. As this does not meet the standards pursuant to rule 1.1.8.2 this requires consideration as a restricted discretionary activity.

Chapter 25.2 Earthworks and Vegetation Removal

- Rule 25.2.4.1(f) – Earthworks outside the Residential Zone, Special Character Zone and Natural Hazard Areas shall not exceed 1,000m³ in any single activity or cumulative activities in any 12 month period. The proposal involves approximately 13,600m³ of earthworks to facilitate construction of this supermarket development. As this does not meet the standards pursuant to rule 1.1.8.2 this requires consideration as a restricted discretionary activity.

Chapter 25.4 Hazardous Facilities

- Rule 25.4.3(d) – The retail sale of fuel in underground storage tanks with a storage capacity of up to 100,000 litres of petrol; 50,000 litres of diesel and provided that it can be demonstrated that compliance with the relevant standards in rule 25.4.4 and the requirements of the Hazardous Substances and New Organisms Act (HSNO) 1996 regulations are achieved, is a controlled activity. The proposal involves the development of an associated PAK’nSAVE FUEL facility with two underground storage tanks containing 70,000 litres of 91 Octane and a split tank containing 40,000 litres of Diesel and 30,000 litres of 95 Octane. The Hazardous Substances Assessment in Appendix 10 demonstrates compliance with the standards in rule 25.4.4 and the HSNO regulations.

Chapter 25.5 Landscaping and Screening

- Rule 25.5.3.1(ix) – Parking areas of more than 10 parking spaces are required to be landscaped with tree planting and ground cover planting at a rate consistent with rule 25.5.3.7. Based on the 300 parking spaces to be provided on site a total of 57 specimen trees are required to be provided across the car parking area. The proposal includes tree planting for up to 31 trees only which is 26 less than the required minimum. As this does not meet the standards pursuant to rule 1.1.8.2 this requires consideration as a restricted discretionary activity.

Chapter 25.10 Signs

- Rule 25.10.7(a)iii – Freestanding signs in the Industrial zone are permitted up to a maximum area of 10m² and a height equal to the building height of the relevant zone. A total of two double-sided freestanding signs located at the Te Rapa Road and Eagle Way frontages are proposed which will be 9.2m high and 27.45m² in area. Pursuant to rule 1.1.8.2 this requires consideration as a restricted discretionary activity.

Chapter 23.13 Three Waters
• Rule 25.13.3(a) – Any activity required to prepare a Water Impact Assessment (WIA) by rule 25.13.4.6 is a restricted discretionary activity. The proposal requires the provision of a WIA because the development involves the construction of a new building accommodating a non-residential activity with a gross floor area greater than 300m².

Chapter 25.14 Transportation

• Rule 25.14.3(a) – Any activity required to prepare an Integrated Transport Assessment (ITA) by rule 25.14.4.3 is a restricted discretionary activity. The proposal requires the provision of a broad ITA because the development involves the establishment of a restricted discretionary activity in the Industrial zone adjacent to Te Rapa Road which is identified as a sensitive transport network and the provision of a new vehicle access to this transport corridor.

• Rule 25.14.4.1(g)ii – The maximum number of vehicle crossings for any site not within a residential or special character zone is two per frontage that is more than 20m wide. The Maui Street Extension frontage of the will be over 100m wide and a total of three vehicle crossings are proposed along this frontage. Pursuant to rule 1.1.8.2 this requires consideration as a restricted discretionary activity.

• Rule 25.14.4.1(h)i – The maximum permitted width of a vehicle crossing in the Industrial zone is 7.5m. The vehicle crossings proposed along the Eagle Way and Maui Street Extension frontages of the site in excess of the permitted standard thereby requiring consideration as a restricted discretionary activity pursuant to rule 1.1.8.2.

Overall, this application is for a restricted discretionary activity under the HCDP.

5.2 WAIKATO REGIONAL PLAN

Section 5.2 of the Waikato Regional Plan (WRP) addresses the discharge of contaminants onto or into land from soil contamination. The Detailed Site Investigation (DSI) in Appendix 6 confirms that a regional discharge consent is not required because the permitted activity standards under rule 5.3.4.6 in reference to discharges from remediation of contaminated land will be met.

The reasons for compliance are given in section 8.3.2 of DSI and namely include:

• No contaminants from the remediation of the contaminated land shall be discharged into water or onto land;

• The Waikato Regional Council will be provided with copies of the DSI report and the site remedial action plan that will be prepared following resource consent approval;
• Following remediation a site validation report will be prepared along with an ongoing monitoring and management plan.

Overall, the application is considered to be a permitted activity under the WRP.

5.3 NATIONAL ENVIRONMENTAL STANDARD FOR CONTAMINATED LAND

The DSI explains that the site was historically used as an orchard and it was most recently used as a transport depot by Porters Group both of which are captured under the NES as HAIL activities.

This application involves the disturbance of soil on a piece of land in which a hazardous activity has been undertaken and on the basis of the results in the DSI the following consent matter has been identified.

• Controlled activity consent is required under Regulation 9 of the NES due to the proposed volume of soil disturbance (13,600m³) exceeding the permitted activity criteria in regulation 8(3) and a Detailed Site Investigation is attached as Appendix 6. The criteria under regulation 9(1) will also be met.

Accordingly, consent is required under the NES as a controlled activity.

6.0 PUBLIC NOTIFICATION ASSESSMENT (SECTIONS 95A, 95C TO 95D)

6.1 ASSESSMENT OF STEPS 1 TO 4 (SECTION 95A)

Section 95A specifies the steps the council is to follow to determine whether an application is to be publicly notified. These are addressed in statutory order below.

6.1.1 Step 1: Mandatory public notification is required in certain circumstances

Step 1 requires public notification where this is requested by the applicant; or the application involves the exchange of recreation reserved land under s15A of the Reserves Act 1977.

The above does not apply to the proposal.

6.1.2 Step 2: If not required by step 1, public notification precluded in certain circumstances

Step 2 describes that public notification is precluded where all applicable rules and NES preclude public notification; or where the application is for a controlled activity; a residential activity or subdivision activity with restricted discretionary or discretionary activity status; or a prescribed activity under section 360H(1)(a)(i).
In this case, the proposal is for a non-residential activity on an Industrial Zone site, and therefore public notification is not precluded.

6.1.3 Step 3: If not precluded by step 2, public notification required in certain circumstances

Step 3 describes that where public notification is not precluded by step 2, it is required if the applicable rules or NES require public notification, or if the activity is likely to have adverse effects on the environment that are more than minor.

As noted under step 2 above, public notification is not precluded, and an assessment in accordance with s95A is required which is set out in the sections below. For the reasons given in the forthcoming assessments, it is considered that any adverse effects will be appropriately avoided, remedied or mitigated to be less than minor.

6.1.4 Step 4: Public notification in special circumstances

If an application is not required to be publicly notified as a result of any of the previous steps, then the council is required to determine whether special circumstances exist that warrant it being publicly notified.

Special circumstances are those that are:

- exceptional or unusual, but something less than extraordinary; or
- outside of the common run of applications of this nature; or
- circumstances which make notification desirable, notwithstanding the conclusion that the adverse effects will be no more than minor.

In our view there are no special circumstances surrounding this application because it is for the construction and operation of a new supermarket on an Industrial Zone site that is specifically provided for a restricted discretionary activity where it is accompanied by a Centre Assessment Report and meets the relevant criteria of the HCDP.

The associated effects on the environment, as guided by the relevant assessment criteria to which the Council have restricted its discretion, are therefore anticipated and cannot be described as unusual or out of the ordinary amounting to special circumstances.

Accordingly, we do not consider that there are any special circumstances surrounding this application to warrant the Council exercising its public notification discretion under section 95A(4) of the Act.
6.2 SECTION 95D STATUTORY MATTERS

In determining whether to publicly notify an application, section 95D specifies a council must decide whether an activity will have, or is likely to have, adverse effects on the environment that are more than minor.

In determining whether adverse effects are more than minor:

- Adverse effects on persons who own or occupy the land within which the activity will occur, or any land adjacent to that land, must be disregarded.

  The land to be excluded from the assessment is listed below.

- Adverse effects permitted by a rule in a plan or NES (the permitted baseline) may be disregarded.

  The permitted baseline includes activities permitted by the Plan and approved but unimplemented consents.

For this site and activity proposed there is no useful permitted baseline under the HCDP that can be applied to the consideration of this application because the site adjoins Te Rapa Road and therefore the construction of any building on this site requires controlled activity consent. The supermarket activity also requires restricted discretionary activity consent. Given that no form of development can be implemented on site without resource consent there is no permitted baseline that can be applied under provisions of the HCDP.

An approved but unimplemented resource consent\(^\text{4}\) for a mixed use commercial development applies to the land for which this resource consent relates to. This approved consent has not lapsed and applies to the wider original landholding by Porter Group and consisted of activities including large format retail, offices and drive-through activities. The approved plans for this mixed use development indicates that this consent provided approval for 1800m\(^2\) GFA of large format retail, 3745m\(^2\) GFA of offices and 400m\(^2\) GFA of drive-through service floor space within the boundaries of Lot 8 (i.e the supermarket site). Therefore, the combined GFA of these activities would have generated a number of vehicle trips on the road network which will now be replaced with those of the proposed supermarket.

Accordingly, it is considered that the only permitted baseline that may be applied to the consideration of this application is the number of vehicle movements that would have been generated on the transport network.
from the quantum of approved floor space for the relative activities approved.

- As a restricted discretionary activity, only those effects on persons that fall within the matters of discretion restricted under the plan can be considered.
- Trade competition must be disregarded.

It is noted that there is an existing Countdown supermarket located directly opposite the site at 8 Eagle Way. Given that this application is for the construction and operation of a new PAK’nSAVE supermarket the effects of trade competition must therefore be disregarded.

- The adverse effects on those persons who have provided their written approval must be disregarded.

No persons have provided their written approval for this proposal and nor have we sought to obtain the written approval of any persons because there are no persons that will be adversely affected.

The sections below set out an assessment in accordance with section 95D, including identification of adjacent properties, matters of discretion, and an assessment of adverse effects.

### 6.3 LAND EXCLUDED FROM THE ASSESSMENT

In terms of the tests for public notification (but not for the purposes of limited notification or service of notice), the adjacent properties to be excluded from the assessment are listed below.

- Lots 1 – 4 and Lot 7 from subdivision of 980 Te Rapa Road
- 8 Eagle Way
- 1000 and 1006 Te Rapa Road
- Part Lot 1 DP 330304 (The Base)
- 22 Karewa Place

### 6.4 ASSESSMENT OF EFFECTS ON THE WIDER ENVIRONMENT

Having regard to the above and after an analysis of the application, including any proposed mitigation measures, the adverse effects of the activity on the environment relative to the matters of which the Council has restricted its discretion are identified and discussed below.
6.4.1 Land disturbance effects

Earthworks are proposed across the whole of the site to facilitate the development and the proposed finished levels of the supermarket building and car parking area. Considering that the landform of the site is already highly modified to the extent that the majority of its surfaces are impervious and the topography of the site is flat, land disturbance associated with this proposal will be mainly limited to removal of existing buildings and hardstand surfaces. No significant excavation depths are required to facilitate the development.

In our view, this is considered to be an anticipated form of development in an urban setting and the potential effects in terms of noise, vibration and dust are not considered to be significant. It is envisaged that all earthworks and construction activities will be carried out during standard days/hours of construction and any potential dust effects generated can be sprayed with water to suppress any dust particles, as required. The earthworks will be completed in one stage and all exposed areas will be permanently stabilised against erosion following the completion of construction by the building platform itself.

The erosion and sediment control plan enclosed in Appendix 5 illustrates the measures that will be implemented on site to avoid and mitigate adverse sedimentation effects on the environment. This includes the implementation of clean water diversion bunds and a dirty water diversion channel leading to an on-site sediment retention pond to be formed along the eastern side of the site. A stabilised construction entrance will also be formed at the Eagle Way frontage of the site to minimise the tracking of sediment onto the wider road network. Collectively, the erosion and sediment control measures proposed are considered to be appropriate and sufficient for avoiding and mitigating any potential adverse effects on the environment.

A geotechnical report for the proposal has been prepared by Babbage Consultants (“Babbage”) and this is enclosed as Appendix 8. In overall summary, based on the near level topography of the site Babbage has advised that the risk of land instability within the proposed building platform will be low. The geotechnical investigations undertaken also reveal that the site is underlain by young alluvial deposits and is therefore susceptible to liquefaction thereby requiring specific building foundation design. To address this, the geotechnical report provides a list of recommendations to be incorporated at the detailed design stage and by implementing the works in accordance with these recommendations Babbage is of the opinion that the site is suitable for the commercial development proposed. These engineering recommendations are endorsed by the applicant and in reliance on the expert advice of Babbage it is considered that any potential adverse effects on land instability will be avoided or mitigated to be less than minor.
6.4.2 Contamination effects

This application is supported by a DSI and SMP attached as Appendix 6 and 7 given that HAIL activities have been undertaken on this piece of land. Based on the intrusive investigations and soil sampling undertaken Babbage has noted that the hydrocarbons and elevated concentrations of heavy metals found to be present are above background levels, but considered to be very low risk to human health. The investigations also indicate that there is no clear pattern of contamination distribution across the site and is indicative of the contamination being associated with the original imported fill.

We accept the advice of Babbage given the technical nature of the contamination investigations and testing in reaching a conclusion on human health effects during the land disturbance and construction phases. Relying on this expert advice of Babbage, we are satisfied that the risks to and adverse effects on human health will be low.

Notwithstanding the above, the SMP in Appendix 7 details how this soil will be handled by contractors to protect human health. The SMP includes a suite of site management procedures for identifying hazards, the management of excavated material, sediment and dust control, as well as contingency measures in the event that unexpected conditions are encountered. The procedures and measures outlined in the SMP for the handling of contaminated material and the management of this contaminated piece of land are endorsed by the applicant. By undertaking the works in accordance with the SMP, which can be ensured by appropriate conditions of consent, the adverse effects on human health and the receiving environment will be appropriately avoided or mitigated to be less than minor.

6.4.3 Hazardous facility effects

The proposal involves the establishment of an associated PAK’nSAVE FUEL facility at the north-eastern corner of the site which is deemed to be a “hazardous facility” due to the underground storage of liquid fuel. This fuel facility will be accessory to the primary supermarket activity and will feature the same equipment and design features of other PAK’nSAVE FUEL facilities that are safely operating at other sites nationwide.

Babbage has prepared a Hazardous Goods Assessment (HGA) for this fuel facility and this is enclosed as Appendix 9. This HGA details that the liquid fuel will be stored in purpose designed and built underground storage tanks featuring double fibreglass walls. It provides the advantage of minimising the risk of accidental release due to the built-in secondary containment system (outer wall) and the void between the two walls to be monitored for any evidence or signs of leakage. The
surfaces of this fuel facility will be impervious and the forecourt area will be surrounded by a slotted channel profiled so that any spills or leakage during off-loading from fuel tankers or the general refuelling of vehicles will discharge to an oil/water interceptor. As such, the discharge of contaminants into the ground or to water from this facility will be avoided. The HGA also certifies that this fuel facility will comply with the general standards for hazardous facilities under the HCDP and the HSNO regulations thereby signalling that risks posed by the activity will be appropriately avoided or mitigated.

An Emergency Management Plan (EMP) for this facility is also enclosed as Appendix 10 which sets out the approach by Foodstuffs for the on-going management and maintenance of their fuel facilities. This EMP also contains health and safety protocols for emergency procedures, hazard management, site evacuation and management procedures for tanker discharge spills and overflows.

From a planning perspective, the site is considered to be appropriate for this hazardous facility given that it is Industrial zoned and surrounding land uses are all of a commercial nature. There are no sensitive land uses in close vicinity of the site as the nearest residential property is over 180 metres away to the north along Sequiona Place. Considering that this hazardous facility will be appropriately designed to meet the HSNO regulations and appropriate emergency management procedures will be in place by way of the EMP, it is considered that any potential adverse effects on the environment will be avoided, remedied or mitigated to be less than minor.

6.4.4 Effects on business centres

Property Economics has prepared a Centre Assessment Report (CAR) for the proposal. The CAR is enclosed as Appendix 4 and is required to address assessment criteria H2 and demonstrate that the proposal will not undermine the role and function of other centres within the localised catchment in the business hierarchy.

Having reviewed this CAR it is our view that this satisfies rule 9.5.4 for new supermarkets in the Industrial Zone and appropriately evaluates we what consider to be the two key matters for the establishment of a retail activity on an Industrial zone site being:

- Retail distributional effects on the economic viability and vitality of existing and proposed business centres; and
- The loss of industrial zoned land for intended for industrial type activities.

The assessment by Property Economics on these matters is adopted to the extent that we highlight the main conclusions of this expert analysis. Considering the location of the site, the core catchment for the proposed supermarket has been determined to be the northern component of Hamilton City and northern rural
environs which are projected to be high growth areas thereby requiring additional floor space to meet retail and commercial requirements to sustain growing communities.

Rototuna and Nawton are both considered to be localised suburban centres anchored by an existing network of supermarkets that, in the opinion Property Economics, the proposal is unlikely to draw people away from these existing centres to the extent that it will lead to a decline in their economic viability. In this respect, it is considered that socio-economic effects on these suburban centres will be avoided and the people and communities that rely on the vitality of these centres will be maintained.

Additionally, the economic function and vitality of the central city is expected to be maintained and will not be affected by the proposal because retail sales in the CBD have been estimated by Property Economics to be in excess of $450 million and the construction of a new supermarket on the periphery of the sub-regional centre has no ability, or potential, to undermine the role and function of the central city. Similarly, for The Base located directly opposite the site, Property Economics has concluded that there is no propensity for this proposal to adversely affect the vitality, function and amenity of this sub-regional centre considering its expansive scale and the wide catchment that is captures as a result.

We agree with the conclusions of Property Economics that this supermarket development has no ability to draw people away from existing business centres and the sub-regional centre of The Base in particular. Given the close proximity of the site to The Base, the proposal is most likely to function as an extension of this sub-regional and co-exist in manner that is mutually beneficial to one another from a socio-economic perspective. In effect, this will also avoid the inefficient use of physical resources, while promoting the efficient use of existing and planned investment in infrastructure. For example, the existing and proposed services to be installed as part of the subdivision consent and traffic signals in the surrounding traffic network (further discussed below). On this basis, and in reliance on the expert advice of Property Economics it is considered that adverse effects on business centres will be avoided to the extent that it will be less than minor.

Finally, with respect to the loss of industrial zoned land, the Draft Future Proof Development Capacity Assessment prepared for the wider Waikato region indicates that Hamilton City has approximately 700 hectares of vacant industrial zoned land available. Considering that the supermarket site is approximately 2 hectares only it is evident that there will be an abundant remaining supply of industrial zoned land for future activities of an industrial nature.
6.4.5 Transportation effects

An Integrated Transport Assessment (ITA) has been prepared for the proposal following extensive pre-application discussions between traffic experts. Significant modelling has also been undertaken to understand the effects on the surrounding road network from the proposed development itself, and in combination with consented activities.

Based on the proposed GFA of the supermarket, the applicant’s traffic expert Traffic Planning Consultants (TPC) have predicted that vehicle movements generated will be in the order of 954 vph. However, a conservative figure of 975 vph has been adopted for all traffic modelling in the ITA which utilises the Council’s 2021 Te Rapa North VISSIM Model. As such, the modelling undertaken for the proposal is considered to be up to date and appropriate for the consideration of potential adverse traffic effects on the current and future receiving traffic environment.

Section 6 of the ITA presents the modelling results of intersection performance on the surrounding network as result of the proposed supermarket under the two scenarios of with and without mitigation. The intersections analysed include the Wairere Drive intersection with Karewa Place; and the Eagle Way intersection with Te Rapa Road and The Base Parade. The majority of customers to the supermarket are expected to approach from Wairere Drive (east) and in order to redistribute traffic on the network to avoid queuing effects and significant delays in the network, it is proposed to signalise the intersection between Karewa Drive and Wairere Place to provide for right-turning movements which is currently not possible. The modelling results demonstrate that the proposed signalisation of this intersection will either improve the overall level of service on the transport network in comparison to the existing situation, or maintain the current level of services. Accordingly, in reliance on the expert advice of TPC, it is considered that additional vehicle movements generated on the network from the proposal can be safely accommodated without adversely affecting the efficiency of its operations with the mitigation proposed.

Further to the above, it is noted that the modelling undertaken by TPC is based on a worst case scenario in terms of conservative vehicle movements generated by the supermarket. The supermarket will replace some of the approved mixed use development for the site which has been included in the VISSIM Model (i.e it has not been discounted from the total movements). Further, the majority of the approved development on Lots 1-4 of the subdivision is likely to be replaced by a Special Housing Area that will collectively generate a significantly lower number of vehicle movements on the network as a result.

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5 This was figure is associated with an earlier iteration of the supermarket with a larger GFA and adopted for the purposes of early traffic modelling.
In respect of the proposed access arrangements, the sightlines available from each of the vehicle crossings proposed have been reviewed by TPC and it is concluded that sightlines are all in excess of minimum guideline requirements. Additionally, turning movements at the Te Rapa Road and Eagle Way accesses will be restricted to left turns in and out only to maintain the safe and efficient operations of the road network. The Te Rapa Road access has been located to be sufficiently removed from the intersection with Eagle Way as far as possible, and will effectively replace two existing crossings along this frontage length that is currently unrestricted in terms of turning movements. Similarly for the Eagle Way access, a left-turn slip lane is proposed allowing for turning vehicles to enter the site and pull off from Eagle Way so that vehicles travelling eastbound can continue to do so in an uninterrupted manner. Finally, the number of accesses along Maui Street Extension is necessary to provide for the essential loading and servicing of the supermarket; and for replenishment of the underground fuel tanks. These accesses have been designed to achieve a one-way circular movement for use by loading and servicing vehicles and will be relatively infrequent compared to the other accesses.

In overall summary, based on the extensive modelling undertaken and relying on the expert advice of TPC, it is considered any adverse effects on the safe and efficient operations of the surrounding road network will be avoided by the design of the relative access arrangements and mitigated by the proposed traffic signals such that the effects will be less than minor.

6.4.6 Built form effects

The site will have three road frontages following the subdivision and given that Te Rapa Road is a major arterial road the southern elevation of the building will receive the greatest public exposure it terms of traffic and pedestrians passing by the site. The drawings in Appendix 2 demonstrate that the southern elevation of the building presents an attractive visual appearance to Te Rapa Road through the provision of a glazed front facade along this full length of the building that will offer views into the supermarket from the street. The main entrance to the supermarket at this elevation of the building is also clearly discernible at the south-eastern corner of the building and it is framed by public plaza space for customers. The provision of a clearly defined pedestrian access with a canopy directly above for weather protection also establishes a desirable and safe line of path for pedestrians through the carpark.

The eastern and western facades of the building host the functional requirements of the supermarket (i.e back of refrigeration units, shelving for the display of good and back of house areas) and this has therefore limited opportunities to provide more activated frontages in terms of glazing. At the eastern building frontage where it interfaces Eagle Way a range of exterior materials are proposed to add visual interest and to avoid the presentation of a large featureless blank façade.
facing the street. This includes, but is not limited to, the use of rodecca yellow translucent cladding, smooth concrete cast panels, powder coated aluminium joinery with the insertion of vertical elements to visually break the overall length of the building.

All necessary servicing and loading areas for the supermarket to successfully operate and effectively performs its function will be provided at the “rear” of the building along the northern elevation of the building which while still receives some public exposure, it is comparably lower when considered with Te Rapa Road and Eagle Way. The location of the loading and servicing areas for the supermarket along this frontage of the site are therefore, in our view, considered to be appropriate.

Landscaping has been incorporated within the site layout and along the front edges of the site through the provision of a 2m wide landscape buffer to visually soften the appearance of hardstand surfaces from the car parking area. In combination with the landscaping strips and specimen tree planting evenly proposed throughout the entire car parking area it is considered that any adverse visual effects will be sufficiently mitigated and less than minor.

To summarise, the overall mass and design of the supermarket building is considered to be appropriate given the site context and when balanced against the functional requirements of a supermarket. It represents an overall improvement to the external appearance of the site and on this basis it is considered that any built form and amenity effects will be sufficiently avoided and mitigated to be less than minor.

6.4.7 Signage effects

The proposed signage will be visually integrated with the building and relatively discreet to the extent that they will not visually dominate the relative building façade on which it is located. The number and size of the signage proposed are considered to be appropriate for the purposes of way-finding from a distance and for people to recognise the type of supermarket operating on site from different road frontages. No advertising unrelated to the supermarket will feature on the building or on the freestanding pylon signs. The content will be limited to the name of the supermarket. Visually, it will be consistent with the branding and colour scheme of all other PAK’nSAVE supermarkets which will be presented in a tidy, simple and legible manner. The signs will not be flashing containing variable messages and, therefore, will not cause any potential adverse effects on traffic safety.

Overall, the freestanding sign and those on the exterior facades of the building are considered to be visually appropriate and contemplated with retail activities in this
centre environment. Any adverse effects are therefore considered to be avoided and mitigated to be less than minor.

6.4.8 Infrastructure capacity effects

The WIA in Appendix 5 concludes that the proposed redevelopment can be adequately serviced by public and private infrastructure systems, and in accordance with Council standards. In respect of the three waters, Babbage has concluded the following:

- **Primary (piped) stormwater flows from the site have been designed in accordance with the Council’s standards and will be collected and discharged to proposed public reticulation currently located within the site.**

- **The wastewater from the proposed development is to be collected and discharged to proposed public reticulation located adjacent the site. We expect this reticulation will have sufficient capacity for the proposed development.**

- **Public water supply reticulation is being developed as part of the adjacent site. We expect this reticulation will have sufficient capacity for the proposed development.**

- **Stormwater treatment for runoff from new paved areas is to consist of two grassed swales designed in accordance with Auckland Council’s TP 10.**

Relying on the specialist advice of Babbage, it is considered the proposal will be appropriately serviced with the necessary infrastructure and there is adequate capacity in the network to accommodate the development.

6.5 SUMMARY OF EFFECTS

Overall, it is considered that any adverse effects on the environment relating to this proposal will be appropriately avoided, remedied or mitigated to be less than minor.

6.6 PUBLIC NOTIFICATION CONCLUSION

Having undertaken the s95A public notification tests, the following conclusions are reached:

- Under step 1, public notification is not mandatory;
- Under step 2, public notification is not precluded;
- Under step 3, public notification is not required as it is considered that the activity will result in less than minor adverse effects; and
- Under step 4, there are no special circumstances.
Therefore, based on the conclusions reached under steps 3 and 4, it is recommended that this application be processed without public notification.

### 7.0 LIMITED NOTIFICATION ASSESSMENT (SECTIONS 95B, 95E TO 95G)

#### 7.1 ASSESSMENT OF STEPS 1 TO 4 (SECTION 95B)

If the application is not publicly notified under s95A, the council must follow the steps set out in s95B to determine whether to limited notify the application. These steps are addressed in the statutory order below.

#### 7.1.1 Step 1: Certain affected protected customary rights groups must be notified

Step 1 requires limited notification where there are any affected protected customary rights groups or customary marine title groups, or affected persons under a statutory acknowledgement affecting the land.

The above does not apply to this proposal.

#### 7.1.2 Step 2: If not required by step 1, limited notification precluded in certain circumstances

Step 2 describes that limited notification is precluded where all applicable rules and NES preclude limited notification; or the application is for a controlled activity (other than the subdivision of land) or a prescribed activity under section 360H(1)(a)(ii).

The above does not apply to the proposal, and therefore limited notification is not precluded.

#### 7.1.3 Step 3: If not precluded by step 2, certain other affected persons must be notified

Step 3 requires that where limited notification is not precluded under step 2 above, a determination must be made as to whether any of the following persons are affected persons:

- In the case of a boundary activity, an owner of an allotment with an infringed boundary;
- In the case of a prescribed activity under s360H(1)(b), a prescribed person; and
- In the case of any other activity, a person affected in accordance with s95E.

The application is not for a boundary or prescribed activity, and therefore an assessment in accordance with s95E is required and is set out below.
Overall, it is considered that any adverse effects in relation to adjacent properties will be less than minor, and accordingly that no persons are adversely affected.

7.1.4 Step 4: Further notification in special circumstances

In addition to the findings of the previous steps, the council is also required to determine whether special circumstances exist in relation to the application that warrant notification of the application to any other persons not already determined as eligible for limited notification.

In this instance, having regard to the assessment in section 6.1.4 above, it is considered that special circumstances do not apply.

7.2 SECTION 95E STATUTORY MATTERS

If the application is not publicly notified, a council must decide if there are any affected persons and give limited notification to those persons. A person is affected if the effects of the activity on that person are minor or more than minor (but not less than minor).

In deciding who is an affected person under section 95E:

- Adverse effects permitted by a rule in a plan or NES (the permitted baseline) may be disregarded;
- Only those effects that relate to a matter of control or discretion can be considered (in the case of restricted discretionary or controlled activities);
- The adverse effects on those persons who have provided their written approval must be disregarded.

These matters were addressed in section 6.2 above, and no persons have given their written approval to the proposal.

Having regard to the above provisions, the following comments are made:

7.3 ASSESSMENT OF EFFECTS ON ADJACENT PROPERTIES

In our view, having considered the consent matters and the scale and nature of the proposal in this planning context, it is considered that there are no persons that will be adversely affected to a minor extent by this application for the reasons given below:

- Any adverse effects arising from the land disturbance components of the project are considered to be temporary in nature which can be suitably
managed or mitigated by standard conditions of consent. Following the completion of construction there will be no erosion or sedimentation effects on any the adjacent properties because the entire site will be covered with impervious surfaces by way of the new building and hardstand surfaces.

- The Industrial Zone provides for a liberal building form with minimal bulk and location controls shaping the permitted building envelope other than maximum building height and the minimum setback distance from Te Rapa Road which the proposal complies with on both accounts. There are no site coverage limitations or minimum yard setback requirements for buildings on this site. Accordingly, the overall form, mass and siting of the proposed buildings on site is considered to be appropriate and an acceptable level of inter-site amenity will be maintained.

- In terms of The Base located directly opposite the site, this is a sub-regional business centre that captures a wide market with its diverse retail offering across a significant landholding. The CAR concludes that this single supermarket development located directly opposite The Base has no potential to draw people away and to adversely affect the vitality, function and amenity of this business centre, but would rather operate as an extension to this centre. Adverse retail distribution effects on The Base will therefore be avoided and its role and function as a successful and thriving sub-regional business centre will be maintained.

- The CAR has identified that the Countdown supermarket at 8 Eagle Way is likely to experience a trade impact in the estimated order of $15m pa. This represents trade competition and the Act states that the effects of trade competition must be disregarded for the purposes of identifying adversely affected persons.

- Conservative modelling of the intersection between Te Rapa Road/Eagle Way/The Base demonstrates that this intersection (providing access into The Base) will continue to operate safely and efficiently with no significant difference in comparison to the existing scenario by implementation of the traffic signals proposed to mitigate adverse effects of the additional vehicle movements generated by the supermarket.

- The vehicle access proposed along Te Rapa Road provides for left-turn in and out movements only and it achieves a separation distance of approximately 16m to the crossing serving the adjacent site at 1000 Te Rapa Road. Given that the minimum separation distance required is 7.5m and the proposal is well in excess of this, it is considered that conflict with vehicle turning movements will be avoided.
• Turning movements at the Eagle Way access will be restricted to left turns in and out only, and it will not be located directly opposite the access serving 8 Eagle Way (the Countdown site). As part of the proposal it is proposed to implement changes to the road markings along Eagle Way to facilitate the formation of a left-turn slip lane for vehicles entering the site to gradually turn off while enabling vehicles travelling eastbound or turning right into 8 Eagle Way to continue to do so safely as the design of the central flush median will be maintained. Accordingly, adverse traffic safety effects and conflicts in turning movements between these two access points along Eagle Way will be avoided.

• The PAK’nSAVE FUEL facility will be designed in accordance with HSNO regulations and the underground storage tanks will be designed to achieve a double wall lining acting as a secondary containment system and for the monitoring plus early detection of any leakage. The on-going operation, maintenance and management of this hazardous facility will be undertaken in accordance with Foodstuffs EMP for their other fuel facilities to ensure that any adverse hazard risks and effects are appropriately avoided, remedied or mitigated.

7.3.1 Summary of Effects

Taking the above into account, it is considered that any adverse effects on persons at the aforementioned properties will be less than minor. Wider effects, including construction-related effects, were assessed in section 5.5 above and are considered to be less than minor.

It is considered, therefore, that there are no adversely affected persons in relation to this proposal.

7.4 LIMITED NOTIFICATION CONCLUSION

Having undertaken the s95B limited notification tests, the following conclusions are reached:

• Under step 1, limited notification is not mandatory;
• Under step 2, limited notification is not precluded;
• Under step 3, limited notification is not required as it is considered that the activity will not result in any adversely affected persons; and
• Under step 4, there are no special circumstances.

Therefore, it is recommended that this application be processed without limited notification.
8.0 CONSIDERATION OF APPLICATIONS (SECTION 104)

8.1 STATUTORY MATTERS

Subject to Part 2 of the Act, when considering an application for resource consent and any submissions received, a council must, in accordance with section 104(1) of the Act have regard to:

- any actual and potential effects on the environment of allowing the activity;
- any relevant provisions of a national environmental standard, other regulations, national policy statement, a New Zealand coastal policy statement, a regional policy statement or proposed regional policy statement; a plan or proposed plan; and
- any other matter a council considers relevant and reasonably necessary to determine the application.

As a restricted discretionary activity, section 104C of the Act states that a council:

(a) may grant or refuse the application;
(b) must only consider matters over which a discretion is restricted; and
(c) if it grants the application, may impose conditions under section 108 only for those matters which it has restricted the exercise of its discretion in its plan.

Should the Council reach the view that the CAR submitted with this application does not satisfy the standards in rule 9.5.4 and consequentially this proposal for a new supermarket in the Industrial Zone requires consent as a non-complying activity, section 104D of the Act states that a consent authority may only grant a resource consent if it is satisfied that either:

- the adverse effects of the activity on the environment will be minor; or
- the application is for an activity that will not be contrary to the objectives and policies of the relevant plan and proposed plan.

For a non-complying activity, section 104B of the Act states that a council:

(a) may grant or refuse the application; and
(b) if it grants the application, may impose conditions under section 108.

9.0 EFFECTS ON THE ENVIRONMENT (SECTION 104(1)(A))

Having regard to the actual and potential effects on the environment of the activity resulting from the proposal, it was concluded in the assessment above that any adverse effects relating to the proposal will be less than minor and that no persons would be adversely affected by the proposal.
In terms of positive effects, the construction of a new and modern supermarket building with associated landscaping will significantly improve the visual amenity of the site. The development will transform the appearance of the site from a heavy industrial storage yard to an attractive built form that better integrates with its site surrounds as a sub-regional business centre. The development will overall positively contribute to the amenity of this environment, and represents a significant improvement to the quality of the built form and will provide a pleasant building interface with the The Base and Te Rapa Road.

A significant positive effect on the environment facilitated by the proposed development is improvements to operations of the wider transport network from the proposed signalisation of the intersection between Karewa Place and Wairere Drive. Results of the traffic modelling by TPC show that this proposed signalisation will have a significant positive effect on the operation of this intersection, and result in an overall improvement to current operations of the network. Positive effects include a decrease in average delays for vehicles, the level of service will improve from E to D, and queues on all approaches will reduce. Trip generation effects from the development itself will not only be sufficiently mitigated but the same effects from various other consented developments in The Base will also be mitigated to the extent that there will be benefit to road users of the wider road network.

Finally, Property Economics has expressed the view that The Base as sub-regional centre is likely to experience net benefits from the development because its market will have better access to food retailing sector store types, a broader offering and better choice that will attract more people to the centre. In effect, the proposal will reinforce, and enhance, the function and vitality of this sub-regional centre to also generate positive socio-economic effects on the environment that includes people and communities.

Overall, it is considered that when taking into account the positive effects, any actual and potential adverse effects on the environment of allowing the activity are appropriate. On balance, the actual and potential effects of the proposal will be less than minor and the activity is considered to be appropriate in this location as the overall visual amenity and operations of the wider transport network will be improved and the effects on the environment will be positive.
10.0 DISTRICT PLAN AND STATUTORY DOCUMENTS (SECTION 104(1)(B))

10.1 HAMILTON CITY DISTRICT PLAN

10.1.1 Chapter 9 – Industrial Zone

The objectives and policies in this section of the Plan are considered to be the most important provisions for the consideration of this application. Importantly, this section of the HCDP states that in limited circumstances supermarkets may locate out-of-centre in the Industrial zone provided suitable land is not available within the business centres and where it can be demonstrated that the primacy, function, vitality and amenity of centres within the business hierarchy are not undermined. Our fuller assessment of the proposal relative to relevant individual provisions is offered below.

**Objective 9.2.1**

*Industrial activities are able to establish and operate within the zone in an efficient and effective manner.*

**Policy 9.2.1a**

*Industrial land is used for industrial activities.*

**Policy 9.2.1b**

*Except as specifically provided for, non-industrial activities establish and operate only where they are ancillary to industrial activities, support industrial activities, or are consistent with industrial activities.*

**Policy 9.2.1c**

*While the Industrial Zone is for industrial purposes, specified non-industrial activities may operate in the Greenwood/Kahikatea Corridor and Te Rapa Corridor due to their characteristics; provided that such nonindustrial activities do not adversely affect industrial activities in the Industrial Zone, or impact adversely on the strategic role of the Central City and other business centres in the City.*

**Objective 9.2.2**

*Non-industrial activities which establish and operate within the zone do not undermine the primacy, function, vitality and amenity of the Central City, the sub-regional centres and the function of the lower order centres in the business hierarchy.*

**Policy 9.2.2a**

*Non-industrial activities do not adversely affect industrial activities in the Industrial Zone, or impact adversely on the strategic role of the Central City as the primary office, retail, and entertainment centre, and the other business centres in the City.*

**Policy 9.2.2b**

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6 Section 9.1 c) of Chapter 9 Industrial Zone
In limited circumstances, new supermarkets may establish in the Industrial Zone where it can be demonstrated that:

i. suitable land is not available within the business centres; and

ii. the potential adverse effects on the primacy, function, vitality, and amenity of the centres within the business hierarchy are avoided.

**Assessment**

Our reading of these provisions indicate that there is a clear acceptance of non-industrial activities, such as supermarkets, to establish in the Industrial Zone where it can be demonstrated that it will not undermine the role of business centres and it cannot be suitably located elsewhere. Additionally, there is clear reference and acknowledgement that the Te Rapa corridor is one of the locations in which non-industrial activities are potentially appropriate.

In the context of this application the site has the benefit of direct frontage to Te Rapa Road, it is surrounding by commercial activities and is located directly opposite an established sub-regional centre. Considering the surrounds and mixture of established land uses in this locale, the supermarket activity is considered to be consistent and compatible with the commercial character of this area and will not be unbefitting in this site context.

The CAR submitted with this application comprehensively addresses the potential adverse effects on the primacy, function, vitality and amenity of other business centres in the local catchment. Suburban centres such as Nawton and Rototuna both serve different well-established economic markets and residential communities to the extent that, in the expert opinion of Property Economics, these suburban centres will continue to successfully perform its roles and functions. The sub-regional centre of The Base and the central city as other higher order business centres have also been evaluated and it is concluded that the proposal will not cause adverse retail distribution effects on these centres, nor will their role and function be compromised by this proposal. We concur with these assessments of Property Economics and are of the same view that the proposed supermarket, at this particular location, will not draw people away from other established business centres given its close proximity to The Base. This supermarket will be located less than 50 metres from The Base and as a result it will function as an extension to the primacy and vitality of this centre to ultimately reinforce its vitality and amenity.

Although aerial photos of this sub-regional centre indicate that there is undeveloped land available which could potentially accommodate this supermarket to avoid establishing a non-industrial activity in the Industrial Zone, it is our understanding from Council records that much of this vacant land has already been absorbed with approved consents in place for forthcoming development.
**Objective 9.2.3**
The amenity levels of industrial areas are to be enhanced.

**Policy 9.2.3a**
Amenity levels within the Industrial Zone are improved with the use of landscaping and screening, restrictions on site layout, enhanced design of buildings, ensuring orientation of buildings towards the site frontage, and enhanced urban design outcomes.

**Assessment**

This development will transform the external appearance of the site from an expansive storage yard for heavy vehicles and machinery that, in our view, offers no contribution to the amenity of the built environment to one that is better suited to the sub-regional centre surrounds of the site. Te Rapa Road is identified as a major arterial road and is a highly visible location as result. The proposal will enable the development a new and modern building with its primary and most activated frontage orientated to Te Rapa Road.

Perimeter edges of the site will also be defined with a 2 metre landscape buffer featuring low ground cover planting that will, in combination with the various specimen trees planting proposed, soften the appearance of the at-grade car parking. On the whole the proposal will be transformational for the site from a visual amenity perspective, it will offer a meaningful contribution to the visual qualities of the built form and, overall, it will improve and enhance amenity levels of this industrial zoned site.

**Objective 9.2.7**
Enable the redevelopment of the site in a state of land use transition described as Lot 3 DP 5270, Pt Lot 3 DRO 346, Pt Lot 2 DRO 346, Pt Lot 1 DPS 4044 and Pt Lot 2 DPS 4044 to include provision for managed care facilities; retirement villages, rest homes and visitor accommodation in a manner that achieves a high level of on-site amenity for those activities whilst ensuring that reverse sensitivity effects on surrounding industrial activities are avoided.

**Policy 9.2.7b**
Any development on this transitional site shall ensure vehicle and pedestrian access between Karewa Place and Maui Street.

**Assessment**

These provisions of the Plan provide clear recognition and acknowledgement this site (and the wider amalgamated parent lot of the subdivision) is in a state of transition and is suitable for a lighter mix of use due to its location and surrounding land uses. In addition, a mixed use development in this location is considered to support the Te Rapa sub-regional centre.
This supermarket development gives effect to these provisions and the intended outcomes of the Plan for this particular site. As discussed earlier, the supermarket will perform a positive supporting function reinforcing the economic viability and vitality of The Base. Supermarkets are not considered to be a sensitive land use that could give rise to reverse sensitivity effects, and the road connection between Maui Street and Karewa Place will be formed and vested as part of the preceding subdivision consent.

10.1.2 Chapter 25.2 – Earthworks

The objective when undertaking earthworks is to minimise adverse effects on people, property and the environment.

Land disturbance is a prerequisite for any form of development and the only land disturbance required for this proposal would be that to facilitate removal of the existing building platforms and paved surfaces to facilitate the development and to the proposed finished levels. The existing landform of the site is therefore highly modified and there are no natural character values, natural features or vegetation that will be affected by the earthworks proposed. There are no watercourses or riparian vegetation on site and the planning maps confirm that the site is not subject any natural hazards.

Appropriate erosion and sediment control measures will be implemented to minimise sediment discharge effects and standard conditions of consent can be implemented to ensure that construction noise and dust generated will sufficiently avoided or mitigated. Overall, the relevant earthworks provisions of the Plan are considered to be met.

10.1.3 Chapter 25.10 Signs

The objective for signage is to positively contribute to an area and ensure that they do not compromise visual amenity and transport safety. The policy framework seeks that signs visible from public places maintain the character of the area, and its content do not cause driver distraction or confusion. In overall summary the provisions seek that they are managed to maintain traffic and pedestrian safety, historic heritage values and the visual amenity of the surrounding environment.

The signage proposed in association with this supermarket development is considered to be consistent with these desired outcomes. The elevations demonstrate that the signs on the exterior of the building do not visually dominate the façade on which they are located and are more for the purposes of branding and for people to instantly recognise this particular supermarket. Similarly, the freestanding pylon signs serve the purpose of way-finding from the Te Rapa Road and Eagle Way frontages of the site. The content of all signs will largely be limited
to the name of the supermarket, opening hours and weekly special advertisements that will be presented in a simple and legible manner. They will not be flashing or featuring variable messages to have the potential to cause adverse traffic safety effects.

Overall, it is our view that traffic and pedestrian amenity will be maintained, no historic heritage values will be affected and the visual amenity of the surrounding environment will not be compromised to the extent that these provisions will be met.

10.1.4 Chapter 25.4 Hazardous Facilities

The objective for hazardous facilities is to protect people, property and the natural environment by avoiding or minimising the adverse effects from the storage, use or transport of hazardous facilities.

In our view the ancillary PAK’nSAVE FUEL facility proposed gives effect to these provisions because it will be located on and amongst a commercial environment where there are no sensitive land uses in close vicinity of this hazardous facility. It will be more than 180m away from the nearest residential property and it will be designed in accordance with HSNO regulations thereby ensuring that people and property will be protected from hazardous risks.

The underground fuel storage tanks will be double wall fibreglass tanks to avoid and minimise accidental release due to the built-in secondary containment and leak detection system. The construction of a slotted channel around the forecourt profiled so that any accidental or undeliberate spills during the refuelling of vehicles or off-loading from fuel tanks will discharge to an oil/water interceptor, as opposed to direct discharge into the ground or water. Furthermore, it will be operated, managed and maintained in accordance with Foodstuffs EMP that has been successfully implemented at other PAK’nSAVE FUEL facilities to ensure the ongoing safety of people, property and the natural environment.

For the reasons given above, we are satisfied that the proposal will give effect the hazardous facility provisions of the Plan.

10.1.5 Chapter 25.14 Transportation

The transportation objective of the HCDP is to achieve an integrated multi-modal transport network that meets regional and local needs and is, importantly for this proposal, efficient; safe and sustainable. The policy framework is grouped to address key transport issues and for this proposal it is considered to be policy 25.14.2.1e in terms of adverse effects on the transport network.
The ITA submitted comprehensively addresses the potential adverse effects of the development on the surrounding transport network. Following significant traffic modelling undertaken utilising the Council’s preferred model that is inclusive of vehicle trips generated by other consented developments in the The Base, it has been determined that the transport network will continue to operate safely. Furthermore, modelling results indicate that the transport network is expected to operate more efficiently compared to the existing levels of service due to the proposed signalisation at the intersection of Karewa Place and Wairere Drive which forms of this application. Adverse effects on the transport network will therefore be avoided and mitigated to the extent that there will be an overall net benefit to operations of the wider network.

All access arrangements to the site have been designed to ensure adverse safety effects on the surrounding road network is avoided by restricted turning movements at the Te Rapa Road and Eagle Way accesses. Modifications to the road markings will also facilitate safe turning movements into the site while avoiding disruptions to through traffic and conflicts with other accesses serving adjacent sites. The overall number of car parking spaces on-site is compliant with the minimum requirement and from an operational perspective the supply will meet projected demand such that no overspill parking effects are anticipated. Overall, the relevant transportation provisions of the Plan are considered to be met.

10.2 RELEVANT ASSESSMENT CRITERIA

Restricted discretionary activity consent is required overall so the assessment of this application is limited to matters which the Council has restricted its discretion to in the assessment criteria.

We have had regard to the matters of discretion and relevant assessment criteria contained in sections 1.3.2 and 1.3.3 of the HCDP because this has formed the basis for our effects assessment and we have concluded that the adverse effects on the environment will be avoided or mitigated to be less than minor. There is also a hierarchical relationship between assessment criteria and the objectives and policies of the Plan. Our assessment has concluded that the proposal is consistent with the relevant objectives and policies of the Plan and in the interest of avoiding repetition, the proposal is also considered to satisfy the relevant assessment criteria.

10.3 SUMMARY

For the reasons outlined in the assessments above, it is our overall conclusion that the proposal will give effect to the relevant objectives and policies of the HCDP and, in effect, the applicable assessment criteria in light of the hierarchical relationship between these planning provisions.
10.4 STATUTORY ASSESSMENT

10.4.1 Section 104D Conclusions

In the event that Council is of the view that the CAR accompanying this application fails the standards in rule 9.5.4 and the proposed supermarket consequentially requires resource consent as a non-complying activity, section 104D of the Act states that a consent authority may only grant a resource consent if it is satisfied that either:

- the adverse effects of the activity on the environment will be minor; or
- the application is for an activity that will not be contrary to the objectives and policies of the relevant plan and proposed plan.

The assessments in this report, particularly in relation to effects on business centres, and the associated objectives and policies of the HCDP conclude that this aspect of the proposal passes both gateway tests under section 104D of the Act. Adverse effects on the vitality and viability of business centres at the suburban and regional level will be avoided, and all other adverse effects on the environment generated by the proposed will be suitably avoided or mitigated to the extent that it will be less minor. Additionally, the foregoing assessments conclude that the proposal will give effect to, and will not be contrary to, the relevant objectives and policies of the HCDP.

10.4.2 Section 104 Considerations

It is our view that this application requires consent as a restricted discretionary activity and it has been demonstrated that any adverse effects on the environment in relation to the matters which the Council has restricted its discretion arising from the proposal will be avoided, remedied and appropriately mitigated through the imposition of conditions. There will also be positive effects on the environment as explained in section 9.0 of this report. Overall, we conclude that this proposal for the establishment and operation of a new supermarket is not contrary to, but will give effect to, the relevant statutory planning framework of the HCDP.

11.0 PART 2 MATTERS

The decision of the R J Davidson Family Trust case requires that when decision-makers are considering an application for resource consent under section 104(1) of the Act they can only have recourse to Part 2 of the RMA if the relevant statutory planning documents are invalid, incomplete or uncertain. This application has been assessed against the relevant provisions of the Hamilton City District Plan and we

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7 R J Davidson Family Trust v Marlborough District Council [2017] NZHC 52
do not find that this planning document is invalid, incomplete or uncertain. The HCDP became operative on 18 October 2017 and there are no appeals to the relevant sections of the HCDP for which the proposal has been assessed under. However, for completeness, an assessment of the proposal against the matters in Part 2 is offered below.

Section 5 of Part 2 identifies the purpose of the RMA as being the sustainable management of natural and physical resources. This means managing the use, development and protection of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being and health and safety while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

The development is considered to be complementary to these objectives. Specifically, the development represents the sustainable use and development of a natural and physical resource which will provide for the socio-economic well-being of people through the provision of important service that sustains communities. It has also been demonstrated that adverse effects of the activity on the environment will avoided, remedied or mitigated to an acceptable level in this transitional and predominantly commercial environment.

Section 6 of the Act sets out a number of matters of national importance including (but not limited to) the protection of outstanding natural features and landscapes and historic heritage from inappropriate subdivision, use and development. There are no matters of national importance relevant to the consideration of this application.

Section 7 identifies a number of “other matters” to be given particular regard by Council. The proposal is considered to be consistent with these matters in section 7:

- The efficient use of natural and physical resources;
- The maintenance and enhancement of amenity values; and
- Any finite characteristics of natural and physical resources.

Section 8 requires Council to take into account the principles of the Treaty of Waitangi. It is considered that this proposal will not offend against the principles of the Treaty of Waitangi.

Overall, as the adverse effects of the proposal will be appropriately avoided, remedied or mitigated to be less than minor, and the proposal gives effect to the relevant objectives and policies of the HCDP, the proposal will not offend against the general resource management principles set out in Part 2 of the Act.
12.0 OTHER MATTERS (SECTION 104(1)(c))

12.1 PRE-APPLICATION MEETING

This proposal for a supermarket development was discussed with Council during pre-application meetings in 2017 and 2018. A number of matters were discussed in these meetings and the feedback provided has either been addressed in this report or appendices enclosed with the application. All supporting technical reports in respect of traffic, development engineering, contamination, hazardous facilities and business centres have been provided for this application.

12.2 SUBDIVISION CONSENT

This resource consent has been prepared on the basis that the preceding subdivision consent has been granted. Specifically, this supermarket development will occur on Lot 8 of the subdivision and Maui Street Extension has been formed and vested. It is our understanding this subdivision consent is still being processed by Council and therefore there is the potential for amendments to this subdivision application that could have consequential impacts on this land use consent. For example, the area of Lot 8 and the configuration of its boundary along Eagle Way in the subdivision consent is expected to be revised to reflect the application material of this land use consent.

Furthermore, it is recognised that this subdivision consent may impose conditions of consent and consent notices that could affect development on Lot 8. As these matters are still unknown at the time of preparing this application so it is not possible for us to address these at this point in time. However, it is acknowledged that any relevant consent notices are required to be addressed at the time of land development and any will be addressed accordingly by the applicant, once known and where required.

13.0 CONCLUSION

This report addresses a resource consent application submitted by Foodstuffs North Island Limited for the establishment and operation of new “PAK’Nsave” supermarket with an associated “PAK’nSAVE FUEL” facility at 980 Te Rapa Road, Hamilton.

A full spectrum of potential adverse effects on the environment supported by technical reporting by a range of specialists has been assessed. It is our overall conclusion that such effects will be appropriately avoided, remedied or mitigated to be less than minor in nature. Our assessment also concludes that the proposal is consistent with and gives effect to the relevant objectives and policies of the
Hamilton City District Plan. Additionally, should Council reach the determination that the supermarket requires consent as a non-complying activity, the proposal will readily pass both gateway tests in section 104D of the Act.

The proposal will also generate positive effects on the environment as this new modern building and associated landscaping will enhance the visual amenity of the site, and will be a significant improvement to the visual qualities of the built environment. The location of this supermarket directly opposite The Base will also reinforce the economic viability and vitality of this sub-regional business centre, and the mitigation proposed in terms of the traffic signals will have wider network benefits improving the overall level of services. Therefore, the overall effects of allowing the activity on the environment will be positive.

It is therefore concluded that the proposal satisfies all matters the consent authority is required to assess and that consent can be granted on a non-notified basis with an appropriate suite of conditions of consent.

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